

**SMALL BUSINESS IMPACT STATEMENT 2014
PROPOSED AMENDMENTS TO NAC CHAPTER 449**

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments will have a fiscal impact upon a small business, and based on comments received the significance of the impact is individual to each business. Eight of 17 licensed facilities who participated in an Adult Day Care Advisory Council meeting did not propose that the fees be lowered. Four of 17 facilities returned the small business impact questionnaire: two of the four felt there would be an adverse economic effect upon their business and two answered that there would not be an adverse effect on their business with one mentioning the fees were manageable. The proposed regulations are not expected to prevent the formation, operation or expansion of a small business in Nevada in the majority of instances.

A small business is defined in Nevada Revised Statutes (NRS) 233B.0382 as a "business conducted for profit which employs fewer than 150 full-time or part-time employees."

Background

Adult day care facilities are the only facility type in which fees are not collected to cover the cost to inspect them. AB 50 of the 2011 Legislative Session removed the exception from NRS 449.050 which exempted adult day care facilities from the fees imposed by the Board of Health. NRS 449.050 requires each application for a license to be accompanied by such a fee as may be determined by regulation of the Board. These proposed regulations require adult day care facilities to pay fees to cover the operational costs associated with licensing and regulatory activities.

In addition, medical facilities and facilities for the dependent that require tuberculosis screening of employees follow the standards set in NAC Chapter 441A. Current regulations for adult day care facilities address tuberculosis screening, but they do not meet the standard used by other facilities. The proposed regulations revise the current tuberculosis screening requirements by bringing them in line with the requirements in NAC Chapter 441A.

This small business impact statement complies with the requirements of NRS 233B.0609 as follows:

- 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 all licensed adult day care facilities.

A Small Business Impact Questionnaire was sent to all licensed adult day care facilities along with a copy of the proposed regulation changes, on December 18, 2013. 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

Summary Of Comments Received (4 responses were received out of 17 small business impact questionnaires distributed)			
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?
Yes – 2 No - 2	Yes – 0 No - 4	Yes – 1 No - 3	Yes – 0 No - 4
<p>Comments: New tax, no value added, extra cost \$1,227 per year</p> <p>Feel estimated amount is manageable for program. Appreciate the presentations to ADAC (adult day care advisory council) to keep adult day providers apprised of the process.</p> <p>We already comply with the annual TB for all employees but the annual fee would be a hardship for us financially since our funds are so low at this time and continue to be difficult to acquire.</p>	<p>Comments: This would be a cost we don't have at this time.</p>	<p>Comments: Our rates must increase to compensate. Our seniors will have to pay more for the same service.</p> <p>This proposed requirement is for "small businesses" and we are a very small nonprofit organization and it hasn't been imposed on us as of yet.</p>	<p>Comments:</p>

Number of Respondents out 17	Adverse economic effect?	Beneficial effect?	Indirect adverse effects?	Indirect beneficial effects?
4	2	0	1	0

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

As noted previously, a small impact questionnaire was sent to all licensed adult day care facilities. An analysis of the input provided by industry was conducted by a health facilities inspection manager. Out of 17 small impact questionnaires distributed, four were returned by industry. A review of the comments

revealed that two facilities had concerns about an adverse financial effect upon their business. The other two that responded did not feel the regulations would have an adverse economic effect on their business, and one stated that they felt the estimated fee amount was manageable. In addition, on December 10, 2013, a meeting was held with the adult day care advisory group to solicit comments on the costs and methodology used to come up with the costs. The group was in agreement with the methodology used and did not recommend any changes to the proposed fee amounts.

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.

Adverse effects: There would be a fiscal impact on adult day care facilities upon initial application as well as with yearly renewals. Adult day care facilities that report to the Division of Public and Behavioral Health (DPBH) a maximum number of clients that can occupy the facility at one time to be 50 clients or less would pay a one-time initial application fee of \$1,164 and an annual renewal fee of \$814. A facility that reported 51 clients or more would pay a one-time initial application fee of \$1,753 and an annual renewal fee of \$1,227. Please see number 6 for a full breakdown on how DPBH arrived at these fees.

Beneficial effects: The proposed fees would support the activities necessary to continue licensing and conducting inspections of adult day care facilities to determine whether adult day care facilities are in compliance with state laws and regulations, ensuring clients are well cared for and safe. In addition, they bring adult day care facilities to the tuberculosis screening standards found in NAC Chapter 441A, the infectious diseases and toxic agents chapter, to help ensure the safety of adult care clients.

Direct effects: Licensing and renewal fees would result in an increased cost to adult day care facilities as noted in the adverse effects section.

Indirect effects: The proposed changes would increase public safety by ensuring funding is available to license and regulate adult day care facilities and by following the tuberculosis screening standard found in Chapter 441A.

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.

The Division of Public and Behavioral Health presented the proposed costs and tuberculosis screening requirement to the Adult Day Care Advisory Council, allowing group members and the public to provide input and comments regarding the proposed adult day care regulations. In addition, a small business impact questionnaire was sent to all licensed adult day care facilities to solicit comments on the economic impact the proposed regulations may have on small businesses. A summary of the findings can be found in number 1 above. Workshops will be held on February 13, 2014, allowing for further input by industry and the public regarding the proposed regulations and how they will impact adult day care facilities and clients. These comments will be taken into consideration for possible further revisions to the regulations to reduce the economic impact on adult day care facilities.

