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**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

### PROPOSED AMENDMENTS TO NEVADA ADMINISTRATIVE CODE (NAC 449) LCB File R043-22

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments should have a minimal financial impact upon a small business or prevent the formation, operation or expansion of a small business in Nevada.

A small business is defined in Nevada Revised Statutes (NRS) 233B.0382 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**

During the inception of these modifications to the administrative code regarding residential facilities for groups, which began circa 2019, the Division met with stakeholders including licensed facility operators, the Alzheimer's Association, the Task Force for Alzheimer's Disease, Medicaid and other interested parties as a group as well as separately to discuss current requirements, current facility practices and to develop revisions that would both support the latest requirements for ensuring a resident's expression of self-determination, yet also establish acceptable levels of mitigated risk. While the modifications in LCB File R043-22 were established by consensus of the groups mentioned above, the Division recognizes that comments from public workshops may further shape this language and establish a final version that will better assure person centered care and services in an environment that protects this vulnerable population.

- 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), DPBH has requested input from all licensed residential facilities for groups in Nevada with 150 or fewer employees, and from subscribers to opt-in email lists of persons who are interested in information relative to these health care facilities.

A web-based Small Business Impact Questionnaire and a copy of proposed regulations were sent on July 15, 2022, to email addresses associated with Nevada's residential facilities for groups.

The questions 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 Responses**

Out of the small-business impact questionnaires sent to 392 residential facilities for groups licensed at the time the questionnaire was distributed, 70 responses were recorded as received.

<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>
Yes – 66 No – 2 No Answer - 2	Yes – 3 No – 67	Yes – 67 No – 3	Yes – 3 No – 67
<p>Comments –</p> <p>Meeting Tier 2 training requirements will likely cost an additional \$100-200 per course annually for every caregiver, adding to an already overly burdensome list of training expenses. It is extremely difficult to find caregivers, and this will make it even more difficult. It will likely lead to more small facilities, which offer better care to dementia patients, shutting their doors. This reduction in care options will only result in higher costs of care for residents.</p> <p>Regarding requiring mandatory endorsement for accepting residents with Alzheimer’s disease or related dementia, and specific training requirements for staff: group homes are non-skilled, and therefore hire non- skilled staff. There is already a tremendous amount of training and education required for staff who are not licensed healthcare workers. They would rather leave and work somewhere that doesn’t require them to have all of this additional training. Hiring competent staff is already a struggle, but to require all this training that will not get them an increase in pay, they would rather change fields of employment. If there is staff willing to do the training, it will be at the expense of the group home. The staff will not do the training if they have to pay for it. The</p>	<p>Comments –</p> <p>It will help with admitting more residents with a DX of ALZ/Dementia</p> <p>There will be no beneficial economic effect and no cost savings in adopting this proposed regulation in business. This will cause small group homeowners to close their doors instead due to financial effect of the new proposed regulations.</p> <p>It’s not gonna be beneficial because we will be limited in the kind of clients we take.</p>	<p>Comments –</p> <p>If I have to pay for my staff to have even more training, I’ll have to increase my rates for my residents. If I have to increase my rates, it will be increasingly difficult to find residents who can afford my group home. Group homes are supposed to be a more affordable option for families who don’t need skilled care. We have been in business for 11 years without this extra training and endorsement, why make us do it now?</p> <p>It is extremely difficult to find caregivers, and this will make it even more difficult. It will likely lead to more small facilities, which offer better care to dementia patients, shutting their doors. This reduction in care options will only result in higher costs of care for residents.</p> <p><b>49 responses to NAC 449.2754 Section 34</b></p>	<p>Comments –</p> <p>Having an endorsement on the license will be beneficial as previously mentioned, 80% to 95% of residents are diagnosed with Alzheimer’s or other forms of Dementia (Early or advanced stage). If financial help will be offered for the expenses to get endorsement. I’ll take it.</p> <p>No direct or indirect beneficial effects to our business. The proposed regulations will only bring burden to business that caters to the elder population.</p>

estimated cost to me would depend on the cost of the training and endorsement, but with no additional income for me. Any time there is staff turnover, would be that much more cost to me. I think if the resident's doctor feels they are appropriate for a non-skilled group home, we should be able to accept them without getting an endorsement or additional training. If their doctor doesn't think the resident is appropriate for a non-skilled group home, the resident may need a skilled facility or higher level of care. All of this additional training and other requirements that the state keeps putting on these small businesses makes it very difficult to stay in business.

