

Amendment No. 703

Senate Amendment to Assembly Bill No. 150 First Reprint	(BDR 13-808)
Proposed by: Senate Committee on Judiciary	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 150 R1 (§ 3).

ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date		
Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not <input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not <input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

MNM/BAW



Date: 5/24/2017

A.B. No. 150—Revises provisions governing private professional guardians.
(BDR 13-808)



ASSEMBLY BILL NO. 150—ASSEMBLYMAN SPRINKLE

PREFILED FEBRUARY 13, 2017

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing private professional guardians.
(BDR 13-808)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to private professional guardians; revising provisions governing the qualifications necessary to serve as a private professional guardian; requiring certain persons to submit fingerprints to the Division of Financial Institutions of the Department of Business and Industry not less than once every 5 years for the purpose of obtaining a report from the Federal Bureau of Investigation; requiring the Division to maintain a copy of all such reports; requiring the Commissioner of Financial Institutions to adopt regulations establishing any fee required to obtain such reports; **prohibiting a person from engaging in any activity relating to service as a private professional guardian without meeting the necessary requirements; revising provisions relating to an application for a license to engage in the business of a private professional guardian;** replacing references to the term “case manager”; **revising certain reporting requirements for private professional guardian companies; revising provisions relating to required fidelity bonds;** removing the provision that exempts private professional guardians from the provisions of law concerning summary administration granted by a court; **revising provisions relating to certain investigations by the Commissioner;** and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides that in order for a natural person to serve as a private professional
2 guardian, the person must be: (1) qualified to serve as a guardian for an adult or a minor; and
3 (2) a guardian who has a license to engage in the business of a private professional guardian
4 or who does not have such a license but is certified by the Center for Guardianship
5 Certification. (NRS 159.0595) **Section 2** of this bill removes the requirement relating to the
6 licensure of a natural person and generally provides that in order for a person to serve as a
7 private professional guardian, the person must be: (1) a natural person who is employed by an
8 entity that is licensed to engage in the business of a private professional guardian and who is
9 certified by the Center for Guardianship Certification; or (2) an entity that is licensed to
10 engage in the business of a private professional guardian and meets certain other

requirements. ~~Sections 1, 4-9, 11, 4-7, 12, 13 and 15-20~~ 4-7, 12, 13 and 15-17 of this bill make conforming changes.

Existing law requires, as part of an application for a license to engage in the business of a private professional guardian, that certain persons submit to the Commissioner of Financial Institutions a complete set of fingerprints and written permission authorizing the Division of Financial Institutions of the Department of Business and Industry to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation (hereinafter "FBI") for its report. (NRS 628B.310) **Section 3** of this bill requires: (1) ~~(certain persons)~~ each natural person who acts in any capacity within a private professional guardian company to submit to the Commissioner, not less than once every 5 years, a complete set of fingerprints and such written permission to enable the Division to obtain a report from the FBI; and (2) the Division to maintain a copy of all reports obtained from the FBI. **Section 3** also requires the Commissioner to adopt regulations establishing the amount of any fee required to obtain a report from the FBI.

Existing law also requires the Commissioner to investigate the facts of an application and the other requirements set forth by law to determine information about certain persons, including any person acting in a case manager capacity. (NRS 628B.330) ~~(Existing law further requires the director or manager of a private professional guardian company to require fidelity bonds on certain persons, including a member of the company acting in a case manager capacity, to indemnify the company against loss. (NRS 628B.540))~~ Sections 9, 11 and 10 (and 14) of this bill replace the term "case manager" with references to a natural person who acts in a capacity in which he or she is authorized to make discretionary decisions on behalf of the applicant or private professional guardian company, as applicable. Sections 9 and 10 also revise provisions relating to an application for a license to engage in the business of a private professional guardian.

Existing law requires the director or manager of a private professional guardian company to require fidelity bonds in an amount of at least \$25,000 on certain persons. (NRS 628B.540) Section 14 of this bill requires a private professional guardian company to require such bonds on each natural person who acts in any capacity within the private professional guardian company.

Existing law provides that with regard to guardianships and the administration of smaller estates, the court is authorized to grant a summary administration if it appears that the value of the property of a ward, after payment of all claims and expenses of the guardianship, does not exceed \$10,000. If the court grants a summary administration, the guardian is required to file an inventory and record of value with the court, and the court is authorized to impose certain requirements upon the guardian. (NRS 159.076) Existing law also provides that such provisions concerning summary administration do not apply to a private professional guardian. (NRS 628B.550) **Section 15** removes this exemption.

