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November 20, 2018

MEMORANDUM

To: Mr. Jon Pennell, DVM, Chairman
State Board of Health

From: Julie Kotchevar, PhD., Secretary
State Board of Health

Re: Consideration and adoption of proposed regulation LCB file number
R150-18, amendment to Nevada Administrative Code 440.

PURPOSE OF AMENDMENT

The proposed regulations amend and modify existing language to make regulations more clear, current and compatible with the intent and scope of the Office of Vital Records (OVR). The proposed regulations are designed to provide clarity for the public regarding vital records and minimize the potential for fraud.

The OVR introduced new language to improve the timeliness of death records for grieving families, in an attempt to improve our submission time of death records to the National Center for Health Statistics, and to minimize the potential for duplicate records.

SUMMARY OF CHANGES TO THE NEVADA ADMINISTRATIVE CODE (NAC)

- Proposed new regulations for initiating death records within 24 hours and timely death reporting.
- Proposed revisions to existing language to provide clarity for the process of homebirths.
- Proposed revisions to existing language to provide clarity, update for new state laws and address common issues for corrections and amendments to birth and death records.
- Proposed revisions to existing language for adding omitted names to birth records to be more consistent with industry standards.
- Proposed revisions to existing language to facilitate and assist to ensure accurate information is recorded on death records.

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- Proposed revisions to existing language to list new certifiers for death records based on new state law.
- Proposed revisions to existing language regarding the issuance of birth and death record data.

POSSIBLE OUTCOME IF PROPOSED AMENDMENT IS NOT APPROVED

NAC 440 regulations are for the security, confidentiality and accuracy of birth and death records of Nevadans and those visiting the State of Nevada. Updating or adding new regulations ensures that the OVR is staying current with industry standards and ensuring the integrity of the records. If not approved, identified issues will not be addressed to better serve those directly involved with our vital records.

PUBLIC COMMENT RECEIVED

The OVR prepared and posted a Small Business Impact Statement. There was no economic impact determined. The OVR held a public workshop on May 24, 2018.

The Washoe County Medical Examiner's Office was in support of the proposed regulations. The public comment was that they were appreciative of OVR willing to discuss the changes beforehand and the opportunity to get the regulations corrected and more efficient.

The proposed new regulation was opposed by three (3) funeral directors at the public workshop. After the workshop, the OVR has spoken with all three (3) funeral directors and explained to them the reasoning for the proposed new regulation. The funeral directors seemed to understand OVR's reasoning for the proposed regulation. Most of the funeral director's concerns surrounded around the completion of a death record, but the proposed regulation only addresses the starting of a death record. OVR feels that even though their concerns are accurate that it does not apply specifically to the proposed new regulation.

NAC 440 Sec 1. Any certifier or funeral director initiating a death certificate shall start the record within 24 hours. A certifier shall start the death certificate within 24 hours from the date and hour of death. A funeral director shall start the death certificate within 24 hours after receiving the decedent.

The required fields to start and save a death record is the decedent's name, date of death, county of death and date of birth. This information is usually available when the funeral home receives the decedent and can be entered into the vital records system in a very short time frame. If the information is unavailable, "unknown" can be entered in the field, which will still allow the death record to be saved. More timely starting of a death record will not only assist the OVR, but also families who cannot locate their deceased loved one.

One (1) funeral director opposed a revision to section 16 of the proposed regulations regarding disinterment. The proposed regulation changes the time frame to "prior to" instead of "within 72 hours after" any disinterment that funeral director shall file an Affidavit for Correction of a Record. The opposition was because sometimes families change their mind for disinterment, which would result in

accurate death records. As this is accurate, it is even more likely to have inaccurate death records if the Affidavit for Correction of a Record is not submitted with the disinterment form.

The questions from Southern Nevada Health District were not made until November 14th through the attached e-mail and were not raised during the workshop process. The Division will continue to work with Southern Nevada Health District to examine their practice about how “obvious” errors are corrected to make sure that Southern Nevada Health District is in compliance with the regulations. The Division will also look at whether further adjustment is necessary for a coroner or medical examiner to make changes to a death certificate but believe the proposed regulations and practice ensure accuracy of the records at this time. For disinterment, the Division is changing the time frame when the affidavit should be submitted to ensure accuracy of the death record. The question regarding disinterment pertains to existing language.

STAFF RECOMMENDATION

Staff recommends that the State Board of Health adopt the proposed amended regulation to NAC 440 Vital Statistics, LCB file number R150-18.

PRESENTER

Jason Lewis, Program Officer III, Office of Vital Records and Statistics, Division of Public and Behavioral Health

Karen Beckley, Bureau Chief, Health Protection and Preparedness, Division of Public and Behavioral Health

From: Susan Zannis <zannis@SNHD.ORG>
Sent: Wednesday, November 14, 2018 1:01 PM
To: Jason A. Lewis <jalewis@health.nv.gov>
Cc: Karen Beckley <kbeckley@health.nv.gov>; Susan Zannis <zannis@SNHD.ORG>; Edie Mattox <Mattox@SNHD.ORG>
Subject: RE: Nevada Vital Records - Notice of Public Hearing

Hi Jason,

I have a few questions and concerns about the proposed regulation changes. I don't know if emailing you is considered a response and will be noted as public comment or if I need to do something else so these questions are part of the concerns for the hearing? Please advise.

