Draft Minutes
STATE BOARD OF HEALTH
March 6, 2020
9:00 a.m.

MEETING LOCATIONS:
Division of Public and Behavioral Health
4150 Technology Way, Room 303
Carson City, Nevada 89706

Grant Sawyer Building
555 E. Washington Ave., Room 1400
Las Vegas, Nevada 89101

BOARD MEMBERS PRESENT:
Jon Pennell, DVM (Las Vegas)
Jeffrey Murawsky, M.D. (Las Vegas)
Monica Ponce, DDS
Dipti Shah, M.D. (Phone)
Charles (Tom) Smith (Las Vegas)

BOARD MEMBERS EXCUSED:
Judith Bittner

DIVISION OF PUBLIC & BEHAVIORAL HEALTH (DPBH) STAFF PRESENT:
Lisa Sherych, Administrator; Ihsan Azzam, Chief Medical Officer; Joseph Filippi, Executive Assistant; Rex Gifford, Administrative Assistant III; Karen Beckley, Bureau Chief; Leticia Metherell, Health Program Manager III; Glen Gimenez, Radiation Control Supervisor ; Meredith Epps, Radiation Control Supervisor; Brook Adie, Health Bureau Chief ; Stephanie Herrera, Program Officer III ; Julie Nickerson, Administrative Assistant IV; Paul Shubert, Bureau Chief; Amir Bringard, Health Facilities Inspection Manager; James Brown,

OTHERS PRESENT:
Linda Anderson, Attorney General, Radhee Kunnel, Attorney General; Dr. Michael Johnson, SNHD; Brenda Quintana, NSS; Julie Woodward, NSS; Jade Alfasi, HRI; Leila Tabion, SMA; Jean Girun, SMA; Katie Ryan, Dignity Health; Stacy Field, SDMI; Ingrid Yadau, SDMI; Kayla Jefferson, Eden Treatment LLC; J. Devoy, Holland R. Hurt LLP; Cody Martin, Desert Radiology; John Solamon, Desert Radiology; Tina Dortch NVMHE; Forrest Darby, Self; Chaz Fernandez, NPA; Erin Mazen, Optum; Joan Hall, NRHP; Jeanette Belz, NV Society of Radiologic Technologists; Allison Genco, Ferrari Public Affairs; Marissa Brown, NHA.

Joseph Filippi opened the meeting at 9:00 a.m.

Roll call was taken, and it was determined that a quorum of the State Board of Health was present.

1. **Approval of Minutes:**

Chair Pennell asked if there were any additions or corrections to the minutes from December 6, 2019 meeting. No recommendations were made.

Public Comment: There was no public comment.

A MOTION WAS MADE TO APPROVE THE MINUTES BY DR. MURAWSKY, SECONDED BY DR. PONCE AND CARRIED TO APPROVE THE MINUTES OF DECEMBER 6TH, 2019

2. **County Health Reports:**

Chair Dr. Pennell requested any public health officers present be given the opportunity to give their reports before the board first in light of public concerns over COVID-19.

- **Carson City Health and Human Services:** Joseph Filippi addressed the board to inform them that Nicki Acker, Carson City Health and Human Services Director was unable to be in attendance, however; she would be available for any questions. She did provide the board with the Carson City Health and Human Services Report. The report is attached hereto as Exhibit "A".

- **Washoe County Health District:** Joseph Filippi informed the board that Kevin Dick, Washoe County Health and Human Services Director was also predisposed and unable to be at the Board of Health meeting. He is available for any questions the board may have. His report was submitted to the board and is attached hereto as Exhibit "B".