Section 8 of this bill provides that it is unlawful for any person who does not meet the requirements necessary to serve as a private professional guardian to engage in any activity relating to service as a private professional guardian. Section 19 of this bill requires the Commissioner to conduct an investigation if he or she receives a verified complaint that a person who does not meet the requirements necessary to serve as a private professional guardian is engaging in any activity relating to service as a private professional guardian.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 159.024 is hereby amended to read as follows:

159.024 1. "Private professional guardian" means a person who receives compensation for services as a guardian to three or more wards who are not related to the guardian by blood or marriage ~~and who meets the requirements set forth in NRS 159.0595.~~

2. For the purposes of this chapter, the term includes ~~†~~

~~1 (a) A person who~~ *an entity that* serves as a private professional guardian and
2 ~~who is required~~ :

3 (a) *Required* to have a license issued pursuant to chapter 628B of NRS ~~11~~ ; or
4 (b) ~~A person who serves as a private professional guardian but who is exempt~~
5 *Exempt* pursuant to NRS 159.0595 or 628B.110 from the requirement to have a
6 license issued pursuant to chapter 628B of NRS.

7 3. The term does not include:

8 (a) A governmental agency.

9 (b) A public guardian appointed or designated pursuant to the provisions of
10 chapter 253 of NRS.

11 **Sec. 2.** NRS 159.0595 is hereby amended to read as follows:

12 159.0595 1. In order for a person to serve as a private professional guardian,
13 the person must be:

14 (a) ~~Qualified to serve as a guardian pursuant to NRS 159.0613 if the ward is~~
15 ~~an adult or NRS 159.061 if the ward is a minor; and~~

16 ~~(b) A~~ *guardian natural person* who ~~has a license issued~~ *is a certified*
17 *guardian and is employed by an entity that is licensed* pursuant to chapter 628B of
18 NRS ~~for a certified guardian who~~ , *unless the entity* is not required to have such a
19 license pursuant to subsection ~~3~~.

20 ~~2. In order for an entity to serve as a private professional guardian, the~~ *2; or*

21 (b) *An entity must:*

22 ~~(a) Be that:~~

23 (1) *Is* qualified to serve as a guardian pursuant to NRS 159.0613 if the
24 ward is an adult;

25 ~~(b) Have~~

26 (2) *Has* a license issued pursuant to chapter 628B of NRS , unless the
27 entity is not required to have such a license pursuant to subsection ~~3~~ *2*; and

28 ~~(c) Have~~

29 (3) *Has* a *private professional* guardian who ~~has a license issued pursuant~~
30 ~~to chapter 628B of NRS or a certified guardian who is not required to have such a~~
31 ~~license pursuant to subsection 3~~ *meets the requirements set forth in paragraph (a)*
32 involved in the day-to-day operation or management of the entity.

33 ~~3. In order for a person or~~

34 *2. An entity that wishes* to serve as a private professional guardian ~~the~~
35 ~~person or entity~~ is not required to have a license issued pursuant to chapter 628B
36 of NRS if the ~~person or~~ entity is exempt from the requirement to have such a
37 license pursuant to NRS 628B.110 . ~~and the person or entity:~~

38 ~~(a) Is a banking corporation as defined in NRS 657.016;~~

39 ~~(b) Is an organization permitted to act as a fiduciary pursuant to NRS 662.245;~~

40 ~~(c) Is a trust company as defined in NRS 669.070;~~

41 ~~(d) Is acting in the performance of his or her duties as an attorney at law;~~

42 ~~(e) Acts as a trustee under a deed of trust; or~~

43 ~~(f) Acts as a fiduciary under a court trust.~~

44 ~~4.~~ *3.* As used in this section:

45 (a) “Certified guardian” means a person who is certified by the Center for
46 Guardianship Certification or any successor organization.

47 (b) “Entity” includes, without limitation, a corporation, whether or not for
48 profit, a limited-liability company and a partnership.

49 ~~(c) “Person” means a natural person.~~

50 **Sec. 3.** Chapter 628B of NRS is hereby amended by adding thereto a new
51 section to read as follows:

52 *1. Each member, partner, director, officer, manager or employee of a*
53 *private professional guardian company, and any natural person who acts in*

1 ~~any capacity in which he or she is authorized to make discretionary decisions on~~
2 ~~behalf of the~~ within a private professional guardian company ~~;~~ shall, before
3 acting in any such capacity and not less than once every 5 years thereafter,
4 submit to the Commissioner ~~pursuant to this section or subsection 5 of NRS~~
5 ~~628B.310, as applicable,~~ a complete set of fingerprints and written permission
6 authorizing the Division to forward the fingerprints to the Central Repository for
7 Nevada Records of Criminal History for submission to the Federal Bureau of
8 Investigation for its report.

9 2. The Division shall maintain a copy of all reports obtained pursuant to
10 this section. ~~[and subsection 5 of NRS 628B.310.]~~

11 3. The Commissioner shall adopt regulations establishing the amount of
12 any fee required to obtain a report pursuant to this section. All money received by
13 the Commissioner must be placed in the Investigative Account for Financial
14 Institutions created by NRS 232.545.

15 Sec. 4. NRS 628B.010 is hereby amended to read as follows:

16 628B.010 The Legislature finds and declares that:

17 1. There exists in this State a need, in order to provide for the protection of
18 the public interest, to regulate ~~persons~~ entities engaged in the business of private
19 professional guardians ~~;~~ and persons employed by such entities.

20 2. ~~Persons~~ Entities engaging in the business of private professional
21 guardians must be licensed and regulated in such a manner as to promote
22 advantages and convenience for the public while protecting the public interest.