Page 5, Item #4

The State Registrar may correct obvious error on a certificate of birth, death or fetal death.

- It sounds like you are removing the county registrars ability to make changes when obvious errors are found, is that correct? This is very limited to myself and my advanced admin and is only done to ensure accuracy for the state, NCHS, and the families of deceased individuals.

This appears to be backed up by the removal of #2 on page 10 (If the state or local registrar finds that the evidence supporting a request for an alteration of a certificate is satisfactory, he or she shall authorize the alteration of the certificate.)

If this is the case we will need to modify our practice and complete Q&A after we issue the permit but before we register any of the records. My hesitation is that this will create delays in the registration process.

Page 10, #2

(New) A coroner or medical examiner may alter or correct a certificate of death or fetal death without preparing an affidavit in support of the request if a state file number was issued before the coroner or medical examiner conducted an investigation.

- It sounds like they will have the rights and ability to open and make changes on their own, is that correct?
Or
- Will they still need to put in a request to the state, since the record is numbered, to make the change?
- It sounds like this allows the coroner's office to change cause and manner of death on a certificate that was previously registered by an outside certifier without an affidavit of correction, is that correct? We consider these "backward cases".

Page 14, #1

Prior to ANY disinterment or removal of human remains, the funeral director or person who will perform the disinterment shall send a copy of the permit for the disinterment and file an affidavit for correction of a certificate pursuant to NAC 440.026 to the State Registrar.

- This says ANY disinterment which means even if the disinterment does not require an affidavit one must still be prepared and sent?

There are many disinterment's that occur that do not require a change to the certificate. I believe that is old language but I think we should look at that if we are going to be more diligent in enforcing the laws and regs and we want them to read accurately.

Thanks,

*Susan Zannis
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**PROPOSED REGULATION OF THE
STATE BOARD OF HEALTH**

LCB File No. R150-18

September 5, 2018

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

AUTHORITY: §§1, 3-9, 15 and 16, NRS 440.120; §2, NRS 440.175; §10, NRS 440.120 and 440.325; §11, NRS 440.120 and 440.310; §§12-14, NRS 440.120, 440.380 and 632.237.

A REGULATION relating to vital statistics; prescribing the time within which a death certificate must be initiated; authorizing disclosure of information contained in vital statistics records to certain entities; revising provisions governing the alteration or correction of a certificate of birth, death or fetal death; authorizing the State Registrar to obtain certain information from a Declaration of Parentage form when preparing a new birth certificate; revising provisions relating to the preparation of a supplementary birth certificate; clarifying that an advanced practice registered nurse is authorized to perform certain functions relating to certificates of death; revising the documentary evidence acceptable to prove a pregnancy or live birth; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Health to adopt regulations prescribing the method and form of registering births and deaths. (NRS 440.120) **Section 1** of this regulation requires the person completing the certificate of death to initiate the certificate not later than 24 hours after the death occurred or the corpse is received by a funeral director.

Existing regulations authorize the State Registrar to furnish any information contained in the vital statistics records maintained by the State Registrar to a federal, state or local agency that is requesting the information for a legitimate purpose and meets certain other requirements. (NAC 440.022) **Section 2** of this regulation also authorizes disclosure to other government agencies and certain other entities covered by federal law concerning the privacy of health information and specifies purposes that are considered to be legitimate.

Existing regulations prescribe the requirements and procedure for altering or correcting information on a certificate of birth, death or fetal death. (NAC 440.023-440.040) **Section 3** of this regulation revises the persons who are authorized to request to alter such information.

Existing regulations only allow the alteration of a certificate of birth, death or fetal death for which a state file number has been assigned if an affidavit is prepared. (NAC 440.026) **Sections 4 and 7** of this regulation authorize a coroner or medical examiner to alter or correct such a certificate of death or fetal death without preparing an affidavit if the state file number was assigned before the coroner or medical examiner conducted an investigation.

Existing regulations require an affidavit to support the alteration of a certificate of birth, death or fetal death to consist of an affidavit and other verifiable evidence supporting the affidavit. (NAC 440.030) **Section 5** of this regulation: (1) authorizes the submission of certain documents to be used as other verifiable evidence if approved by the State Registrar; and (2) requires other verifiable evidence submitted in support of an affidavit made for the purpose of altering or correcting information concerning the parents of a child on a birth certificate to be dated prior to the birth of the child. **Section 6** of this regulation revises the circumstances under which a court order is required to alter or correct a certificate that has been assigned a state file number.

Existing regulations authorize any person to submit a request to the State Registrar or a local registrar to alter or correct a certificate of birth, death or fetal death without an affidavit if: (1) the original certificate is still held by the State Registrar or a local registrar and has not been assigned a state file number; or (2) no certified copy of the certificate has been issued. (NAC 440.040) **Section 7** instead limits such authority to a funeral director, certifier or attending physician or advanced practice registered nurse. **Section 7** also removes the requirement that a request for such an alteration be submitted to the State Registrar. Finally, **section 7** removes authorization to alter or correct a certificate without an affidavit if no certified copy of the certificate has been issued.