- **Southern Nevada Health District:** Dr. Johnson provided the report for the Southern Nevada Health District. Dr. Johnson's report is submitted to the board and is attached hereto as Exhibit "C". Dr. Johnson informed the board that the first presumptive case of COVID-19 (Coronavirus) in Clark County was confirmed on March 5th, 2020. Dr. Johnson explained that the presumptive positive case is "presumptive" waiting for conformation from the CDC (Centers for Disease Control and Prevention). They are expecting CDC to confirm the results either today or tomorrow. The patient is a male in his fifties and currently in isolation. The patient reported traveling from Washington State, and Texas. Dr. Johnson stated that Southern Nevada Health District disease investigators were working with the patient to follow up with any contacts. Dr. Johnson stated that there were several individuals that were PUI (Persons Under Investigation) and that he would keep everyone updated. . Dr. Johnson stated that the virus was "a

moving target" and stated observations from other countries such as Italy, Spain and France. Dr. Johnson stated schools are closed in these countries, and the major sporting events are occurring without crowds. Dr. Johnson highlighted Europe's pro-active measures and stressed for the public not to go to the emergency room unless it is essential. Dr. Johnson stated that if you have respiratory symptoms such as fever, cough and shortness of breath to go to an outpatient primary care physician and the primary care physician would contact the Health District if there are any concerns of COVID-19. Dr. Johnson reiterated the use of hand washing and alcohol-based hand sanitizers as well as staying home when sick and covering a cough. Dr. Johnson highlighted media coverage of toilet paper and water being purchased because of COVID-19 concerns and worries. Dr. Johnson talked about influenza season, that the season has been moderate to high in Southern Nevada and that influenza has claimed twenty-six lives so far. It was highlighted that there are more hospital patients with influenza than COVID-19 at this point.

Chairman Dr. Pennell asked if there was any comments or questions from the board members or the public.

Dr. Murawsky asked Dr. Johnson if there was any further guidance from the health district beyond what the CDC is providing and asked if screening or testing to be done?

Dr. Johnson stated that there was not any further guidance, but they are receiving updates from calls with CDC.

Mr. Salamon, with Desert Radiology asked if the patient was at home or in the hospital.

Dr. Johnson replied that he didn't know the status of the patient since he just got back from vacation. But he can confirm that later.

- **State of Nevada Department of Health and Human Services:** Dr. Ihsan Azzam, Chief Medical Officer gave a quarterly report for the State of Nevada to the State Board of Health. The report is hereto known as Exhibit "D". Dr. Azzam addressed the board and provided updates regarding the current flu season, the coronavirus (COVID-19) and coronavirus testing. Dr. Azzam stated the flu season is worse than initially thought. The number of flu deaths among children are double than that of last year. The flu virus is unpredictable due to abrupt significant shifts in the predominate strain. We started with the predominate strains of influenza "D" in February and it mutated into other strains. Across the country there have been 105 children who have died from influenza, 2 of those children were Nevadans under 4 years old. According to the CDC's estimates 29 million people have contracted influenza in the United States. Of those 280,000 required hospitalization and 14,000 died due to influenza complications. It is estimated that about 240,000 to 250,000 contracted the flu so far with 1,333 requiring hospitalization and 33 deaths including the 2 children.

