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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.*



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## SMALL BUSINESS IMPACT STATEMENT

### PROPOSED AMENDMENTS TO NEVADA ADMINISTRATIVE CODE (NAC 449) LCB File R063-21

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments should have a minimal financial impact upon a small business and should not prevent the formation, operation or expansion of a small business in Nevada.

A small business is defined in Nevada Revised Statutes (NRS) 233B.0382 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 2021 Legislative Session passed Assembly Bill 217, which amended NRS Chapter 449 and directs the State Board of Health to adopt regulations designating the types of facilities to which certain requirements to provide training to unlicensed caregivers apply; prescribing requirements relating to such training; prescribing the required content for the written plan for the control of infectious diseases developed by a designated facility; and providing other matters properly relating thereto. The proposed regulations LCB file R063-21 are designed with the intent to ensure free infection control training posted on the Division's website is accessible to all unlicensed caregivers. This training would meet the unlicensed caregiver infection control requirements and would not be a financial burden on licensed providers as the training will be free.

#### **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 medical and non-medical facilities.

A Small Business Impact Questionnaire was sent to licensed medical and non-medical providers along with a copy of the proposed regulation changes, on 12/8/21. 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 Responses**

| <b>Summary Of Comments Received</b><br><b>(55 responses were received out of 2611 small business impact questionnaires distributed)</b> |   |   |  |
|---|---|---|--|
| <b>Will a specific regulation have an adverse economic effect upon your business?</b>   | <b>Will the regulation (s) have any beneficial effect upon your business?</b>       | <b>Do you anticipate any indirect adverse effects upon your business?</b> | <b>Do you anticipate any indirect beneficial effects upon your business?</b> |
| Yes - 24<br>No - 15   | Yes- 14<br>No - 23  | Yes – 21<br>No - 15   | Yes – 10<br>No - 26  |
| 11 comments indicated the required training would have an adverse economic effect on their business.                                    | 8 comments indicated the regulations will have beneficial effect on their business. | 12 comments made on indirect adverse effects on their business.           | 9 comments on indirect beneficial effects on their business                  |

**Comments on Adverse economic effect**

- To be trained by nationally recognized organization for both unlicensed caregivers and representative of the company will have significant impact. From just googling, programs cost a minimum of \$100 to hundreds of dollars. These actual programs seem like college seminars Currently, to just become caregiver it will cost one at least around \$250.
- The cost of implementing this and maintaining it is estimated to cost this 15-bed facility a minimum of \$3,000 annually.
- The regulation will just make it harder to expand businesses because there not many caregivers that are interested plus after taking certificated classes from SNAMHS and HCQC. SNAMHS requires caregiver to do 16 hours of training every year already not including medication management and CPR.
- The proposed regulation change mandating unlicensed caregivers’ complete infection control training by a nationally recognized organization puts an undue financial strain on the assisted living/memory care communities of Nevada.
- There should be more specific regulations around unlicensed caregivers
- AB 217, we spend a lot of time training on stuff that does not add value and do not train on things that add value.
- We pay a license fee of \$850 per year when we only have 20 people. This will also add to the cost of business.
- We're already doing the annual Medication training/renewal, Elder Abuse/Adult Protective Services training annually, CPR every 2 years, Safe injection Practices training annually plus the other Continuing Education for caregiving.

- This required training will raise the cost to hire and retain employees. In a field with high turnaround this will cost thousands of dollars a year.
- The cost will be significant to hire someone to train staff. We are already required to do the Cultural Competency training those costs \$100 per employee annually.
- LCB File No. R063-21 will cost us to provide an outside company to provide this training and negatively impact our business.
- Most small businesses are still trying to recover from Covid-19 There were many, many, extra expenses. We cannot find Caregivers now because they make more staying home on unemployment. The challenge continues, if more restrictions are put on our industry, we as small business owners are doomed to fail. The extra time to train, the paper, the ink, paying overtime for training. It already costs roughly \$500 to get all that is needed just to hire a Caregiver, CPR etc.

**Comments on beneficial effects on businesses:**

- It will help to improved training requirements and hold the personnel to a higher more standardized systems across agencies.
- Might be if we can use it to help train other Personal Care Workers from other agencies.
- It could stand to bring consistency to infection control policies and training.
- Infection control is an important topic in senior care, however mandating that the training needs to be completed by a nationally recognized organization is over the top and not realistic in today's staffing shortages. Instead put together a list of topics that must be covered in infection control training and that can be completed at the facility level.
- There is always room for more improvement. This changes in the regulation are allowing us to see our own selves that sooner or later we will be in this population of Geriatrics
- If it streamlines the process instead of adding a bunch of stuff that doesn't help caregivers, clients, and agencies it will help.
- Providing better quality caregivers, that understand their actions will be accountable for all communities. This helps all communities set a standard of care and accountability for all communities to provide to our residents.
- It will help weed out unethical as well as untrained staffing from my competitors.