23 3. It is the purpose of this chapter to bring under public supervision ~~persons~~
24 ~~who~~ entities that are engaged in or ~~who~~ desire to engage in the business of a
25 private professional guardian and to ensure that there is established in this State an
26 adequate, efficient and competitive private professional guardian service available
27 to the courts and the public at large.

28 Sec. 5. NRS 628B.030 is hereby amended to read as follows:

29 628B.030 "Business of a private professional guardian" means the holding
30 out by ~~a person~~ an entity, through advertising, solicitation or other means, that
31 the ~~person~~ entity or a person employed by the entity is available to act for
32 compensation as a private professional guardian.

33 Sec. 6. NRS 628B.080 is hereby amended to read as follows:

34 628B.080 1. "Private professional guardian" has the meaning ascribed to it
35 in NRS 159.024.

36 2. For the purposes of this chapter, the term does not include ~~a person who~~
37 an entity that serves as a private professional guardian but ~~who~~ is exempt
38 pursuant to NRS 159.0595 or 628B.110 from the requirement to have a license
39 issued pursuant to this chapter.

40 Sec. 7. NRS 628B.090 is hereby amended to read as follows:

41 628B.090 1. "Private professional guardian company" means a ~~natural~~
42 ~~person or~~ business entity, including, without limitation, a sole proprietorship,
43 partnership, limited-liability company or corporation, that is licensed pursuant to
44 the provisions of this chapter to engage in the business of a private professional
45 guardian, whether appointed by a court or hired by a private party.

46 2. For the purposes of this chapter, the term does not include a ~~natural person~~
47 ~~or~~ business entity which engages in the business of a private professional guardian
48 but which is exempt pursuant to NRS 159.0595 or 628B.110 from the requirement
49 to have a license issued pursuant to this chapter.

50 Sec. 8. NRS 628B.300 is hereby amended to read as follows:

51 628B.300 It is unlawful for any person ~~entity~~ to engage in any activity
52 relating to service as a private professional guardian, including, without
53 limitation, engaging in the business of a private professional guardian ~~without~~

~~having a license issued by the Commissioner pursuant to this chapter.~~ , if the person does not meet the requirements set forth in NRS 159.0595.

Sec. 9. NRS 628B.310 is hereby amended to read as follows:

628B.310 1. ~~†A person wishing†~~ An applicant for a license to engage in the business of a private professional guardian in this State must file with the Commissioner an application on a form prescribed by the Commissioner, which must contain or be accompanied by such information as is required.

2. A nonrefundable fee of not more than \$750 must accompany the application. The applicant must also pay such reasonable additional expenses incurred in the process of investigation as the Commissioner deems necessary.

3. The application must contain:

(a) The name of the applicant and the name under which the applicant does business or expects to do business, if different.

(b) The complete business and residence addresses of the applicant.

(c) The character of the business sought to be carried on.

(d) The address of any location where business will be transacted.

(e) In the case of a firm or partnership, the full name and residence address of each member or partner and the manager.

(f) In the case of a corporation or voluntary association, the name and residence address of each director and officer and the manager.

(g) The name and residence address of each person who will be employed by the applicant as a private professional guardian pursuant to paragraph (a) of subsection 1 of NRS 159.0595.

(h) A statement by the applicant acknowledging that the applicant is required to comply with the provisions of NRS 159.0595 if issued a license.

~~†(h)†~~ (i) Any other information reasonably related to the applicant's qualifications for the license which the Commissioner determines to be necessary.

4. Each application for a license must have attached to it a financial statement showing the assets, liabilities and net worth of the applicant ~~††~~ and each person who will be employed by the applicant as a private professional guardian pursuant to paragraph (a) of subsection 1 of NRS 159.0595.

5. In addition to any other requirements, each ~~†applicant or member, partner, director, officer, manager or case manager employee of an applicant, and any natural person who acts in †† any capacity †† in which he or she is authorized to make discretionary decisions on behalf of the applicant.†~~ within a private professional guardian company shall submit to the Commissioner a complete set of fingerprints and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. †, before acting in any such capacity, comply with the provisions of section 3 of this act.

6. If the applicant is a corporation or limited-liability company, the articles of incorporation or articles of organization must contain:

(a) The name adopted by the private professional guardian company, which must distinguish it from any other private professional guardian company formed or incorporated in this State or engaged in the business of a private professional guardian in this State; and

(b) The purpose for which it is formed.

7. The Commissioner shall deem an application to be withdrawn if the Commissioner has not received all information and fees required to complete the application within 6 months after the date the application is submitted to the Commissioner. If an application is deemed to be withdrawn pursuant to this subsection or if an applicant otherwise withdraws an application, the Commissioner

1 may not issue a license to the applicant unless the applicant submits a new
2 application and pays the required fees.

3 8. The Commissioner shall adopt regulations establishing the amount of the
4 fees required pursuant to this section, subject to the following limitations:

5 (a) An initial fee of not more than \$1,500 for a license to transact the business
6 of a private professional guardian; and

7 (b) A fee of not more than \$300 for each branch office that is authorized by the
8 Commissioner.

