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Director

**DEPARTMENT OF
HEALTH AND HUMAN SERVICES**
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
Helping people. It's who we are and what we do.



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SMALL BUSINESS IMPACT STATEMENT 2022

PROPOSED AMENDMENTS TO NAC 441 THROUGH LCB FILE NO. R148-22

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments will have adverse effect upon Nevada-Licensed Healthcare Facilities and impact, operation, or expansion of a small business in Nevada.

A small business is defined in Nevada Revised Statutes NRS 233B as a "business conducted for profit which employs fewer than 150 full-time or part-time employees."

This small business impact statement is made pursuant to NRS 233B.0608 (3) and complies with the requirements of NRS 233B.0609. As required by NRS 233B.0608(3), this statement identifies the methods used by the agency in determining the impact of the proposed regulation on a small business in sections 1, 2, 3, and 4 below and provides the reasons for the conclusions of the agency in section 8 below followed by the certification by the person responsible for the agency.

Background

The Nevada Department of Health and Human Services (DHHS) has drafted revisions to Nevada Administrative Code (NAC) chapter 441 in accordance with Senate Bill 275 (SB 275) and Assembly Bill 192 (AB 192) of the 2021 legislative session.

SB 275 revises provisions relating to communicable diseases including isolation and quarantine of a case or suspected case of a communicable diseases and removal of duplicative references to HIV and/or AIDS. AB 192 revises provisions governing the testing of pregnant women for certain sexually transmitted infections. The proposed regulations will update NAC Chapter 441A in accordance with the requirements set forth in SB 275 and AB 192.

Current regulations do not require reporters to indicate if a woman who tests positive for syphilis is pregnant or require treatment information. The proposed regulation will update and require that a report of a pregnant woman who has or is suspected of having syphilis must include, without limitation, the fact that the case occurred in a pregnant woman and if treatment was provided, the type of treatment that was provided; or if the pregnant woman refused treatment, the fact that the pregnant woman refused treatment.

Additionally, the Centers for Disease Control and Prevention (CDC) recommends all pregnant women in the U.S. should be screened for syphilis during their pregnancy. Women who test positive should be treated using the most current STI treatment recommendations.

In addition to changes brought forth because of SB 275 and AB 192, R148-22 will update NAC 441A in the following ways:

- Add the following conditions as reportable communicable diseases:
 - o Any condition identified by the Centers for Disease Control and Prevention as a nationally notifiable condition
 - o Babesiosis (parasite)
 - o Candida auris
 - o Coronavirus disease 2019 (COVID-19)
 - o Cyclosporiasis (parasite)
 - o Monkeypox
- Update reporting requirements for:
 - o *Haemophilus influenzae* invasive disease, removes the requirement for it to be type b
 - o Hepatitis B, specify acute and chronic
 - o Hepatitis C, specify perinatal, acute, and chronic
 - o Influenza, removed the reference to persons under 18 years of age
- Update references to current recommended treatment guidelines (i.e., reference was to a manual published in 2015, updated to 2021)
- Add reporting requirement for electronic case reporting
- Add requirement for medical laboratories to report negative results for Hepatitis C and HIV
- Add requirement for health care providers to provide negative results or proof of treatment for a specific person if requested by the health authority
- Add requirement for schools to inform parents or guardians of children who might have been exposed to a communicable disease and for schools to provide information to parents so they can monitor children for sign and symptoms of the communicable disease to which they were exposed
- Update reporting requirements for tuberculosis testing and treatment
- Update investigation requirement for chlamydia and gonorrhea, specifying that the health authority *may* investigate each case, rather than *shall*
- Update treatment language for sexually transmitted infections, specifying that a person shall be *offered* treatment, rather than *receives* treatment
- Update investigation criteria for Lyme Disease to better align with CDC guidance
- Add additional exclusion criteria from schools for individuals who test positive for measles
- Prohibit the exclusion of workers from sensitive occupations should exclusion of the person be prohibited by the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., or NRS 613.330
- Prohibit the exclusion children from a childcare facility or school should exclusion of the person be prohibited by Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., or NRS 651.050 to 651.120, inclusive

1) A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

The survey was posted on October 31, 2022 as an online survey to the websites for the [Office of HIV](#) and the [Office of Public Health Investigations and Epidemiology](#) (OPHIE).

