

**SECOND REVISED PROPOSED REGULATION OF  
THE STATE REGISTRAR OF VITAL STATISTICS**

**LCB File No. R077-16**

August 5, 2016

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

AUTHORITY: §1, NRS 440.175 and 440.700.

A REGULATION relating to vital statistics; revising the schedule of fees charged by the State Registrar of Vital Statistics for providing certain records and for carrying out certain duties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires the State Registrar of Vital Statistics to charge fees in an amount established by regulation by the State Registrar for providing certain records and performing certain other duties. (NRS 440.700) In addition, under existing law and regulations, a governmental organization that registers a birth or death or issues a copy of a birth or death certificate is required to remit a portion of the fees charged by the governmental organization to the State Registrar. (NRS 440.175; NAC 440.400) This regulation revises the schedule of fees charged by the State Registrar for providing certain records and performing certain other duties and revises the amount of the fees that must be remitted to the State Registrar by a health district that registers a birth or death or provides a copy of a birth or death certificate.

**Section 1.** NAC 440.400 is hereby amended to read as follows:

440.400 1. A health district shall remit to the State Registrar:

- (a) For each registration of a birth or death in its district .....\$2
- (b) For each copy issued of a certificate of birth in its district, other than a copy issued pursuant to paragraph (a) of subsection 3 of NRS 440.175 .....7
- (c) For each copy issued of a certificate of death in its district.....~~{1}~~ 4

⇒ *Any amount remitted to the State Registrar pursuant to paragraphs (b) and (c) is inclusive of any amount a health district remits to the State Registrar pursuant to subsection 2 or 3 of NRS 440.700, as applicable.*

2. Except as otherwise provided in NRS 440.175 and 440.700 ~~{ }~~ and as applicable, the State Registrar will , *or a local registrar may*, charge and collect the following fees:

(a) For searching the files for one name, *regardless of whether a record is located*, if no copy is made .....\$10

(b) ~~{For}~~ *Except as otherwise provided in paragraph (c), for verifying or witnessing a vital record or document or issuing a certified abstract of a certificate*.....10

(c) *For electronic verification of a vital record through the Electronic Verification of Vital Events (EVVE) system* .....2

(d) For establishing and filing a record of paternity ~~{ }~~ *with the State Registrar*, other than a hospital-based paternity, and providing a certified copy of the new record .....40

~~{(d)}~~ (e) *For establishing and filing a record of paternity with the State Registrar, other than a hospital-based paternity, where the record of paternity is filed by the Division of Welfare and Supportive Services of the Department of Health and Human Services and a certified copy of the new record is not provided* .....10

(f) For a certified copy of a record of birth .....20

~~{(e)}~~ (g) For a certified copy of a record of death originating in a county in which the board of county commissioners has not created an account for the support of the office of the county coroner pursuant to NRS 259.025 .....20

<del>{(f)}</del> <b>(h)</b> For a certified copy of a record of death originating in a county in which the board of county commissioners has created an account for the support of the office of the county coroner pursuant to NRS 259.025.....	20
<del>{(g)}</del> <del>For</del>	
<b>(i)</b> <i>Except as otherwise provided in paragraph (j), for</i> correcting a record on file with the State Registrar and providing a certified copy of the corrected record .....	40
<del>{(h)}</del> <b>(j)</b> <i>For correcting a record on file with the State Registrar where the correction is filed by a certifier and the State Registrar determines that the correction is not the result of an error by the certifier .....</i>	10
<b>(k)</b> For replacing a record on file with the State Registrar and providing a certified copy of the new record.....	40
<del>{(i)}</del> <b>(l)</b> For filing a delayed certificate of birth <i>with the State Registrar</i> and providing a certified copy of the certificate.....	40
<del>{(j)}</del> <b>(m)</b> For the services of a notary public provided by the State Registrar .....	2
<del>{(k)}</del> <b>(n)</b> For an index of records of marriage provided on microfiche to a person other than a county clerk or a county recorder of a county of this State .....	200
<del>{(l)}</del> <b>(o)</b> For an index of records of divorce provided on microfiche to a person other than a county clerk or a county recorder of a county in this State.....	100
<del>{(m)}</del> <b>(p)</b> For compiling data files which require specific changes in computer programming.....	500

**PROPOSED REGULATION OF  
THE STATE REGISTRAR OF VITAL STATISTICS**

**LCB File No. R077-16**

June 9, 2016

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

AUTHORITY: §1, NRS 440.175, 440.700.

