

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.*



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Chief Medical Officer

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## SMALL BUSINESS IMPACT STATEMENT 2021

### PROPOSED AMENDMENTS TO Nevada Administrative Code (NAC) 441A

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments to the Nevada Administrative Code (NAC), specifically 441A, will not have a financial impact upon a small business or 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 regulation on a small business in sections one (1), two (2), three (3), and four (4) below and provides the reasons for the conclusions of the agency in section eight (8) below followed by the certification by the person responsible for the agency.

#### **Background**

The proposed regulations related to the passage of Senate Bill (SB) 211 (SB 211, formerly Bill Draft Request [BDR] 40-563) will update NAC 441A. SB 211 was introduced during the 2021 Nevada 81st Legislative Session and signed by Governor Steve Sisolak on June 4, 2021. The bill establishes requirements relating to testing for sexually transmitted diseases (STD) and human immunodeficiency virus (HIV).

Current regulations do not outline the requirement to consult with patients about whether they wish to be tested for HIV or STDs. The proposed regulation will update and require certain emergency medical services providers in a hospital or primary care setting to inquire if their patients would like HIV or STD testing. Additionally, the medical provider assists the patient in obtaining a test(s) where practical and medically indicated.

There are several reasons for bringing this change forward:

- 1) Nevada ranked 5<sup>th</sup> for the highest rates of HIV diagnoses in 2019.
- 2) Nevada ranked 1<sup>st</sup> for Primary and Secondary Syphilis in 2019.
- 3) Nevada ranked 4<sup>th</sup> for Congenital Syphilis in 2019.
- 4) Nevada ranked 17<sup>th</sup> for Chlamydia in 2019.
- 5) Nevada ranked 15<sup>th</sup> for Gonorrhea in 2019.

Additionally:

- The Centers for Disease Control and Prevention (CDC) recommends that individuals between the ages of 13 and 64 get tested for HIV and STD as part of routine health care.

- The CDC also recommends more frequent screening of HIV and STDs (e.g. once every 3 or 6 months) for individuals with increased risk of infections.
- The United States Preventive Services Task Force (USPSTF) provides a “Grade A” recommendation that clinicians screen for HIV and STDs in adolescents and adults aged 15 to 65 years. Younger adolescents and older adults who are at increased risk of infection should also be screened.

Pursuant to NRS 233B.0608 (2)(a), the Division of Public and Behavioral Health has requested input from all licensed health facilities in Nevada with 150 or fewer employees and from four opt-in email listservs subscribed by persons interested in information relative to the health facilities and HIV/STD prevention and care.

A web-based Small Business Impact Questionnaire and a copy of the proposed regulation changes were sent on Wednesday, November 3, 2021. 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**

Out of the small-business impact questionnaires sent out when the questionnaire was distributed, one (1) response was recorded as received.

<b>How many employees are currently employed by your business?</b>	<b>Will a specific regulation have an adverse economic effect upon your business?</b>	<b>Will the regulation (s) have any beneficial effect upon your business?</b>	<b>Do you anticipate any indirect adverse effects upon your business?</b>	<b>Do you anticipate any indirect beneficial effects upon your business?</b>
21	Yes - 0 No - 1	Yes - 1 No - 0	Yes - 0 No - 1	Yes - 1 No - 0

### **1) Describe the manner in which the analysis was conducted.**

An online small business impact questionnaire was disseminated via email on Wednesday, November 3, 2021, and responses were received and reviewed. All questionnaire responses were conducted via the web, and none were received via email or mail. The proposed regulations, as well as existing regulations, were reviewed. The Health Program Specialist II, Health Program Specialist I, and the Office of HIV Section Manager analyzed the information from the questionnaire to determine if the proposed regulation had an impact on small businesses or if it was existing regulations having an effect and was used to develop this small business impact statement.

A public workshop will be scheduled at a future date to continue to obtain feedback on the proposed regulations during the regulatory development process.

### **2) 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:
  - All insurances in the State of Nevada are required to cover HIV and STD testing following USPSTF and CDC Guidelines.
    - Medical providers can bill for HIV and STD testing.
- Indirect beneficial effects:
  - Increase HIV and STD testing statewide.
  - Increase diagnosis and treatment of HIV and STD.
  - Decrease stigma related to HIV and STD.
- Direct adverse effects:
  - No significant direct adverse economic effects are anticipated.

### **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 has held several opportunities for businesses to provide input and comments regarding the proposed SB 211 regulations, including the economic impact the proposed regulations may have on their business. Responses to the proposed regulation have been favorable.

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

These proposed regulations will not add any costs to the current regulatory enforcement activities conducted by the Office of HIV.

**5) 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 provide for a new fee or increase any existing fee.

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

The proposed regulations are not duplicative or more stringent than any federal, state or local standards.

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

In summary, the proposed regulations SB 211, in carrying out the provisions of NAC 441A, will not cause an adverse financial impact on the programs and/or small businesses. SB 211 will significantly benefit residents within the State of Nevada by:


- 1) Destigmatizing HIV and STDs.
- 2) Increasing opportunities for testing of HIV and STDs.
- 3) Providing an earlier diagnosis for HIV and STDs.
- 4) Reducing the future cost of medical care and treatment of late diagnosis of HIV and STDs.

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Preston Nguyen Tang at the Division of Public and Behavioral Health at:

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**Certification by Person Responsible for the Agency**

I, Lisa Sherych, 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.  \_\_\_\_\_ Date: 12/2/2021 \_\_\_\_\_