

Joe Lombardo  
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.*



Cody Phinney, MPH  
Administrator

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

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**NOTICE OF INTENT TO ACT UPON A REGULATION**

Notice of Hearing for the Amendment of Regulations of the Board of Health  
LCB File No. R066-23

NOTICE IS HEREBY GIVEN that the State Board of Health will hold a public hearing to consider amendments to [Chapter 459 of Nevada Administrative Code \(NAC\)](#). This public hearing is to be held in conjunction with the State Board of Health meeting on March 1, 2024.

The State Board of Health will be conducted via videoconference beginning at 9:00 am. On March 1, 2024, at the following locations:

- **Web-based conference:**  
**Join on your computer, mobile app or room device**  
[Click here to join the meeting](#)  
Meeting ID: 261 979 126 277  
Passcode: FxZSXG  
[Download Teams](#) | [Join on the web](#)
- **Join by Phone:**  
Or call in (audio only)  
+1 775-321-6111,,228824297# United States, Reno  
Phone Conference ID: 228 824 297#
- **Physical Meeting Locations:**
  - Southern Nevada Health District (SNHD) Red Rock Trail Rooms A and B 280 S. Decatur Boulevard; Las Vegas, Nevada 89107
  - Nevada Division of Public and Behavioral Health (DPBH) Hearing Room No. 303, 3rd Floor 4150 Technology Way: Carson City, Nevada 89706

The proposed changes to NAC # 459 include the following:

- **Compliance with AB471:** Aligning revisions with the requirements set forth in [AB471 Text \(state.nv.us\)](#) of the 2021 legislative session.
- **Financial Sustainability:** Addressing the Nevada Central Cancer Registry's (NCCR) need for adequate funding. Supporting the Registry's expansion of operations and services.

survey was also sent to individuals who had subscribed to receive updates.

4. The proposed regulations will not add any cost to the current regulatory enforcement activities conducted by the Division of Public and Behavioral Health.

5. The proposed regulations do not overlap or duplicate any other Nevada state or federal 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, Cody Phinney, to be received no later than (5 DAYS BEFORE MEETING DATE) 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 more than 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  
4126 Technology Way, Suite# 100  
Carson City, NV 89706

Nevada Division of Public and Behavioral Health  
3811 W. Charleston Blvd. Suite #205  
Las Vegas, NV. 89102

A copy of the regulations and small business impact statement can be found on-line by going to:  
[\(https://dpbh.nv.gov/Programs/NCCR/Nevada\\_Central\\_Cancer\\_Registry\\_Regulation\\_Public\\_Workshops\\_and\\_Public\\_Hearings/\)](https://dpbh.nv.gov/Programs/NCCR/Nevada_Central_Cancer_Registry_Regulation_Public_Workshops_and_Public_Hearings/)

A copy of the public hearing notice can also be found at Nevada Legislature's web page:  
<https://www.leg.state.nv.us/App/Notice/A/>

Copies may be obtained in person, by mail, or by calling the Division of Public and Behavioral Health, Nevada Central Cancer Registry at (775) 684-5968.

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Lisa Sherych  
Administrator

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

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**DATE:** January 23, 2023

**TO:** Lisa Sherych, DPBH Administrator

**THROUGH:** Julia Peek, DPBH Deputy Administrator 

**FROM:** Aundrea Ogushi, NCCR Program Manager

**RE:** Permission to amend regulations to include a 6% fee for radiation machine registrations in NAC 459.161

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In the 2021 Legislative Session, Assembly Bill 471 (AB 471) was approved. AB 471 is an act relating to health care; requiring applicants for the issuance or renewal of certain registrations and the renewal of certain licenses to pay a fee to support the system for the reporting of information on cancer and other neoplasms; requiring certain facilities and providers of health care to report information to the system; revising provisions relating to the reporting of information to the system; and providing other matters properly relating thereto.

The proposed addition/change of regulations to Nevada Administrative Code (NAC) 459 includes establishing a 6% fee for the renewal or issuance of radiation machines to support the system for reporting of information on cancer and other neoplasm.