A REGULATION relating to vital statistics; revising the schedule of fees charged by the State Registrar of Vital Statistics for providing certain records and for carrying out certain duties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires the State Registrar of Vital Statistics to charge fees in an amount established by regulation by the State Registrar for providing certain records and performing certain other duties. (NRS 440.700) In addition, under existing law and regulations, a governmental organization that registers a birth or death or issues a copy of a birth or death certificate is required to remit a portion of the fees charged by the governmental organization to the State Registrar. (NRS 440.175; NAC 440.400) This regulation revises the schedule of fees charged by the State Registrar for providing certain records and performing certain other duties and revises the amount of the fees that must be remitted to the State Registrar by a health district that registers a birth or death or provides a copy of a birth or death certificate.

**Section 1.** NAC 440.400 is hereby amended to read as follows:

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- (a) For each registration of a birth or death in its district.....\$2
- (b) For each copy issued of a certificate of birth in its district, other than a copy issued pursuant to paragraph (a) of subsection 3 of NRS 440.175.....~~{7}~~ 5
- (c) For each copy issued of a certificate of death in its district.....~~{1}~~ 5

2. Except as otherwise provided in NRS *440.175 and 440.700* ~~{1}~~ *and as applicable*, the State Registrar will, *or a local registrar may*, charge and collect the following fees:

(a) For searching the files for one name, <i>regardless of whether a record is located,</i> if no copy is made .....	\$10
(b) <del>{For}</del> <i>Except as otherwise provided in paragraph (c), for verifying or</i> <i>witnessing a vital record or document</i> .....	10
(c) <i>For electronic verification of a vital record through the Electronic Verification</i> <i>of Vital Events (EVVE) system</i> .....	2
(d) For establishing and filing a record of paternity <del>{}</del> <i>with the State Registrar,</i> other than a hospital-based paternity, and providing a certified copy of the new record .....	40
<del>{(d)}</del> (e) <i>For establishing and filing a record of paternity with the State Registrar,</i> <i>other than a hospital-based paternity, where the record of paternity is filed by the</i> <i>Division of Welfare and Supportive Services of the Department of Health and Human</i> <i>Services and a certified copy of the new record is not provided</i> .....	10
(f) For a certified copy of a record of birth .....	20
<del>{(e)}</del> (g) For a certified copy of a record of death originating in a county in which the board of county commissioners has not created an account for the support of the office of the county coroner pursuant to NRS 259.025 .....	20
<del>{(f)}</del> (h) For a certified copy of a record of death originating in a county in which the board of county commissioners has created an account for the support of the office of the county coroner pursuant to NRS 259.025 .....	20
<del>{(g) For}</del> (i) <i>Except as otherwise provided in paragraph (j), for correcting a record</i> on file with the State Registrar and providing a certified copy of the corrected record .....	40

<del>{(h)}</del> (j) For correcting a record on file with the State Registrar where the correction is filed by a certifier and the State Registrar determines that the correction is not the result of an error by the certifier .....	10
(k) For replacing a record on file with the State Registrar and providing a certified copy of the new record.....	40
<del>{(i)}</del> (l) For filing a delayed certificate of birth <i>with the State Registrar</i> and providing a certified copy of the certificate.....	40
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<del>{(k)}</del> (n) For an index of records of marriage provided on microfiche to a person other than a county clerk or a county recorder of a county of this State .....	200
<del>{(l)}</del> (o) For an index of records of divorce provided on microfiche to a person other than a county clerk or a county recorder of a county in this State.....	100
<del>{(m)}</del> (p) For compiling data files which require specific changes in computer programming.....	500

SECRETARY OF STATE  
FILING DATA

For Filing Administrative  
Regulations

FOR EMERGENCY  
REGULATIONS ONLY

(LCB File No. R077-16)

Agency... **State Board of Health.**

Effective date.....

