

**SMALL BUSINESS IMPACT STATEMENT 2016
PROPOSED AMENDMENTS TO NAC CHAPTER 449**

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments would not have a direct financial effect on obstetric centers because currently there are no licensed obstetric centers in Nevada. The proposed amendments would have an indirect financial benefit by removing a barrier for Advanced Practice Registered Nurses licensed as nurse midwives in Nevada from opening an obstetric center, therefore allowing them to expand their businesses. It creates a negative financial impact by requiring accreditation with its associated costs. The proposed regulations are not expected to negatively impact 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 regulations on a small business and provides the reasons for the conclusions of the agency followed by certification by the person responsible for the agency.

Background

The main things the proposed regulations include:

- 1) Requires that an obstetric center obtain and maintain current accreditation by a nationally recognized organization approved by the Division.
- 2) Requires the director to ensure staff and patients are adequately protected from fire or other disasters.
- 3) Requires that obstetric centers be constructed in accordance with the Guidelines for Design and Construction of Hospitals and Outpatient Facilities published by the Facility Guidelines Institute.
- 4) Allows an Advanced Practice Registered Nurse licensed as a nurse midwife in Nevada to serve as the director of the obstetric center.
- 5) Requires the obstetric center to adopt nationally recognized infection control guidelines.
- 6) Requires an obstetric center to have a written agreement with at least one hospital capable of providing a higher level of obstetrical and neonatal care or to make a good faith effort to enter into a written agreement with at least one hospital.
- 7) Requires an obstetric center to be located within a 30 minute normal driving time of a licensed hospital that provides obstetrical care.

- 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 made a concerted effort to determine whether the proposed regulations are likely to impose an economic burden upon a small business. Currently there are no licensed obstetric centers in Nevada to send the proposed regulations and small business impact questionnaire to, so to obtain input the proposed regulations were sent to:

- 1) The Nevada State Board of Nursing who distributed the proposed regulations and small business impact questionnaire to all Advanced Practice Registered Nurses with an email on file with the Board.
- 2) The Nevada Hospital Association.
- 4) An Advanced Practice Registered Nurse licensed as a nurse midwife in Nevada who then distributed them to:
 - The American Association of Birth Centers (AABC)
 - The Commission for the Accreditation of Birth Centers (CABC)
 - The American College of Nurse-Midwives (ACNM)

The proposed regulations and small business impact questionnaire were also posted on the Division’s website and sent out through the Division’s medical facilities listserv.

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 (3 small business impact questionnaires were received)			
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 = 2 Yes = 1	No = 2 Yes = 1	Yes = 2 No Answer: 1	No = 1 Yes = 2
Comments: Current regulations have precluded my opening a free-standing “obstetric center” in Northern Nevada as they basically embed vicarious liability into the responsibilities of the “Medical Director”.	Comments: Adoption of the proposed regulation should allow me to move forward with the opening of a free-standing “obstetric center”, otherwise known as a free-standing	Comments:	Comments: Business expansion. With additional options for birthing families in the area, more awareness of normal birth will facilitate more desire for families to look for perinatal education and

<p>Physicians are unwilling to currently consider working with Certified Nurse-Midwives in the operation of an “obstetric center”. The amount the limited regulation changes could cost my business is incalculable.</p>	<p>birth center. So the adoption of the proposed regulations will allow me to expand my business, increase the number of employees I have reason to hire, and provide additional choices to women in the community regarding where and with whom they receive prenatal care and give birth.</p>	<p>support as provided by the (name of business). Birth Center regulations are sorely needed. The language limiting the types of midwives allowed to deliver in birth centers will negatively affect the number of clients I am able to sign as well as where I will be able to serve them. This would also eliminate the option of opening a birth center in the future. Other states include CPM’s with CNMs in their regulations. A change in language would lessen the impact.</p>
--	---	--

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to the:

Division of Public and Behavioral Health
727 Fairview Drive, Suite E
Carson City, NV 89701

Betsy Greenspan: Phone: 775-684-1032; Email: bgreenspan@health.nv.gov

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

An analysis of the input collected from stakeholders was conducted by a health facilities inspection manager. The analysis involved analyzing feedback obtained from the small business impact questionnaire as well as information gathered from communicating with different stakeholders. Current regulations governing obstetric centers were also reviewed as part of the analysis. This information was then used to complete this small business impact statement including the conclusion on the impact of the proposed regulation on a small business found in number 8.

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.

Direct Beneficial Effects: Advanced Practice Registered Nurses licensed as nurse midwives in Nevada would be able to serve as the director of an obstetric center therefore removing the barrier that keeps them from applying to open a center.

Indirect Beneficial Effects: Allows certain midwife businesses to expand their businesses to include the services provided by an obstetric center.

Direct Adverse Effects: None. Currently there are no licensed obstetric centers in Nevada.

Indirect Adverse Effects: The benefits of the proposed regulations would not extend to all midwives but would only extend to Advanced Practice Registered Nurses licensed as nurse midwives in Nevada. Requiring accreditation would result in an additional cost in addition to licensing fees.

3) 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 Division of Public and Behavioral Health used several methods to reduce the impact of the proposed regulations on small businesses including discussions with stakeholders, distribution of small business impact questionnaires to stakeholders to provide input on how the proposed obstetric center regulations may impact their businesses, review of existing regulations and analysis of the information gathered in order to consider modifications in the proposed regulations to reduce the impact. The feedback to expand the proposed regulations to include Certified Professional Midwives (CPM) as the director of an obstetric center was considered. The proposed regulations were not modified to include CPM's because CPM's are not licensed in Nevada. It was felt that the director of an obstetric center must hold a Nevada license in the profession allowed to serve as a director to ensure that a Nevada regulatory board has oversight of these practitioners and the care that they provide.

Feedback was received that the cost of accreditation would be an indirect adverse effect. After further discussion with the stakeholder that provided this feedback, she stated that accreditation should be required despite the additional cost because it ensures licensed facilities have to follow evidence based standards for quality of care that may be updated before regulations are updated and also because of insurance requirements.

The proposed regulations completely removed the need for a written transfer agreement with a hospital. There was also no provision for the obstetric center to make an effort to obtain a written agreement. Based on this feedback, modifications were made to the proposed regulations requiring that an obstetric center make a good faith effort to enter into a written agreement with at least one hospital providing obstetric services. After making the good faith effort, if the obstetric center was not able to obtain a written transfer agreement then transfer policies and procedures would need to be in place.

A public workshop will be scheduled allowing for further input by stakeholders and the public regarding the proposed regulations and how they will impact industry. Comments received during the public workshop will also be taken into consideration for possible further revisions to the regulations to reduce the economic impact on facilities.

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

Obstetric centers have fees currently established in Nevada Administrative Code (NAC) 449.013 to cover the cost to the agency for enforcement of the proposed regulations.

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 regulations do not impose a new fee or increase any 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.**

There are no other federal, state or local standards regulating obstetric centers.

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

The reason for the Division's conclusion on the impact of the proposed regulation on small businesses is based on the feedback received by stakeholders. The conclusion is that the proposed regulations would have a positive financial impact for some but at the same time would generate an additional cost to operate an obstetric center by requiring that obstetric centers be accredited. This was discussed with one stakeholder who stated she believed in accreditation and felt that accreditation should be required despite the cost.

Certification by Person Responsible for the Agency

I, Cody 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 Phinney Date: 2/20/15