This amendment is necessary to align with AB 471 approved to support the collection of fees up to 6% to support the system of cancer reporting.

The Office of Public Health Investigations and Epidemiology (OPHIE), Nevada Central Cancer Registry (NCCR) is requesting approval to move forward with the regulations.

For any questions or concerns regarding this request, please contact NCCR Program Manager, Aundrea Ogushi, [aogushi@health.nv.gov](mailto:aogushi@health.nv.gov)

(d) Industrial use, \$200.

(e) Academic use, \$150.

(f) Accelerator, \$550.

2. Except as otherwise provided in subsections ~~{3}~~ 4 and ~~{6}~~ 7, if the Division issues a registration certificate pursuant to NAC 459.156, the registrant must, for each year the certificate is valid, submit to the Division a nonrefundable renewal fee in an amount equal to the appropriate fee set forth in subsection 1.

*3. Upon the issuance or renewal of a registration for a radiation machine, the registrant shall pay to the Division a nonrefundable fee equal to 6 percent of the registration fee or renewal fee, as applicable, set forth in subsection 1. The Division shall use the fees collected pursuant to this subsection during the immediately following fiscal year to support the system for the reporting of information on cancer and other neoplasms.*

~~{3}~~ 4. The renewal fee must be electronically received by the Division not later than the date on which the registration expires unless, before that date, the registrant electronically submits to the Division pursuant to NAC 459.162 a notice that the registrant has transferred ownership of the radiation machine, placed the radiation machine in storage or disposed of the radiation machine. If the fee or notice is not electronically received by that date, the registrant must electronically submit to the Division in the form prescribed by the Division:

(a) An application for renewal of the registration;

(b) A fee in an amount that is equal to the appropriate fee set forth in subsection 1; and

(c) A fee for late payment of \$56 per registration.

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## SMALL BUSINESS IMPACT STATEMENT 2023

PROPOSED AMENDMENTS TO NAC 459

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments should have minimal adverse effect upon a small business or 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 Nevada Division of Public and Behavioral Health (DPBH) has drafted revisions to Nevada Administrative Code (NAC) Chapter 459 in accordance with Assembly Bill 471 (AB 471) of the 2021 legislative session. The development of this bill emerged from the cancer registry's ongoing pursuit of financial sustainability to support its expanding operations. Recognizing the need for adequate funding, the registry explored various approaches to alleviate the burden on external stakeholders, particularly radiation machine registrants. After careful analysis, the implementation of a fee system was identified as the most fiscally responsible method.

- 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 has requested input from Nevada- licensed health facilities and radiation machine registrants.

A Small Business Impact Questionnaire was sent electronically to 4,450 recipients along with a copy of the proposed regulation changes, on May 23, 2023. 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?



feedback, and participate in shaping the new regulation. There have been ongoing opportunities for stakeholders to provide input and comments regarding the proposed regulations, including the economic impact the proposed regulations may have on their business. As a result, from ongoing research, collaboration, and many modifications these regulations were developed.

Although it might not appear to be related or relevant to some, this small increase in fees for radiation machines presents to be a well-balanced outcome resulting from the Division's diligent efforts to address both the economic impact on businesses and the improvement of cancer registry operations and systems.

Workshops will be held on Wednesday August 30, 2023, allowing for further input by the public and stakeholders regarding the proposed regulations and how they will impact their facilities. These comments will be taken into consideration for possible further revisions to the regulations to reduce the economic impact on small businesses.

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

There is no direct 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.

All amounts are based on an annual renewal fee and new licensure for certificate, based on the minimum necessary amount of 6% as stated in AB471. Therefore, projected fees are calculated to be \$145,388 for FY24/25. Fees are paid to the Radiation Control Program and transferred to the Nevada Central Cancer Registry Program. Based on the FY25/25 Agency's Requested Budget, this includes two Health Program Specialist I FTEs in FY24.

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

The fees for radiation machines registration are neither duplicative nor more stringent, rather it is a necessary measure to ensure the sustained support of the cancer registry operations. Radiation machines play a pivotal role in the diagnosis and treatment of cancer. Their significance in accurately detecting and assessing cancerous cells cannot be overstated. As such, it is only logical that funding required to maintain and enhance cancer registry operations should be sourced from the very equipment that contributes directly to these operations.

