

NOTICE OF PUBLIC HEARING

Intent to Adopt Regulations
(LCB File No. R149-15)

NOTICE IS HEREBY GIVEN that the State Board of Health will hold a public hearing to consider amendments to Chapter 652 of Nevada Administrative Code (NAC), Medical Laboratories. This public hearing is to be held in conjunction with the State Board of Health meeting on March 10, 2017.

The State Board of Health will be conducted via videoconference beginning at 9:00 a.m. on Friday, March 10, 2017 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 652 include the following:

- 1) Brings the proposed regulations in compliance with Assembly Bill (AB) 243 of the 2015 Legislative Session which directs that any regulations adopted by the Board of Health must not require the laboratory director in which only an HIV waived test is performed to be a licensed physician. It also does not require personnel performing the test to obtain certification as an assistant if the person submits proof of successful completion of training approved by the Division.
- 2) Expands the types of healthcare professionals that can serve as an exempt laboratory director.
- 3) Deems a laboratory licensed pursuant to Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC) of Chapter 652 which is also permitted as defined in NRS 450B.100 and certified laboratory personnel who work in the laboratory, to have met the payment of required certification and licensure fees, as applicable.
- 4) Clarifies that a permit to operate a laboratory at a temporary location expires 90 days after the effective date of the permit.
- 5) Clarifies that exempt laboratories must adopt nationally recognized laboratory safety guidelines.
- 6) Expands the certification that an applicant that holds a doctorate degree can use to qualify to be a licensed or registered laboratory director.
- 7) Outlines the fee to be assessed for a laboratory that only performs waived HIV tests.
- 8) Instead of requiring a \$300 application fee plus \$50 for each additional specialty or subspecialties in which tests will be performed, the proposed regulations allow a laboratory to add as many tests as it wants to on one application for a flat rate of \$300.

- 9) Brings proficiency testing standards in line with federal regulation requirements.
- 10) Provides a method for a technologist to obtain the required one year of experience in Nevada instead of having to go out of state to obtain the experience, if they don't already have the experience. If a technologist does not have the required experience to become certified as a technologist, a provisional certificate would be required in order to work.
- 11) Changes the time a provisional certificate is good for from 180 days after the date of issue with the ability to request no more than three provisional certificates to one provisional certificate that cannot be renewed which would be good for 18 months.

1. Anticipated effects on the business which NAC 652 regulates:

- A. *Adverse effects:* None.
- B. *Beneficial:* Potential cost savings for exempt laboratories who will have increased flexibility in the type of health care professional that can serve as the laboratory director, cost savings for agencies permitted as defined in NRS 450B.100 who are also licensed as a laboratory, and cost savings for laboratory personnel applicants that apply for a provisional certificate who would have to request more than one certificate. The proposed regulations would make it easier to open a laboratory that only performs HIV waived tests through lower licensing fees and by increasing the flexibility of who can serve as the laboratory director and perform the HIV waived tests.
- C. *Immediate:* The cost savings and flexibility noted above would be immediately available.
- D. *Long-term:* Continued cost savings.

2. Anticipated effects on the public:

- A. *Adverse:* None.
- B. *Beneficial:* It will also technologists educated in Nevada to obtain the required one year of experience in Nevada instead of having to go out of state to obtain the experience, if they don't already have the experience. It would also be a cost savings to applicants who have to pay for more than one provisional certificate.
- C. *Immediate:* The cost savings noted above would be immediately available.
- D. *Long-term:* May result in more newly educated technologists staying in Nevada to work.

3. The estimated cost to the Division of Public and Behavioral Health for enforcement of the proposed regulations is to be covered by current licensing and certification fees outlined in NAC 652.488, in addition to the proposed fee to license laboratories that only perform HIV waived testing in the proposed regulations.

The proposed regulations do not overlap or duplicate any other Nevada state regulations. Federal regulations do not have any requirements for the individual that serves as the laboratory director for an exempt laboratory. The proposed regulations expand the type of healthcare professionals that can serve as the laboratory director of an exempt laboratory, but remain more

stringent than federal regulations that do not require that the director be a healthcare professional.

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 February 17, 2017 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/Reg/MedicalLabs/Notice_of_Public_Workshops_and_Proposed_Regulations/

A copy of the public hearing notice can also be found at Nevada Legislature's web page:
<https://www.leg.state.nv.us/App/Notice/A/>

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 4th Street
Goldfield, NV 89013-0484

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

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

Humboldt County Library
85 East 5th Street
Winnemucca, NV 89445-3095

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

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

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

Mineral County Library
110 1st Street
Hawthorne, NV 89415-1390

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

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

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

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

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

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

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.