**52 responses to NAC 449.2754 Section 34 included the following comments** - Strict implementation of this regulation to home care or residential facilities for groups has an adverse impact for the following reasons:

1. 80% to 95% of the present residents population are diagnosed with Alzheimer's disease or other forms of dementia who are living in home care or residential facilities for groups without an endorsement on its license. Before admission of these kind of residents, their physical and mental conditions are being reviewed by their primary physician if they are suitable and safe to be in a Non-Alzheimer's facility despite of their age, related dementia, not wandering and there is no risk of wandering out of the facility. These residents/patients are covered with the signed Physician Placement Determination. If this Physician Placement Determination will not be honored, these residents will be DISPLACED. Where will they live? If they will be at Skilled Nursing Facility in which they cannot afford to pay approximately \$ 5,000 to \$ 9,000 a month, the government (state or federal) needs to shoulder these costs but if the Division of Health will honor the Physician Placement Determination, the government will save millions of dollars.
2. A residential facility without an endorsement on its license will lose 80% to 90% of its present census. A facility licensed for 7 beds for example will lose 4 residents. ( e.g. 4 residents times \$ 2,500 monthly rate = \$ 10,000 times 12 months = \$ 120,000 income loses annually.
3. If the Division of Health will DISHONOR the signed Physician Placement Determination and the facility opted to obtain an endorsement on its license to provide care to persons with Alzheimer's disease or other forms of dementia, the following additional operational costs to providers are the following:

**included the following comments** - If NAC 449.2754 Section 34 is adopted and implemented, the first casualties are the 80% to 95% of the present resident population diagnosed with Alzheimer's disease or other forms of dementia who are now living in home care or residential facilities for groups without an endorsement on its license. These residents/patients are covered with the signed Physician Placement Determination. If this Physician Placement Determination will not be honored, these residents will be DISPLACED. Where will they go?

<p>a) " At least one member of the staff is awake and on duty at the facility at all times" - 12 hours (6 pm to 6 am) times 7 days=84 hours times \$15 rate per hour = \$ 1,260 times 4 weeks = \$ 5,040 an additional monthly salary expenses.</p> <p>b) The premium for the General Liability Insurance of a facility with an endorsement on its license to provide care to persons with Alzheimer's disease or other forms of dementia will become twice higher compared to a residential facility without an endorsement. ( A facility licensed for 7 beds without endorsement is paying at present approximately \$ 10,000 and will become around \$ 20,000)</p> <p>c) In order for a facility to obtain an endorsement on its license to provide care to persons with Alzheimer's disease or other forms of dementia, a provider needs to renovate the facility and the costs will be around \$ 50,000.</p>			
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**Other interested persons may obtain a copy of the summary by calling, writing or emailing:**

Nevada Division of Public and Behavioral Health  
 Bureau of Health Care Quality and Compliance  
 Attention: Tina Leopard  
 4220 S. Maryland Parkway Building A, Suite 100  
 Las Vegas, NV 89119  
 Phone: 702-486-6515  
 Email: [tleopard@health.nv.gov](mailto:tleopard@health.nv.gov)

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

A small business impact questionnaire was disseminated to licensed health care facilities through the Division's non-medical facility List Servs, as described in number 1. The data collected from the questionnaire was reviewed, along with a review of the proposed regulations, and applicable statutes. This information was then analyzed by a Health Facilities Inspection Manager to determine the impact of the proposed regulations on small business.

