

- a) Grading and Sanctions could pose a possible financial concern for facilities; however, this would only be a concern for facilities that fail to come into compliance within the reasonable timeframe as stipulated by an approved Plan of Correction submitted by the facility operator. Sanctions and grading will help assure providers correct violations such that significant violations don't recur.
- b) Training could have an economic effect because trainings do come at cost, however, this regulation was amended to apply completion of trainings at a graduated level to help with timeliness of completion and transition of required training. This regulation is not amended to add trainings.
- c) Mandated Reporting has been clarified to help ensure providers clearly understand the standards expected of them as mandated reporters within the State of Nevada which will help to ensure the safety and well-being of children.
- d) Director and Designated Operator qualifications are distinguished for providers to understand what will ensure compliance per NAC432A.
- e) Ratios in this regulation amendment are intended to clear up confusion for providers and ensure consistency for all providers.

The proposed regulations currently moving forward accomplish the following:

**SUMMARY OF CHANGES TO NEVADA ADMINISTRATIVE CODE (NAC)**

Nevada Administrative Code chapter 432A contains regulations established for oversight of Licensed Child Care facilities. The proposed regulation supplements and amendments were generated in efforts to bring the Division of Public and Behavioral Health – Child Care Licensing into compliance with the legislation passed in 2017. The necessary supplements include: a grading and sanction system and amendments include ratios, trainings, mandated reporting, director qualifications and designated operator qualifications to help build transparency and clarity of standards to help ensure successful provider compliance.

**PURPOSE OF AMENDMENT**

Re: Consideration and adoption of proposed regulation amendment(s) to Nevada Administrative Code (NAC) 432A, "Child Care Licensing", LCB File No. R135-18

To: Jon Pennell, Chair  
State Board of Health

From: Lisa Sherych, Secretary  
State Board of Health

**MEMORANDUM**

April 30, 2020



Steve Sisolak  
Governor  
Richard Whitley, MS  
Director

**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  
Ihsan Azzam, Ph.D., M.D.  
Chief Medical Officer

**POSSIBLE OUTCOME IF PROPOSED AMENDMENT IS NOT APPROVED**

If the proposed amendments are not approved Child Care Licensing will not be in compliance with the legislation passed in 2017 requiring implementation of formulated and standardized grading and sanction system.

**APPLICABILITY OF PROPOSED AMENDMENT**

These regulations will apply statewide to all licensed child care facilities.

**PUBLIC COMMENT RECEIVED**

An outline of opportunities for public comment follows:

Pursuant to NRS 233B.0608 (2) (a), Notice was sent to all Licensed Child Care facilities by the Division to respond by November 22<sup>nd</sup>, 2018, requesting that all interested individuals complete the small business impact questionnaire. An email notice with a link to the small business impact questionnaire and proposed amended regulations was provided to those with an email address. In addition, a phone number was provided which an individual could call to obtain a copy of both documents. The proposed regulations were also posted on DPBH's website.

Below is a summary of the responses to the questionnaire.

Summary of Comments Received (105 responses were received out of 466 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 effects upon your business?	Do you anticipate any indirect beneficial effects upon your business?
26 – Yes	8-Yes	16-Yes	8- Yes

**August 29, 2019 – Public Workshop**

A public workshop was held on August 29<sup>th</sup>, 2019.

There were 24 participants between Southern and Northern Nevada.

Summary of testimony:

- Providers testified fear that implementation of these regulations will not be fair across the board
- Providers wanted a matrix provided to help ensure impartiality and clear communication regarding the grading system
- Providers stated that the fines associated with the new system were too high and could place facilities in financial straits
- Providers felt the language was not written in terms of Child Care

- Providers wanted assurance regarding the ability to make corrections prior to the public posting of a final grade

STAFF RECOMMENDATION

Staff recommends the State Board of Health adopt the proposed regulation amendments to NAC 432A, "Child Care Licensing", LCB File No. R135-18.

PRESENTER

Latisha Brown, Child Care Licensing Program Manager

Enclosures

**REVISED PROPOSED REGULATION OF THE**

**STATE BOARD OF HEALTH**

**LCB File No. R135-18**

**January 8, 2018**

EXPLANATION – Matter in *italics* is new; matter in brackets [omitted material] is material to be omitted.

**AUTHORITY:** §§1-34, NRS 432A.077 and 432A.188; §35, NRS 432A.077 and 432A.180; §§36-39 and 41-43, NRS 432A.077; §40, NRS 432A.077 and 432A.177; §44, NRS 439.150; §45, NRS 432A.077, 432A.177, 432A.180, 432A.188 and 439.150.

A REGULATION relating to child care facilities; prescribing the procedure and criteria for imposing sanctions on a child care facility; requiring an emergency plan of a child care facility to include plans for certain actions; requiring the record maintained for a caregiver to include certain documentation; prohibiting a caregiver from caring for children while under the influence of alcohol or drugs; revising requirements concerning the training of employees of child care facilities; requiring certain persons to report suspected abuse or neglect within a child care facility; revising provisions relating to determining limits on group size and staffing levels in group homes and family homes; abolishing limits on group size in a group home; prescribing fees for the resurvey of a child care facility; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

If a child care facility violates any law or regulation relating to its licensure, existing law authorizes the Division of Public and Behavioral Health of the Department of Health and Human Services to: (1) prohibit the facility from accepting additional children until it determines that the facility has corrected the violation; (2) limit the number of children to whom the facility may provide care until it determines that the facility has corrected the violation; (3) impose an administrative penalty; or (4) appoint temporary management to oversee the operation of the facility. (NRS 432A.186) Existing law also requires the State Board of Health to adopt regulations establishing the criteria for imposing each of those sanctions. (NRS 432A.188) Sections 3 and 4 of this regulation define terms used in provisions relating to sanctions. Sections 5-34 of this regulation prescribe the criteria and procedure for imposing sanctions on child care facilities. Section 5 of this regulation prescribes the manner in which the Division determines whether a child care facility is in substantial compliance for certain purposes. Section 6 of this regulation prescribes the manner in which weekends, holidays and the date on which a notice is received will be counted with regard to requirements dependent upon time in provisions relating to the imposition of sanctions. Section 7 of this regulation lists the purposes of sanctions imposed on child care facilities. Section 8 of this regulation requires the Division to impose

changes to clarify that the director of a child care facility is required to obtain such certification. **Section 40** additionally requires most employees and each director of a child care facility to obtain at least 1 hour of training in the administration of cardiopulmonary resuscitation within 120 days after commencing employment, regardless of whether the person is already certified.

Existing regulations require most employees and each director of a child care facility to complete certain training within 120 days of commencing his or her employment or position to complete certain training. Such training includes training concerning the recognition and reporting of child abuse and neglect and, if the employee or director works with infants under 12 months of age, training concerning Sudden Infant Death Syndrome, shaken baby syndrome and abusive head trauma. (NAC 432A.323) **Section 40** of this bill requires: (1) certain training to be completed within 90 days of commencing employment or a position in a child care facility; and (2) training concerning the recognition and reporting of child abuse and neglect to be completed within 90 days of commencing employment or a position in a child care facility and every 5 years thereafter; and (3) any employee or director of a child care facility to receive training concerning Sudden Infant Death Syndrome, shaken baby syndrome and abusive head trauma, regardless of whether the employee or director works with infants.

