

SMALL BUSINESS IMPACT STATEMENT 2014

PROPOSED AMENDMENTS TO NAC 449

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 prevent the formation, operation or expansion of a small businesses 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

These regulations establish licensing standards for Psychiatric Residential Treatment Facilities (PRTF). If adopted, there will be a clear licensure category for PRTFs and these regulations will establish minimal standards to ensure the safety of residents receiving services in PRTFs. These regulations also propose licensing fees for PRTFs and we anticipate the proposed fees will cover the costs of implementation.

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 licensed facilities providing services to psychiatric patients. Since we don't currently have any PRTFs in Nevada, we solicited information from facilities that may eventually have a desire to develop PRTF facilities or license PRTF beds within their facilities in the future. We determined psychiatric hospitals or hospitals with declared psychiatric beds are providing services to patients with similar diagnoses to those that would be served in PRTFs. As such and in the absence of actual PRTFs, we decided to reach out to these facilities to obtain comments and best fulfill our responsibilities in accordance with NRS 233B.

A Small Business Impact Questionnaire was sent to all 17 of Nevada's hospitals licensed as psychiatric hospitals or with declared psychiatric beds in Nevada along with a copy of the proposed regulation changes, on 3/28/14. 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

3 of the 17 facilities responded, however none of the 3 respondents provided any data regarding the effect these regulations would have on small businesses. In fact 2 of the respondents replied only to the first question and the third respondent asked whether a response was mandatory.

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

Since the result of the small business impact survey revealed no data, an analysis was conducted by obtaining information about similar facilities in other states. Psychiatric residential treatment facilities and programs vary widely from state to state. There are both large and small facilities and some programs are associated with partial hospitalization. Some facilities limit their services and cater to specific disorders such as, sexual or eating disorders, while others provide a wider range of services. Many of the larger facilities would not meet Nevada's definition of a small business (less than 150 employees), whereas smaller facilities would meet the definition. As part of the analysis the agency looked at how other states are regulating PRTF facilities. Only a few other states have licensure standards for PRTFs. Other state's PRTF regulations vary from detailed regulations that describe several requirements included in the licensure process and govern care and services, to very simple standards similar to those Nevada has proposed. In conclusion, the agency's analysis revealed several differences in the how other states regulate PRTFs, however, a common thread is the reliance on the federal Centers for Medicare and Medicaid Services (CMS) standards for determining eligibility of patients that allow for reimbursement for services. As such the agency included adoption of the federal CMS standards as part of the licensure standards and built a very minimal structure for licensure that should accommodate even the smallest provider.

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 will be licensure fees associated operation of PRTFs in Nevada. However, in the interest of public health and safety these fees are necessary to offset the cost of inspections, complaint investigations and enforcement.

4) A description of the methods that DPBH considered to reduce the impact of the proposed regulation on small businesses and statement regarding whether the agency actually used those methods.

Since the regulatory agency has no way of accurately anticipating the workload associated with this new facility type, the fees would have been set at a rate for similar facility types, such as psychiatric hospitals. However, in an effort to reduce the anticipated economic effect and encourage businesses to consider operation of PRTFs, the fees were set at the current rate for rural hospitals, which is substantially less than those for urban hospital facilities.

The Division of Public and Behavioral Health will provide additional opportunities for input and comments regarding the proposed regulations, including the economic impact the proposed

regulations may have on small businesses. Modifications to the proposed regulations will be made as a result of this input. Workshops will be held on April 23, 2014 allowing for further input by the public regarding the proposed regulations. All 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.

None, the proposed fees should offset the cost for enforcement.

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's no way of accurately anticipating how many facilities may apply for licensure as PRTFs, nor how many beds such a proposed facility would license. The fees have been proposed as follows:

Initial licensure \$9,530 + \$62 per bed

Renewal \$4,765 + \$31 per bed

Initial fees are used to offset the cost of applicant training, application processing, initial inspection(s), licensure and complaint investigations throughout the first year of licensure. Renewal fees are used to offset the cost of application processing, periodic inspection(s) and complaint investigations in the year of renewal.

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

More stringent provisions than the federal standards have not been proposed. Likewise, duplicative standards have not been proposed. However licensure standards are necessary to address the services provided such as dietary, medications, resident rights, etc., in order for the regulatory agency to ensure proper oversight of facilities.

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

Since there are no currently licensed nor operating PRTFs in Nevada, the agency solicited comments from similar facilities to determine whether these regulations would have any impact. For the most part, these facilities did not respond. So, in addition the agency analyzed information about how other states regulate PRTF facilities. The agency doesn't foresee these regulations will have a detrimental impact on small businesses; in fact the agency anticipates these regulations will provide a way for small businesses to enter into this market. Currently a PRTF provider would need to meet the much more stringent standards of licensed hospitals in Nevada, whereas with the implementation of these regulations PRTFs will have their own less stringent standards.

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

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I, Richard Whitley, 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 accurately.

Signature Richard Whitley

Date: May 19, 2014