Existing regulations: (1) authorize the State Registrar to prepare a replacement certificate; and (2) require the information on the certificate to be copied directly from the old certificate to the new certificate where possible. (NAC 440.060) **Section 8** of this regulation provides that, if information necessary to complete a replacement certificate is not included on the original certificate, the information may be added by altering or correcting the certificate using procedures prescribed by regulation. (NAC 440.023-440.040)

Existing regulations require the use of an affidavit to correct a given name when the given name has been omitted from the original certificate. The affidavit must be completed during the lifetime of the child. (NAC 440.080) **Section 9** of this regulation instead requires such an affidavit to be completed not later than 1 year after the birth of the child. **Section 9** also provides that, if both parents are listed on a birth certificate and neither parent is deceased or

otherwise incapacitated, both parents must submit separate affidavits agreeing to the addition of a given name to a birth certificate.

Existing law requires the State Registrar to prepare a new birth certificate if the paternity or parentage of a child is submitted by signing a declaration for the voluntary acknowledgment of paternity or parentage, as applicable. (NRS 440.325) **Section 10** of this regulation makes a conforming change to add a reference to a Declaration of Parentage form to existing regulations concerning the preparation of the new certificate.

Existing law requires the State Registrar to prepare and file a supplementary certificate of birth if the State Registrar receives: (1) a certified report of adoption or a copy of an adoption decree concerning a person born in Nevada; or (2) a certified report of adoption or amendment of adoption concerning certain persons born in a foreign country whose adoptive parents reside in Nevada. (NRS 440.310) Existing regulations require the State Registrar to collect the information needed to complete the "Parent or Mother" and "Parent or Father" sections of the new certificate from the report of adoption form. (NAC 440.120) **Section 11** of this regulation authorizes the State Registrar to collect that information from the certified court order if it is not included on the report of adoption form.

Existing law authorizes an advanced practice registered nurse to sign a medical certificate of death. (NRS 440.380, 632.237) **Sections 12-14** of this regulation make conforming changes to add references to an advanced practice registered nurse to sections of existing regulations concerning certificates of death.

Existing regulations require a funeral director or person who performed a disinterment of human remains to send a copy of the permit for disinterment and file an affidavit for correction of a certificate to the State Registrar within 72 hours after the disinterment. (NAC 440.190) **Section 15** of this regulation instead requires this documentation to be submitted prior to the disinterment.

Existing regulations authorize the State Registrar to accept certain documentary evidence to establish parentage, that a pregnancy occurred, that a live birth occurred and that a homebirth occurred in this State. (Section 5 of LCB File No. R066-16) **Section 16** of this regulation authorizes the State Registrar to accept three affidavits as evidence of a pregnancy if the other acceptable documentary evidence of a pregnancy is not available. **Section 16** also authorizes an appointment between the State Registrar and a parent and child offered as documentary evidence in support of a live birth to be conducted by videoconference if the parent and child reside out of state.

Section 1. Chapter 440 of NAC is hereby amended by adding thereto a new section to read as follows:

A person completing a certificate of death or fetal death must initiate the certificate:

- 1. If initiated by a certifier, not later than 24 hours after the death occurred; or*
- 2. If initiated by a funeral director, not later than 24 hours after the funeral director receives the corpse.*

Sec. 2. NAC 440.022 is hereby amended to read as follows:

440.022 The State Registrar may furnish any ~~{federal, state or local}~~ *governmental* agency *or covered entity, as defined in 45 C.F.R. §160.103*, with any information contained in the vital statistics records the State Registrar maintains if the agency:

1. Is required by state or federal law to maintain the confidentiality of the information;
2. Agrees in writing to maintain the confidentiality of the information;
3. Is requesting the information for ~~{a}~~ *purposes relating to research, epidemiology or legal proceedings or any other purpose deemed by the State Registrar to be* legitimate ;
~~{governmental purpose;}~~ and
4. Pays all applicable fees.

Sec. 3. NAC 440.023 is hereby amended to read as follows:

440.023 1. A request to alter or correct information other than medical information on a certificate of:

(a) Birth must originate with the person whose birth is registered on the certificate or the person's parent, guardian or legal representative.

(b) Death or fetal death must originate with ~~{the}~~ *a* funeral director ~~{f}~~ *from the funeral home listed on the certificate, a coroner or medical examiner from the county listed on the certificate or a* certifier or informant listed on the certificate.

2. ~~[A]~~ *Except as otherwise provided in subsections 3 and 4, a* request to alter or correct the medical information on a certificate of birth, death or fetal death must originate with ~~[the]~~ :

(a) *The* certifier of the medical information on the record ~~[H]~~ ; or

(b) *For a certificate of death, any county coroner or medical examiner investigating the death.*

3. *If the certifier of the medical information on a certificate of birth, death or fetal death is no longer affiliated with the facility at which the birth, death or fetal death was certified, the medical director of the facility or a person acting in a similar capacity at that facility may alter or correct such medical information if:*

(a) *The medical director or other person submits a request to the State Registrar; and*

(b) *The State Registrar approves the request.*

4. *The State Registrar may correct obvious errors on a certificate of birth, death or fetal death. For the purposes of this subsection, the correction of a name is not an obvious error.*

5. *As used in this section, "medical information" means:*

(a) *For a certificate of birth, the date and time of birth, sex of the child and name of the facility in which a birth occurred; and*

(b) *For a certificate of death or fetal death, the date and hour of death, cause of death or any part of the cause of death and information concerning communicable diseases or injuries.*

Sec. 4. NAC 440.026 is hereby amended to read as follows:

440.026 1. A person who requests that the State Registrar alter or correct a certificate of birth, death or fetal death must prepare an affidavit in support of the request and file it with the State Registrar if:

(a) ~~[The]~~ *Except as otherwise authorized by NAC 440.040, the* certificate has been assigned a state file number; *or*

(b) ~~[Any certified copy has been issued; or~~

~~—(e)]~~ The proposed alteration does not require a court order.