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

As the Division of Public and Behavioral Health currently collects fees for all other facility types, the collection of adult day care fees would be incorporated into the current process and would result in minimal costs to the agency. Mailing costs would be estimated to be approximately \$20 per year, and existing licensing staff would collect the fees. In addition, there would be no cost (\$0) associated with enforcing the tuberculosis screening standards as screening is already a part of the enforcement process. The proposed regulations just revise the requirements to meet the standard in Chapter 441A. Not having the proposed regulations in place, may cost DPBH approximately \$20,885 per year to license and regulate adult day care facilities.

Of note, this is just the estimated cost to collect fees which is what the proposed regulations allow the DPBH to do. The cost to license and regulated adult day care facilities are reflected in the proposed fees noted in section 6.

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 fees are as follows:

- \$1,164 to initially license any new adult day care facilities in which the number of clients that can occupy the facility at one time is 50 or less (estimated 1 per year)
- \$1,753 to initially license any new adult day care facilities in which the number of clients that can occupy the facility at one time is 51 or more (estimated 1 per year)
- \$814 per year to license and regulate adult day care facilities in which the maximum number of clients that can occupy the facility at one time is 50 or less (estimated 7 per year); $\$814 \times 7 = \$5,698$ per year
- \$1,227 per year to license and regulate adult day care facilities in which the maximum number of clients that can occupy the facility at one time is 51 or more (estimated 10 per year); $\$1,227 \times 10 = \$12,270$ per year.

The total annual amount DPBH expects to collect is estimated to be \$20,885. The monies would be used to license and renew licenses, conduct initial inspections, periodic inspections and unsubstantiated complaint investigations and to provide technical support to the industry. As substantiated complaints are billed separately, the costs to fund that workload were not included in the above fee structure or fee analysis below.

Renewal amounts were calculated as follows:

Adult Day Care Facilities (50 clients or less)

- Total number of inspection hours (451.50)/ total number of inspections (38) = 11.88;
- Average inspection time (includes preparation, travel, actual inspection and report write-up time) (11.88) X cost per hour (includes inspection time, licensing, car rental, rent and other overhead costs per each inspection hour) (\$97.94) = \$1,163.53 per inspection;
- Total inspection cost (\$1,163.53/inspection) X 30% reduction = \$349.06 to account for 18 months periodic inspection schedule;
- Total cost per inspection (\$1,163.53/inspection) – 30% reduction (\$349.06) = \$814.47;

- Round down = \$814 Renewal Fee

Adult Day Care Facilities (51 clients or more)

- Total number of inspection hours (483.25)/ total number of inspections (27) = 17.90;
- Average inspection time (17.90) X cost per hour (\$97.94) = \$1,753.13;
- Total inspection cost (\$1,753.13/inspection) X 30% reduction = \$525.94 to account for 18 months periodic inspections;
- Total cost/inspection (\$1,1753.13/inspection) – 30% reduction (\$525.94) = \$1,227.19;
- Round down = \$1,227 Renewal fee

Initial amounts were calculated as follows:

Adult Day Care Facilities (50 clients or less)

As initial inspections are based on the cost per inspection and are not based on an 18 month periodic inspection the 30% reduction does not apply. The cost for an initial inspection is: \$1,164

Adult Day Care Facilities (51 clients or more)

As initials are based on the cost per inspection and are not based on an 18 month periodic inspection the 30% reduction does not apply. The cost for an initial inspection is: \$1,753.

As a comparison to other neighboring states the following is being provided:

The adult day health center fees of neighboring states, California and Arizona were also looked at. California charges \$4,164.92 for initial applications and an annual renewal fee of \$4,164.92. Arizona uses a scaled system based on the number of clients. Based on the formula provided it was determined that the licensing fee for a:

- 7 client facility would be \$820
- 10 client facility would be \$1,030
- 20 client facility would be \$1,730
- 30 client facility would be \$2,430
- 40 client facility would be \$3,130
- 50 client facility would be \$3,830
- 60 client facility would be \$4,530
- 100 client facility would be \$7,330
- 150+ client facility would be \$10,830

There is only one facility currently licensed by the Division of Public and Behavioral Health which would result in a smaller licensing fee based on the Arizona model.

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

There are no duplicative or more stringent standards regulating the same activity.

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

- The Division of Public and Behavioral Health met with the adult day care industry to discuss the proposed fees and tuberculosis screening requirements on December 10, 2013 during the Adult

Day Care Advisory Council meeting which was open to the public. The group was in agreement with the methodology used and did not recommend any changes to the proposed fee amounts.

- Out of 17 small impact questionnaires distributed 4 were returned by industry. A review of the comments revealed that two facilities had concerns about an adverse financial effect upon their business. The other two that responded did not feel that the regulations would have an adverse economic effect on their business, and one stated that she felt the estimated fee amount was manageable.
- A workload analysis to inspect adult day care facilities in Nevada was conducted by DPBH using data from the last five years in order to arrive at the fee amounts. Because smaller facilities require less time to inspect they were divided into two groups, those with 50 or fewer clients and those with 51 or more clients. Substantiated complaint workload which is billed separately was not included to avoid “double” billing for this workload.

All of the above factors were used to determine the conclusion by DPBH in how the proposed regulations would impact a small business.

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Leticia Metherell, RN, Health Facilities Inspection Manager at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health
727 Fairview Drive, Suite E
Carson City, NV 89701
Leticia Metherell
Phone: 775-684-1045
Email: lmetherell@health.nv.gov

I, Richard Whitley, Administrator of the Division of Public and Behavioral Health certify to the best of my knowledge or belief, the information contained in this statement was prepared properly and accurately

Signature  Date: January 24, 2014