**Comments on Indirect Adverse Effects upon Businesses:**

- This requirement would push a lot of new hires to be apprehensive by number of requirements and cost of becoming an employee.
- As it is, the state does not compensate well to the changes in costs to operate, they pay flat rate, this for sure will discourage current and new small business/providers to open new facilities much like the NAC 477 that was added couple of years back. This will also impact the communities being served by providers.
- Some lag in implementation and identification of 'approved' providers.
- Administrative time consumption.
- The proposed regulation change mandating unlicensed caregivers' complete infection control training by a nationally recognized organization puts an undue financial strain on the assisted living/memory care communities of Nevada.
- Being saddled with non-productive training.
- I think we are already having that with the mandate of the vaccine, this is just another standard of care that should be implemented.
- Training will take longer for new employees and result in more time away from work for yearly training.

-The concern is potential: If facilities paid independently from CMS are mandated to CDC COVID Vaccination, it will become near impossible to employ enough care givers to continue to serve the small percentage of need covered. The proposed changes do not immediately cause hardship as written but should mandates foreseen be covered by these changes then it will shut many small homes care agencies down.

-Yes, the indirect adverse effects right now are the Omicron and the reaction of the workers. Who can promise that their families and themselves are safe?

-More financial problems: the economy is inflated, food costs elevated, supply costs elevated, cannot find decent workers, gasoline to/from work has nearly doubled.

-It is harder to higher individual for minimum wage and now add on my classes. They will go clean rooms at a casino and make more with no training.

### **Comments on indirect Beneficial effects on business:**

-Provide additional staff to assist with patient needs.

-NONE

-Decrease in potential illness reports and/or decrease cleanliness concerns.

-Only if the changes will work for the benefits of both parties.

-Potentially, a source for training that's low cost and effective

-Business will close if pay hike is not controlled

-Each licensed Facilities will comply to follow and provide the training to all caregivers/staff/employees.

-No employees who don't stay past probationary period will lose money out of their checks and won't be reimbursed for training.

-More time spent hiring and training than taking care of the residents.

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

A small business impact questionnaire was sent out to all licensed providers, that may have unlicensed caregivers providing care, on 12/8/21. Of 2,611 providers that were sent the email questionnaire, 55 responded by the deadline of 12/23/21. An analysis of the input collected was conducted by a Health Facilities Inspection Manager. The analysis involved analyzing feedback obtained from the small business impact questionnaire, review of current statutes and review of the requirements of LCB File R063-21 to determine how the Division could reduce the impact on small businesses through the proposed regulations.

This information was then used to complete this small business impact statement including the conclusion on the impact of the proposed regulation on a small business found in number 8.

A public workshop will be scheduled to continue to obtain feedback on the proposed regulations during the regulatory development process.

## **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.**

There is very minimal economic effect on small businesses as the training is free on the Division's website for licensed providers.

*Direct Beneficial Effects:* It will help training requirements be more consistent for unlicensed caregivers for infection control. Fourteen respondents agreed there will be a direct benefit while 23 indicated there would not be.

*Indirect Beneficial Effects:* Ten respondents indicated there will be a direct beneficial benefit to the regulations while 26 replied there are no direct beneficial effects. Responders thought it will benefit the industry if caregivers have better knowledge of infection control for non-medical facilities.

*Direct Adverse Effects:* Twenty-four respondents indicated there will be a direct adverse effect on their business. Comments reflected added costs of training to caregivers in an environment where staff shortages are prominent in non-medical as well as medical healthcare facilities. The added training would be a financial burden to facilities that have already seen staff shortages for caregivers. Comments referenced above.

*Indirect Adverse Effects:* Twenty-one respondents indicated there would be an indirect adverse effect from the proposed regulation. Comments included elevated costs of doing business in the current economic environment and this would also add to the burden of costs imposed on providers.

**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 of Public and Behavioral Health has provided opportunities for licensed providers to give input and comments regarding the proposed LCB File R063-21 regulations, including the economic impact the proposed regulations may have on licensed medical and non-medical providers that employ unlicensed caregivers. Modifications to the proposed regulations have been made as a result of this input.

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 to mitigate the impact to small businesses.

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

There should be no additional costs to the agency to enforce the proposed regulations. Providing free infection control training may in fact reduce the costs of conducting infection control inspections due to providers being more knowledgeable thus reducing complaints regarding infection control.

**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 will not provide for a new fee or increase in existing fees.

**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 duplicate or more stringent provisions regulating infection control training for unlicensed caregivers.

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

Although comments from the small business impact questionnaire raise concern over cost of training unlicensed caregivers, the training will be free on the Division’s website. This will eliminate licensed providers from having to pay for their unlicensed caregiver’s infection control training. The proposed regulations could have a beneficial impact on limiting spread of infections in facilities through training of unlicensed caregivers related to infection control.

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

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**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: 09/08/2022