2. Except as otherwise provided in NAC 440.035, if the State Registrar finds that the submitted evidence supporting a request for an alteration is satisfactory, the State Registrar shall alter the original certificate and send a copy of it to the local registrar.

3. A local registrar who receives such an affidavit:

(a) Shall not alter his or her copy of the certificate; and

(b) Shall replace the existing copy in his or her files with a copy of the certificate after alteration by the State Registrar.

Sec. 5. NAC 440.030 is hereby amended to read as follows:

440.030 1. An affidavit for alteration or correction of a certificate must consist of two parts as follows:

(a) The first part must consist of an affidavit in which the affiant sets forth the facts that are not correctly stated on the certificate and also sets forth the changes necessary to correct the certificate.

(b) The second part must consist of ~~[a supplementary affidavit or]~~ other verifiable evidence corroborating the facts contained in the principal affidavit ~~[]~~, *which may include, without limitation, a supplementary affidavit if deemed appropriate by the State Registrar.* Any supplementary affidavit must be executed by a person other than the affiant of the principal affidavit.

2. The State Registrar may accept the affidavit for alteration or correction of a certificate only if the affiants:

- (a) Have signed any affidavit and these signatures are notarized;
- (b) Have personal knowledge of the facts stated therein; and
- (c) Have provided a supplementary affidavit or other verifiable evidence to support the affidavit.

3. *If medical records that may be used as other verifiable evidence for the purposes of paragraph (b) of subsection 1 are not available, the State Registrar may allow another type of document to be used for that purpose.*

4. *Evidence submitted as other verifiable evidence for the purposes of paragraph (b) of subsection 1 to support the alteration or correction of information concerning the parents of a child on a birth certificate must be dated prior to the birth of the child.*

5. As used in this section:

(a) "Alteration or correction of a certificate" includes, without limitation, an alteration or correction to any:

- (1) Date of birth;
- (2) Date of death;
- (3) Age;
- (4) Part of the location of the birth or death;
- (5) Gender or sex;
- (6) Time of birth;
- (7) Hour of death;

(8) Birthplace;

(9) Part of an address;

(10) Certifier or attendant information;

(11) Part of the cause of death;

(12) Communicable disease information;

(13) Funeral director or certifier information;

(14) Information relating to disposition of the decedent's remains; or

(15) Occupation, industry, education, social security number, race, ethnicity or military service information of the decedent or any name on a certificate for which an error can be proven.

(b) "Personal knowledge" means cognizance of a circumstance or fact gained directly through firsthand experience or observation, or through a personal, familial, medical or professional relationship with the person.

Sec. 6. NAC 440.035 is hereby amended to read as follows:

440.035 The State Registrar shall not alter or correct any certificate assigned a state file number without an order from a court of competent jurisdiction if that proposed alteration:

1. Consists of the substitution of a different name or of the name of a different person as surviving spouse of the deceased or changes the name or marital status of the deceased on a death certificate ~~[where the evidence offered to support the action is contradictory or otherwise unsatisfactory;]~~, *unless verifiable evidence indicating that an error occurred is submitted to the State Registrar;*

2. ~~{Consists}~~ *Except as otherwise provided in paragraph (c) of subsection 6 of NRS*

440.280, consists of the substitution of a different name for ~~{a}~~ :

(a) *A child whose birth is registered on the certificate and is proposed more than 1 year after the date of the birth;* or ~~{a different name for either}~~

(b) *Either of his or her parents ;* ~~{, except as otherwise provided in paragraph (e) of subsection 6 of NRS 440.280; or}~~

3. Would indicate some other change in a legal relationship, but does not include the change of a middle name to a middle initial, a middle initial to a middle name or the informant on a death certificate ~~{,}~~ ;

4. *In combination with other alterations or corrections, including, without limitation, alterations or corrections made through previous requests, may change or hide the identity of the person to whom the certificate pertains, as determined by the State Registrar; or*

5. *Except as otherwise provided in this subsection, would change information that has previously been altered or corrected. This subsection does not apply to an alteration or change to the cause of death proposed by the certifier of medical information on a certificate of death or fetal death.*

Sec. 7. NAC 440.040 is hereby amended to read as follows:

440.040 1. A ~~{person}~~ *funeral director, certifier or attending physician or advanced practice registered nurse* may ~~{request the State Registrar or a local registrar to}~~ alter or correct a certificate of birth, death or fetal death without preparing an affidavit in support of the request if ~~{,}~~

~~—(a) The~~ *the* original certificate is still held by the State Registrar or a local registrar and has not been assigned a state file number . ~~}; or~~

~~—(b) No certified copy of the certificate has been issued.}~~

2. ~~{If the State Registrar or a local registrar finds that the evidence supporting a request for an alteration of a certificate is satisfactory, he or she shall authorize the alteration of the certificate.}~~ *A coroner or medical examiner may alter or correct a certificate of death or fetal death without preparing an affidavit in support of the request if a state file number was issued before the coroner or medical examiner conducted an investigation.*

Sec. 8. NAC 440.060 is hereby amended to read as follows:

440.060 1. The State Registrar may prepare a replacement certificate.