Existing regulations require an employee of a child care facility to complete a course in the development of children not later than 12 months after commencing employment. (NAC 432A.323) **Section 40** of this regulation: (1) removes the requirement that such training must be completed not later than 12 months after commencing employment; and (2) authorizes the Division to require an employee of a child care facility to repeat certain other training that was completed more than 36 months before commencing employment.

Existing law requires a licensee or employee of a facility who, in his or her professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected to report that abuse or neglect to a law enforcement agency or an agency which provides child welfare services. (NRS 432B.220) If the abuse or neglect occurs within a facility, **section 41** of this regulation requires such a person to also report the abuse or neglect to the Division.

Existing regulations: (1) impose limits on the group size for a family home and the group size and staffing levels of a group home; and (2) require a licensee or operator of a family home or group home to reside in the facility. (NAC 432A.534, 432A.536) **Sections 42 and 43** of this regulation provide that a child of a person who is required to reside in the facility only counts toward those limits if the child is less than 3 years of age. **Section 43** also abolishes the limits on group size of a group home. **Section 44** of this regulation prescribes fees for the resurvey of a facility.

**Section 1.** Chapter 432A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 34, inclusive, of this regulation.

4. The date on which any act or event occurred or on which notice is received must not be

included in the computation.

Sec. 7. The purpose of any administrative sanction imposed by the Division pursuant to

sections 2 to 34, inclusive, of this regulation must be to:

1. Safeguard the rights, interests and well-being of children receiving child care services,

including, without limitation, the protection of such children from actual or potential harm

resulting from deficiencies;

2. Encourage and assist facilities to comply with the requirements of the Division; and

3. Promote the efficient use of resources to ensure appropriate care and services for

children.

Sec. 8. The Division:

1. Shall impose on a facility at least one administrative sanction for each deficiency

identified by the Division in the facility with a severity score of four and for each deficiency

identified by the Division in the facility with a combined severity and scope score of six or

more.

2. May impose one or more sanctions if it identifies deficiencies of a severity score of

three or less or a combined severity and scope score of less than six.

Sec. 9. 1. If necessary to protect the health and safety of children served by a facility,

the Division may impose such sanctions as are necessary without prior written notice to the

facility.

2. The Division may appoint a temporary manager to a facility without prior written

notice on an emergency basis:

All Recipients	1 - 9
	10 - 40
	41 - 75
	76 - 100
	101 - 175
	176 - 250
	251 - 350
	351 - 450
	451 - more
	50

2. The sample size used in determining the scope score of a deficiency in a resurvey must not be less than 60 percent of the sample size used in the initial survey.

3. If the Division evaluates more than the minimum number of recipients, the

determination of the scope score must be based on the number of recipients actually evaluated.

4. If the Division investigates a complaint relating to one recipient, the Division may

include only that recipient as the sample. Any deficiency identified pursuant to this subsection must receive a scope score of one.

5. As used in this section, "recipient" means a child who:

(a) Is receiving child care services from a facility at the time the Division surveys the facility; or

(b) Received child care services at a facility within the 30 days immediately preceding the date the Division surveys the facility.

6. As used in this section, "recipient" means a child who:
- (a) Is receiving child care services from a facility at the time the Division surveys the facility; or
  - (b) Received child care services at a facility within the 30 days immediately preceding the date the Division surveys the facility.
- Sec. 13. 1. The severity scale prescribed in this section must be used in determining the severity score of a deficiency in or by a facility.
2. The basis for determining the severity score of a deficiency must be the actual or potential harm to children.
3. A severity score of one must be assigned to a deficiency if:
- (a) The deficiency concerns a violation of only requirements promulgated primarily for administrative purposes; and
  - (b) No harm to a child has resulted or is likely to result from the deficiency.
4. A severity score of two must be assigned to a deficiency if the deficiency:
- (a) Indirectly threatens the health, safety, rights, security, welfare or well-being of a child; and
  - (b) Is likely to cause harm to one or more children or is a violation of one or more children's rights over time.
5. A severity score of three must be assigned to a deficiency if:
- (a) The deficiency creates a condition or incident in the operation or maintenance of a facility that directly or indirectly threatens the health, safety, rights, security, welfare or well-being of one or more children; and



*Sec. 15. 1. After initially determining the severity score and scope score of a deficiency*

*pursuant to sections 12 and 13 of this regulation, respectively, the Division shall consider the*

*following secondary factors in determining the sanction to impose:*

*(a) The history of previous compliance by the facility generally and specifically with*

*reference to the deficiency at issue; and*

*(b) The desired corrective and long-term compliance outcomes.*

*2. The Division shall impose a sanction based on the nature of each deficiency and the*

*sanction most likely to correct each deficiency. Absent evidence to the contrary, the Division*

*shall presume that restrictions on services provided by a facility and monetary penalties are*

*the most effective sanctions to correct deficiencies that do not cause an immediate and serious*

*threat to children.*

*Sec. 16. 1. A facility shall develop a plan of correction for each deficiency and submit*

*the plan to the Division for approval within 10 days after receiving from the Division a notice*

*of deficiencies pursuant to subsection 2 of section 10 of this regulation.*

*2. A plan of correction must:*

*(a) Describe the specific actions to be taken by the facility to correct the deficiency to which*

*the plan of correction applies; and*

*(b) Specify the date by which the deficiency will be corrected.*

*3. If the plan of correction is not acceptable to the Division, the Division may:*

*(a) Direct the facility to revise and resubmit the plan of correction; or*

*(b) Develop a directed plan of correction with which the facility must comply.*

*4. Failure to submit the plan of correction to the Division within the 10-day period*

*described in subsection 1 constitutes a separate deficiency subject to a monetary penalty with*

(a) Except as otherwise provided in paragraph (b), must be imposed for not less than 72 hours.

(b) Must be terminated if the facility demonstrates that substantial improvements have been made to correct the deficiencies and that the health, safety and well-being of children are adequately safeguarded.

Sec. 18. 1. If the Division limits the number of children to whom a facility may provide care pursuant to section 17 of this regulation, the facility must post a notice of the limitation at all public entrances to the facility within 48 hours after the facility receives notice of the limitation. Each notice posted by the facility must be not less than 8.5 inches by 11 inches in size, conform to the requirements set forth by the Division in the notice provided pursuant to NAC 439.345 and include:

(a) The words "NOTICE OF LIMITATION ON OCCUPANCY" printed in boldface type not less than 1 inch in height;

(b) A statement specifying the number of children for whom the facility is authorized to provide care;

(c) A statement identifying a member of the staff of the facility who will provide additional information relating to the limitation on occupancy; and

(d) The telephone number of the Division.

2. Any person contacting the facility in writing, by telephone or using any other means of communication relating to a child seeking admission to the facility must be:

(a) Notified of the limitation on the number of children to whom the facility may provide care; and

(b) Provided with the information included in the notice described in subsection 1.

(b) Must be terminated if the facility demonstrates that substantial improvements have been made to correct the deficiency or deficiencies and that the health, safety and well-being of children are adequately safeguarded.