Individuals had the option to complete the survey online or mail, fax or email your completed form on or prior to Tuesday, November 16, 2022, to:

Tory Johnson, HIV Section Manager
 Community Health Services
 1840 East Sahara Avenue, Suite 110-111
 Las Vegas, NV 89104
 Phone Number: (702) 486-0767
 Email Address: tojohnson@health.nv.gov
 FAX: (702) 486-8101

Pursuant to NRS 233B.0608 (2)(a), the Division of Public and Behavioral Health (DPBH) requested input from all Nevada-licensed health facilities. DPBH also requested input from all county health officers, county epidemiologists, and the Ryan White Part B Listserv, and listserv subscribers interested in information related to health facilities from Health Care Quality Compliance regulators. A Small Business Impact Questionnaire along with a copy of the proposed regulation changes were emailed to 48 county health officers and county epidemiologists and 74 Ryan Part B partners on November 1, 2022. A Small Business Impact Questionnaire along with a copy of the proposed regulation changes were emailed to 2,625 recipients which included all Nevada-licensed health facilities and listserv subscribers interested in information related to health facilities from Health Care Quality Compliance regulators, on November 9, 2022. The survey was originally scheduled to close on November 15, but was extended to November 16, 5pm.

The questions on the questionnaire were:

- 1) How many employees are currently employed by your business?
- 2) Will a specific regulation have an adverse economic effect upon your business?
- 3) Will the regulation(s) have any beneficial effect upon your business?
- 4) Do you anticipate any indirect adverse effects upon your business?
- 5) Do you anticipate any indirect beneficial effects upon your business?

Summary of Response

Out of the small-business impact questionnaires sent out when the questionnaire was distributed, five (5) responses were received.

Summary Of Comments Received			
(5 responses were received out of 2,747 small business impact questionnaires distributed)			
Will a specific regulation have an adverse economic effect upon your business?	Will the regulation (s) have any beneficial effect upon your business?	Do you anticipate any indirect adverse effects upon your business?	Do you anticipate any indirect beneficial effects upon your business?
Yes: 3	Yes: 1	Yes: 1	Yes: 1
No: 2	No: 4	No: 4	No: 4
No Response: 0	No Response: 0	No Response: 0	No Response: 0

2) Describe the manner in which the analysis was conducted.

An online small business impact survey was distributed via email and posted publicly to two DPBH websites, as described above. All questionnaire responses were conducted via the web, and none were received via email, fax, or mail. The proposed regulations, as well as existing regulations, were reviewed. The OPHIE Manager and the Office of HIV Section Manager analyzed the information from the questionnaire to determine if the proposed regulation had an impact on small businesses or if it was existing regulations that had an impact on small businesses. This statement was prepared by the OPHIE Manager and the HIV Section Manager.

A Public Workshop will be held on Friday, December 16, 2022 to continue to obtain feedback on the proposed regulations.

3) The estimated economic effect of the proposed regulation on the small business which it is to regulate including, without limitation both adverse and beneficial effects and both direct and indirect effects.

Three out of five (60%) of respondents believe the regulations will have an adverse economic impact on their business. Two respondents provided critical feedback:

- One respondent described their concerns as a small business owner and their employees being impacted by COVID-19 masking. They stated that when masks became required, they lost employees and struggled to continue staffing their business. However, masking is not a component of the proposed regulations. Their other concerns were about other agencies during COVID-19 outside DPBH and do not directly relate to these regulations.
- The second respondent described their concern that the regulations impact all people with arbitrary health measures and expressed their concern that if they as an owner/sole employee of the business is unable to work as a result of regulations, then their business would shut down.
- Both these respondents stated that regulations require small businesses to spend additional money, oftentimes when they are already in a precarious financial situation. While this is a valid concern for business owners, it appears this concern is related to a higher-level concern from these individuals about the government's utilization of regulations and statutes for disease mitigation and does not directly relate to these proposed regulation updates.

