

NOTICE OF PUBLIC HEARING

Intent to Adopt Regulations

(LCB File No. R011-20, R12-20, and R13-20)

NOTICE IS HEREBY GIVEN that the State Board of Health will hold a public hearing to consider amendments to Chapter 433 and 433A of Nevada Administrative Code (NAC). This public hearing is to be held in conjunction with the State Board of Health meeting on June 5, 2020. The NAC 433 and 433A regulation changes will be heard in the order placed on the State Board of Health agenda.

The State Board of Health will be conducted via videoconference beginning at 9:00 a.m. on Friday, June 05, 2020 at the following locations:

Division of Public and Behavioral Health 4150 Technology Way Room 303 Carson City, NV 89076	Grant Sawyer Building 555 E. Washington Ave. Room 1400 Las Vegas, NV 89101
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This meeting may be conducted without physical locations and the notices in the libraries are not currently available in accordance with Governor Sisolak’s Declaration of Emergency Directive 006 which can be found at the end of this notice.

The proposed addition/change of regulations to NAC 433A in LCB File No. R11- 20 (with errata) include provisions for:

- The proposed amendment to (NAC 433A) Section 2, 3, and 4 of this regulation provide definitions for “Hospital” and “Public or private mental health facility.”
- The proposed amendment to (NAC 433A) Section 5 defines “emergency services and care.”
- The proposed amendment to (NAC 433A) Section 6 of this this regulation requires a physician, physician assistant, or advanced practice registered nurse who completes the medical examination to attest on the form for admission to a mental health facility whether the person has a medical condition, other than a psychiatric condition, which requires immediate treatment. This section also requires certain testing for a person alleged to be in a mental health crisis as part of the medical examination. Section 6 also requires an employee or independent contractor of the receiving public or private mental health facility who is not informed about the results of the medical examination to contact the physician, physician assistant, or advanced practice registered nurse who conducted the examination.
- The proposed amendment to (NAC 433A) Section 7 prescribes the types of facilities that that a person alleged to be in a mental health crisis can be admitted to if the medical examination determines that they have a medical condition, other than a psychiatric condition, that requires immediate treatment.

- The proposed amendment to (NAC 433A) Section 8 requires the director of a public or private mental health facility or hospital to report certain information, and requires them to submit a quarterly summary concerning admissions to the facility or hospital to each regional behavioral health policy board.

The proposed addition/change of regulations to NAC 433 in LCB File No. R12- 20 include provisions for:

- The proposed amendment to (NAC 433A) Section 3 of this regulation provides the definition for “Director.”
- The proposed amendment to (NAC 433A) Section 4 of this regulation provides the definition for “Practitioner.”
- The proposed amendment to (NAC 433A) Section 5 of this regulation provides the definition of “Public or private mental health facility.”
- The proposed amendment to (NAC 433A) Section 6 of this regulation provides the definition of “Working hours.”
- The proposed amendment to (NAC 433A) Section 7 of this regulation states that this regulation does not apply to the use of chemical restraint, as defined in NRS 433.5456, or to the involuntary administration of psychotropic medication in an emergency, as defined in NRS 433.5466.
- The proposed amendment to (NAC 433A) Section 8 of this regulation states that a public or private mental health facility that has not established the procedures required in sections 9 to 14 cannot administer psychotropic medication without the consent of the patient unless the patient has been admitted to the facility involuntarily by court order and the practitioner obtains from the court that ordered the involuntary admission an order to administer the medication to the patient.
- The proposed amendment to (NAC 433A) Section 9 of this regulation states that psychotropic medication may only be involuntarily administered to a patient if the public or private mental health facility has completed the procedures set forth in sections 9 to 14 of this regulation and a decision has been made to involuntarily administer the medication.
- The proposed amendment to (NAC 433A) Section 10 of this regulation prescribes the conditions that must be met before a practitioner may request the involuntary administration of psychotropic medication to a patient for whom they are primarily responsible.
- The proposed amendment to (NAC 433A) Section 11 of this regulation requires the director of the public or private mental health facility to appoint a committee to hold a hearing on the request for the involuntary administration of medication, and an advisor to assist the patient in presenting his or her position to the committee.
- The proposed amendment to (NAC 433A) Section 12 of this regulation prescribes the duties of the advisor.
- The proposed amendment to (NAC 433A) Section 13 of this regulation prescribes the procedure for the committee hearing and requires the committee to forward its written recommendation to the director of the facility.

- The proposed amendment to (NAC 433A) Section 14 of this regulation requires the director of the facility or a designated psychiatrist to review the recommendation of the committee and issue a final decision concerning the involuntary administration of psychotropic medication. If the involuntary administration is authorized, this section allows for the continuation of the involuntary administration for not more than 30 days. If the practitioner primarily responsible for treating the patient determines that a continuation of the involuntary administration of psychotropic medication for more than 30 days is required, this section requires the practitioner to submit another request.

