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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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## **SMALL BUSINESS IMPACT STATEMENT 2021**

### **PROPOSED AMENDMENTS TO NAC 441A.755**

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments will have adverse effect upon the Nevada institutions of higher education and 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 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**

- Existing law requires the State Board of Health to adopt regulations governing the control of communicable diseases in this State, including regulations specifically relating to the control of such diseases in educational institutions. (NRS 441A.120) Existing regulations prohibit, with certain exceptions, a person from attending a university until he or she submits to the university proof of immunity to certain communicable diseases. (NAC 441A.755)
- Section 4 of this regulation makes this requirement applicable to state colleges and community colleges on July 1, 2024. Section 3 of this regulation prohibits a person from attending a postsecondary educational institution until he or she submits proof of immunity to COVID-19, effective upon the submission of this regulation to the Secretary of State. Existing regulations require the Division of Public and Behavioral Health of the Department of Health and Human Services to establish the immunization schedule required for the admission of a student. (NAC 441A.755)
- Section 3 removes that requirement. Instead, section 2 of this regulation adopts by reference certain publications of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, and section 3 requires the proof of immunity submitted by a student to demonstrate that the student has acquired immunity in accordance with those publications. Existing regulations exempt any student who is enrolled in a program of distance education and who does not attend a class on campus from immunization requirements. (NAC 441A.755)
- Section 3 requires a student who does not attend class on campus but attends a club, sport or other extracurricular activity on campus to demonstrate the required immunity. Existing regulations authorize certain persons to apply for a variance from a regulation of the State Board of Health. (NAC 439.200-439.280)

- Sections 1 and 3 of this regulation provide that any person who is required to submit proof of immunity to certain communicable diseases to attend a postsecondary educational institution is ineligible to request a variance from a regulation of the Board relating to that requirement.

**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 requested input from the Nevada postsecondary educational institutions.

On December 3<sup>rd</sup>, 2021, a Small Business Impact Questionnaire was sent to 135 Nevada postsecondary educational institutions along with a copy of the proposed regulation changes. 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**

<b>Summary Of Comments Received (45 responses were received out of 135 small business impact questionnaires distributed)</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>
<b>Yes- 29</b>	<b>Yes-3</b>	<b>Yes-27</b>	<b>Yes-3</b>
<b>No- 16</b>	<b>No- 42</b>	<b>No- 18</b>	<b>No- 41</b>
<b>No Response- 0</b>	<b>No Response- 0</b>	<b>No Response- 0</b>	<b>No Response- 1</b>

<b>Number of Respondents out 135</b>	<b>Adverse economic effect?</b>	<b>Beneficial effect?</b>	<b>Indirect adverse effects?</b>	<b>Indirect beneficial effects?</b>
<b>45</b>	<b>29</b>	<b>3</b>	<b>27</b>	<b>3</b>

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

The Division of Public and Behavioral Health prepared and distributed a Small Business Impact Questionnaire to the Nevada institutions of higher education which would qualify as a small business. The Nevada State Immunization Program (NSIP) considered the impact on Nevada institutions of higher education through a review of the proposed regulations. Results from the Small Business Impact Questionnaire were entered into Survey Monkey which created a spreadsheet for analysis. NSIP reached out to several respondents to answer questions/concerns and followed up with each institution over the phone to ensure they received the survey. A Public Workshop will be held on December 28, 2021 at 8:00 a.m., to allow for further input by the public and regulated community regarding the proposed regulations and how they will impact the Nevada institutions of higher education. Any comments will be taken into consideration for possible revisions to the regulations to reduce the economic impact on facilities.

**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.**

29 of 45 respondents (64%) believe the proposed regulation will have an estimated economic effect on the Nevada institutions of higher education. Respondents are primarily concerned there will be a significant loss of students attending and more administrative support and funding needed for the institutions to implement the rule if the proposed regulation passes.

**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.**

In consideration of immediate and future interests in protecting public health amongst student populations, the Division of Public and Behavioral Health differentiates in the proposed regulations the effective date of immunization for COVID-19, versus the other required student immunizations. Due to a concern for public health, the requirement for COVID-19 vaccination will go into effect immediately. However, the requirements for the other immunizations (e.g. tetanus, diphtheria, measles, mumps, rubella) will not go into effect until 2024, allowing these small business postsecondary educational institutions the time needed to implement this requirement.

In addition to the Small Business Impact Questionnaires, the Division of Public and Behavioral Health will provide additional opportunities for Nevada institutions of higher education to provide input and comments regarding the proposed immunization regulations, including the economic impact the proposed regulations may have on Nevada institutions of higher education. A Public Workshop will be held on December 28, 2021 at 8:00 a.m., allowing for further input by the Nevada institutions of higher education regarding the proposed regulations and how they will impact the Nevada institutions of higher education. These comments will be taken into consideration for possible further revisions to the regulations to reduce the economic impact on facilities.

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

There is no 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.**

Not applicable.

**7) 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 more stringent than federal law because there are no federal laws on student vaccination; however, these regulations are not more stringent than current state/local immunization laws regarding the use of an immunization requirement for post-secondary schools. These regulations are necessary to close a loophole in the current law to ensure that all Nevada state school institutions follow the same guidelines as post-secondary school institutions. Additionally, these regulations are necessary to add a requirement for COVID-19 vaccination to protect students of Nevada institutions of higher education from COVID-19.

**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 conclusion of the agency to mandate COVID-19 vaccinations for all Nevada institutions of higher education, as well as mandate of both COVID-19 vaccination and other routine vaccinations for state and community colleges (e.g. tetanus, diphtheria, measles, mumps, rubella) is to protect the public health of student populations.

Overall, the proposed regulations will have an impact on Nevada postsecondary educational institutions.

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

Division of Public and Behavioral Health  
4150 Technology Way, Suite 300  
Carson City, NV 89701  
Shannon Bennett  
Phone: (775) 350-5261  
Email: [iz@health.nv.gov](mailto:iz@health.nv.gov)

**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: 12/10/2021