Sec. 20. 1. If the Division prohibits a facility from accepting additional children pursuant to section 19 of this regulation, the facility must post a notice of the prohibition at all public entrances to the facility within 48 hours after the facility receives notice of the limitation. Each notice posted by the facility must be not less than 8.5 inches by 11 inches in size, conform to the requirements set forth by the Division in the notice provided pursuant to NAC 439.345 and include:

(a) The words "NOTICE OF BAN ON ADMISSIONS" printed in boldface type not less than 1 inch in height;

(b) A statement identifying a member of the staff of the facility who will provide additional information relating to the prohibition on accepting additional children; and

(c) The telephone number of the Division.

2. Any person contacting the facility in writing, by telephone or using any other means of communication relating to a child seeking admission to the facility must be:

(a) Notified of the prohibition on accepting additional children; and

(b) Provided with the information included in the notice described in subsection 1.

3. The failure to post notice of a prohibition on accepting additional children as required by this section, or the removal of such a notice, is a deficiency with a severity score of three and a scope score of three. The failure to inform a person who contacts the facility as to the existence of a prohibition on accepting additional children as required by subsection 2 is a deficiency with a severity score of two and a scope score of three.

**Sec. 23. 1.** In determining the amount of an initial monetary penalty, the Division must consider only the severity of the deficiency only if the severity score is four. In determining the amount of a monetary penalty if the severity score of a deficiency is less than four, the Division must consider both the severity score and the scope score of the deficiency. In determining whether to impose a daily monetary penalty, the Division must consider the severity score and the scope score and the factors indicated for the increase or reduction if a monetary penalty as provided in sections 24 and 25 of this regulation.

2. For each initial deficiency with a severity score of four, the Division shall impose an initial monetary penalty of \$500.

3. For each initial deficiency with a severity score of three and a scope score of three, the Division shall impose an initial monetary penalty of \$200.

4. For each initial deficiency with a severity score of three and a scope score of two or less, the Division shall impose an initial monetary penalty of \$100.

5. For each initial deficiency with a severity score of two and a scope score of three, the Division may impose an initial monetary penalty of \$50. The Division must suspend the payment of a monetary penalty described in this subsection if the facility corrects the deficiency within the time specified in the plan of correction approved by the Division.

6. In addition to any monetary penalty imposed pursuant to subsection 2, 3, 4 or 5 and subject to the limitation prescribed by subsection 7, the Division may impose a daily monetary penalty of not more than \$10 per child for whom the facility provides care per day for each day the initial deficiency continues.

7. The principal amount of the total daily monetary penalty imposed on a facility must not exceed \$100 per day for an initial deficiency.

penalty must end on the date on which the Division determines that the facility has achieved substantial compliance or revoked the license of the facility.

3. If a facility achieves substantial compliance, as determined pursuant to section 5 of this regulation, the Division must mail a separate written notice to the facility which includes, without limitation:

- (a) The daily amount of the monetary penalty;
  - (b) The number of days for which the monetary penalty was imposed;
  - (c) The due date for payment of the daily monetary penalty; and
  - (d) The total amount due.
4. If the Division determines to revoke the license of a facility, the Division must include the information required by subsection 3 in the notice of revocation.

5. If the determination by the Division that a facility is not in substantial compliance is upheld on appeal or the facility waives the right to a hearing, the Division must impose the daily monetary penalty for the number of days between the date on which the monetary penalty was determined to begin and the date on which the deficiency or deficiencies were corrected or, if applicable, the date on which the license of the facility is revoked.

Sec. 27. 1. The Division must terminate the daily accrual of a monetary penalty if the facility demonstrates to the Division that it has made substantial improvements to correct each deficiency for which the daily monetary penalty was imposed and that the health, safety and well-being of children are adequately protected and safeguarded.

2. The Division may impose a daily monetary penalty for not longer than 6 months, after which the Division must instead deny, suspend or revoke the license of the facility.

3. If a facility fails to pay a monetary penalty, including any additional costs described in subsection 5 of section 28 of this regulation incurred in the collection of the penalty, within 10 days after receipt of the notice provided pursuant to subsection 2, the Division must suspend the license of the facility. The suspension must not be stayed during the pendency of any administrative appeal of the suspension or the monetary penalty.

Sec. 30. 1. If the Division intends to appoint a temporary manager for a facility because a deficiency exists that the Division determines is an immediate and serious threat to the health and safety of children served by the facility, the Division must orally notify the facility of the appointment. The Division must also send written notice that complies with the requirements of NRS 432A.200 and NAC 439.345 to the facility by mail within 48 hours after providing the oral notice.

2. If the facility does not accept the temporary manager or a temporary manager is not available within 10 days after the date on which the deficiency is identified, and the immediate and serious threat is not removed, the Division must deny, suspend or revoke the license of the facility.

3. If a facility accepts a temporary manager appointed by the Division, the Division must notify the facility that the facility remains responsible for eliminating the immediate and serious threat, and if the threat is not removed its license will be denied, suspended or revoked.

4. If a deficiency that is an immediate and serious threat identified by the Division is not removed on or before the 23rd day after the appointment of a temporary manager, the Division must deny, suspend or revoke the license of the facility.

5. If the Division intends to appoint a temporary manager for a facility and there is not a deficiency determined by the Division to be an immediate and serious threat to the health,

temporary manager may take such action as he or she deems necessary to mitigate an

immediate and serious threat to the health and safety of children served by the facility.

5. A facility to which a temporary manager is assigned shall, through the Division, pay

for the cost and any expenses of temporary management, including, without limitation, the

compensation of the temporary manager.

Sec. 32. If a facility does not agree to the appointment of a temporary manager pursuant

to section 30 of this regulation or fails to relinquish authority to the temporary manager

pursuant to section 31 of this regulation, the Division must:

1. Request the Attorney General to bring an action pursuant to NRS 439.565 to enjoin the

facility from operating with continued deficiencies; and

2. Deny, suspend or revoke the license of the facility.

Sec. 33. 1. The Division shall terminate the temporary management of a facility if the

Division determines that:

(a) The facility has achieved substantial compliance, as determined pursuant to section 5

of this regulation, and has assigned management that the Division determines is capable of

ensuring continued compliance with applicable state and federal statutes, regulations,

conditions and standards; or

(b) The license of the facility has been denied, revoked or suspended.

2. If temporary management will be needed for more than 24 days, the Division must

request the Attorney General to bring an action pursuant to NRS 439.565 to enjoin the facility

from continued deficiencies.

Sec. 34. In an emergency, the Division may deny, suspend or revoke the license of a

facility. The Division may take such action only if the Division determines that other less

facility shall:

432A.300 1. Except as otherwise provided in subsection 3, 4, the licensee of a child care

Sec. 36. MAC 432A.300 is hereby amended to read as follows:

after the date of inspection.

facility or a parent who is considering enrolling his or her child at the facility for at least 2 years  
file at the facility and be available for review at the facility by a parent of a child who attends the  
the fire safety of a facility conducted pursuant to subsection 7 must be maintained in a physical  
8. Reports of the drills conducted pursuant to subsection 3 and the inspections concerning

subsection 3.

(b) Observe and make recommendations regarding the drills conducted pursuant to

(a) Enter and inspect every building or the premises of each facility; and

7. The State Fire Marshal or a designee thereof shall, at least annually:

standards for fire safety which are established by the State Fire Marshal.