9 9. All money received by the Commissioner pursuant to this section must be
10 placed in the Investigative Account for Financial Institutions created by NRS
11 232.545.

12 **Sec. 10.** NRS 628B.330 is hereby amended to read as follows:

13 628B.330 1. Within 90 days after the application for a license is filed, the
14 Commissioner shall investigate the facts of the application and the other
15 requirements of this chapter to determine:

16 (a) That each person who will serve as a sole proprietor, partner of a
17 partnership, member of a limited-liability company or director or officer of a
18 corporation, ~~and~~ any person acting in a managerial ~~for ease manager~~ capacity ~~++~~
19 or in a capacity in which he or she is authorized to make discretionary decisions
20 on behalf of the applicant ++ and any person who will be employed by the
21 applicant as a private professional guardian pursuant to paragraph (a) of
22 subsection 1 of NRS 159.0595, as applicable:

23 (1) Has a good reputation for honesty, trustworthiness and integrity and
24 displays competence to engage in the business of a private professional guardian in
25 a manner which safeguards the interests of the general public. The applicant must
26 submit satisfactory proof of those qualifications, including, without limitation,
27 evidence that the applicant has passed an examination for private professional
28 guardians specified by the Commissioner.

29 (2) Has not been convicted of, or entered a plea of guilty or nolo
30 contendere to, a felony or any crime involving fraud, misrepresentation, material
31 omission, misappropriation, conversion or moral turpitude.

32 (3) Has not made a false statement of material fact on the application.

33 (4) Has not been a sole proprietor or an officer or member of the board of
34 directors for an entity whose license issued pursuant to the provisions of this
35 chapter was suspended or revoked within the 10 years immediately preceding the
36 date of the application if, in the reasonable judgment of the Commissioner, there is
37 evidence that the sole proprietor, officer or member materially contributed to the
38 actions resulting in the suspension or revocation of the license.

39 (5) Has not been a sole proprietor or an officer or member of the board of
40 directors for an entity whose license as a private professional guardian company
41 which was issued by any other state, district or territory of the United States or any
42 foreign country was suspended or revoked within the 10 years immediately
43 preceding the date of the application if, in the reasonable judgment of the
44 Commissioner, there is evidence that the sole proprietor, officer or member
45 materially contributed to the actions resulting in the suspension or revocation of the
46 license.

47 (6) Has not violated any of the provisions of this chapter or any regulations
48 adopted pursuant thereto.

49 (b) That the financial status of each sole proprietor, partner, member or director
50 and officer of the corporation ~~and~~, each person acting in a managerial ~~for ease~~
51 ~~manager~~ capacity or in a capacity in which he or she is authorized to make
52 discretionary decisions on behalf of the applicant and each person who will be
53 employed by the applicant as a private professional guardian pursuant to

paragraph (a) of subsection 1 of NRS 159.0595 indicates fiscal responsibility consistent with his or her position.

(c) That the name of the proposed business complies with all applicable statutes.

(d) That, except as otherwise provided in NRS 628B.540, the initial surety bond is not less than the amount required by NRS 159.065.

2. In rendering a decision on an application for a license, the Commissioner shall consider, without limitation:

(a) The proposed markets to be served and, if they extend outside this State, any exceptional risk, examination or supervision concerns associated with those markets;

(b) Whether the proposed organizational and equity structure and the amount of initial equity or fidelity and surety bonds of the applicant appear adequate in relation to the proposed business and markets, including, without limitation, the average level of assets under guardianship projected for each of the first 3 years of operation; and

(c) Whether the applicant has planned suitable annual audits conducted by qualified outside auditors of its books and records and its fiduciary activities under applicable accounting rules and standards as well as suitable internal audits.

Sec. 11. NRS 628B.380 is hereby amended to read as follows:

628B.380 1. A license issued pursuant to this chapter is not transferable or assignable, but upon the approval of the Commissioner and any applicable court of jurisdiction, a ~~licensee~~ private professional guardian company may merge or consolidate with, or transfer its assets and control to, another ~~person who~~ entity that holds a license pursuant to this chapter. ~~private professional guardian company.~~ In determining whether to grant the approval, the Commissioner may consider the factors set forth in NRS 628B.330.

2. If a change in the control of a private professional guardian company occurs, the chief executive officer or managing member of the company shall report the change in control and the name of the person obtaining control to the Commissioner within 5 business days after obtaining knowledge of the change.

3. A private professional guardian company shall, within 5 business days after a change occurs in the chief executive officer, managing member, ~~for~~ a majority of the directors or managing directors of the company ~~occurs,~~ or the employment of any private professional guardian, report the change to the Commissioner. The company shall include in its report to the Commissioner a statement of the past and current business and professional affiliations of each new chief executive officer, managing member, director, ~~for~~ managing director ~~or~~ or private professional guardian. A new chief executive officer, managing member, director, ~~for~~ managing director or private professional guardian shall furnish to the Commissioner a complete financial statement on a form prescribed by the Commissioner.