2. To the extent possible the information on the certificate must be copied directly from the old certificate to the new certificate. *If information necessary to complete the replacement certificate is not included on the original certificate, such information may be added by altering or correcting the certificate in the manner prescribed by NAC 440.023 to 440.040, inclusive.*

3. Except for the local registrar's signature, the signatures required for the certificate must be typed or entered in conformity with the signatures appearing on the original certificate. The item labeled "Registrar Signature" must be signed by the State Registrar.

Sec. 9. NAC 440.080 is hereby amended to read as follows:

440.080 1. The form known as "affidavit for correction of a record" must be used for a report of a given name when the given name has been omitted on the original certificate.

2. The affidavit for correction of a record must be completed ~~[during the lifetime]~~ *not later than 1 year after the birth* of the child in accordance with the procedures for alteration or correction of a certificate now on file described in NAC 440.030.

3. *If two parents are listed on a birth certificate and neither parent is deceased or otherwise incapacitated, both parents must submit separate affidavits agreeing to the addition of a given name to the birth certificate before the given name may be added.*

Sec. 10. NAC 440.110 is hereby amended to read as follows:

440.110 In the case specified by NRS 440.325, all information needed for the new certificate except the name of the child and the information related to the ~~[father]~~ *parent* must be obtained from the original certificate. The name of the child and the name, age and state of birth of the ~~[father]~~ *parent* must be obtained from the court order or Declaration of Paternity *or Declaration of Parentage* form filed with the State Registrar by ~~[the father or mother.]~~ *a parent.*

Sec. 11. NAC 440.120 is hereby amended to read as follows:

440.120 1. In preparing a new certificate of birth pursuant to NRS 440.310, the items specified by the certified ~~[copy of the]~~ adoption decree and the certified report of adoption must ~~[be identical and]~~ be completed as specified. ~~[If]~~ *Except as otherwise provided in subsection 2,* *if* any of the information needed to complete the new certificate is not specified by the adoption decree or the report of adoption form, the information must be transcribed directly from the original certificate.

2. The information needed to complete the “Parent or Mother” and “Parent or Father” sections of the *new* certificate *of birth* must be collected from the report of adoption form devised for that purpose by the State Registrar ~~[The]~~ *or the equivalent officer of another*

jurisdiction. If the report of adoption form does not contain the information required to complete those sections of the new certificate, the information may be obtained from the certified court order. Except for a last name obtained through marriage or domestic partnership, the name of each parent on the report of adoption form must be identical to that on the adoption decree. Any name or suffix omitted on the adoption decree may be added to the decree if it is listed on the certified report of adoption form.

Sec. 12. NAC 440.160 is hereby amended to read as follows:

440.160 1. The person who is required to certify the cause of death shall complete the portions of the death certificate pertaining to the cause of death and the certification of death within 48 hours after being assigned as the certifier.

2. If the death did not occur in a hospital or other institution and the death was attended by a physician *or advanced practice registered nurse* who will not be available within 48 hours after the death, the certificate must be presented or assigned to an associate physician *or advanced practice registered nurse* who has access to the attending physician's *or advanced practice registered nurse's* medical files on the deceased. The associate physician *or advanced practice registered nurse* shall complete and certify the death certificate within 48 hours after such presentation or after being assigned as the certifier.

3. If the death occurred in a hospital or other institution and the death was attended by a physician *or advanced practice registered nurse* who will not be available within 48 hours after the death, the certificate must be presented or assigned to the chief medical officer of the institution or an associate physician *or advanced practice registered nurse* who has access to the medical records of the deceased. The chief medical officer or associate physician *or advanced*

practice registered nurse shall complete and certify the death certificate before the end of the next business day after such presentation or after being assigned as the certifier.

4. Any certificate rejected for not containing a certification of cause of death, lack of information or lack of certifier signature must be completed by the certifier within 24 hours after such rejection.

Sec. 13. NAC 440.170 is hereby amended to read as follows:

440.170 Except as otherwise provided in NAC 440.180, a death shall be considered to have been attended by a physician *or advanced practice registered nurse* if the deceased:

1. Had been examined or treated, including, without limitation, having been prescribed medications or provided care by the physician *or advanced practice registered nurse, as applicable*, for an acute or chronic condition, within 180 days preceding the death;

2. Was pronounced dead by a registered nurse or physician assistant pursuant to NRS 440.415; or

3. Was diagnosed by a physician *or advanced practice registered nurse* as having an anticipated life expectancy of not more than 6 months.

Sec. 14. NAC 440.180 is hereby amended to read as follows:

440.180 If the deceased had been under ~~[a physician's]~~ *the care of a physician or advanced practice registered nurse* under the conditions set forth in NAC 440.170, but the cause of death was unrelated to the purpose for which the deceased consulted the physician ~~[H]~~ *or advanced practice registered nurse, as applicable*, the death shall not be considered to have been attended and must be referred to the county coroner or medical examiner for review.