By introducing a fee tied specifically to radiation machine registrations, we can establish a direct correlation between the utilization of these machines and the financial support provided to the cancer registry.

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

Based on the quantitative and qualitative data received through this Small Business Survey, it would be fair to conclude the impact of the fees to be minimal on Small Businesses. Many factors were considered in making this determination. Some factors include the of number respondents, specific concerns raised by the respondents, the likelihood of misunderstanding the regulations intent, and connection to the fee increase.

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Aundrea Ogushi, Nevada Central Cancer Registry Program Manager at the Division of Public and Behavioral Health at:

Joe Lombardo  
Governor



Richard Whitley,  
MS  
Director



Cody Phinney,  
MPH  
Administrator

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

## 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) 459.

The workshop will be conducted via videoconference beginning at 9:00 am on August 30, 2023, at the following locations:

Microsoft Teams Meeting [Click here to join the meeting](#)

Meeting ID: 253 779 892 317

Passcode: Ben2pc

[Download Teams](#) | [Join on the web](#)

Or call in (audio only)

[+1 775-321-6111,958816463#](#) United States, Reno

Phone Conference ID: 958 816 463#

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 (NAC) Chapter 459
3. General Public Comment

The proposed changes will revise [Chapter 459](#) of the Nevada Administrative Code and are being proposed in accordance with Nevada Revised Statute [\(NRS\) CHAPTER 459](#).

The proposed regulations provide provisions for the following:

1. Aligns the proposed regulations with [Assembly Bill \(AB\) 471](#) of the 2021 Legislative Session, which introduces an annual renewal and new licensure fee of a minimum of 6% for the renewal and issuance of radiation machine registration.
2. The proposed amendment affects two main entities. First, the fees collected from the renewal or issuance of radiation machine registration will be utilized to hire additional registry staff for the Nevada Central Cancer Registry. Second, facilities seeking to renew or register their radiological

List of offices where the proposed regulation will be on file for inspection.:

Division of Public and Behavioral Health  
4126 Technology Way, First Floor Lobby  
Carson City, NV

Division of Public and Behavioral Health  
3811 W. Charleston Blvd. Main Lobby  
Las Vegas, NV

Nevada State Library and Archives  
100 Stewart Street  
Carson City, NV

Division of Public and Behavioral Health  
675 Fairview Dr. Ste 218  
Carson City, NV

A copy of the regulations and small business impact statement can be found on the Division of Public and Behavioral Health's web page:

[https://dphh.nv.gov/Programs/NCCR/Nevada\\_Central\\_Cancer\\_Registry\\_Regulation\\_Public\\_Workshops\\_and\\_Public\\_Hearings/](https://dphh.nv.gov/Programs/NCCR/Nevada_Central_Cancer_Registry_Regulation_Public_Workshops_and_Public_Hearings/)

A copy of the public workshop notice can also be found at Nevada Legislature's web page:

<https://www.leg.state.nv.us/App/Notice/A/>

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

1. Division of Public and Behavioral Health, 4126 Technology Way, First Floor Lobby, Carson City
2. Division of Public and Behavioral Health, 3811 W. Charleston Blvd. Main Lobby, Las Vegas
3. Nevada State Library and Archives, 100 Stewart Street, Carson City
4. Division of Public and Behavioral Health 675 Fairview Dr. Ste 218, Carson City

Copies may be obtained in person, by mail, or by calling the Division of Public and Behavioral Health at (775) 684-5968.

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.