4. A person who intends to acquire control of a private professional guardian company shall submit an application to the Commissioner. The application must be submitted on a form prescribed by the Commissioner. The Commissioner shall conduct an investigation pursuant to NRS 628B.330 to determine whether the person has a good reputation for honesty, trustworthiness and integrity and is competent to control the private professional guardian company in a manner which protects the interests of the general public.

5. The private professional guardian company of which the applicant intends to acquire control shall pay the nonrefundable cost of the investigation as required by the Commissioner. If the Commissioner denies the application, the Commissioner may prohibit or limit the applicant's participation in the business.

6. As used in this section, "control" means the possession, directly or indirectly, of the authority to direct or cause the direction of the management and policy of a private professional guardian company, or a change in the ownership of at least 25 percent of the outstanding voting stock of, or participating members' interest in, the company.

Sec. 12. NRS 628B.520 is hereby amended to read as follows:

628B.520 1. A private professional guardian company licensed pursuant to this chapter shall maintain its principal office in this State.

2. To qualify as the principal office for the purposes of subsection 1, an office of the private professional guardian company must:

(a) Have a verifiable physical location in this State at which the private professional guardian company conducts such business operations in this State as are necessary to administer private professional guardianships in this State;

(b) Have available at the office a private professional guardian who *meets the requirements set forth in paragraph (a) of subsection 1 of NRS 159.0595 and is licensed pursuant to this chapter.* a permanent resident of this State and at least 21 years of age;

(c) Have any license issued pursuant to this chapter conspicuously displayed;

(d) Have available at the office originals or true copies of all material business records and accounts of the private professional guardian company, which must be readily available to access and readily available for examination by the Division;

(e) Have available to the public written procedures for making claims against the surety bond required to be maintained pursuant to NRS 628B.540;

(f) Have available all services to residents of this State which are consistent with the business plan of the private professional guardian company included with the application for a license; and

(g) Comply with any other requirements specified by the Commissioner.

Sec. 13. NRS 628B.530 is hereby amended to read as follows:

628B.530 1. It is unlawful for any ~~person~~ *private professional guardian company* licensed pursuant to this chapter to engage in the business of a private professional guardian at any office outside this State without the prior approval of the Commissioner.

2. Before the Commissioner will approve a branch to be located outside this State, the private professional guardian *company* must:

(a) Obtain from that state any required license as a private professional guardian; or

(b) Provide proof satisfactory to the Commissioner that the private professional guardian company has met all the requirements to engage in the business of a private professional guardian in that state pursuant to its laws, including, without limitation, written documentation from the appropriate court or state agency that the private professional guardian company is authorized to do business in that state.

3. For each branch location of a private professional guardian company organized under the laws of this State, and every branch location in this State of a foreign private professional guardian company authorized to do business in this State, a request for approval and licensing must be filed with the Commissioner on forms prescribed by the Commissioner. A nonrefundable fee of not more than \$500, as provided by the Commissioner, must accompany each request. In addition, a fee of not more than \$200, to be prorated on the basis of the licensing year as provided by the Commissioner, must be paid at the time of making the request. Money collected pursuant to this section must be deposited in the Investigative Account for Financial Institutions created by NRS 232.545.

4. A foreign corporation or limited-liability company wishing to engage in the business of a private professional guardian in this State must use a name that distinguishes it from any other private professional guardian in this State.

Sec. 14. NRS 628B.540 is hereby amended to read as follows:

628B.540 1. The Commissioner may require a private professional guardian company to maintain equity, fidelity and surety bonds in amounts that are more than the minimum required initially or at any subsequent time based on the Commissioner's assessment of the risks associated with the business plan of the private professional guardian or other information contained in the application, the Commissioner's investigation of the application or any examination of or filing by the private professional guardian company thereafter, including, without limitation, any examination before the opening of the business. In making such a determination, the Commissioner may consider, without limitation:

(a) The nature and type of business to be conducted by the private professional guardian company;

(b) The nature and liquidity of assets proposed to be held in the account of the private professional guardian company;

(c) The amount of fiduciary assets projected to be under the management or administration of the private professional guardian company;

(d) The type of fiduciary assets proposed to be held and any proposed depository of such assets;

(e) The complexity of the fiduciary duties and degree of discretion proposed to be undertaken by the private professional guardian company;

(f) The competence and experience of the proposed management of the private professional guardian company;

(g) The extent and adequacy of proposed internal controls;

(h) The proposed presence of annual audits by an independent certified public accountant, and the scope and frequency of such audits, whether they result in an opinion of the accountant and any qualifications to the opinion;

(i) The reasonableness of business plans for retaining or acquiring additional equity capital;

(j) The adequacy of fidelity and surety bonds and any additional insurance proposed to be obtained by the private professional guardian company for the purpose of protecting its fiduciary assets;

(k) The success of the private professional guardian company in achieving the financial projections submitted with its application for a license; and

(l) The fulfillment by the private professional guardian company of its representations and its descriptions of its business structures and methods and management set forth in its application for a license.