6. To maintain his or her license, the licensee must ensure that his or her facility meets all

(b) The times of arrival and departure for staff and children.

(a) The first and last names of staff and children; and

5. The director of the facility shall maintain a daily sign-in sheet that includes:

conspicuously posted in a public place in the facility.

building of the facility and for the evacuation of the facility in case of emergency must be

4. Appropriate plans for removing the staff and children of a facility to a shelter within a

(b) A drill for natural disasters at least once every 3 months.

(a) A fire drill at least once every month; and

3. The licensee of a facility shall hold:



(a) Provide a program for child care for the facility which meets the requirements of this chapter.

(b) Be physically present in the facility for a sufficient amount of time to ensure compliance with the provisions of this chapter and chapter 432A of NRS.

(c) Provide space for an office, the storage of records, conferences with parents, meetings of the staff and all other needs of the program for child care.

(d) Maintain organized separate records for each employee that include, without limitation, documents related to training. Such records must include, without limitation:

(1) Documents verifying that the employee, ~~has,~~ if applicable:

(I) ~~Completed~~ *Has completed* the training required pursuant to NRS 432A.177;

(II) ~~Received~~ *Has received* the orientation and basic training required pursuant to

NAC 432A.320;

(III) ~~Completed~~ *Has completed* the training required pursuant to NAC 432A.323;

~~and~~

(IV) ~~Completed~~ *Has completed* the training required pursuant to NAC 432A.326; and

(V) *Is an active member of The Nevada Registry or its successor organization as*

*required by NAC 432A.306, if applicable; and*

(2) A copy of the documentation concerning, and the results of, the investigation of the

employee's background and personal history which is conducted pursuant to NRS 432A.170,

including, without limitation, a clearance letter from the Division or a current child care work

card, and a release form for this information completed by the employee.

(e) Ensure that each member of the staff of the facility who is not a caregiver, but whose job

duties may directly impact children cared for in the facility, has the training necessary to protect

2. Not more than 50 percent of the caregivers in a child care institution or an early care and education program may be under 18 years of age. Any caregiver who is under 18 years of age and is employed in such a facility must:

(a) Have completed a course in the development of children which is approved by:

(1) The Nevada Registry or its successor organization, or any other agency designated by

the Director of the Department to approve such courses; or

(2) If the course has not been approved by The Nevada Registry or its successor

organization, and the Director of the Department has not designated another agency to approve

such courses, the Division or the local licensing agency; or

(b) Be currently enrolled in such a course.

3. A child care facility may not be operated unless a person who is 18 years of age or older

is on the premises of the facility.

4. A volunteer for a child care facility, regardless of his or her age, and a member of the

staff of the facility who is under 18 years of age may not provide direct care to a child at the

facility unless the care is provided under the supervision of an employee of the facility who is 18

years of age or older.

5. A caregiver in a child care institution is not required to initially apply with or ~~annually~~

~~renew his or her registration with~~ *maintain a membership in* The Nevada Registry or its

successor organization.

6. *A caregiver in a child care facility shall not consume or be under the influence of*

*alcohol or psychoactive drugs while caring for children in the facility.*

Sec. 39. NAC 432A.322 is hereby amended to read as follows:

**Sec. 40.** NAC 432A.323 is hereby amended to read as follows:

432A.323 1. Except as otherwise provided in NAC 432A.521 and NRS 432A.177, ~~with~~ 120 days after commencing his or her employment or position in a child care facility, each person who is employed in a child care facility, other than a person employed in a facility that provides care for ill children, and each director of a child care facility shall complete:

(a) ~~Any training required by the facility in which the director serves or in which the person is employed for the purposes of obtaining certification in the administration of cardiopulmonary resuscitation as required pursuant to NAC 432A.322; Within 90 days after commencing his or her employment or position in a child care facility:~~

(1) *One hour of training in the prevention of shaken baby syndrome and abusive head trauma;*

(2) *Two or more hours in the administration of medication, which must include, without limitation, training in the prevention of and response to allergic reactions to food and other allergies;*

(3) *Two or more hours of training in maintaining the safety of buildings and other physical premises, which must include, without limitation, training in the storage of biocontaminants and other hazardous materials;*

(4) *Two or more hours of training in emergency preparedness and response planning for emergencies resulting from a natural or man-made event; and*

(5) *If the person will provide transportation of children as part of his or her duties, 1 or more hours of training in appropriate precautions when transporting children;*

*subsection that was completed more than 36 months before commencing employment. Division may require a person described in subsection 1 to repeat any training required by that*

~~complete a course in the development of children required pursuant to NAC 432A.306. The employment as a member of the staff of a facility, each member of the staff of a facility shall~~

3. ~~Except as otherwise provided in NAC 432A.521, within 12 months after commencing training requirements set forth in NAC 432A.326. in NAC 432A.326. A person may use training completed pursuant to subsection 1 to satisfy the required pursuant to NAC 432A.306, complete at least the number of hours of training described required pursuant to subsection 1 and completing any course in the development of children~~

2. ~~Except as otherwise provided in NAC 432A.521, within 12 months after commencing employment, each person described in subsection 1 shall, in addition to completing any training moderate or vigorous physical activity.~~

which must include, without limitation, training relating to childhood obesity, nutrition and ~~(6) Two or more hours of training in lifelong wellness, health and safety of children, taken when transporting children for each person who will provide such transportation; and~~

~~(f) If the facility provides transportation, 1 or more hours of training in precautions to be emergencies resulting from a natural or man-made event;~~

~~(i) Two or more hours of training in emergency preparedness and response planning for materials;~~

~~(h) Two or more hours of training in building and physical premises safety, which must include, without limitation, training in the storage of biocontaminants and other hazardous~~

~~(g) Two or more hours of training in the administration of medication, which must include, without limitation, training in the prevention of and response to food and other allergies;~~

3. If a licensee of a family home is:
  - (d) Provide an alternate caregiver in case of an emergency.
  - (c) Have a second caregiver on duty whenever four or more of the children in the facility are children with special needs; and
  - (b) Not provide care for more than two children who are less than 1 year of age at any given time;
  - (a) Have one caregiver on duty at all times;
2. Except as otherwise provided in NAC 432A.546, a licensee of a family home shall:

Age of Child	Group Size
Less than 1 year of age	2
1 year of age or older but less than 3 years of age	4
3 years of age or older	6

following table:

1. Limits on the number of children in a family home are set forth in the 432A.534
  - Sec. 42. NAC 432A.534 is hereby amended to read as follows:
  2. *If the suspected child abuse or neglect is occurring in the facility, the Division.*
    1. *The appropriate authority as required in NRS 432B.220 ~~†~~; and*
- home or elsewhere shall report such beliefs to ~~the~~ :
- facility who has reason to believe child abuse or neglect is occurring in the facility, in the child's person may immediately report such suspicions to the Division. Every licensee or employee of a 432A.410 If any person suspects that child abuse or neglect is occurring in a facility, the

- (a) For a resurvey of a facility that received a grade of "C" or "D," \$200.
- (b) For a resurvey of a facility that received a grade of "F," \$300.

application must be accompanied by a fee of:

of [this regulation,] LCB File No. R182-18, apply to the Division for a resurvey. The

must, not later than 30 days after receiving the placard containing the grade pursuant to section 2

2. If the Division assigns to a facility a grade of "C," "D," or "F," the licensee of the facility

must be accompanied by a fee of \$100.