Sec. 15. NAC 440.190 is hereby amended to read as follows:

440.190 1. ~~{Within 72 hours after}~~ *Prior to* any disinterment or removal of human remains, the funeral director or person who ~~{performed}~~ *will perform* the disinterment shall send a copy of the permit for the disinterment and file an affidavit for correction of a certificate pursuant to NAC 440.026 to the State Registrar.

2. Upon receipt of the copy of the permit and the affidavit, the State Registrar shall:

(a) Change the statement of the place of interment on the certificate of death to show the new place of interment if the remains have been interred in a new place; and

(b) Send a copy of the changed certificate to the local registrar in the county of the new place of interment.

Sec. 16. Section 5 of LCB File No R066-16 is hereby amended to read as follows:

Pursuant to subsection 2 of section 3 of this regulation, the State Registrar may accept the following types of documentary evidence to establish:

1. Parentage:

(a) A current and valid photo identification; and

(b) Two completed witness information forms provided by the State Registrar.

2. That a pregnancy occurred:

(a) Prenatal health care records;

(b) An affidavit from a licensed physician, public health nurse or other qualified health care provider who consulted with the applicant during the pregnancy; ~~{or}~~

(c) An ultrasound performed on the applicant during the pregnancy ~~{H}~~ *; or*

(d) If the documents described in paragraphs (a), (b) and (c) are not available, affidavits from three persons who have personal knowledge of the pregnancy, none of whom is a parent of the child.

3. That a live birth occurred:

(a) An affidavit from a licensed physician, public health nurse or other qualified health care provider who witnessed or examined the child within 14 days after the birth; or

(b) An appointment in person *or, if the parent and child reside outside of this State, by videoconference*, with the State Registrar or a local registrar of vital statistics with the parent and child present. *If an appointment will be conducted by videoconference, the State Registrar must receive the completed documents described in subsections 1, 2 and 4 before the appointment.*

4. That the homebirth occurred in this State:

(a) A utility bill showing residency of the parent in this State at the time of birth that also displays the parent's name; or

(b) A statement which shows a credit or debit card transaction completed by the parent and which includes the date and location of the transaction. The transaction must have been completed in this State.

SMALL BUSINESS IMPACT STATEMENT 2018

PROPOSED AMENDMENTS TO NAC 440

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments should not have any adverse effect upon a small business or negatively impact 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

The DPBH determined that existing Nevada Administrative Code (NAC) 440 needed to be reviewed with regulation additions and changes proposed. The industry has changed dramatically in the past several years and some of the regulations required clarity or additional language to ensure a better service to the public while still protecting the integrity of the records. In addition, the updating of state laws required the update of regulations. The Office of Vital Records can be the gateway to identity theft and fraud. As the Office of Vital Records identifies areas of concern, the regulations required additions and updates to help reduce the risks. Current industry standards, practices and requirements required regulations to be reviewed and changed to ensure the Office of Vital Records could adhere to those standards, practices and requirements.

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), DPBH has requested input from stakeholders, small businesses, and users of the Vital Records System.

A Small Business Impact Questionnaire was sent to users of the Vital Records System, Funeral Homes, County Coroners / Medical Examiners, the Nevada Board of Medical Examiners, the Nevada Nursing Board, the Nevada State Medical Association, Nevada Funeral and Cemetery Services Board, Clark County Vital Records Office, Washoe County Vital Records Office, and Renown Health along with a copy of the proposed regulation changes on April 10, 2018. 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? If so, please indicate the estimated dollar amount(s) you believe the adopted regulations will cost you over one calendar year with a brief explanation as to how the dollar amount was calculated.
- 3) Will the regulation(s) have any beneficial effect upon your business? If so, please include any cost savings you believe the adopted regulations will save you over one calendar year with an estimated dollar amount if applicable.
- 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 (8 responses were received out of 722 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?
1 – Yes 4 - No 3 - Unknown	1 - Yes 4 - No 3 - Unknown	2 – Yes* 3 - No 3 - Unknown	5 – No 3 - Unknown

*One of the “Yes” responses did not seem to be in conjunction with the proposed regulations. The respondent said to disregard if it was not part of the proposed regulations.

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

Analysis was conducted using an Excel spreadsheet to quantify responses.

3) The estimated economic effect of the proposed regulation on the small business which it is to regulate including, without limitation both adverse and beneficial effects and both direct and indirect effects.

There is no estimated economic effect of the proposed regulations on small business.

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 DPBH received three (3) responses via email with questions regarding the proposed regulations. Two (2) of the emails were inquiring about the proposed 24 hour requirement for starting death records and why this requirement was being recommended. After responding to both emails, both entities seemed to be acceptable of the response. The other email provided two suggestions for regulations not being recommended for revisions and

additional language to one section being amended. I spoke with the entity on the phone regarding their recommendations. One of the recommendations will be incorporated into the proposed regulations as it provides clarity to language proposed in another area. According to the entity, the other recommendation would assist their office, but was not of urgent need. This recommendation would require system modifications or additional workload by staff, so it currently will not be incorporated into the proposed regulations. Modifications to the proposed regulations have been made as a result of this input. A Public Workshop will be held on May 24, 2018, allowing for further input by the public and regulated community regarding the proposed regulations and the impact. These comments will be taken into consideration for possible further revisions to the regulations to reduce the economic impact on facilities.

