

Steve Sisolak
Governor



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



Lisa Sherych
Administrator

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Chief Medical Officer

SMALL BUSINESS IMPACT STATEMENT 2022
PROPOSED AMENDMENTS TO NAC 640E

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments should not have a negative economic impact upon a small business or discourage the formation, 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 proposed regulations are being moved forward as a result of Assembly Bill 73 and Assembly Bill 330 of the 81st (2021) legislative session.

Assembly Bill 330 requires each regulatory body, in this case the Board of Health, to adopt regulations to effectuate the purposes of the following bill requirements:

- 1. A person who, in secondary or postsecondary education, completes a training program for occupational, vocational, career, trade or technical education approved by the State Board of Education and receives a certificate for the completion of that program is eligible to receive equivalent credit towards the satisfaction of requirements for the issuance of any professional and occupational licenses and certifications relating to the training received.*
- 2. For a person to be eligible to receive equivalent credit pursuant to subsection 1, the secondary or postsecondary education received by the person pursuant to title 34 of NRS must be consistent with the requirements for the issuance of professional or occupational licenses and certifications established pursuant to the provisions of title 54 of NRS and the regulations adopted pursuant thereto.*
- 3. Any person aggrieved by a decision of a regulatory body concerning eligibility for equivalent credit pursuant to this section may appeal to the regulatory body for a determination whether the training satisfies the requirements for professional or occupational licensure or certification, as applicable. An appeal made pursuant to this subsection must be conducted as provided for the appeal of the denial of a professional or occupational license or certificate by that regulatory body.*

Assembly Bill 73 removes the requirement that the Board of Health establish a fee for the late renewal of a license and the issuance of a duplicate license. The proposed regulations follow suit in removing these fees.

Assembly Bill 73 amends the requirements for a provisional license; therefore, the amendment to NAC 640E.100(1) in section 4 of the proposed regulations, as it relates to the issuance of a provisional license, refers back to NRS 640E.180.

In addition, the proposed regulations amend NAC 640E.200 relating to unlicensed dietitian complaints by requiring the Executive Officer to investigate such complaints, not allowing unlicensed individuals to engage in the practice of dietetics until the individual becomes licensed, and other related provisions.

The proposed regulations also amend NAC 640E.210, as it relates to a complaint against a licensee or an applicant for a license to practice dietetics, to allow the Executive Officer to conduct an investigation, and if substantiated, to forward the complaint, information collected as part of the investigation, and the investigative results to the Commission on Dietetic Registration.

The proposed regulations also repeal NAC 640E.120 and NAC 640E.130 which are no longer relevant with the passage of Assembly Bill 73.

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.

Pursuant to NRS 233B.0608(2)(a), the Division of Public and Behavioral Health has requested input from licensed dietitians.

An email was sent to all actively licensed dietitians, at the time the questionnaire was distributed, and to certain others in our online licensing system, with information on how small businesses could provide input on the proposed regulations and how to access the small business impact questionnaire and proposed regulations through a link to the Division’s webpage with links to the questionnaire and proposed regulations. 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

Summary Of Comments Received (0 responses were received out of 1142 small business impact questionnaires distributed)			
Will a specific regulation have an adverse economic effect upon your business? No responses received.	Will the regulation (s) have any beneficial effect upon your business? No responses received.	Do you anticipate any indirect adverse effects upon your business? No responses received.	Do you anticipate any indirect beneficial effects upon your business? No responses received.

Other interested persons may obtain a copy of the summary by calling, writing or emailing:

Nevada Division of Public and Behavioral Health
Bureau of Health Care Quality and Compliance
Attention: Leticia Metherell
727 Fairview Drive, Suite E
Carson City, NV 89701
Phone: 775-684-1030
Email: lmetherell@health.nv.gov

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

A health program manager reviewed the requirements of Assembly Bill 330 and Assembly Bill 73 of the 81st (2021) legislative session, the proposed regulations, Nevada Revised Statutes Chapter 640E, Nevada Administrative Code Chapter 640E, and the small business impact questionnaire responses to determine the impact on small businesses. The proposed regulations carry out the requirement that the Board of Health adopt regulations to effectuate the purposes of carrying out provisions of Assembly Bill 330. In addition, Nevada Revised Statutes Chapter 640E and Nevada Administrative Code Chapter 640E were reviewed, related to unlicensed and licensed dietitian complaints, and revised to address potential issues, for example, allowing an individual who was found to be engaged in the unlicensed practice of dietetics, to be able to continue to do so, just because a licensure application to become a dietitian was submitted, but prior to the issuance of a license to practice dietetics.

Assembly Bill 73 removes the requirement that the Board of Health establish a fee for the late renewal of a license and the issuance of a duplicate license. The proposed regulations follow suit in removing these fees.

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.

Adverse Economic Effects – There are no anticipated direct adverse economic effects.

Indirect Adverse Economic Effects – There are no anticipated indirect adverse economic effects.

Beneficial Effects – Direct beneficial effects include the removal of the fee for a late renewal of a license and for the issuance of a duplicate license, as a result of the passage of Assembly Bill 73.

Indirect Beneficial Effects – May have an indirect beneficial financial effect to those in which a complaint is received alleging unlicensed practice by requiring the complaint be investigated, to determine whether the complaint is substantiated, prior to issuing a cease-and-desist letter. This prevents a negative financial impact on individuals who do not require licensure, but who would have had to immediately cease operations, just because an allegation was made.

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.

The Division reviewed Assembly Bill 73 and 330's requirements for the development of regulations and developed regulations that reduce the impact by requiring the minimal amount of documentation to carry out the provisions of Assembly Bill 330. In addition, the current appeal process outlined in NAC Chapter 439 in the

event a person is aggrieved by a decision of the regulatory body will be used instead of creating a new, separate process, in the event an individual files an appeal pursuant to Assembly Bill 330.

The Division will hold a public workshop to obtain further feedback on the proposed regulations. The Division will take the feedback into consideration when determining if further modifications to the proposed regulations are needed, and the impact to small businesses.

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

None, as it is anticipated that this workload can be incorporated into the Division's current workload to license and regulate dietitians.

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 an 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.

There are no other known duplicate or more stringent provisions regulating to the same activity.

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

The Division concluded the proposed amendments should not have a negative economic impact upon a small business or discourage the formation, operation or expansion of a small business in Nevada. The reason for the conclusion is based on the analysis of the proposed language and that no responses were received from industry indicating that the proposed regulations would result in a negative financial impact.

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

Division of Public and Behavioral Health
727 Fairview Drive, Suite E
Carson City, NV 89701
Leticia Metherell
Phone: 775-684-1045
Email: lmetherell@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: 05/12/2022