[this regulation,] LCB File No. R182-18, apply to the Division for a resurvey. The application

not later than 30 days after receiving the placard containing the grade pursuant to section 2 of

Sec 3. 1. If the Division assigns to a facility a grade of "B," the licensee of the facility may,

Sec. 44. Section 3 of LCB File No. R182-18 is hereby amended to read as follows:

3 years of age.

to determine whether a licensee is in compliance with subsection 1 only if the child is less than

3. A child of the person who resides in a facility pursuant to subsection 2 will be counted

(2) Provide direct care to the children in the facility.

(1) Reside in the facility; and

as a person authorized to operate the facility shall:

(b) Not a natural person, one of the persons listed on the license pursuant to NRS 432A.150

(2) Provide direct care to the children in the facility.

(1) Reside in the facility; and

(a) A natural person, the licensee shall:

2. If a licensee of a group home is:

Errata – LCB File No. R135-18RP1

Black regular font = Existing language in chapter NAC 432A

**Blue bold italic** = Proposed language found in LCB File No. R135-18RP1

**[Red italic in brackets with strikethrough]** = Proposed omitted material found in LCB File No.

R135-18RP1

~~Red italic strikethrough~~ = New language proposed to be stricken in the Errata

*Green italic* = New language proposed in Errata

Sec. 5. For the purposes of sections 2 to 34, inclusive, of this regulation, the Division shall

determine that a facility is in substantial compliance with those provisions if the Division

determines that:

1. There are no deficiencies ~~No deficiency with a combined severity score of 3 or more~~

~~and scope score of five or more is present at the facility; and~~

2. The facility has taken effective steps to resolve all deficiencies.

Rationale: A deficiency with a severity score of 3 or more is not in substantial compliance regardless of

the scope score.

Sec. 11. 1. In determining the scope score of a deficiency, the Division must evaluate a

representative sample of recipients during a survey. The sample must consist of at least:

Number of recipients individuals or cases / Minimum number of recipients individuals or cases

in sample

1 - 9

All Recipients

10 - 40

10

41 - 75

15

76 - 100

20

101 - 175

25

176 - 250

30

251 - 350

35

(c) The number or percentage of staff members involved in creating the deficiency; and

(d) The pattern of deficiencies or lack thereof;

3. A scope score of one must be assigned to a deficiency if there is one or an isolated

number of unrelated incidents in the sample surveyed and the incident or incidents affected 20

percent or less of the recipients individuals or cases sampled in a facility.

4. A scope score of two must be assigned to a deficiency if:

(a) The deficiency affects more than 20 percent, but not more than 50 percent, of the

recipients individuals or cases sampled in a facility; or

(b) The Division identifies a pattern of deficiencies at the facility, including any

deficiencies involving recipients individuals or cases who require special care, treatment or

service. The number or percentage of recipients individuals or cases or staff affected or involved

in the deficiencies may also establish a pattern by indicating a reasonable degree of

predictability of similar deficiencies.

5. A scope score of three must be assigned to a deficiency if the deficiency:

(a) Occurs in a sufficient number or percentage of recipients individuals or cases or staff

or with sufficient regularity over time that the deficiency may be considered systemic or

pervasive in or by the facility; or

(b) Affects more than 50 percent of the recipients individuals or cases sampled in a facility.

6. ~~As used in this section, "recipient" means a child who:~~

~~(a) Is receiving child care services from a facility at the time the Division surveys the~~

~~facility; or~~

~~(b) Received child care services at a facility within the 30 days immediately preceding the~~



(b) If the Division has reason to question the ongoing compliance of the facility with the

requirements of law or regulation.

Sec. 36. MAC 432A.300 is hereby amended to read as follows:

432A.300 1. Except as otherwise provided in subsection [3,] 4, the The licensee of a child care facility shall:

(a) Serve as the director of the facility, if the licensee has the qualifications set forth in

NRS 432A.1773 [4] and has been approved by the Division pursuant to subsection 3; or

(b) Appoint a person who satisfies the qualifications set forth in NRS 432A.1773 and

has been approved by the Division pursuant to subsection 3 to serve as the director.

2. The licensee shall notify the Division of any appointment made pursuant to subsection

1 within 5 working days after the date of the appointment.

3. Before serving as the director of a facility, a person must apply to the Division in the

form prescribed by the Division and receive approval from the Division. A facility shall retain

the notice of approval from the Division in the personnel file of the director.

4. If a person was approved as a director of a facility before May 28, 2013, and [in

accordance with regulations adopted by the State Board of Health,] the person obtained a waiver

from the Division in accordance with section 3 of Assembly Bill No. 109, chapter 194,

Statutes of Nevada 2013, at page 737, the person is not required to comply with the provisions

of subsection 1:

(a) For [for the duration of [a] that waiver. ] obtained from the Division in accordance with

section 3 of Assembly Bill No. 109, chapter 194, Statutes of Nevada 2013, at page 737; or

organization, and the Director of the Department has not designated another agency to approve such courses, the Division or the local licensing agency; or

(b) Be currently enrolled in such a course.

3. A child care facility may not be operated unless a person who is 18 years of age or older is on the premises of the facility.

4. A volunteer for a child care facility, regardless of his or her age, and a member of the staff of the facility who is under 18 years of age may not provide direct care to a child at the facility unless the care is provided under the supervision of an employee of the facility who is 18 years of age or older.

5. A caregiver in a child care institution is not required to initially apply with or ~~annually~~

~~renew his or her registration with~~ *maintain a membership in* The Nevada Registry or its

successor organization.

6. *A caregiver in a child care facility shall not consume or be under the influence of alcohol or psychoactive drugs while caring for children in the facility.*

Rationale: In support of the Nevada Registry, we want to ensure caregivers are acknowledged as active members, however it generally takes longer than 90 days to become an active member, but not more than 120 days.

**Sec. 40.** NAC 432A.323 is hereby amended to read as follows:

432A.323 1. Except as otherwise provided in NAC 432A.521 and NRS 432A.177, ~~with~~

~~120 days after commencing his or her employment or position in a child care facility,~~ each

(a) Any training required by the facility in which the director serves or in which the person is employed for the purposes of obtaining certification in the administration of cardiopulmonary resuscitation as required pursuant to NAC 432A.322; Within 90 days after commencing his or her employment or position in a child care facility:

(1) One hour of training in the prevention of shaken baby syndrome and abusive head trauma;

(2) Two or more hours in the administration of medication, which must include, without limitation, training in the prevention of and response to allergic reactions to food and other allergies;

(3) Two or more hours of training in maintaining the safety of buildings and other physical premises, which must include, without limitation, training in the storage of biocontaminants and other hazardous materials;

(4) Two or more hours of training in emergency preparedness and response planning for emergencies resulting from a natural or man-made event; and

(5) If the person will provide transportation of children as part of his or her duties, 1 or more hours of training in appropriate precautions when transporting children;

(b) Within 90 days after commencing his or her employment or position in a child care facility and every 5 years thereafter, 2 or more hours in recognition and reporting of child abuse and neglect; and