One of the five (20%) of the respondents shared positive feedback stating that these regulation updates will improve opportunities to prevent infections such as HIV and advance access to HIV prevention strategies, pregnancy prevention, and STI prevention. They noted that these efforts will prevent long-term complications associated with illness.

Anticipated effects on the business and on the general public:

- A. *Adverse effects:* The Division of Public and Behavioral Health does not anticipate any adverse/negative impacts to businesses or the general public in the State of Nevada.
- B. *Beneficial:* Birth defects can occur in infants born to women who are infected with syphilis prior to or during pregnancy, this is known as congenital syphilis. Congenital syphilis can cause developmental delays and have negative neurologic manifestations. The positive/beneficial effects of AB 192 for the public would be fewer cases of untreated syphilis and lower rates of congenital syphilis. This could result in less overall medical costs to medical systems and lower costs to support children through K-12 education as well as lessen support services costs that an individual who is born with congenital syphilis could require to support in adulthood.
- C. *Immediate:* As soon as the proposed regulations become effective, it would improve the reporting information reported to public health for women who test positive for syphilis during pregnancy. This information will allow disease investigators to provide better investigations and confirm that women are adequately treated in pregnancy to prevent congenital syphilis.
- D. *Long-term:* The long-term positive/beneficial of AB 192 effects to the public in the State of Nevada

will reduce the future cost of medical care and cost of support services for those born with congenital syphilis.

4) Provide a description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

In addition to distributing the small business impact survey, the Division of Public and Behavioral Health has held several opportunities for stakeholders to provide input and comments regarding the proposed regulations, including soliciting feedback from state and county health officers, epidemiologists, and the Nevada State Public Health Lab before finalizing the draft regulations. A Public Workshop will be held on Friday, December 16, 2022, to allow for further input by the public regarding the proposed. These comments will be taken into consideration for possible further revisions to the regulations to reduce the economic impact on facilities.

5) The estimated cost to the agency for enforcement of the proposed regulation.

There is no direct cost to the agency for enforcement of the proposed regulations.

6) If the proposed regulation provides a new fee or increases an existing fee, the total annual amount DPBH expects to collect and the manner in which the money will be used.

The proposed regulations do not provide for a new fee or increase any existing fee.

7) An explanation of why any duplicative or more stringent provisions than federal, state or local standards regulating the same activity are necessary.

The proposed regulations are not duplicative or more stringent than any federal, state, or local standards.

8) Provide a summary of the reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.

In summary, the proposed regulations Legislative Counsel Bureau (LCB) file no. R148-22, in carrying out the provisions of AB 192 and SB 275 to update NAC 441A, will not cause an adverse financial impact on the programs and/or small businesses. LCB file no. R148-22 will significantly benefit residents within the State of Nevada by:


1. Destigmatizing HIV.
2. Increasing opportunities for testing of HIV and STDs, particularly syphilis testing for pregnant women.
3. Reducing the future cost of medical care and treatment of late diagnosis of HIV and STDs, particularly by preventing congenital syphilis.
4. Lower rates of communicable diseases through improved disease mitigation requirements and additional reporting.

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Lindsey Kinsinger at the Division of Public and Behavioral Health at:

Lindsey Kinsinger
500 Damonte Ranch Pkwy #657
Reno, NV 89521
Phone: (775) 434-4358
Email: lkinsinger@health.nv.gov

Certification by Person Responsible for the Agency

I, Lisa Sherych, Administrator of the Division of Public and Behavioral Health certify to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and the information contained in this statement was prepared properly and is accurate.

Signature  Date: 11/29/2022