Dr. Azzam provided an update on the novel coronavirus (COVID-19). It started in China and initially seemed the virus would appear then decline, but the virus continues. When the virus was in Wuhan, China it was hoped that the virus would be contained, as like with SARS the virus appeared then disappeared. MERZ which started in 2012 became an epidemic starting with a hand full of cases each year. Both of these outbreaks are more serious than what we are seeing now and yet they are no longer a threat to the globe. We hope that COVID-19 will follow a similar path, but it seems it is an epidemic now. The last update from John's Hopkins University, stated there are 100,000 confirmed cases worldwide with 3,383 deaths globally. 83% of the confirmed cases as well as 87% of the coronavirus deaths have been in mainland China. New epicenters continue to emerge and South Korea now has more than 6,000 cases and Italy has more than 3,000 cases. The opportunity to contain the virus to China is long gone. A total of 71 countries are now infected including the United States. The United States has 231 confirmed cases and 12 related deaths. As of today, Nevada has 2 presumptive positive confirmed cases, with pending lab test results being processed by CDC. The coronavirus is between 2.6 and 4.1% infection rate, which means that an infected person can transmit the virus to 2 and up to 4 other persons. That ratio seems to be slightly higher than the foreseeable flu transmissions. As the virus is new to humans they have not had a chance to develop any immunity to the virus, so the issue is not how transmissible the virus is but how we lack immunity to defeat or fight the virus once someone has contracted it. Almost 81% of COVID-19 cases were asymptomatic or exhibited mild respiratory symptoms. So far about 55% of all the confirmed COVID-19 cases have recovered without substantial treatment. 19% of confirmed cases progressed to serious or severe infection and pneumonia which required hospitalization and as a result treatment for these severe cases was performed in the ICU. Patients that are older than 57 with pre-existing conditions are most vulnerable to develop such severe respiratory infection. However, current case mortality rate based on global data is between 2 and 3.4 %. There are tens of thousands of cases of asymptomatic or mild cases that go unidentified and don't account for this rate. This means the virus has spread further than originally thought and the mortality rate is lower than 3.4%. Countries with advanced medical systems may have lower case mortality rates than the developing countries due to better health care. These facts are concerning, there are still outstanding questions needing answers in order to determine how serious the global epidemic is. More cases are likely to be identified in the next coming days and it seemed that the virus started to spread in our neighboring communities and even cities. Our goal in Nevada is to slow down community spread of the virus through non-pharmaceutical intervention such as immediate identification, testing, and isolation of cases and addressing exposure to all contacts and assessing the risks and potential need for quarantines. Our plan is to delay the spread of the coronavirus until such time efficient treatment and/or vaccines are available. An update on the clinical vaccination trial is very promising and it might take up to 3 months to complete, but it will take more time to make a vaccination available for the public. We need to continue our intervention measures to minimize risk. This is a collective responsibility for all

Nevadans. We should continue washing our hands and staying home when we are ill regardless of the symptoms, be it the flu, coronavirus, or any other disease. That is the strategy we are using to slow down the coronavirus, however; once it spreads in the community we will have to self-quarantine and use social distancing, even cancelling schools and mass gathering meetings will be necessary. Regarding testing at a national and international level, there was some delay in implementing mass testing, however; as an essential part of our effort is to ensure immediate testing for people at risk for the coronavirus is available. Currently each of the two public labs, the one in northern Nevada and the one in southern Nevada, have reported that they can test concurrently between 40 to 80 tests per day and they have a reserve up to 1000 tests and have ordered more. Although the lab test is available there are limitations in our public health capacities to obtain the samples from people and get results quickly with facility containment. Our Division supports making COVID-19 test kits from our state labs to make testing more available to multiple people in multiple areas. Testing results from both labs are immediately reported to the state and each testing report helps facilitate our efforts to identify contacts and quarantine them properly. Staff from both labs, the federal authority and the state, are doing a phenomenal job to identify and delay the spread of the virus in Nevada. We are closely monitoring the public health threat, and we are closely collaborating with our federal, state and local partners to contain the virus in the United States and Nevada. We are ready for the rapid expansion of the epidemic and we need to be prepared and do our part. Simple hand washing and staying home if you are symptomatic will reduce the transmission of the virus by 66%. Additionally, other useful material and numerous technical bulletins have been released about the virus in multiple locations and are available on our website. The Division of Public and Behavioral Health has activated operation centers in light of dealing with coronavirus early on in February, and we are coordinating with all of our stakeholders to contain the coronavirus.

Dr. Murawsky asked Dr. Azzam about testing capabilities for the State. He understood that two state public health labs have the test and testing capabilities right now and have around 1000 tests. The turnaround for those who are significantly symptomatic or at high risk and need to be self-isolated as this progresses there will be an increased need for broader testing. My awareness is that commercial testing will become available likely next week from some of the major private entities that are going to be testing. That has a longer turnaround and send out to these places for 8 to ten days to bring those tests into the hospitals within the state there is a lengthy validation process that is required. Has there been any consideration in looking at that validation requirement around the usage of this testing so we can partner in and identify this public health risk quickly?