(c) Within 120 days after commencing his or her employment or position in a child care facility:

*Division may require a person described in subsection 1 to repeat any training required by*

~~complete a course in the development of children required pursuant to NAC 432A.306.] The~~

~~employment as a member of the staff of a facility, each member of the staff of a facility shall~~

3. ~~[Except as otherwise provided in NAC 432A.521, within 12 months after commencing~~

satisfy the training requirements set forth in NAC 432A.326.

described in NAC 432A.326. A person may use training completed pursuant to subsection 1 to

required pursuant to NAC 432A.306, complete at least the number of hours of training

required pursuant to subsection 1 and completing any course in the development of children

employment, each person described in subsection 1 shall, in addition to completing any training

2. Except as otherwise provided in NAC 432A.521, within 12 months after commencing

~~moderate or vigorous physical activity;~~

~~which must include, without limitation, training relating to childhood obesity, nutrition and~~

~~(k)] (6) Two or more hours of training in lifelong wellness, health and safety of children;~~

~~taken when transporting children for each person who will provide such transportation; and~~

~~— (j) If the facility provides transportation, 1 or more hours of training in precautions to be~~

~~emergencies resulting from a natural or man-made event;~~

~~— (i) Two or more hours of training in emergency preparedness and response planning for~~

~~materials;~~

~~include, without limitation, training in the storage of biocontaminants and other hazardous~~

Age of Child	Less than 1 year of age
Group Size	1 year of age or older but less than 3 years of age
	3 years of age or older
	4
	6

home are 1 caregiver to 6 children and ages 0 to 17. ~~are set forth in the following table:~~

432A.534 1. ~~Limits on~~ *The ratio and ages of the number of children in a family*

Sec. 42. NAC 432A.534 is hereby amended to read as follows:

Subsection 2 is redundant once other changes are made.

Rationale:

~~2. If the suspected child abuse or neglect is occurring in the facility, the Division:~~

~~1. The appropriate authority as required in NRS 432B.220 [; and~~

facility, in the child's home or elsewhere shall *also* report such beliefs to ~~the]; the~~

employee of a facility who has reason to believe child abuse or neglect is occurring in the

person ~~may~~ *must* immediately report such suspicions to the Division. Every licensee or

432A.410 If any person suspects that child abuse or neglect is occurring in a facility, the

Sec. 41. NAC 432A.410 is hereby amended to read as follows:

A table makes the requirements easier to understand than the text.

Rationale:

Sec. 43. NAC 432A.536 is hereby amended to read as follows:

432A.536 1. Except as otherwise provided in NAC 432A.546, a licensee of a group

home shall abide by the following limits on ~~the number of children in the group home and~~

staffing

levels:

Group Size	Required Staff to Child Ratio	Age of Child
[4]	1 caregiver for every 2 children	Less than 1 year of age
[8]	1 caregiver for every 4 children	1 year of age or older but less than 3 years of age
[12]	2 caregivers for every 6 children	3 years of age or older

7 Three caregivers must be on duty whenever eight or more of the children in the facility

are children with special needs.

2. If a licensee of a group home is:

(a) A natural person, the licensee shall:

(1) Reside in the facility; and

(2) Provide direct care to the children in the facility.

(b) Not a natural person, one of the persons listed on the license pursuant to NRS

3. The Division may charge any licensee subject to a substantiated complaint for the reasonable cost of the investigation conducted as a result of the complaint. As used in this subsection, "substantiated complaint" means a complaint that results in the finding of a violation of any provision of this chapter or chapter 432A of NRS by an authorized member or employee of the Division.

4. On confirmation of the operation of an unlicensed operator of a facility, the Division or the local licensing agency shall investigate and attempt to license the operator of the facility, force discontinuance of the operation of the facility or prosecute the violation.

Rationale:

This language doesn't require the facility to install equipment nor to make copies of records, rather it merely clarifies that access to video records must be provided. Thus this change should have no cost impact on facilities.



Steve Sisolak  
Governor  
Richard Whitley, MS  
Director

Lisa Sherych  
Administrator  
Ihsan Azzam, Ph.D., M.D.  
Chief Medical Officer



**NOTICE OF PUBLIC HEARING**  
Intent to Adopt Regulations  
(LCB File No. R135-18 with Errata)

NOTICE IS HEREBY GIVEN that the State Board of Health will hold a public hearing to consider amendments to Chapter 432A of Nevada Administrative Code (NAC). This public hearing is to be held in conjunction with the State Board of Health meeting on June 5<sup>th</sup>, 2020. The NAC 432A regulation changes and the corresponding errata's will be heard in the order placed on the State Board of Health agenda. The State Board of Health will be conducted via videoconference beginning at 9:00 a.m. on Friday, June 05, 2020 at the following locations:

Division of Public and Behavioral Health 4150 Technology Way Room 303 Carson City, NV 89076	Grant Sawyer Building 555 E. Washington Ave. Room 1400 Las Vegas, NV 89101
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This meeting may be conducted without physical locations and the notices in the libraries are not currently available in accordance with Governor Sisolak's Declaration of Emergency Directive 006 which can be found at the end of this notice.

In 2017, Nevada Legislation was passed for the implementation of a grading system for licensed childcare facilities across the State of Nevada. Proposed regulation supplements and amendments were generated in efforts to bring the Division of Public and Behavioral Health – Child Care Licensing into compliance with the legislation passed in 2017. The necessary supplements include: a grading and sanction systems and amendments regarding ratios, trainings, mandated reporting, director qualifications and designated operator qualifications to help build transparency and clarity of standards to help ensure successful provider compliance. In addition, the proposed regulations provide for cleanup of current NAC provisions.

**1. Anticipated effects on the business which NAC 432A regulates:**

- A. *Adverse effects:* None anticipated
- B. *Beneficial:* These regulations are providing clear guidelines, which include requirements of grading through scope and severity. These changes institute good policy and help to ensure and maintain safety in the best interest of the children within our State.
- C. *Immediate:* The regulations promote equity of implementing best practice throughout the industry with concise measurable standards and outcomes.
- D. *Long-term:* Provide integrity and promotion of best practice throughout the industry and continue appropriate risk assessment by supporting child safety.

**2. Anticipated effects on the public:**



- A. Adverse: None anticipated.
- B. Beneficial: Increased professional understanding of Early Childhood Educational needs and strengthening of safety measures for children who spend most of their days in licensed child care facilities.
- C. Immediate: Increased child safety.
- D. Long-term: Increased child safety and Early Childhood Educational training needs.

3. The estimated cost to the Division of Public and Behavioral Health is inconsequential to the agency for enforcement of the proposed regulation as it can be incorporated into the inspection process.

4. Small Business Impact Questionnaires were prepared and on November 8<sup>th</sup>, 2018, the questionnaire was sent with a copy of the proposed regulations to all members of the Division's Child Care Licensing LISTSERV and provider documented emails which contained 466 recipients throughout the State of Nevada. 105 responses were received out of 466 Questionnaires that were distributed.

The Division has determined there is no significant impact on small businesses related to the proposed regulations.