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

There is no anticipated cost to the agency for enforcement of the proposed regulations.

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.

There are no fee increases.

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

At this time, there are no duplicative or more stringent provisions than federal, state or local standards.

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

The agency concludes the proposed regulations will produce negligible impact on small businesses. Most of NAC 440 had proposed regulation changes, but didn't appear to have economic impact on small businesses. Most of the proposed changes were to provide additional clarification to existing regulations while adding or updating others to current industry standards and practices or to assist in meeting program requirements through federal contracts. The DPBH developed regulations that would not be unduly burdensome on small business, such as midwives, funeral homes and medical offices. Overall, small businesses in the State of Nevada appear not to be impacted by the proposed regulations.

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

Division of Public and Behavioral Health
Office of Vital Records
Attn: Jason Lewis, Program Officer III
4150 Technology Way, Suite 104
Carson City, NV 89701
Phone: 775-684-4162
Email: jalewis@health.nv.gov

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  Date: 5-9-18

NOTICE OF PUBLIC HEARING

Intent to Adopt Regulations
(LCB File No. R150-18)

NOTICE IS HEREBY GIVEN that the State Board of Health will hold a public hearing to consider amendments to Chapter 440 of Nevada Administrative Code (NAC), Vital Statistics. This public hearing is to be held in conjunction with the State Board of Health meeting on December 7, 2018.

The State Board of Health will be conducted via videoconference beginning at 9:00 a.m. on Friday, December 7, 2018 at the following locations:

Division of Public and Behavioral Health 4150 Technology Way Room #303 Carson City, NV 89706	Grant Sawyer Building Room 5100 555 E. Washington Avenue Las Vegas, NV 89101
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The proposed changes to NAC 440 in LCB File No. R150-18 include the following:

- Proposed new regulations for initiating death records within 24 hours and timely death reporting.
- Proposed revisions to existing language to provide clarity for the process of homebirths.
- Proposed revisions to existing language to provide clarity, update for new state laws and address common issues for corrections and amendments to birth and death records.
- Proposed revisions to existing language for adding omitted names to birth records to be more consistent with industry standards.
- Proposed revisions to existing language to facilitate and assist to ensure accurate information is recorded on death records.
- Proposed revisions to existing language to list new certifiers for death records based on new state law.
- Proposed revisions to existing language regarding the issuance of birth and death record data.

1. Anticipated effects on the business which NAC 440 regulates:

- A. *Adverse effects:* The proposed regulations will produce negligible impact on small businesses.
- B. *Beneficial:* The proposed clarity and additional language in the regulations will ensure better service while protecting the integrity of the records.
- C. *Immediate:* The proposed clarity and additional language in the regulations will ensure better service while protecting the integrity of the records.

D. *Long-term*: The proposed clarity and additional language in the regulations will ensure better service while protecting the integrity of the records.

2. Anticipated effects on the public:

A. *Adverse*: None reported.

B. *Beneficial*: The proposed clarity and additional language in the regulations will ensure better service while protecting the integrity of the records.

C. *Immediate*: The proposed clarity and additional language in the regulations will ensure better service while protecting the integrity of the records.

D. *Long-term*: The proposed clarity and additional language in the regulations will ensure better service while protecting the integrity of the records.

3. There is no anticipated cost to the agency for enforcement of the proposed regulations
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, Julie Kotchevar, to be received no later than November 20, 2018 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 are on file for inspection and/or may be copied at the following locations during normal business hours:

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

Nevada State Library
100 Stewart Street
Carson City, NV 89701

Nevada Division of Public and Behavioral Health
4220 S. Maryland Parkway, Suite 810, Building D
Las Vegas, NV 89119

A copy of the regulations and small business impact statement can be found on-line by going to:
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http://dpbh.nv.gov/Programs/BirthDeath/Birth_and_Death_Vital_Records_-_Home/

Copies may be obtained in person, by mail, or by calling the Division of Public and Behavioral Health at (775) 684-4162 in Carson City.

Copies may also be obtained from any of the public libraries listed below:

Carson City Library
900 North Roop Street
Carson City, NV 89702

Churchill County Library
553 South Main Street
Fallon, NV 89406

Clark County District Library
1401 East Flamingo Road
Las Vegas, NV 89119

Douglas County Library
1625 Library Lane
Minden, NV 89423

Elko County Library
720 Court Street
Elko, NV 89801

Esmeralda County Library
Corner of Crook and 4th Street
Goldfield, NV 89013-0484

Eureka Branch Library
80 South Monroe Street
Eureka, NV 89316-0283

Henderson District Public Library
280 South Green Valley Parkway
Henderson, NV 89012

Humboldt County Library
85 East 5th Street
Winnemucca, NV 89445-3095

Lander County Library
625 South Broad Street
Battle Mountain, NV 89820-0141

Lincoln County Library
93 Maine Street
Pioche, NV 89043-0330

Lyon County Library
20 Nevin Way
Yerington, NV 89447-2399

Mineral County Library
110 1st Street
Hawthorne, NV 89415-1390

Pahrump Library District
701 East Street
Pahrump, NV 89041-0578

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

Washoe County Library
301 South Center Street

Tonopah, NV 89049-0449

Reno, NV 89505-2151

White Pine County Library
950 Campton Street
Ely, NV 89301-1965

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.