Expiration date.....

.....  
Governor's Signature

Classification: ☒ PROPOSED ☐ ADOPTED-BY AGENCY ☐ EMERGENCY

Brief description of action.....

There were changes made to Section 1, of the proposed regulation.

**Section 1.** NAC 440.400 is hereby amended to read as follows:

440.400 1. A health district shall remit to the State Registrar:

- (a) For each registration of a birth or death in its district.....\$2
- (b) For each copy issued of a certificate of birth in its district, other than a copy issued pursuant to paragraph (a) of subsection 3 of NRS 440.175 *and including any fee required NRS 440.700 (2) and (3)* ..... [7] 5 7
- (c) For each copy issued of a certificate of death in its district *and including any fee required by NRS 440.700 (2) and (3)*..... [1] 5 4

2. Except as otherwise provided in NRS 440.175 and 440.700 [,] *and as applicable*, the State Registrar will , *or a local registrar may*, charge and collect the following fees:

- (a) For searching the files for one name, *regardless of whether a record is located*, if no copy is made .....\$10
- (b) [For] *Except as otherwise provided in paragraph (c), for verifying or witnessing a vital record or document or issuance of an abstract*.....10

The proposed regulations along with the errata that reflect these changes will be presented to the Administrator of the Division of Public and Behavioral Health on Friday, September 9, 2016

Authority citation other than 233B: None

Notice date: \_\_\_\_\_

Date of Adoption by the Agency:

Hearing date: September 9, 2016

September 9, 2016

## SMALL BUSINESS IMPACT STATEMENT 2016

### 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 and regulation additions and changes proposed. The industry has changed dramatically in the past several years where some NAC regulations have been existing for nearly 40 years. The Office of Vital Records can be the gateway to identity theft and fraud and the regulations required additions and updates to help reduce the risks. Due to electronic records now being required, regulations had to be updated, since some were centered around paper records. 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, Clark County Health District, Washoe County Health District, the Nevada Board of Medical Examiners, Nevada Funeral and Cemetery Services Board, Nevada Nursing Board, Nevada State Medical Association, Clark County Medical Society, Clark County Vital Records Office, Washoe County Vital Records Office, Catholic Charities Adoption Services, The Church of Jesus Christ of Latter-Day Saints Family Services, US Adult Adoption Services, Gender Justice Nevada, Transgender Allies Group, American Civil Liberties Union, Surratt Law, and The Harvey Law Group along with a copy of the proposed regulation changes, on May 25, 2016. 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

<b>Summary of Comments Received</b> <b>(5 responses were received out of 146 small business impact questionnaires distributed)</b>			
<b>Will a specific regulation have an adverse economic effect upon your business?</b>	<b>Will the regulation (s) have any beneficial effect upon your business?</b>	<b>Do you anticipate any indirect adverse effects upon your business?</b>	<b>Do you anticipate any indirect beneficial effects upon your business?</b>
4 - No 1 - Unknown	4 - No 1 - Unknown	4 - No 1 - Yes *	5 - No

\*Respondent indicated government organizations dislikes, but it wasn't specific to the 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 has held several opportunities for vital records offices and the Clark County Coroner/Medical Examiner to provide input and comments regarding the proposed NAC 440 regulations, including the economic impact the proposed regulations may have. Modifications to the proposed regulations have been made as a result of this input. A Public Workshop will be held on July 7, 2016, 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 existing fee increases. Any new fees are to clarify and lower existing fees due to program changes.

- 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 business. Most of the proposed changes were to provide additional clarification to existing regulations while adding or updating others to current industry standards and practices. 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, Cody L. Phinney, 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 Cody L. Phinney Date: 6/22/16

## **NOTICE OF PUBLIC HEARING**

Intent to Adopt Regulations  
(LCB File No. R077-16)

NOTICE IS HEREBY GIVEN that the Administrator of the Division of Public and Behavioral 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 September 9, 2016.