Dr. Azzam replied DPBH was contacted by two private labs, Quest Lab and another lab that indicated their testing would be available on Monday morning at 8:00 am. The CDC promised that on March 6th they would have labs that would be able to test, but that is not the case, however; I am sure that Quest Lab and another lab centered in Utah will be able to test. That is again a good thing for controlling the virus, but not very good for

surveillance. This way we will not know who has a positive test because of the delay. The location of the labs makes testing urgent, making the COVID-19 as an immediate identifiable entity. Based on the suspect cases, probable cases or confirmed cases, we are asking the labs, regardless if they are private or not to report all results. We want to be able to intervene immediately. We want to immediately identify the case and contacts to assess the risk and see who should be quarantined. Usually the quarantine lasts up to 14 days. Because the incubation period is from 2 to 5 days to around 12 days seems to be a timeframe that works globally and in the United States.

Dr. Murawsky asked some follow-up questions: Will there be any guidance coming from the State or local health departments for providers who ordered the test commercially? What about outpatient or emergency departments who use send-out tests to test patients and then send the patients home, are those patients considered a person under investigation? Any guidance on what they should tell the patient, not the hospitals but outpatient providers who send off the test? Should they self-isolate for 14 days? Or wait until they have seen the result?

Dr. Azzam replied that originally, we sent a technical bulletin to providers clearly identifying the need to isolate people who are symptomatic because we have the virus in neighboring states. When you have someone, who is symptomatic they display the same symptoms as having the flu and you wouldn't know if they are showing symptoms of the flu or COVID-19. Most cases of COVID-19 would be mild, but hospitalization is recommended for patients that have more advanced symptoms. The providers know that if someone is symptomatic, they are advised to go home and self-isolate and try and protect their family members or those who are in the household from the virus. It is beneficial for the community because we don't want someone with mild symptoms spreading the virus to the elderly population or those with compromised immune systems because they will be severely impacted. We want to reduce the spread of the virus and we want to delay until the time there is a treatment for the virus that would be readily available or a vaccine. Our providers know our goal is to prevent the transmission of the virus.

Dr. Murawsky added that as new CDC guidelines come out, they likely will provide an update on those. Dr. Murawsky expressed concern that with commercially available test kits the state testing labs would be usurped and that the state system is over run evaluating people who don't need their services. Dr. Murawsky added the state would lose focus on those who require hospitalization or investigation. Dr. Murawsky thanked both the state and local health districts for their efforts against the virus.

Joseph Filippi shared that the Washoe County Health District confirmed its first case of a presumptive positive Coronavirus case today. The test has been sent to the CDC for confirmation. They are planning to do a press briefing today Friday, March 6th, 2020 at

11:00 am at the Washoe County Administrative Complex Media Room building A and the public is encouraged to visit www.washoecounty.uscovid19 for updated information.

3. **Consent Agenda:**

Chair Pennell asked if there were any objections to the consent agenda.

No objections were received.

Public Comment: There was no public comment.

CHAIR PENNELL ENTERTAINED A MOTION TO APPROVE THE CONSENT AGENDA. A MOTION BY DR. MURAWSKY TO APPROVE THE CONSENT AGENDA WAS MADE AND SECONDED BY DR. PONCE; THE MOTION PASSED UNANIMOUSLY.

4. **Consideration and Adoption of Proposed Regulation Amendments to NAC 652 Medical Laboratories, LCB File No. R090-18 – Leticia Metherell, Health Program Manager**. Mrs. Leticia Metherell' s statement is submitted to the board and is attached hereto as Exhibit "E".

R090-18: Medical Laboratory Personnel – License by Endorsement
Board of Health Testimony

Dr. Pennell and members of the Board, for the record my name is Leticia Metherell, Health Program Manager with the Bureau of Health Care Quality and Compliance. I am presenting for your consideration proposed amendments for Nevada Administrative Code in LCB File No. R090-18 outlining the provisions for obtaining a license by endorsement for medical laboratory personnel. NRS 622.530 requires the regulatory body, in this case the Board of Health, to adopt regulations providing the issuance of a license by endorsement in accordance with the provisions outlined in NRS 622.530. These proposed regulations bring the Board of Health into compliance with NRS 622.530 to the extent possible.