BRIAN SANDOVAL
Governor



JULIE KOTCHEVAR, Ph.D.
Administrator

RICHARD WHITLEY, MS
Director

LEON RAVIN, M.D.
Acting Chief Medical Officer

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
Bureau of Health Protection and Preparedness
Office of Vital Records and Statistics
4150 Technology Way, Suite 104
Carson City, Nevada 89706
Telephone (775) 684-4242 • Fax (775) 684-4156
<http://dpbh.nv.gov>

NOTICE OF PUBLIC WORKSHOP

NOTICE IS HEREBY GIVEN, the Nevada Division of Public and Behavioral Health will hold a public workshop to consider amendments to Nevada Administrative Code (NAC) 440 – Vital Statistics. The workshop will be conducted on site and videoconference beginning at **10:30am on May 24, 2018**, at the following locations:

Division of Public and Behavioral Health 4150 Technology Way Room 303 Carson City, Nevada 89706	Rawson-Neal Psychiatric Hospital 1650 Community College Dr. Room B-193 Las Vegas, Nevada 89146
Teleconference 1-415-655-0002 Access code: 809 623 141 If after entering the Access Code and hitting the # key you are prompted for a security PIN just simply hit the # key again and you will be allowed in the conference.	

These workshops will be conducted in accordance with NRS 241.020, Nevada's Open Meeting Law. The proposed addition/change of regulations to NAC 440.

- Timely death reporting.
- Provide clarity for the process of homebirths.
- Facilitate and assist to ensure accurate information is recorded on death records.
- Provide clarity to the process of correcting birth and death records.
- Clarifying the process for adding an omitted name on a birth record.
- Section 4 – NAC 440.023 (1) was revised after sending out the Small Business Impact Statement to allow a coroner or medical examiner to correct medical information on a death certificate if the death is being investigated by their agency.

AGENDA

1. Introduction of workshop process

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2. Presentation on the 2018 proposed regulations for NAC 440 - Vital Statistics and the Small Business Impact Statement.
3. Changes to proposed regulations after sending out the Small Business Impact Questionnaire.
4. Public Comment Regarding proposed changes to NAC Code 440.
5. Adjournment.

A copy of the notice has been posted at the following locations:

1. Division of Public and Behavioral Health, 4150 Technology Way, First Floor Lobby, Carson City
2. Nevada State Library and Archives, 100 Stewart Street, Carson City
3. Emergency Medical Systems, 1020 Ruby Vista Drive, Ste. 102, Elko
4. Southern Nevada Health District, 280 S Decatur Blvd, Las Vegas
5. Washoe County District Health Department, 1001 E. Ninth, Building B, Reno
6. Rawson-Neal Psychiatric Hospital, 1650 Community College Drive, Las Vegas
7. Nevada Early Intervention Services, 3811 W. Charleston Blvd. Ste. 112, Las Vegas
8. Nevada State Division of Public and Behavioral Health, Office of Vital Records web page:
http://dpbh.nv.gov/Programs/BirthDeath/Birth_and_Death_Vital_Records_-_Home/
9. Nevada Public Notice Website: <http://notice.nv.gov>
10. Nevada Legislature Administrative Regulation Notices Meetings and Workshops Website:
<https://leg.state.nv.us/App/Notice/A/>

Members of the public may make oral comments at this meeting. Persons wishing to submit written testimony or documentary evidence may submit the material to Jason Lewis:

Division of Public and Behavioral Health
Office of Vital Records
4150 Technology Way, Suite 104
Carson City, NV 89701-5629
FAX (775) 684-4156

A copy of the proposed regulations and public workshop information can be found on-line by going to the Division of Public and Behavioral Health website:

http://dpbh.nv.gov/Programs/BirthDeath/Birth_and_Death_Vital_Records_-_Home/

Copies may be obtained in person, by mail, or calling (775) 684-4162.

Carson City Library
900 North Roop Street
Carson City, NV 89702

Churchill County Library
553 South Main Street
Fallon, NV 89406

Clark County District Library
833 Las Vegas Boulevard North
Las Vegas, NV 89101

Douglas County Library
1625 Library Lane
Minden, NV 89423

Elko County Library

Esmeralda County Library

720 Court Street
Elko, NV 89801

Corner of Crook and 4th Street
Goldfield, NV 89013-0484

Eureka Branch Library
210 South Monroe Street
Eureka, NV 89316-0283

Henderson District Public Library
280 South Water Street
Henderson, NV 89105

Humboldt County Library
85 East 5th Street
Winnemucca, NV 89445-3095

Lander County Library
625 South Broad Street
Battle Mountain, NV 89820-0141

Lincoln County Library
93 Maine Street
Pioche, NV 89043-0330

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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

White Pine County Library
950 Campton Street
Ely, NV 89301-1965

Per NRS 233B.105(2), upon adoption of any regulations, the agency, if requested to do so by an small business, either prior to adoption or with 90 days thereafter, shall issue a petition based on the following grounds:

- The agency failed to prepare a small business impact statement as required pursuant to NRS 233B.0608 and 233B.0609; or
- (b) The small business impact statement prepared by the agency pursuant to NRS 233B.0608 and 233B.0609 is inaccurate, incomplete or did not adequately consider or significantly underestimated the economic effect of the regulation on small businesses.

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.