

SMALL BUSINESS IMPACT STATEMENT 2018
PROPOSED AMENDMENTS TO NEVADA ADMINISTRATIVE CODE (NAC) 652

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendment, as a result of Senate Bill 69 of the 2017 legislative session, may have a minor financial impact upon small businesses but should not prevent the formation, operation or expansion of a small business in Nevada.

A small business is defined in Nevada Revised Statutes NRS 233B 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

Senate Bill 69 of the 2017 legislative session requires a regulatory body to adopt regulations providing for the issuance of a license by endorsement to engage in an occupation or profession in Nevada. Medical laboratory personnel do not require a background check process to obtain a regular (non-endorsement) occupational certificate/license as many work in a laboratory setting and not directly with a vulnerable population. Those who work at certain health facilities which serve a vulnerable population would be background checked for employment purposes as part of the health facility background check laws and regulations. Senate Bill 69 imposes background check requirements for all medical laboratory personnel applicants applying for certification/licensure through the endorsement process. The proposed regulations are being moved forward as required by Senate Bill 69.

The proposed regulations provide provisions for the following:

- Establishes the criteria required for medical laboratory personnel to obtain a license by endorsement in accordance with Senate Bill 69 of the 2017 legislative session.

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

Pursuant to NRS 233B.0608 (2)(a), the Division of Public and Behavioral Health (DPBH) has requested input from Nevada's licensed/certified laboratory personnel and laboratories licensed by the Division and has made a concerted effort to determine whether the proposed regulations are likely to impose an economic burden upon a small business.

Notice was sent to all licensed/certified laboratory personnel and laboratories licensed by the Division by November 8, 2017, 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 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. Those without an email address were mailed the small impact questionnaire and proposed regulations. The proposed regulations were also posted on DPBH’s website. 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 (7 responses were received out of 15,599 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 adverse effects upon your business?	Do you anticipate any indirect beneficial effects upon your business?
Yes- 0 No – 4 N/A - 1	Yes - 1 No- 3 N/A - 1	Yes - 0 No – 4 N/A - 1	Yes - 1 No – 3 N/A - 1
Comments: The proposed regulation states that is applies to “initial applicant” for lab personnel certification of lab director licensure. All of our Lab personnel are residents of Nevada and are already licensed in Nevada.	Comments: The proposed regulation states that is applies to “initial applicant” for lab personnel certification of lab director licensure. All of our Lab personnel are residents of Nevada and are already licensed in Nevada. Would eliminate the cost of certification for already credential applicants.	Comments: The proposed regulation states that is applies to “initial applicant” for lab personnel certification of lab director licensure. All of our Lab personnel are residents of Nevada and are already licensed in Nevada.	Comments: The proposed regulation states that is applies to “initial applicant” for lab personnel certification of lab director licensure. All of our Lab personnel are residents of Nevada and are already licensed in Nevada.

One individual did not submit a small business impact questionnaire but provided the following feedback: Who will endorse? The current system that under the jurisdiction of the Dept. of Health works well. It would be tough to circumvent by other private entity. The current system protects well the participants as well as the job of the Nevada lab personnel. Just imagine if there will be an influx of lab staffs coming to our state and take our jobs by reason of endorsements.

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

Division of Public and Behavioral Health
Bureau of Health Care Quality and Compliance
727 Fairview Drive, Suite E
Carson City, NV 89701
Leticia Metherell
Phone: 775-684-1045
Email: lmetherell@health.nv.gov

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

An analysis of the input collected was conducted by a Health Program Manager III. The analysis involved analyzing feedback obtained from the small business impact questionnaire, review of current statutes and review of the requirements of Senate Bill 69 to determine how the Division could reduce the impact on small businesses through the proposed regulations. Current statutes do not require medical laboratory personnel applying for a regular (non-endorsement) certificate/license to obtain a background check. Review of Senate Bill 69 imposes background check requirements for those who obtain certification/licensure through endorsement. Background check fees would result in an additional financial cost to applicants who apply for a certificate/license by endorsement instead of a regular (non-endorsement) certificate/license. The proposed regulations attempt to reduce this extra financial cost to both individuals and small businesses by allowing the Division to accept proof, as allowed by Senate Bill 69, that an applicant who has previously passed a comparable criminal background check would be accepted instead of having the applicant be background checked again.

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

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.

Direct Beneficial Effects: No direct economic beneficial effects are anticipated as the certification/licensing costs are the same for a regular (non-endorsement) license as for a license for endorsement and there may be additional background check processing fees for an applicant for a certificate/license by endorsement.

Indirect Beneficial Effects: No indirect economic beneficial effects are anticipated.

Direct Adverse Effects: For applicants who chose to obtain certification/licensure through endorsement, there may be additional background check processing fees.

Indirect Adverse Effects: There may be delays in certification/licensure awaiting the results of background checks, including time to challenge results if an applicant feels the accuracy of the information provided because of the background check is not correct.

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

The Division of Public and Behavioral Health has identified and used methods to reduce the impact of the proposed regulations on small businesses including distribution of the small business impact questionnaire to all licensed/certified laboratory personnel and laboratories licensed by the Division so they could provide input on how the proposed regulations may impact their business, review of current statutes and review of Senate Bill 69 to determine how to reduce the burden on small business by moving forward proposed regulations. The Division did implement the measure it identified to reduce the burden on small businesses by allowing the Division to accept a background check conducted for certification/licensure purposes from another state, the District of Columbia, or United States territory, if the applicant holds an active certificate/license in that state, District of Columbia, or territory instead of requiring a new one, thus saving on background check costs.

A public workshop will also be held allowing for further input by stakeholders regarding the proposed regulations and how they will impact all licensed/certified laboratory personnel and laboratories licensed by the Division. These comments will be taken into consideration for possible further revisions to the regulations to reduce the economic impact on programs.

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

Senate Bill 69 requires applicants for license by endorsement to pay applicable fees for the issuance of a license that are otherwise required for a person to obtain a license; therefore, the Division would collect fees based on existing fees outlined in current regulations to pay for the enforcement of the proposed regulations. There may be an additional cost to the agency due to the increased workload to process background checks for medical laboratory personnel by endorsement, as this would be a new workload for the Division. It is too soon to determine if this workload will require additional staff or if the Division will be able to fully integrate it into the workload of its current staff; therefore, additional costs have not been added at this point, but this may be re-evaluated at a future date.

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

The proposed regulations do not provide for a new fee or increase an existing fee that would be collected by the Division. Any background check processing fees would be collected by a fingerprint agency and/or the Department of Public Safety, as applicable.

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

There are no other state or federal regulations addressing the same activity.

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

The reasons for the Division's conclusion on the impact of the proposed regulations on small businesses is based on feedback received from the industry and its analysis as outlined in number two. The conclusion is the proposed regulations may have a minor financial impact on applicants or small businesses that pay for an applicant's background check processing fees, if applicable.

Certification by Person Responsible for the Agency

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

Signature Julie Kotchevar Date: 7-18-18