

Steve Sisolak
Governor



Richard Whitley, MS
Director

**DEPARTMENT OF
HEALTH AND HUMAN SERVICES**
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
Helping people. It's who we are and what we do.



Lisa Sherych
Administrator

Ihsan Azzam,
Ph.D., M.D.
Chief Medical Officer

MEMORANDUM

TO: Jon Pennell, Chair
State Board of Health

FROM: Lisa Sherych, Secretary
State Board of Health

Re: Consideration and adoption of the proposed regulation amendment to Nevada Administrative Code (NAC) 441A, LCB File No. R002-22.

PURPOSE OF AMENDMENT

LCB File No. R002-22 revises Nevada Administrative Code (NAC) Chapter 441A in accordance with Senate Bill (SB) 211 of the 2021 Legislative Session and Nevada Revised Statutes (NRS) Chapter 441A.

SUMMARY OF CHANGES TO NEVADA ADMINISTRATIVE CODE (NAC)

Senate Bill 211 requires, with certain exceptions, a physician, physician assistant, advanced practice registered nurse or midwife who provides or supervises the provision of emergency medical services in a hospital or primary care to a patient who is 15 years of age or older to: (1) consult with the patient to ascertain whether he or she wishes to be tested for sexually transmitted diseases and to determine which tests, if any, are medically indicated; and (2) to the extent practicable and that testing is medically indicated, test a patient who wishes to be tested for sexually transmitted diseases or help such a patient obtain a test. (Section 1 of Senate Bill No. 211, chapter 485, Statutes of Nevada 2021, at page 3138 (NRS 441A.315)). SB 211 further requires the State Board of Health to adopt regulations to ensure that (1) any such test is administered pursuant to SB 211 is medically indicated for that patient; and (2) communications concerning the testing are made in a culturally competent and linguistically appropriate manner. LCB File No. R002-22 makes the following changes to NAC Chapter 441A to conform with SB 211:

- Adopts by reference certain federal guidelines concerning testing for sexually transmitted diseases and offering culturally and linguistically appropriate services;
- Requires a physician, physician assistant, advanced practice registered nurse or midwife to follow the procedures set forth in such guidelines when determining which tests for sexually transmitted diseases are medically indicated;
- Requires a physician, physician assistant, advanced practice registered nurse or midwife to document in the record of the patient: (1) whether any tests were offered and, if so, which tests were offered; and (2) whether the patient agreed to the performance of each test that was offered;
- Requires a physician, physician assistant, advanced practice registered nurse or midwife to communicate with patients concerning such tests in accordance with federal guidelines concerning the provision of culturally and linguistically appropriate services; and

- Makes conforming changes to avoid duplicative reference to acquired immune deficiency syndrome and the human immunodeficiency virus.

POSSIBLE OUTCOME IF PROPOSED AMENDMENT IS NOT APPROVED

If LCB File No. R002-22 is not approved, NAC Chapter 441A will not be in compliance with the requirements set forth in SB 211.

APPLICABILITY OF PROPOSED AMENDMENT

These regulations will apply statewide to all emergency medical services providers in a hospital or primary care setting.

PUBLIC COMMENT RECEIVED

The Division of Public and Behavioral Health determined the impact on small businesses by soliciting responses through the Public Workshop and Small Business Impact (SBI) questionnaire. SBI Statement was solicited via email to multiple listservs targeting medical providers, health facilities, professional doctor of medicine (MD) / doctor of osteopathic medicine (DO) / nurse practitioner (NP) associations, and more. Additionally, the information for the Public Workshop, SBI questionnaire, SBI Statement was also provided online via the State of Nevada, Office of HIV - Regulation Development Processes Website (Link: https://dphh.nv.gov/Programs/HIV/dta/Policies/HIV_Regulation_Development_Processes/) and posted at the local health authorities' offices. Interested parties could also request a physical copy via email (sent via mail) or in person at our office or the local health departments.

The Division of Public and Behavioral Health recorded one (1) response to the SBI questionnaire, which was in favor of the proposed changes set forth in SB 211. The Division of Public and Behavioral Health did not receive any negative feedback regarding the proposed changes for SB 211.

PUBLIC WORKSHOP

A public workshop was held on Thursday, January 6, 2022. There were 9 participants who attended the workshop virtually.

Summary of testimony:

- No Public Comment was made by community members attending the public workshop.

STAFF RECOMMENDATION

Staff recommends the State Board of Health adopts the proposed regulation amendments to NAC 441A, LCB File No. R002-22.

PRESENTER

Tory W. Johnson, MMgt - Office of HIV Section Manager
Lyell Collins, MBA – HIV Prevention and Surveillance Manager
Preston Nguyen Tang, MPH – Health Program Specialist I