2. ~~{The director or manager of a}~~ A private professional guardian company shall require fidelity bonds in the amount of at least \$25,000 on ~~{the sole proprietor or each active officer, manager, employee and member acting in a managerial or ease manager capacity and employee, or in a}~~ each natural person who acts in any capacity in which he or she is authorized to make discretionary decisions on behalf of the} within the private professional guardian company, regardless of ~~whether the person receives a salary or other compensation from the private professional guardian company.~~ to indemnify the company against loss due to any dishonest, fraudulent or criminal act or omission by a person upon whom a bond is required pursuant to this section who acts alone or in combination with any other person. A bond required pursuant to this section may be in any form and may be paid for by the private professional guardian company.

3. A private professional guardian company shall obtain suitable insurance against burglary, robbery, theft and other hazards to which it may be exposed in the operation of its business.

4. A private professional guardian company shall obtain suitable surety bonds in accordance with NRS 159.065, as applicable.

5. The surety bond obtained pursuant to subsection 4 must be in a form approved by a court of competent jurisdiction and the Division and conditioned that the applicant conduct his or her business in accordance with the requirements of this chapter. The bond must be made and executed by the principal and a surety company authorized to write bonds in this State.

6. A private professional guardian company shall at least annually prescribe the amount or penal sum of the bonds or policies of the company and designate the sureties and underwriters thereof, after considering all known elements and factors constituting a risk or hazard. The action must be recorded in the minutes kept by the private professional guardian company and reported to the Commissioner.

7. The bond must cover all matters placed with the private professional guardian company during the term of the license or a renewal thereof.

8. An action may not be brought upon any bond after 2 years from the revocation or expiration of the license.

9. After 2 years, all liability of the surety or sureties upon the bond ceases if no action is commenced upon the bond.

Sec. 15. NRS 628B.550 is hereby amended to read as follows:

628B.550 1. The fiduciary relationship which exists between a private professional guardian and the ward of the private professional guardian may not be used for the private gain of the guardian other than the remuneration for fees and expenses. A private professional guardian may not incur any obligation on behalf of the guardianship that conflicts with the discharge of the duties of the private professional guardian.

2. Unless prior approval is obtained from a court of competent jurisdiction, a private professional guardian shall not:

(a) Have any interest, financial or otherwise, direct or indirect, in any business transaction or activity with the guardianship.

(b) Acquire an ownership, possessory, security or other pecuniary interest in addition to the ward.

(c) Be knowingly designated as a beneficiary on any life insurance policy or pension or benefit plan of the ward unless such designation was validly made by the ward before the adjudication of the person's incapacity.

(d) Directly or indirectly purchase, rent, lease or sell any property or services from or to any business entity in which the private professional guardian, or the spouse or relative of the guardian, is an officer, partner, director, shareholder or proprietor or in which such a person has any financial interest.

3. Any action taken by a private professional guardian which is prohibited by this section may be voided during the term of the guardianship or by the personal representative of the ward's estate. The private professional guardian is subject to removal and to imposition of personal liability through a proceeding for discharge, in addition to any other remedies otherwise available.

4. A court shall not appoint a private professional guardian that ~~is~~ *does not* ~~licensed pursuant to this chapter~~ *meet the requirements set forth in NRS 159.0595* as the guardian of a person or estate. The court must review each guardianship involving a private professional guardian on the anniversary date of the appointment of the private professional guardian. If a private professional guardian does not ~~hold a current license,~~ *meet the requirements set forth in NRS*

1 **159.0595**, the court must replace the guardian until such time as the private
2 professional guardian ~~obtains the necessary license~~ **meets such requirements.**

3 5. ~~The provisions of NRS 159.076 regarding summary administration do not~~
4 ~~apply to a private professional guardian.~~

5 ~~6. A licensee~~ **A private professional guardian** shall file any report required
6 by the court in a timely manner.

7 **Sec. 16.** NRS 628B.560 is hereby amended to read as follows:

8 628B.560 1. Except as otherwise provided in NRS 159.076, a ~~licensee~~
9 **private professional guardian company** shall maintain a separate guardianship
10 account for each ward into which all money received for the benefit of the ward
11 must be deposited ~~+~~ **unless otherwise ordered by the court** ~~+~~ **for a substantiated**
12 **reason.** Each guardianship account must be maintained in an insured bank or credit
13 union located in this State, be held in a name which is sufficient to distinguish it
14 from the personal or general checking account of the ~~licensee~~ **private professional**
15 **guardian company** and be designated as a guardianship account. Each guardianship
16 account must at all times account for all money received for the benefit of the ward
17 and account for all money dispersed for the benefit of the ward, and no
18 disbursement may be made from the account except as authorized under chapter
19 159 of NRS or as authorized by court order.

20 2. Each ~~licensee~~ **private professional guardian company** shall keep a record
21 of all money deposited in each guardianship account maintained for a ward, which
22 must clearly indicate the date and from whom the money was received, the date the
23 money was deposited, the dates of withdrawals of money and other pertinent
24 information concerning the transactions. Records kept pursuant to this subsection
25 must be maintained for at least 6 years after the completion of the last transaction
26 concerning the account. The records must be maintained at the premises in this
27 State at which the ~~licensee~~ **private professional guardian company** is authorized
28 to conduct business.