Ms. Ogushi also stated the workshop would be conducted in accordance with Nevada Revised Statute [\(NRS\) 241.020](#), pertaining to Nevada's Open Meeting Law. A copy of the proposed regulations, small business impact statement, and public workshop notice were made available on the NCCR webpage, ([https://dphh.nv.gov/Programs/NCCR/Nevada\\_Central\\_Cancer\\_Registry\\_Regulation\\_Public\\_Workshops\\_and\\_Public\\_Hearings/](https://dphh.nv.gov/Programs/NCCR/Nevada_Central_Cancer_Registry_Regulation_Public_Workshops_and_Public_Hearings/)). Copies were also available through the Nevada Legislature's website [www.leg.state.nv.us](http://www.leg.state.nv.us) and via the Team's chat. Additionally, copies were made available by mail by calling the Division of Public and Behavioral Health 4126 Technology Way, Suite 200, Carson City, NV 89706 and 3811 W. Charleston Blvd., Suite 205, Las Vegas, NV 89102.

Ms. Ogushi stated the purpose of the workshop, which was to solicit input from interested person on the proposed regulations drafted. She elaborated that following the workshop, the draft regulations are subset to a public hearing rulemaking process conducted by the Board of Health (BOH). Updates regarding this and other related meetings will be posted to the NCCR website.

The proposed revision to NAC 459 in accordance with Assembly Bill 471 (AB-471) of the 2021 Legislative Session. These proposed amended regulations would bring NCC into compliance with AB-471, which adds an additional fee of 6 percent, to the renewal costs of certain health care facilities and medical laboratories licenses to help fund the NCCR Program. As such, this fee will be included in renewal applications for 2023. Ms. Ogushi further elaborated that the renewal or issuance of a new certificate would have DPBH allocate these funds to support the system for reporting of cancer and the NCCR and explaining the specific impact on entities. This includes means to build a sustainable revenue source to provide additional positions for program operations, which in turn translates to exceptional data quality, advanced cancer research, support outreach and educations, as well as expand collaborations with community partners and other stakeholders.

Ms. Ogushi opened the floor for public comment.

Lines were open for comment for 5 minutes; however, no public comment was made.

Ms. Ogushi addressed the participants stating if no further comment from the public was available, the meeting would be adjourned.

Public workshop adjourned at 9:18 a.m.

but inadvertently left out of the latest regulations (R010-22). This amendment will be the final change necessary to fully implement AB 471, which passed during the 2021 Legislative Session.

**2. What is the anticipated impact of the regulation on the problem or the anticipated benefits provided by it?**

The impact of the regulations would be significantly positive for the NCCR and the state of Nevada as a whole. Currently Nevada struggles to accurately report cancer cases because the lack of staff capacity. The revenue through the means of implementing these fees would allow for the registry to hire two additional positions to support the ever-increasing workload of the Nevada statewide registry.

**3. What is the anticipated adverse impact, if any, on impacted groups – including, but not limited to, businesses of all sizes, small communities and government entities?**

This regulation should not have an adverse impact on Nevada's businesses, small communities, and governmental agencies. AB 471 and the proposed regulation changes have gone through extensive analysis and stakeholder and community input. These proposed regulations were decided upon because they are the most fiscally responsible and equitable solution to support NCCR, while not overly burdening medical providers who license radiation machines.

**4. What is the anticipated cost – both directed and indirect – of the regulation, including, but not limited to, the cost of enactment, enforcement and compliance?**

The only cost related to passing these regulations, will be from the Legislative Council Bureau (LCB) for reviewing and or revising if needed the revised language to NAC 459.161.

There should be no additional cost associated with these regulations as the system to collect fees and transfer them accordingly already is in existence and will be simple to adjust slightly for this additional fee and routine transfer of funds from Radiation Control to NCCR.

**5. Why is the regulation necessary?**

The regulation is necessary to provide NCCR the authority to begin collecting on the 6% fees for the issuance or renewal of radiation machine registration. This regulation amendment mirrors the language that was approved in AB471, and that of the language that was approved in R010-22.

**6. Are there alternate forms of regulation sufficient to address the problem?**

No, there are not alternate forms of regulations to address this problem. The funding from the 6% fees for the issuance or renewal of radiation machine registration will bring in what NCCR needs to hire additional positions for the registry to expand their personnel by two positions.

**Is the regulation written clearly and concisely so as to achieve easy understanding and application?**

Yes, very concisely and consistent with language approved in AB471.

**Do other regulations address the same problem?**