The proposed addition/change of regulations to NAC 433 in LCB File No. R13- 20 (with errata) include provisions for:

- The proposed amendment to (NAC 433) Section 2 of this regulation provides the definition for “provider.”
- The proposed amendment to (NAC 433) Section 3 of this regulation prescribes the requirements for the issuance or renewal of a license and the term of the license.
- The proposed amendment to (NAC 433) Section 4 of this regulation requires the licensee to develop and maintain certain operational policies.
- The proposed amendment to (NAC 433) Section 5 of this regulation prescribes the required training for certain employees of a provider of nonemergency secure behavioral health transport services.
- The proposed amendment to (NAC 433) Section 6 of this regulation requires a provider to obtain a criminal background check on any employee who serves on a vehicle that transports patients.
- The proposed amendment to (NAC 433) Section 7 of this regulation prohibits an employee who has been convicted of certain crimes from serving on a vehicle that transports patients. This section also prescribes the process by which an employee may seek to correct information acquired by the provider through a criminal background investigation.
- The proposed amendment to (NAC 433) Section 8 of this regulation requires a provider to hold certain liability insurance.
- The proposed amendment to (NAC 433) Section 9 of this regulation prescribes the requirements of the layout, equipment, maintenance, and staffing of a vehicle used for nonemergency secure behavioral health transport services.
- The proposed amendment to (NAC 433) Section 10 of this regulation requires the Division of Public and Behavioral Health to inspect each vehicle used for nonemergency secure behavioral health transport services.
- The proposed amendment to (NAC 433) Section 11 of this regulation prescribes the authorized uses of nonemergency secure behavioral health transport services.
- The proposed amendment to (NAC 433) Section 12 of this regulation requires a provider of nonemergency secure behavioral health transport services to maintain certain documentation and to submit a quarterly report to the Division of Public and Behavioral Health.

- The proposed amendment to (NAC 433) Section 13 of this regulation authorizes the Division of Public and Behavioral Health to deny, suspend, or revoke a license for a violation of federal or state law or regulations relating to the provision of nonemergency secure behavioral health transport services.
- The proposed amendment to (NAC 433) Section 14 of this regulation prescribes the fees for initial application for a license, renewal, and late renewal of a license and the inspection and reinspection of a vehicle.

1. Anticipated effects on the business which NAC 433 and 433A regulates:
 - A. *Adverse effects*: The agency concludes the proposed regulations will produce a negligible impact on small businesses.
 - B. *Beneficial*: Clearly defines what is expected of the regulated community.
 - C. *Immediate*: The stated adverse and beneficial effects would be immediate impacts as soon as the proposed regulations become effective.
 - D. *Long-term*: The long-term impacts would be the same as the immediate impacts as it is not be expected that the impacts would go away.
2. Anticipated effects on the public:
 - A. *Adverse*: None anticipated.
 - B. *Beneficial*: Increased public health and safety.
 - C. *Immediate*: Increased public health and safety.
 - D. *Long-term*: Increased public health and safety.
3. There is no estimated cost to the Division of Public and Behavioral Health for enforcement of the proposed regulations. Enforcement of the proposed regulations will be incorporated into current administrative, registration, licensing and inspection processes.
4. The amendment to NAC 433, R13-20, Section 14 of this regulation establishes a fee for the initial application for a license, renewal, late renewal, inspection of a vehicle, and reinspection of a vehicle.
5. The proposed regulations do not overlap or duplicate any other Nevada state regulations.
6. Per NRS 233B.0608(3), The Division of Public and Behavioral Health prepared and distributed a Small Business Impact Questionnaire (SBIQ) to all community stakeholders, J-1 participants, and licensed facilities in the State. The responses received were analyzed and used to generate the Small Business Impact Statement (SBIS) which was approved by the Administrator on January 21, 2020.

7. 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, Lisa Sherych, to be received no later than Friday, May 06, 2020 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:

Division of Public and Behavioral
Health 4150 Technology Way, Suite
300 Carson City, NV 89706

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

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

Copies may be obtained via mail by calling the Bureau of Behavioral Health Wellness and Prevention at (775) 684-4190 in Carson City.

A copy of the regulations and this notice can also be found on-line by going to:

<https://dpbh.nv.gov/Programs/ClinicalSAPTA/dta/Statutes/SAPTAStatutes/>

<https://www.leg.state.nv.us/Register/2020Register/R011-20P.pdf>
(Regulations Only)

<https://www.leg.state.nv.us/Register/2020Register/R012-20P.pdf>
(Regulations Only)

<https://www.leg.state.nv.us/Register/2020Register/R013-20P.pdf>
(Regulations Only)

<https://www.leg.state.nv.us/App/Notice/A/>

In accordance with Nevada Governor Sisolak's Declaration of Emergency Directive 006 the meeting may be done without physical locations and notices in the libraries and other locations are not currently available.

- As per Nevada Governor Sisolak's Declaration of Emergency Directive 006; Subsection 3: The requirements contained in NRS 241.020 (4) (a) that public notice agendas be posted at physical locations within the State of Nevada are suspended.
- As per Nevada Governor Sisolak's Declaration of Emergency Directive 006; Subsection 4: Public bodies must still comply with requirements in NRS 241.020 (4)(b) and NRS 241.020 (4)(c) that public notice agendas be posted to Nevada's notice website and the public body's website, if it maintains one along with providing a copy to any person who has requested one via U.S. mail or electronic mail.
- As per Nevada Governor Sisolak's Declaration of Emergency Directive 006; Subsection 5: The requirement contained in NRS 241.020 (3)(c) that physical locations be available for the public to receive supporting material for public meetings is suspended.
- As per Nevada Governor Sisolak's Declaration of Emergency Directive 006; Subsection 6: If a public body holds a meeting and does not provide a physical location where supporting material is available to the public, the public body must provide on its public notice agenda the name and contact information for the person designated by the public body from whom a member of the public may request supporting material electronically and must post supporting material to the public body's website, if it maintains one.

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.