The Nevada Department of Public Safety notified the Division that the Criminal Justice Information Law Unit determined that the background check language in NRS 622.530, Subsection (1)(h), would not qualify for access to FBI criminal history record information under the criteria set forth under Pub. L. 92-544; therefore, the endorsement process for medical laboratory personnel is only available to those who received a background check when the individual is licensed as a medical laboratory personnel in the District of Columbia or any state or territory of the United States.

In addition, medical laboratory personnel licensed or certified, as applicable, are not required to be background checked for medical laboratory licensing or certification purposes;

therefore, there is no other known statutory authority that would authorize a fingerprint-based background check for the purposes of licensing or certifying laboratory personnel.

A public workshop was held on October 30, 2018. No one testified against the proposed regulations. One individual signed in, in support of the proposed regulations. The proposed regulations were moved forward in accordance with NRS Chapter 233B, Nevada Administrative Procedure Act, as outlined in the administrative staff memo provided to Board members.

Sections 2 and 4 prescribe the information that an applicant for a license as a laboratory director or certificate as laboratory personnel by endorsement is required to submit to the Division of Public and Behavioral Health, prescribe conditions under which an applicant who holds a valid, unrestricted license or certificate in the District of Columbia or any state or territory of the United States to practice as a laboratory director or laboratory personnel will be deemed to have provided proof that he or she has previously passed a comparable background check for the purposes of obtaining a license or certificate by endorsement in this State.

Sections 2 and 4 also have additional provisions, along with sections 3 and 5, related to the background check process that are being omitted with the proposed errata.
The FBI did not authorize the use of the statutes giving the required authority to conduct the required backgrounds; therefore, the endorsement process is only available to those who received a background check when the individual was licensed in the District of Columbia or any state or territory of the United States. The errata moving forward brings the regulations into alignment with this limitation, omitting several provisions related to the background check process.

In addition, the errata clarifies that the required proof that an applicant achieve a passing score on a nationally recognized examination for certification as laboratory personnel needs to be specific to the personnel type for which they are applying.

This concludes my presentation of the proposed regulations.

May I answer any questions?

Chair Pennell asked for questions from southern Nevada.

Chair Pennell asked if there was any public comment

Chair Pennell asked if there were any objections to the consent agenda.

No objections were received.

Public Comment: There was no public comment.

CHAIR PENNELL ENTERTAINED A MOTION TO APPROVE THE PROPOSED REGULATIONS. A MOTION BY DR. MURAWSKY TO APPROVE THE PROPOSED REGULATION WAS MADE AND SECONDED BY DR. SHAH; THE MOTION PASSED UNANIMOUSLY.

5. Consideration and Adoption of Proposed Regulation Amendments to NAC 475 Cancer, NAC 459 Hazardous Materials, NAC 653 Radiation Therapy and Radiologic Imaging, LCB File No. R074-19 presented by Karen Beckley, Bureau Chief, Health Planning and Preparedness, DPBH.

Mrs. Karen Beckley's statement is submitted to the board and is attached hereto as Exhibit "F".

BOARD OF HEALTH TESTIMONY

March 6, 2020

Good Morning, Mr. Chairman and Members of the Board.

For the record, my name is Karen Beckley, Chief, Bureau of Health Protection and Preparedness.

The proposed changes of regulations to NAC 457 and NAC 459 in LCB File No. R021-18RP3, and the development of regulations in NAC 653, LCB File No. R074-19 and errata, include provisions that allow for a fee increase, correction to current regulations, and establish new regulations. These amendments and new regulations are compatible with the intent and scope of the Radiation Control Program (RCP) and enable the RCP to carry out the regulatory role more effectively. To clarify for the Board, LCB file No. R074-9 and the errata were used for the posting of the 30-day public notice. LCB was able to incorporate all of the proposed changes in the errata into LCB File No. R074-19 dated February 26, 2020 which, was sent to you this week.

The Division recognizes that the Board of Health (BOH) deferred a decision on the fee increase for mammographers during the last meeting on December 6, 2019, to enable them to be considered together with LCB File No. R074-19P. The proposed amendment to NAC 457.295 authorizes an increase of fees for the issuance or renewal of a mammographer's certificate from $88 to $200.