29 3. The Commissioner or his or her designee may conduct an examination of
30 the guardianship accounts and records relating to wards of each private professional
31 guardian company licensed pursuant to this chapter at any time to ensure
32 compliance with the provisions of this chapter.

33 4. During the first year a private professional guardian **company** is licensed in
34 this State, the Commissioner or his or her designee may conduct any examinations
35 deemed necessary to ensure compliance with the provisions of this chapter.

36 5. If there is evidence that a private professional guardian company has
37 violated a provision of this chapter, the Commissioner or his or her designee may
38 conduct additional examinations to determine whether a violation has occurred.

39 6. Each ~~licensee~~ **private professional guardian company** shall authorize the
40 Commissioner or his or her designee to examine all books, records, papers and
41 effects of the private professional guardian company.

42 7. If the Commissioner determines that the records of a ~~licensee~~ **private**
43 **professional guardian company** are not maintained in accordance with subsections
44 1 and 2, the Commissioner may require the ~~licensee~~ **private professional**
45 **guardian company** to submit, within 60 days, an audited financial statement
46 prepared from the records of the ~~licensee~~ **private professional guardian company**
47 by a certified public accountant who holds a certificate to engage in the practice of
48 public accounting in this State. The Commissioner may grant a reasonable
49 extension of time for the submission of the financial statement if an extension is
50 requested before the statement is due.

51 8. Upon the request of the Division, a ~~licensee~~ **private professional**
52 **guardian company** must provide to the Division copies of any documents reviewed
53 during an examination conducted by the Commissioner or his or her designee

1 pursuant to subsection 4, 5 or 6. If the copies are not provided, the Commissioner
2 may subpoena the documents.

3 9. For each examination of the books, papers, records and effects of a private
4 professional guardian company that is required or authorized pursuant to this
5 chapter, the Commissioner shall charge and collect from the private professional
6 guardian company a fee for conducting the examination and preparing a report of
7 the examination based upon the rate established by regulation pursuant to NRS
8 658.101. Failure to pay the fee within 30 days after receipt of the bill is grounds for
9 revoking the license of the private professional guardian company.

10 10. All money collected under this section must be deposited in the State
11 Treasury pursuant to the provisions of NRS 658.091.

12 **Sec. 17.** NRS 628B.730 is hereby amended to read as follows:

13 628B.730 1. If the Commissioner has reason to believe that grounds for the
14 revocation or suspension of a license exist, the Commissioner shall give at least 20
15 days' written notice to the ~~Hienseet~~ *private professional guardian company*
16 stating the contemplated action and, in general, the grounds therefor and set a date
17 for a hearing.

18 2. At the conclusion of a hearing, the Commissioner shall:

19 (a) Enter a written order dismissing the charges, revoking the license or
20 suspending the license for a period of not more than 60 days, which period must
21 include any prior temporary suspension. The Commissioner shall send a copy of the
22 order to the ~~Hienseet~~ *private professional guardian company* by registered or
23 certified mail.

24 (b) Impose upon the ~~Hienseet~~ *private professional guardian company* an
25 administrative fine of not more than \$10,000 for each violation by the ~~Hienseet~~
26 *private professional guardian company* of any provision of this chapter or any
27 regulation adopted pursuant thereto.

28 (c) If a fine is imposed pursuant to this section, enter such order as is necessary
29 to recover the costs of the proceeding, including investigative costs and attorney's
30 fees.

31 3. The grounds for revocation or suspension of a license are that:

32 (a) The ~~Hienseet~~ *private professional guardian company* has failed to pay the
33 annual license fee;

34 (b) The ~~Hienseet~~ *private professional guardian company* has violated any
35 provision of this chapter or any regulation adopted pursuant thereto or any lawful
36 order of the Commissioner;

37 (c) The ~~Hienseet~~ *private professional guardian company* has failed to pay
38 any applicable state or local tax as required;

39 (d) Any fact or condition exists which would have justified the Commissioner
40 in denying the original application for a license pursuant to the provisions of this
41 chapter; or

42 (e) The ~~Hienseet~~ *private professional guardian company*:

43 (1) Failed to open an office for the conduct of the business authorized by
44 ~~this or her~~ *its* license within 180 days after the date the license was issued; or

45 (2) Has failed to remain open for the conduct of the business for a period
46 of 30 consecutive days without good cause therefor.

47 4. An order suspending or revoking a license becomes effective 5 days after
48 being entered unless the order specifies otherwise or a stay is granted.

49 5. If the Commissioner enters an order suspending or revoking a license
50 pursuant to this section, the Commissioner shall send a copy of the order to each
51 district court in this State.

1 **Sec. 18.** NRS 628B.920 is hereby amended to read as follows:

2 628B.920 A person who ~~an entity that~~ does not have a license issued
3 pursuant to this chapter shall not:

4 1. Use the term “private professional guardian” or “guardianship services” as
5 a part of ~~this or her its~~ the person’s business name.

6 2. Advertise or use any sign which includes the term “private professional
7 guardian.”

