

## SMALL BUSINESS IMPACT STATEMENT 2015

### PROPOSED AMENDMENTS TO NAC 439 and 439A

The Division of Public and Behavioral Health (DPBH) 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:

- Include new public health criteria to be consistent with NRS;
- 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

Proposed amendment to NAC 439.030 updates the required response time from 45 days to 30 days, for petitions submitted to the Secretary of the State Board of Health. This is consistent with NRS 233B.100 which requires a 30 day response time.

- 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 Division of Public and Behavioral Health 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, National Health Service Corps Sites, 3RNet Referral List, J-1 Law Firms and J-1 Participants, along with a copy of the proposed regulation changes, on November 11 and November 17, 2015. 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>(15 responses were received out of 778 contacts invited to complete the small business impact questionnaire)</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>
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>

**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. One respondent to the questionnaire indicated beneficial effects from the Certificate of Need program generally to ensure sustainability for existing medical facilities.

*Potential to save a few hundred thousand by not oversaturating the market leading to all facilities census dropping.*

- 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, stakeholders will have an opportunity to provide additional input at the December 15, 2015 workshop and the subsequent public hearing with the State Board of Health.

- 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 rate to the small business impact questionnaire was 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 one respondent noting positive impact of the regulation, in general, because it restrains excess capacity for medical facilities.

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:

Division of Public and Behavioral Health  
4150 Technology Way, Suite 300  
Carson City, NV 89701  
Laura Hale  
Phone: (775) 684-4041  
Email: [ljhale@health.nv.gov](mailto:ljhale@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: 11/30/15

## 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) Chapters 439 and 439A. The workshop will be conducted via videoconference beginning at **11:00AM on December 15, 2015**, at the following locations:

Division of Public and Behavioral Health 4150 Technology Way, Room 303 Carson City, Nevada 89706	Health Care Quality and Compliance 4220 S. Maryland Pkwy, Suite 810, Bldg D Las Vegas, NV 89119	Early Intervention Services 1020 Ruby Vista Drive, Suite 102 Elko, NV 89801
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These workshops will be conducted in accordance with NRS 241.020, Nevada's Open Meeting Law. The proposed addition/change of regulations include provisions to:

- Include new public health criteria to be consistent with NRS;
- 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

Proposed amendment to NAC 439.030 updates the required response time from 45 days to 30 days, for petitions submitted to the Secretary of the State Board of Health. This is consistent with NRS 233B.100 which requires a 30 day response time.

### AGENDA

1. Introduction of workshop process
2. Public comment on proposed amendments to revise Chapters 439 and 439A of the Nevada Administrative Code.
3. Public Comment

A copy of this 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. Health Care Quality and Compliance, 4220 S. Maryland Parkway, Las Vegas
4. Early Intervention Services 1020 Ruby Vista Drive, Elko, NV 89801
5. Nevada Division of Public and Behavioral Health web page:  
[http://dpbh.nv.gov/Programs/Certificate\\_of\\_Need/Certificate\\_of\\_Need\\_-\\_Home/](http://dpbh.nv.gov/Programs/Certificate_of_Need/Certificate_of_Need_-_Home/)

Members of the public who require special accommodations or assistance at the workshop are requested to notify Laura Hale, Primary Care Office Manager, in writing at the Division of Public and Behavioral Health, 4150 Technology Way, 2<sup>nd</sup> Floor, Carson City, NV 89706 or by calling (775) 684-4041 no later than December 8, 2015.

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 Laura Hale, Primary Care Office Manager, at the following address:

Division of Public and Behavioral Health  
Primary Care Office  
4150 Technology Way, 2<sup>nd</sup> Floor  
Carson City, NV 89706  
FAX (775) 684-5951

A copy of the notice and the proposed regulations are on file for inspection and/or may be copied at the following locations during normal business hours:

Division of Public and Behavioral Health  
4150 Technology Way, 2<sup>nd</sup> floor  
Carson City, NV 89706

Division of Public and Behavioral Health  
4220 S. Maryland Parkway, Bldg. D, Ste. 810  
Las Vegas, NV 89119

Nevada State Library and Archives  
100 Stewart Street  
Carson City, NV 89701

A copy of the regulations and workshop information can also be found on-line by going to:  
[http://dpbh.nv.gov/Programs/Certificate\\_of\\_Need/Certificate\\_of\\_Need\\_-\\_Home/](http://dpbh.nv.gov/Programs/Certificate_of_Need/Certificate_of_Need_-_Home/)

Copies may be obtained in person, by mail, or by calling (775) 684-4041.

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  
833 Las Vegas Boulevard North  
Las Vegas, NV 89101

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  
210 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 Water Street  
Henderson, NV 89105

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 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.