Historically, mammography fees were only used to cover the cost of technical staff reviewing applications. October 2019 through January 2020, $45,816 was expended in Program staff time, including Administrative staff, to process interim letters of authorization and over $30,000 will be needed to modify the on-line licensing system. This does not include license application review, licensing, or inspecting/enforcement. The $200 fee for a two-year license, or a three-year mammography Certificate of Authorization were calculated to support only two full time staff members.

As delineated in the Staff Memo, Nevada's licensing fee structure was compared against eight other western states, Arizona, California, Montana, New Mexico, Oregon, Utah, Washington, and Wyoming. There are differences in the fees charged by each state and not all states have a similar number of applicants. None of the other states provide for enforcement or inspection for licensure at the time of inspection. California charges $224 for a general radiographic license that includes fluoroscopy, but any additional modality license costs $112 each. Arizona has a greater number of applicants than Nevada which helps justify their lower fee structure as their revenue is much higher. It is determined that Nevada charges a fee to issue a license that is in line with the coverage and services provided. While not a common occurrence, RCP inspectors have found mammographers with forged and expired credentials and training documents. These are the types of investigations are not addressed by the American Registry of Radiological Technologists or the Joint Commission.

The Division of Public and Behavioral Health has presented several opportunities for the public, regulated community, licensees, registrants and stakeholders to provide input and comments regarding the proposed regulations, including the economic impact the proposed regulations may have on small business and the public. A Small Business Impact Questionnaire was mailed to all Radiation Control Program licensees and registrants on September 19, 2019. Of approximately 2465 Small Business Impact Questionnaires distributed, 41 responses were received. Six respondents indicated that there was a general adverse economic impact on business and four respondents indicated that there was a general indirect adverse effect on business. None of these provided specific effects. Respondents were contacted to provide specific concerns. None provided specific concerns when contacted. One respondent did indicate that there were beneficial effects of the proposed regulations but provided no details.

A Public Hearing was conducted on October 29, 2019 via videoconference, in Carson City Division of Public and Behavioral Health and in Las Vegas at the Radiation Control Program Office. No written comment was received. There were 30 participants. Verbal comment was received from stakeholders that related primarily to the cost of licensure. Additional comments discussed the requirements for and the process of applying for licensure.

A Public Meeting was conducted with a quorum of the Radiation Therapy and Radiologic Imaging Advisory Committee on January 7, 2020 via videoconference, in Carson City Division of Public and Behavioral Health and in Las Vegas at the Radiation Control Program Office. There were 23 participants. No written comment was received from the public. Verbal comment was received from the public that related primarily to the cost of licensure. Additional comments discussed the requirements for and the process of applying for licensure. A Public Workshop was conducted on January 27, 2020 via videoconference, in Carson City Division of Public and Behavioral Health and in Las Vegas at the Radiation Control Program Office. There were 20 participants. No written comment was received from the public. Verbal comment was received from Stakeholders that related primarily to the cost of licensure. Additional comments discussed the requirements and the process of applying for licensure.

I respectfully request approval of LCB File No. R074-19.

This concludes my testimony and I am happy to answer any questions.

Chair Pennell opens questions to the board.

Dr. Murawsky questioned how many licensees do you expect to issue on a yearly basis?

Mrs. Beckley answered 2,380 licensed, so divide that by 2.

Dr. Murawsky thanked Mrs. Beckley for the answer.

Mrs. Copeland, by telephone, asked what will be the renewal fee for the license.

Mrs. Beckley replied $200.00 for 2 years and the renewal fee is the same.

Mrs. Copeland asked why is the renewal fee so expensive when compared to renewal fees for other licenses or other health care industry workers?

Mrs. Beckley replied, our fees were proposed and put together to have two full time employees that can process license applications, which includes checking credentials, inspection of documentation, and enforcement. The fees were based on that. The process doesn't change weather or not it is renewal application or not.

Public Comments:

The caller identified herself as Rowena Copeland from Las Vegas, Nevada. Linda Anderson informed Mrs. Copeland that there were other people who wished to comment, and that Mrs. Copeland was limited to one more question.

Mrs. Copeland stated she was part of the Advisory Board and we were not consulted on or asked for our input on these amendments. Mrs. Copeland stated she was not in favor of the renewal fee being the same as the initial fee.