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

**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** – It is anticipated that the following section may or will result in a minor adverse economic effect on small businesses. **Section 7** which requires Tier 2 training to be provided by nationally recognized organizations focused on dementia or accredited colleges/universities. Obtaining Tier 2 training that meets the regulatory criteria outlined may result in an adverse economic effect on some facilities if they are unable to find free or low cost options to currently accepted dementia related training. *Comments included: "If there is staff willing to do the training, it will be at the expense of the group home. The staff will not do*

*the training if they have to pay for it. The estimated cost to me would depend on the cost of the training and endorsement, but with no additional income for me. Any time there is staff turnover, would be that much more cost to me.”; “Meeting Tier 2 training requirements will likely cost an additional \$100-200 per course annually for every caregiver, adding to an already overly burdensome list of training expenses.”*

**Indirect Adverse Economic Effects** – Feedback on **Section 7** received from the small business impact questionnaire included concerns that requiring Tier 2 training may reduce staff/resident retention and result in rate increases. *Comments included: “If I have to pay for my staff to have even more training, I’ll have to increase my rates for my residents. If I have to increase my rates, it will be increasingly difficult to find residents who can afford my group home.” “It is extremely difficult to find caregivers, and this will make it even more difficult.”*

**Beneficial Effects** – **Section 34** removes the sole criteria for facilities being required to obtain an endorsement to provide care to residents with Alzheimer’s Disease and related forms of dementia and revises the requirement of the endorsement for facilities with residents who meet the criteria prescribed in paragraph (a) of subsection 2 of NRS 449.1845 which indicates if the provider of health care determines that the resident suffers from dementia to an extent that the resident may be a danger to himself or herself or others if the resident is not placed in a secure unit or a facility that assigns not less than one staff member for every six residents and if the health care provider assessment indicates the resident does not suffer from dementia as described in paragraph (a), the resident may be placed in any residential facility for groups.

This may encourage the growth of small businesses in these facility types, as it reduces threshold for facilities who would require the endorsement.

**Indirect Beneficial Effects** – **Section 34** - Lowering the threshold for requiring facilities to obtain an endorsement to provide care to residents with Alzheimer’s Disease and related forms of dementia could lead to indirect beneficial effects of more options open to consumers for facility choice and offering residents a less restrictive environment with respect to the varying levels and progression of dementia related conditions. Allowing residential facilities for groups to admit and retain residents with mild dementia in the absence of an endorsement for Alzheimer’s disease, allows for provision of this level of care without the cost of regulatory compliance with the requirements necessary to obtain the endorsement. **Section 7** – Adding topic specific and requiring nationally recognized organizations focused on dementia and accredited colleges to provide Tier 2 dementia training could increase training quality and caregiver knowledge which could in turn, positively effect care provided to residents.

**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.**

The Division reviewed met with stakeholder groups including licensed facilities, the Alzheimer’s Association, the Task Force for Alzheimer’s Disease, Medicaid and other interested parties to develop the revised regulations and to establish language that would be acceptable. The total training hours have not increased, changes outline specific topics that must be addressed within the training requirements. Language was added to accept training from nationally recognized organizations focused on dementia, which may include, without limitation, the National Alzheimer’s and Dementia Resource Center and the Alzheimer’s Association, or their successor organizations and accredited colleges or universities.

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, as it is anticipated that this workload can be incorporated into the Division's current workload to license and regulate residential facilities for groups.

**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 reasons for the conclusions regarding the impact of a regulation on small business is based on an interpretation of the proposed regulations and how they impact a small business, the feedback provided by small business regarding the impact to their businesses and looking at the different components of the proposed regulations and their individual impact on a small business. These are the reasons why the overall conclusion is that the proposed regulation may have a minor adverse fiscal impact on some small businesses, while having a beneficial financial impact on other small businesses in the industry and may encourage the formation of small businesses. In other cases, the proposed regulations may not have any impact or may have only a minor impact on small business. Some small business may avoid an adverse economic impact by minimally complying with the proposed regulations.

**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: 08/30/2022