The State Board of Health will be conducted via videoconference beginning at 9:00 a.m. on Friday, September 9, 2016 at the following locations:

Division of Public and Behavioral Health 4150 Technology Way Room #303 Carson City, NV 89706	Southern Nevada Health District 280 S. Decatur Blvd Las Vegas, NV 89107	Division of Aging and Disability Services Early Intervention Services 1020 Ruby Vista Drive, Suite 102 Elko, NV
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The proposed changes to NAC 440 in LCB File No. R077-16 include the following:

- Proposed additions and revisions of fees.

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

- A. *Adverse effects*: No economic impact was determined.
- B. *Beneficial*: None.
- C. *Immediate*: None.
- D. *Long-term*: None.

2. Anticipated effects on the public:

- A. *Adverse*: No economic impact was determined.
- B. *Beneficial*: None.
- C. *Immediate*: None.
- D. *Long-term*: None.

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, Cody Phinney, to be received no later than August 24, 2016 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:  
[http://dpbh.nv.gov/Programs/BirthDeath/Birth\\_and\\_Death\\_Vital\\_Records - Home/](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) 684-1030 in Carson City or (702) 486-6515 in Las Vegas.

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 4<sup>th</sup> Street  
Goldfield, NV 89013-0484

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

Humboldt County Library  
85 East 5<sup>th</sup> Street  
Winnemucca, NV 89445-3095

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

Mineral County Library  
110 1<sup>st</sup> Street  
Hawthorne, NV 89415-1390

Pershing County Library  
1125 Central Avenue  
Lovelock, NV 89419-0781

Tonopah Public Library  
167 Central Street  
Tonopah, NV 89049-0449

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

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

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

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

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

Storey County Library  
95 South R Street  
Virginia City, NV 89440-0014

Washoe County Library  
301 South Center Street  
Reno, NV 89505-2151

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.

STATE OF NEVADA

BRIAN SANDOVAL  
Governor

RICHARD WHITLEY, MS  
Director, DHHS



CODY L. PHINNEY, MPH  
Administrator, DPBH

JOHN DIMURO, D.O., MBA  
Chief Medical Officer

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Division of Public and Behavioral Health  
4150 Technology Way, Suite 104  
Carson City, Nevada 89706  
Telephone: (775) 684-4242 · Fax: (775) 684-4156

July 29, 2016

**MEMORANDUM**

To: Cody L. Phinney, MPH, Secretary  
State Board of Health

Through: Joe Pollock, Deputy Administrator  
Division of Public and Behavioral Health

Chad W. Westom, Bureau Chief

From: Jason Lewis, Program Officer III  
Office of Vital Records

Re: Consideration and adoption of proposed regulation LCB file no. R077-16, amendment to Nevada Administrative Code 440.

**PURPOSE OF AMENDMENT**

The proposed regulations amend existing fees to meet current practices, provide clarifying language for those fees and requests the addition of fees to meet current OVR practices. The counties issuing death certificates are paying the state \$4.00 based on state law instead of \$1.00 currently listed in regulations. It was proposed to amend the fee to reflect their actual payment and include clarifying language in the regulations. The OVR recommended some new fees in fairness to counties and a state agency who regularly request amendments to records in order to address their concerns yet still cover the costs of the OVR.

**SUMMARY OF CHANGES TO THE NAC**

- Proposed additions and revisions of fees.

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

NAC 440 fees wouldn't be consistent to current OVR practices and industry standards.

Public Health: Working for a Safer and Healthier Nevada

### **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 July 7, 2016. Most were in support of the proposed regulations and the OVR addressed those concerns presented.

The Southern Nevada Health District requested additional language regarding clarification of fees in LCB file no. R077-16, which may be applicable to them. The additional language was proposed in a revision.

### **STAFF RECOMMENDATION**

Staff recommends that Ms. Cody L. Phinney, MPH adopt the proposed amended regulation to NAC 440 Vital Statistics, LCB file no. R077-16, as presented including any errata sheets.

### **PRESENTERS**

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

Chad Westom, Bureau Chief, Preparedness, Assurance, Inspections and Statistics, Division of Public and Behavioral Health