Chair Pennell called any public comments from Las Vegas.

Mr. Jade Alfasi with (HRI) Henderson Radiology, Inc. commented that there was a lot of thought put into the amendment, but he didn't understand what unnecessary radiation was. He stated that he receives a lot of x-ray referrals and some say 3-4 views, some say 6 or 7 views and some requests from technicians think they have seen something and request another view. Mr. Alfasi highlighted that unnecessary radiation is not defined in the proposed legislation. Upon review he expressed that an average chest x-ray is 2.4 days of natural sunlight. When you take a c-tip abdomen it is 2.7 years, so where do we draw the line at unnecessary radiation? He stated he understands the new regulation is thought to help, but it increases tax burden in the private imaging section, and it is the introduction of a fiscal year. How is this help compared to any other state? My main cost, as a newer clinic is, I've got to keep my costs low and I want to provide as much care to people as I can. I was born in this state, this is my home and if I can give more care to more people at a cheaper price, I want to do it. The actual law, the way it was

written will not cost me more because of techs. Where it is going to cost me is that I will have to have more attorneys involved to make sure I am following the law for the new registration. That's what is going to kill my business. If the whole primary reason for the legislation is to reduce primary radiation, why is it we can't shorten the approval rating for an MRI? An MRI has zero radiation. A CTM has 2.7 years. My request would be since I have such a new clinic, I would propose an amendment. I need time to get more revenue, to get more techs and to make sure I am following everything. I would propose an amendment where there is not an initial fee that would increase costs, but a more incremental fee basis that would gradually increase the fees. Thank you very much.

Mrs. Anderson asked if Mrs. Beckley would have any comment on the public comment.

Mrs. Beckley responded, the unnecessary radiation is in line with LARA, as (Low as Reasonably Achievable), and every case is looked at individually we don't set limits or standards across the board. We look at the facility and what they are proposing and that is why that terminology is put in the amendment. It allows flexibility in their operations without undo cause associated as low as reasonably achievable that is the concept.

Chair Pennell asked if there was any further public comment

Dr. Murawsky requested clarification, if it is about $45,000.00 in just program time of staff over the time frame of about a quarter of a year, to cover your costs that would total approximately $180,000.00 a year in fees. If you have approximately 1,500 licensees a year that is going to be $150,000.00 a year because it is a 2-year plan. Meaning the licensing fees will not even cover your program review costs. Is this correct?

Mrs. Beckley stated, it is important to understand the start-up costs are significantly more than the maintenance of the program, so yes in the beginning it looks that way. The program needs to absorb some of those costs and get into the actual licensing of the individual. When we looked at that it was determined that two people could do that after we initially start-up of the process because we will not be issuing interim letters of authorization so that whole process will be taken out and streamlined, so your math is correct but in the future it should balance out where we just regulate the techs.

Dr. Murawsky thanked Mrs. Beckley for doing the math and stated that you can justify the costs. Can you comment on the roll-up at any point these fees are going to change?

Mrs. Beckley stated, we went about this with the anticipation that there wasn't any increases in the future. The program could maintain in the forceable future, ten to twenty years down the road, might be different but the intent was to establish a fee and not have any additional fees that would be raised to support the program.

Chair Pennell asked if there were anymore public comments?

John Salamon with Desert Radiology asked, what is expected from any clinic? What do you need to have in the clinic when an inspector comes in? In regard to verification of all techs, is there going to be a form online? Is the license on site every time?

Mrs. Beckley commented that the information in the office is what the department will be verifying. There have been a lot of facilities that have concern about what kind of documentation needs to be presented and we understand that everyone's' business practice is a little bit different, so we are going to have to work with you through the process of assuring that you have the document, or some sort of documentation that the person you are authorizing to use your devices has a valid license with the state. We are going to need the verification to be flexible.

