

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

**SMALL BUSINESS IMPACT STATEMENT 2022
PROPOSED AMENDMENTS TO NAC 441A**

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments should not have a negative economic impact upon a small business or discourage 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 1, 2, 3, and 4 below and provides the reasons for the conclusions of the agency in section 8 below followed by the certification by the person responsible for the agency.

Background

The proposed regulations are being moved forward as a result of Senate Bill 275 of the 81st (2021) Legislative Session which requires each regulatory body, in this case the Board of Health, to adopt regulations to effectuate the purposes of the following bill requirements:

- *Any order issued to isolate, quarantine or treat a person or group of persons issued pursuant to subsection 1 must state the reasons that each of the actions prescribed by the order are the least restrictive means available to prevent, suppress or control the communicable disease. If a county board of health issues an order to isolate, quarantine or treat a person pursuant to subsection 1, the county board of health must:
(a) Isolate, quarantine or treat the person in the manner set forth in NRS 441A.510 to 441A.720, inclusive, and section 3.6 of this act.
(b) Provide whatever medicines, disinfectants and provisions may be required and arrange for the payment of all debts or charges so incurred from any funds available, but each patient shall, if the patient is able, pay for his or her food, medicine, clothes and medical attendance.*
- *The spread of communicable diseases is best addressed through public health measures rather than criminalization.*
- *Health authority has the meaning ascribed to it in NRS 441A.050 and includes a county or city board of health.*
- *The Board and each district board of health shall adopt regulations to establish a process by which a person may appeal to the health authority an order issued pursuant to paragraph (b) of subsection 2. The health authority shall provide to a person who receives such an order a document stating the rights*

of the person, including, without limitation, the right to appeal the order, at the time and in the manner prescribed by regulation of the Board or the district board of health, as applicable.

- *A court shall not order a person to submit to treatment unless the court finds that there is clear and convincing evidence that:
(a) The person has a communicable disease in an infectious state; and
(b) Because of that disease, the person is likely to pose a risk to the public health.*
- *The health authority shall not warn a person against:
(a) Engaging in an occupation if the employer of the person would be prohibited from preventing the person from engaging in that occupation by the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., or NRS 613.330.
(b) Accessing a place of public accommodation if the place of public accommodation would be prohibited from denying the person access to the place of public accommodation by the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., or NRS 651.050 to 621.120, inclusive.*
- *It is an affirmative defense to an offense charged pursuant to this section that a person who was subject to exposure to a communicable disease as a result of conduct prohibited by a warning issued.*
- *The Legislative Counsel shall, to the extent practicable, ensure that:
(a) Terms related to persons living with the human immunodeficiency virus are referred to in Nevada Revised Statutes using language that is commonly viewed as respectful and sentence structure that refers to the person before referring to the human immunodeficiency virus as follows:
(1) Words and terms that are preferred for use in Nevada Revised Statutes include, without limitation, “person living with the human immunodeficiency virus” and “person diagnosed with the human immunodeficiency virus.”
(2) Words and terms that are not preferred for use in Nevada Revised Statutes include, without limitation, “HIV positive” and “human immunodeficiency virus positive.”
(b) The human immunodeficiency virus is referred to in Nevada Revised Statutes using language that refers only to the human immunodeficiency virus or HIV rather than using duplicative references to both the human immunodeficiency virus or HIV and acquired immunodeficiency syndrome, acquired immune deficiency syndrome or AIDS.
(c) Duplicative references to both communicable diseases and the human immunodeficiency virus or HIV are not used in Nevada Revised Statutes.*

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.

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments to Nevada Administrative Code (NAC) Chapter 441A have no economic burden on small business, nor restrict the formation, operation or expansion of small business. These draft regulations are limited to the authority and requirements of health authorities relating to isolation and quarantine of individuals. Therefore, DPBH, in consultation with the Attorney General’s Office, has determined that there is no impact on private business and thus, no consultation with small business operators is required.

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

A health program manager, along with the DPBH Deputy Attorney General, reviewed the requirements of Senate Bill 275 of the 81st (2021) legislative session, the proposed regulations, Nevada Revised Statutes Chapter 441A, Nevada Administrative Code Chapter 44A, and the small business impact questionnaire tool to determine the impact on small businesses. The proposed regulations carry out the requirement that the Board of Health adopt regulations to effectuate the purposes of carrying out provisions of Senate Bill 275. The proposed amendments to Nevada Administrative Code (NAC) Chapter 441A have no economic burden on small business, and as a result, no small business impact is required. These draft regulations are limited to the authority and requirements of health authorities relating to isolation and quarantine of individuals.

A public workshop and public hearing will be held, pursuant to the requirements of NRS Chapter 233B, wherein the public may provide comment.

3) 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.

Adverse Economic Effects – There are no anticipated direct adverse economic effects.

Indirect Adverse Economic Effects – There are no anticipated indirect adverse economic effects.

Beneficial Effects – There are no anticipated direct beneficial economic effects.

Indirect Beneficial Effects – Indirect beneficial effects noted by industry included:

4) 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.

An ad hoc work group was convened to review the elements of Senate Bill 275 and the proposed draft regulations. There were no substantive edits provided from the work group Division staff, with assistance from the Attorney General’s Office, reviewed the requirements of Senate Bill 275 of the 81st (2021) legislative session, the proposed regulations, Nevada Revised Statutes Chapter 441A, Nevada Administrative Code Chapter 44A, and the small business impact questionnaire tool to determine the impact on small businesses. The proposed regulations carry out the requirement that the Board of Health adopt regulations to effectuate the purposes of carrying out provisions of Senate Bill 275. The proposed amendments to Nevada Administrative Code (NAC) Chapter 441A have no economic burden on small business.

The Division will hold a public workshop to obtain further feedback on the proposed regulations. The Division will take the feedback into consideration when determining if further modifications to the proposed regulations are needed, and the impact to small businesses.

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

None.

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 provide for a new fee or increase an 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 known duplicate or more stringent provisions regulating to the same activity.

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

The Division concluded the proposed amendments should not have a negative economic impact upon a small business nor discourage the formation, operation, or expansion of a small business in Nevada. The conclusion is based on the analysis of information contained within Senate Bill 275 which draft regulations are limited to the authority and requirements of health authorities relating to isolation and quarantine of individuals.

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: 05/12/2022 _____