



SMALL BUSINESS IMPACT STATEMENT 2019

PROPOSED AMENDMENTS TO NAC 439A

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments should not impose an economic burden upon a small business or have a negative impact on 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

Proposed amendments to Nevada Administrative Code (NAC) 439A update the following areas:

- Update the application fee requirement to allow the J-1 physician or employer to pay fee.
- Increase application fees to \$2,000 dollars consistent with NRS 439A.170 as amended by Assembly Bill No. 39, chapter 94, Statutes of Nevada 2015; and
- Allow physicians to agree to begin work in 90 days
- Ensure that physicians work only in locations approved by the Administrator
- Allow employers options to provide patients with written information about discounts based on a sliding fee scale.
- Remove the requirement that the Primary Care Advisory Council investigate complaints.
- Update requirement to report program violations affecting patient health and safety to the Board of Medical Examiners or to the Bureau of Health Care Quality and Compliance of the Division of Public and Behavioral Health.
- Update the violations of the provisions of NRS 439A.130 to 439A.185 to allow Administrator the option to prohibit employers from participation in the program and transfer J-1 visa physician when violations occur.
- Remove references to obsolete website and address.

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

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

A Small Business Impact Questionnaire was distributed to Nevada Hospital Association, Nevada Rural Hospital Partners, medical facilities licensed throughout the state, the State Office of Rural Health, National Health Service Corps sites, 3RNet Referral List, J-1 Law Firms and J-1 Participants, along with a copy of the proposed regulation changes, on October 30, 2019.

The questions on the questionnaire were:

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

Summary of Response

Summary of Comments Received

(11 responses were received out of 926 contacts invited to complete the small business impact questionnaire)

Will a specific regulation have an adverse economic effect upon your business?	Will the regulation (s) have any beneficial effect upon your business?	Do you anticipate any indirect adverse effects upon your business?	Do you anticipate any indirect beneficial effects upon your business?
Yes – 1 response No – 9 responses No Answer – 1 response 1 respondent noted \$50k – one fulltime salary of one office nurse	Yes – 1 response No – 10 responses 1 respondent noted \$15,000	Yes -1 responses No - 10 responses 1 respondent noted <i>It will be difficult to Recruit if the fees are Increased.</i>	Yes – 1 response No – 10 responses

Additional responses were collected from two participants who completed the survey but indicated that their business does not meet the small business definition defined above.

One participant answered yes to question 2 and question 5 but provided no further information. The second participant answered no to questions 2-5 and did not provide any additional comments.

2) Describe the way the analysis was conducted.

The Small Business Impact Questionnaire was embedded in an online survey with a link to the proposed amendments to regulation and distributed electronically to the stakeholders identified above. Responses were reviewed individually and collectively to determine potential impacts of the proposed amendments. Staff have reviewed the regulations to ensure there is not a negative impact on small business.

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.

The proposed changes include modest application fee increases for a J-1 visa waiver application to cover increased costs for program administration and monitoring. The cap was increased from \$500 to \$2,000 under NRS 439A.170. The fee schedule in the proposed regulation charges a flat fee of \$2,000 per application, except for all nonprofits which will be \$1,000, to better reflect actual costs, and to help sustain the program.

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

The regulation will retain an exemption to the fee requirement for a demonstrated hardship.

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

No new costs are anticipated for enforcement of the proposed regulation.

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

The average number of applications received, per year, over the last five years is 11. The average cost per application since the last fee update in 2016, is \$907. If all 11 applications per year were subject to an increase of \$1,100, this would total \$12,100 per year. These funds would be used to administer and monitor the program, including technical assistance, application review, public hearing, data collection, site visits, monitoring, and marketing.

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

The proposed regulation does not include more stringent provisions than the Nevada Revised Statutes.

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

The response rate to the small business impact questionnaire was relatively low which may be a reflection that stakeholders do not anticipate significant impact from the proposed regulation. Most respondents indicated no impact, with one respondent noting positive impact of the regulation, in general. One respondent did indicate that raising the fees would make it harder to recruit providers. One respondent stated they expect an economic adverse effect and an indirect beneficial effect on their business but left no clarifying comments. The Primary Care Advisory Council recommended charging a reduced application fee to nonprofit organizations based on the organization's financial constraints and utilization of the program.

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

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Joseph Tucker Phone: (775) 684- 2232
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Certification by Person Responsible for the Agency

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

Signature:



Date: 4/27/2020