Jennette Belz with the Nevada Society of Radiologic Technologist (NV SRT) had a prepared statement in support of R074-19 P1 and the errata. NV SRT does recognize the concerns regarding costs, however; supports the changes. The SRT had the opportunity to provide testimony about these regulations on two previous occasions at the Radiation Therapy and Radiologic Imaging Advisory Committee meeting on January 7th this year and the public workshop held on January 27th. The SRT appreciates the suggestions that were in these public hearings and were incorporated into this draft. The SRT looks forward to continuing to work with the Radiation Control Program follow up regulation that will define a quality assurance program requirements for our rural health clinics and federally qualified health centers. Section 43 (a) 2 (b) of SB130 the law that was passed that implemented this licensing structure. The Radiation Control Program indicated that they were working to get this regulation report in order hopefully by June 2020.

Chair Pennell asked if there was another public comment.

Linda Anderson stated that if there are individual cases of hardship with fees there are ways to apply for a variance or a compliance agreement to make the payments. We appreciate all the comments on fees because we are not taking this lightly. We are trying to balance the needs of the State in providing this service which have to have fees adopted through the board of health, but if there are individual cases of extreme hardship there are other alternatives in those cases.

Chair Pennell asked if there was any more questions from the public.

CHAIR PENNELL ENTERTAINED A MOTION TO APPROVE PROPOSED REGULATION AMENDMENTS TO NAC 475 CANCER, NAC 459 HAZARDUS MATERIALS, NAC 653 RADIATION THERAPY AND RADIOLOGIC IMIGING, LCB FILE NO. R074-19. A MOTION BY DR. MURAWSKY TO APPROVE THE REGULATIONS WAS MADE AND SECONDED BY DR. PONCE; THE MOTION PASSED UNANIMOUSLY.

Mrs. Copeland responded that she would not approve the motion because of the fees. After clarification that Mrs. Copeland is not a Board of Health member her motion was not accepted but recorded. And noted by Chair Pennell.

7. Recommendation of Future Agenda Items:
Chair Pennell asked if there were any future items that the panel would like to discuss. No subjects were suggested, and the meeting moved on to public comment.

Public Comments:

Chair Pennell recognized a citizen concern brought to the Board of Health's attention.

Mr. Forrest Darby, a Las Vegas resident of 35 years, is on the board of directors for a large HOA (Homeowner's Association). Mr. Darby highlighted that there is an issue with swimming pool ordinances regarding solo bathing. Mr. Darby stated that he attended a Southern Nevada Health District meeting and he was instructed by members of the Southern Nevada Health District that the public entity he needed to engage for a change to solo bathing is the Nevada State Board of Health. Mr. Darby highlighted that all HOA pools have signage stating that you can't bath by yourself. Mr. Darby, as a HOA board member is supposed to enforce the rules. Mr. Darby was approached by a concerned HOA member about rules against solo bathing. Mr. Darby inquired as to why the non-solo bathing law is never enforced and that if anyone from the Southern Nevada Health District enforced the law they would be terminated. Mr. Darby stated that over 50% of the swimming pools in the summer either have zero or one person in the pool, which it is insinuated that the non-solo bathing law is broken over 50% of the time. Mr. Darby states that if there is no intention to enforce this law, and that the law is being selectively enforced he would like the law to be rescinded. Mr. Darby highlighted an example of a HOA board member, who doesn't like a member, who is solo bathing to selectively enforce the non-solo bathing law to disrupt the member's enjoyment of the pool. Mr. Darby also informed the Board of Health that if a HOA member was to bath with other members and the other members leave the pool then the HOA member that just joined the pool would be breaking the solo-bathing rule even though there were HOA members in the pool when the HOA member joined the pool. Thus to be in compliance, the HOA member would have to leave the pool at the same time as the other HOA members previously using the pool. Mr. Darby claims there was a law suit in California regarding solo-bathing that went to federal court and the defendant won the case against a similar law in California. Mr. Darby states that he was informed how to go through the process to change the law but he would just like the Board of Health to nullify the law, after restating that the law is not enforced and selectively enforced at best.

Linda Anderson expressed to Mr. Darby that no action can be taken by the Board of Health today but the issue would be passed on to the client.

Chair Pennell asked if there was any further public comment. No comments were noted and the meeting was adjourned at 10:09 am.