8 **Sec. 19.** NRS 628B.930 is hereby amended to read as follows:

9 628B.930 1. The Commissioner shall conduct an investigation if he or she
10 receives a verified complaint that ~~an unlicensed~~ a person ~~entity~~ who does not
11 meet the requirements set forth in NRS 159.0595 is engaging in ~~an~~ any activity
12 ~~for which a license is required pursuant to this chapter,~~ relating to service as a
13 private professional guardian.

14 2. If the Commissioner determines that ~~an unlicensed~~ a person ~~entity~~ who
15 does not meet the requirements set forth in NRS 159.0595 is engaged in ~~an~~ any
16 activity ~~for which a license is required pursuant to this chapter,~~ relating to service
17 as a private professional guardian, the Commissioner shall:

18 (a) Issue and serve on the person ~~entity~~ an order to cease and desist from
19 engaging in the activity until such time as the person ~~entity~~ obtains a license issued
20 by the Commissioner, meets the requirements set forth in NRS 159.0595; and

21 (b) Send a copy of the order to each district court in this State.

22 3. If a person ~~an entity~~ upon whom ~~which~~ an order to cease and desist is
23 served pursuant to subsection 2 does not comply with the order within 30 days after
24 the service of the order, the Commissioner shall, after providing to the person
25 ~~entity~~ notice and an opportunity for a hearing:

26 (a) Impose upon the person ~~entity~~ an administrative fine of \$10,000; or

27 (b) Enter into a written agreement with the person ~~entity~~ pursuant to which
28 the person ~~entity~~ agrees to cease and desist from engaging in any activity in this
29 State ~~for which a license is required~~ relating to ~~the business of~~ service as a
30 private professional guardian and impose upon the person ~~entity~~ an administrative
31 fine of not less than \$5,000 and not more than \$10,000.

32 4. The Commissioner shall bring suit in the name and on behalf of the State of
33 Nevada against a person ~~an entity~~ upon whom ~~which~~ an administrative fine is
34 imposed pursuant to subsection 3 to recover the amount of the administrative fine
35 if:

36 (a) No petition for judicial review is filed pursuant to NRS 233B.130 and the
37 fine remains unpaid for at least 90 days after notice of the imposition of the fine; or

38 (b) A petition for judicial review is filed pursuant to NRS 233B.130 and the
39 fine remains unpaid for at least 90 days after the exhaustion of any right of appeal
40 in the courts of this State resulting in a final determination that upholds the
41 imposition of the fine.

42 5. A person’s ~~Any~~ liability for an administrative fine is in addition to any
43 other penalty provided for in this chapter.

44 **Sec. 20.** ~~NRS 628B.940 is hereby amended to read as follows:~~

45 ~~628B.940 1. If the Commissioner has reasonable cause to believe that any~~
46 ~~person is violating or is threatening to or intends to violate any provision of this~~
47 ~~chapter, the Commissioner may, in addition to any action provided for in this~~
48 ~~chapter and chapter 233B of NRS and without prejudice thereto, enter an order~~
49 ~~requiring the person to cease and desist or to refrain from such violation. If the~~
50 ~~Commissioner enters such an order pursuant to this subsection, the Commissioner~~
51 ~~shall send a copy of the order to each district court in this State.~~

52 ~~2. The Commissioner may bring an action to enjoin a person from engaging~~
53 ~~in or continuing a violation or from doing any act or acts in furtherance thereof. In~~

1 any such action, irreparable harm and lack of an adequate remedy at law will be
2 presumed and an order or judgment may be entered awarding a preliminary or final
3 injunction as may be deemed proper. The findings of the Commissioner shall be
4 deemed to be prima facie evidence and sufficient grounds, in the discretion of the
5 court, for the issuance ex parte of a temporary restraining order.

6 ~~3. In addition to all other means provided by law for the enforcement of a~~
7 ~~restraining order or injunction, the court in which an action is brought may~~
8 ~~impound, and appoint a receiver for, the property and business of [the person,] a~~
9 ~~private professional guardian company, including books, papers, documents and~~
10 ~~records pertaining thereto, or so much thereof as a court may deem reasonably~~
11 ~~necessary to prevent violations of this chapter through or by means of the use of~~
12 ~~property and business, whether such books, papers, documents and records are in~~
13 ~~the possession of the [person,] private professional guardian company, a registered~~
14 ~~agent acting on behalf of the [person] private professional guardian company or~~
15 ~~any other person. If a receiver is appointed and qualified, the receiver has such~~
16 ~~powers and duties relating to the custody, collection, administration, winding up~~
17 ~~and liquidation of such property and business as may be conferred upon the~~
18 ~~receiver by the court.~~

19 ~~4. If a receiver is appointed pursuant to subsection 3, the receiver shall remit~~
20 ~~to the owners, members or shareholders of the private professional guardian~~
21 ~~company any amount of equity of the private professional guardian company~~
22 ~~remaining after the discharge of the liabilities and payment of the normal, prudent~~
23 ~~and reasonable expenses of the receivership.] (Deleted by amendment.)~~