The Division of Public and Behavioral Health provided several opportunities for childcare businesses to provide input and comments regarding the proposed NAC432A regulations, including the economic impact the proposed regulations may have on these childcare businesses. Modifications to the proposed regulations have been made as a result of this input. A Workshop was held on August 29<sup>th</sup>, 2019 allowing for further input by childcare providers regarding the proposed regulations and how they will impact their businesses. These comments were taken into consideration and further revisions to the regulations along with their corresponding errata were considered and implemented to help reduce confusion and provide clarity regarding standards.

**The proposed regulations do not overlap or duplicate any other local, state or federal regulations.**

**The Division is not proposing any new fees or increasing any existing ones**

Members of the public may make oral comments at this meeting. Persons wishing to submit written testimony or documentary evidence in excess of two typed, 8 1/2" x 11" pages must submit the material to the Board's Secretary, to be received no later than, at the following address:

Secretary, State Board of Health  
 Division of Public and Behavioral Health  
 4150 Technology Way, Suite 300  
 Carson City, NV 89706

Written comments, testimony, or documentary evidence in excess of two typed pages will not be accepted at the time of the hearing. The purpose of this requirement is to allow Board members adequate time to review the documents.

A copy of the notice and proposed regulations and their corresponding errata are on file for inspection and may

be copied at the following locations during normal business hours, or can be found at <http://dphh.nv.gov/Reg/ChildCare/ChildCare/Licensing-Home/>:

Nevada Division of Public and Behavioral Health  
727 Fairview Dr. Suite E  
Carson City, NV 89701

Nevada State Library  
100 Stewart Street  
Carson City, NV 89701

Nevada Division of Public and Behavioral Health  
3811 W. Charleston Blvd., Suite 210  
Las Vegas, NV 89102

A copy of the regulations as revised by the Legislative Counsel Bureau, Errata and the Small Business Impact Statement can be found on-line by going to: <http://dphh.nv.gov/Reg/ChildCare/ChildCare/Licensing-Home/>. Copies may be obtained by mail, or by calling Casandra Ashbaugh, Administrative Assistant at the Division of Public and Behavioral Health at (775) 684-4463, 4150 727 Fairview Dr., Carson City, Nevada 89701.

**In accordance with Nevada Governor Sisolak's Declaration of Emergency Directive 006 the meeting may be done without physical locations and notices in the libraries and other locations are not currently available.**

- As per Nevada Governor Sisolak's Declaration of Emergency Directive 006; Subsection 3: The requirements contained in NRS 241.020 (4) (a) that public notice agendas be posted at physical locations within the State of Nevada are suspended.
  - As per Nevada Governor Sisolak's Declaration of Emergency Directive 006; Subsection 4: Public bodies must still comply with requirements in NRS 241.020 (4)(b) and NRS 241.020 (4)(c) that public notice agendas be posted to Nevada's notice website and the public body's website, if it maintains one along with providing a copy to any person who has requested one via U.S. mail or electronic mail.
  - As per Nevada Governor Sisolak's Declaration of Emergency Directive 006; Subsection 5: The requirement contained in NRS 241.020 (3)(c) that physical locations be available for the public to receive supporting material for public meetings is suspended.
  - As per Nevada Governor Sisolak's Declaration of Emergency Directive 006; Subsection 6: If a public body holds a meeting and does not provide a physical location where supporting material is available to the public, the public body must provide on its public notice agenda the name and contact information for the person designated by the public body from whom a member of the public may request supporting material electronically and must post supporting material to the public body's website, if it maintains one.
- Per NRS 233B.064(2), upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

## NOTICE OF PUBLIC WORKSHOP

NOTICE IS HEREBY GIVEN that the Division of Public and Behavioral Health will hold a public workshop to consider amendments to Nevada Administrative Code (NAC) Chapter 432A regarding LCB file numbers R182-18P and R135-18P. The workshop will be conducted via videoconference on August 29, 2019 at 8am.

Division of Public and Behavioral Health 4150 Technology Way, Ste. 303 Carson City, NV 89706	Division of Public and Behavioral Health Rawson-Neal Psychiatric Hospital 1650 Community College Dr. Conference Rooms A & B Las Vegas, NV 89146
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These workshops will be conducted in accordance with NRS 241.020, Nevada's Open Meeting Law.

### AGENDA

1. Introduction of workshop process
2. Public comment on proposed amendments to Nevada Administrative Code Chapter 432A regarding LCB file No R182-18P and R135-18P.
3. Public Comment

The purpose of the workshops is to solicit comments from interested persons on proposed amendments to regulations regarding Child Care Facilities. The proposed changes will revise Chapter 432A of the Nevada Administrative Code to include a complete framework for grading facilities and applying sanctions as well as make amendments to ratios, trainings, mandated reporting, director qualifications, and designated operator qualifications to help build transparency and clarity of standards to help ensure provider compliance. These proposed changes can be reviewed at the following links:

<https://www.leg.state.nv.us/Register/2018Register/R182-18P.pdf>  
<https://www.leg.state.nv.us/Register/2018Register/R135-18P.pdf>

LCB file No R182-18I and R135-18 is being proposed in accordance with NRS 449.0302. Members of the public may make oral comments at this meeting. Persons wishing to submit written testimony or information may submit the material to:

Child Care Licensing  
 3811 W. Charleston Blvd Suite 210  
 Las Vegas, NV. 89102

Members of the public who require special accommodations or assistance at the workshops are required to notify Latisha Brown, in writing at the Division of Public and Behavioral Health, Bureau of Health Care Quality and Compliance, Child Care Licensing 3811 W. Charleston

Per NRS 233B.064(2), upon adoption of any regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

Humboldt County Library 85 East 5 <sup>th</sup> Street Winnemucca, NV 89445-3095	Lincoln County Library 93 Maine Street Pioche, NV 89043-0330
Lander County Library 625 South Broad Street Battle Mountain, NV 89820-0141	Mineral County Library 110 1 <sup>st</sup> Street Hawthorne, NV 89415-1390
Lyon County Library 20 Nevin Way Yerington, NV 89447-2399	Pershing County Library 1125 Central Avenue Lovelock, NV 89419-0781
Storey County Library 95 South R Street Virginia City, NV 89440-0014	Tonopah Public Library 167 Central Street Tonopah, NV 89049-0449
Washoe County Library 301 South Center Street Reno, NV 89505-2151	

## SMALL BUSINESS IMPACT STATEMENT

### PROPOSED AMENDMENTS TO NAC 432A LCB File #R135-18

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments should not create significant impact upon a small business or hinder 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

In 2017, Legislation was passed for the implementation of administrative sanctions for licensed child care facilities. The proposed regulation supplements and amendments of LCB File #135-18 were generated in efforts to bring the Division of Public and Behavioral Health – Child Care Licensing into compliance with this legislation. The necessary supplements include: a complete framework for applying sanctions and amendments include: ratios, trainings, mandated reporting, director qualifications and designated operator qualifications to help build transparency and clarity of standards to help ensure provider compliance.

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.

LCB File #135-18 (amending the regulations of NAC432A) was sent to all Nevada licensed child care facilities and posted publicly for other interested parties. The delivery outlets included postings to the listserv, child care licensing website, as well as, being electronically mailed.

