

SMALL BUSINESS IMPACT STATEMENT 2016

PROPOSED AMENDMENTS TO NAC 439A

The Department of Health and Human Services (DHHS) has determined that the proposed amendments should not impose an economic burden upon a small business or have a negative impact on the formation, operation or expansion of a small business in Nevada.

A small business is defined in Nevada Revised Statutes (NRS) 233B as a "business conducted for profit which employs fewer than 150 full-time or part-time employees."

This small business impact statement is made pursuant to NRS 233B.0608 (3) and complies with the requirements of NRS 233B.0609. As required by NRS 233B.0608(3), this statement identifies the methods used by the agency in determining the impact of the proposed regulation on a small business in sections 1, 2, 3, and 4 below and provides the reasons for the conclusions of the agency in section 8 below followed by the certification by the person responsible for the agency.

Background

Senate Bill 247 was approved in 2015 updating NRS 439A.100 for medical facility construction projects. Rural communities in urban counties are now included as part of the eligibility for a Certificate of Need, and public health criteria are elaborated for the Director of Health and Human Services to determine the extent to which a project is consistent with the purposes set forth in NRS 439A.020 and the priorities set forth in NRS 439A.081.

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

- Add definition of "Letter of Approval" to reference *Certificate of Need*;
 - Remove requirement for cashier's check;
 - Allow requests for extension to be communicated through a quarterly report;
 - Clarify that transfer of interest requires state approval during the construction project, but not after project completion;
 - Interpret "routine services for health" to exclude services that require construction of a new facility or expansion, renovation or redesign of the existing office at a cost that exceeds \$2,000,000;
 - Remove exception for a facility which will be used solely for the offices of practitioners of health care; and
 - Repeal section on capital expenditures for which approval is not required.
- 1) **A description of the manner in which comment was solicited from affected small business, 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 DHHS has requested input from all known stakeholders.

A Small Business Impact Questionnaire was distributed to Nevada Hospital Association, Nevada Rural Hospital Partners, medical facilities licensed through the state, the State Office of Rural Health, Imaging Facilities and Technicians, and multiple legal offices that expressed an interest in Certificate of Need, along with a copy of the proposed regulation changes, in November 2015, and February 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 Responses

Summary Of Comments Received in 2015			
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?
No	One respondent indicated <i>Potential to save a few hundred thousand by not oversaturating the market leading to all facilities census dropping.</i>	No	One respondent indicated <i>It will help us maintain a critical census to not operate at a loss.</i>
Summary of Comments Received in 2016			
No	<ul style="list-style-type: none"> • CON regulations protect our small hospital district allowing for long-term operations. As a small county hospital serving a county of approximately 4,000 residents, the introduction of other health services that would undercut our services will make it more difficult if not impossible to continue operation. 	No	<ul style="list-style-type: none"> • Continued healthcare services through the future

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

The Small Business Impact Questionnaire was embedded in an online survey with a link to the proposed amendments to regulation, and distributed to the stakeholders identified above.

Responses were reviewed individually and collectively to determine potential impacts of the proposed amendments.

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

The proposed changes do not include any intended economic impact on small businesses. Two respondents to the questionnaire indicated beneficial effects from the Certificate of Need program generally to ensure sustainability for existing medical facilities.

- 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 legislative changes under SB247 support existing rural medical facilities by restraining excess capacity in small communities. The proposed regulatory changes help to clarify program requirements to support a more transparent and streamlined application process. In addition to the Small Business Impact Questionnaire, three public workshops were held on December 15, 2015, January 28, 2016 and April 12, 2016 to gain additional input.

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

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

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

The proposed regulation does not provide a new fee or increase an existing fee.

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

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

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

The response rates to two small business impact questionnaires were relatively low which may be a reflection that stakeholders do not anticipate significant impact from the proposed regulation. The majority of respondents indicated no impact, with two respondents noting positive impact of the regulation, in general, because it restrains excess capacity for medical facilities, and protects small hospital districts, allowing for long-term operation.

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

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Certification by Person Responsible for the Agency

I, Richard Whitley, Director of the Department of Health and Human Services 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 Richard Whitley Date: 3/25/16