A Small Business Impact Questionnaire was sent to licensed child care facilities along with a copy of the proposed regulation changes, on November 8<sup>th</sup>, 2018. Some of the responses received indicated that the proposed changes will have an adverse effect on small business in its current state. Individuals who answered the small business impact questionnaire explained that

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

a) As responses were received they were tallied and set up for further review by Child Care Licensing staff. Once all forms were submitted by the deadline, Child Care Licensing staff reviewed responses to explore if there were effective and comprehensive options to help ensure the least amount of impact on small businesses with these proposed amendments. The Division will schedule a workshop to promote further communication with the industry.

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.

a) Sanctions do pose a possible financial concern for facilities; however, this would only be a concern for facilities that fail to come into compliance within the reasonable timeframe as stipulated by an approved Plan of Correction submitted by the facility operator. Sanctions will not prevent the provider from violations, rather sanctions will help assure providers correct violations such that significant violations don't recur.

b) Training could have an economic effect because trainings do come at cost, however, this regulation was amended to apply completion of trainings using a graduating process to help with timeliness of completion of required training. This regulation does not add additional hours of training.

c) Mandated Reporting has been clarified to help ensure providers clearly understand the standards expected of them as mandated reporters within the State of Nevada which will help to ensure the safety and well-being children. This should not result in an economic affect.

d) Director and Designated Operator qualifications are distinguished for providers to understand what will ensure compliance per NAC432A. This should not result in an economic affect.

e) Ratios in this regulation amendment is intended to clear up confusion for providers and ensure consistency for all providers. This should not result in an economic affect.

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

After reviewing the small business impact questionnaires and analyzing the results, the Division recognizes more communication on how the process would work is needed and more explanation that process was not built to be strictly punitive but that it would also include technical assistance and opportunities for improvement. The Division's aim with sanctions is to ensure accountability while empowering facilities to reflect and build on their strengths in maintaining and meeting compliance. The Division will be holding public workshops for child care businesses for further input and comments regarding the proposed amendments to NAC432A identified in LCB File

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### Background

In 2017, Legislation was passed for the implementation of administrative sanctions for licensed child care facilities. The proposed regulation supplements and amendments of LCB File #135-18 were generated in efforts to bring the Division of Public and Behavioral Health – Child Care Licensing into compliance with this legislation. The necessary supplements include: a complete framework for applying sanctions and amendments include: ratios, trainings, mandated reporting, director qualifications and designated operator qualifications to help build transparency and clarity of standards to help ensure provider compliance.

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a) As responses were received they were tallied and set up for further review by Child Care Licensing staff. Once all forms were submitted by the deadline, Child Care Licensing staff reviewed responses to explore if there were effective and comprehensive options to help ensure the least amount of impact on small businesses with these proposed amendments. The Division will schedule a workshop to promote further communication with the industry.

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.

a) Sanctions do pose a possible financial concern for facilities; however, this would only be a concern for facilities that fail to come into compliance within the reasonable timeframe as stipulated by an approved Plan of Correction submitted by the facility operator. Sanctions will not prevent the provider from violations, rather sanctions will help assure providers correct violations such that significant violations don't recur.

b) Training could have an economic effect because trainings do come at cost, however, this regulation was amended to apply completion of trainings using a graduating process to help with timeliness of completion of required training. This regulation does not add additional hours of training.

c) Mandated Reporting has been clarified to help ensure providers clearly understand the standards expected of them as mandated reporters within the State of Nevada which will help to ensure the safety and well-being children. This should not result in an economic affect.

d) Director and Designated Operator qualifications are distinguished for providers to understand what will ensure compliance per NAC432A. This should not result in an economic affect.

e) Ratios in this regulation amendment is intended to clear up confusion for providers and ensure consistency for all providers. This should not result in an economic affect.

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

After reviewing the small business impact questionnaires and analyzing the results, the Division recognizes more communication on how the process would work is needed and more explanation that process was not built to be strictly punitive but that it would also include technical assistance and opportunities for improvement. The Division's aim with sanctions is to ensure accountability while empowering facilities to reflect and build on their strengths in maintaining and meeting compliance. The Division will be holding public workshops for child care businesses for further input and comments regarding the proposed amendments to NAC432A identified in LCB File



To: Secretary, Nevada State Board of Health  
Division of Public and Behavioral Health  
4150 Technology Way, Suite 300  
Carson City, NV 89706

Re: Proposed NAC 432A Regulations LCB No. R135-18

I am writing to raise my sincere concerns about the intent to implement the severe regulatory repercussions for deficiencies in early childhood education.

First, we have never received any definitions of what the severity of the scores for the deficiencies which are mentioned from page 5 and on. There is a need to gather directors, heads of schools, and department representatives to determine what severity grade each deficiency receives. Deficiencies such as a teacher's purse on a surface that may be reachable to children or negligence of forgetting a child on a playground without supervision encompass different aspects of severity, and there is a need for an objective and professional determination of the ladder of severity.

The second set of concerns lays in the harsh language and extreme consequences:

- Notice the extreme fines proposed in the bill, and the vague language of the violation definitions. The proposing division will basically decide what, when, and how to fine the school without any detailed criteria (pages 16-20) or without definition of process (i.e. first discussion, guidance, warning, comments, fine, license consequences, etc.). There is a need to have a hearing process before severe consequences are imposed, which is also unclear and not defined. According to the suggested regulations, the division will be able to define the process at the whim of the supervisor at that time, reinforce and judge schools. Clear and better phrasing of the bill are needed.
- Notice the shocking proposal to replace principals or school directors with a government appointee (page 21-24) while forcing private schools to pay for the appointees. This violates the separation of State and Church in some cases and pose serious questions on the role of government in the private sector. This proposal does not exist in private elementary, middle or high schools (i.e. the Department of Education appointing principals to parochial schools, or the Department of Commerce appointing chief executive officers to privately owned companies like Tesla, or Chipotle).
- Notice the rough language of license revocation (page 15-17). Notice the wording schools require to put out "NOTICE OF BAN ON ADMISSIONS." It feels like modern shaming, which we are so careful not to practice with our children, why would our government use it with us, the educational institutions?

Our finances are reeling, our parents have tremendous difficulties to pay for preschools and private education, and we are now facing draconic regulations.



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I hope that the Board of Health will assign a revision to these regulations. I am a great supporter of the efforts the department does in guarding the quality education and care for preschools in the State of Nevada. My colleagues and I will be happy to support the enforcement of 432A with more practical and respectful measures.

In addition, I suggest that the Board of Health will add a representative for childcare and preschools. As I see the expertise of the committee members, as it appears on the department website, five out of the six members present expertise in the medical fields and one is representing the general public. I believe that an educator from the field of early childhood education is essential, specifically when the board makes final decisions which affect this field tremendously.

We as the citizens of the State should support the field of early childhood education with much compassion and dignity. The cost of early childhood education passed the cost of college in Nevada and many preschools shut down in the recent month as a result of the health crisis and financial ramifications of it. Even last year when the economy was very stellar, we had numerous closures of preschools in the Las Vegas Valley and across the State.

Please help the field grow and help the young parents of Nevada,

Sincerely,

*Sharon Knaflo*

Dr. Sharon Knaflo  
Head of School

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Attn: Richard Whitley, MS Director

Attn: CAPB Council for American Private School

Attn: The Office of Governor Stephen F. Sisolak

Attn: Jay Kenyon, Esq. Shenker Academy/Temple Sinai Board of Trustees