



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

**NOTICE OF INTENT TO ACT UPON A REGULATION**

Notice of Hearing for the Amendment of Regulation of the Board of Health,  
**LCB File No. R093-22** relating to Peer Recovery Support Services

NOTICE IS HEREBY GIVEN that the State Board of Health will hold a public hearing to consider amendments to Chapter 433 of Nevada Administrative Code (NAC) (LCB File No. R093-22). This public hearing is to be held in conjunction with the State Board of Health meeting on December 2, 2022, at 9:00 AM at the following virtual and physical locations.

**Virtual Meeting Locations:**

- [Click here to join the meeting](#); or
- Call in (audio only): 775-321-6111 (Phone Conference ID: 153 453 179#)

**Physical Meeting Locations:**

- Southern Nevada Health District (SNHD)  
Red Rock Trail Rooms A and B  
280 S. Decatur Boulevard  
Las Vegas, Nevada 89107
- Nevada Division of Public and Behavioral Health (DPBH)  
Hearing Room No. 303, 3<sup>rd</sup> Floor  
4150 Technology Way  
Carson City, Nevada 89706

**1. The need for and the purpose of the proposed regulation or amendment.**

The proposed changes will revise Chapter 433 of the Nevada Administrative Code (LCB File No. R093-22) and are being proposed in accordance with the following authority: §§ 1-5, NRS 433.324, 433.631 and 433.639. The proposed regulations are needed in order to come into compliance and/or align regulations with NRS 433.631 and NRS 433.639. NRS 433.631 allows the Division to impose upon an adult who violates applicable sections of NRS 433.631, a civil penalty in an amount prescribed by regulation of the Board.

NRS 433.639 requires the Division to adopt regulations to establish civil penalties to be imposed against any person or entity that fails to comply with the requirements of applicable sections of NRS 433.639 and allows the Division, in consultation with each agency which provides child welfare services, to establish by regulation a process by which it may review evidence upon request to determine whether an employee or independent contractor described in the statutes who has, within the immediately preceding 5 years, had a substantiated report

of child abuse or neglect or a violation of NRS 201.540, 201.560, 392.4633 or 394.366 made against him or her to continue to provide or supervise the provision of peer recovery support services and have regular and substantial contact with minors despite the report.

The proposed changes to Chapter 433 of the Nevada Administrative Code (LCB File No. R093-22) include the following:

Existing law prohibits a person from providing or supervising the provision of peer recovery support services for compensation as a regular part of his or her job duties or holding himself or herself out as authorized to provide or supervise the provision of such peer recovery support services unless he or she holds an appropriate certificate issued by the Nevada Certification Board or its successor organization. (NRS 433.631) Unless specifically authorized by the Division of Public and Behavioral Health of the Department of Health and Human Services, existing law also prohibits a person who has, within the immediately preceding 5 years, had a substantiated report of child abuse or neglect or certain related violations from serving as an employee or independent contractor who provides or supervises the provision of peer recovery support services in a position where the person has regular and substantial contact with minors. (NRS 433.639) Section 2 prescribes a process for the investigation of a complaint alleging a violation of those requirements. It also authorizes the Division to disclose any information collected as part of such an investigation to the Nevada Certification Board or its successor organization.

Section 3 prescribes the civil penalties that the Division may impose for such a violation. It also authorizes a person aggrieved by the imposition of such a civil penalty to file an appeal with the Division.

Section 4 provides that: (1) a complaint and any documents and information considered by the Division when determining whether to impose a civil penalty are public records; and (2) all other documents and information relating to an investigation conducted pursuant to section 2 are confidential.

Existing law authorizes the Division to establish by regulation a process by which it may review evidence upon request to determine whether an employee or independent contractor who has, within the immediately preceding 5 years, had a substantiated report of child abuse or neglect or certain related violations made against him or her may continue to provide or supervise the provision of peer recovery support services and have regular and substantial contact with minors despite the report. (NRS 433.639) Section 5 of this regulation establishes such a process.

## **2. A statement explaining how to obtain the approved or revised text of the proposed regulation.**

Any persons interested in obtaining a copy of the approved or revised text of the proposed regulations may e-mail, call, or mail in a request to Leticia Metherell, RN, CPM, HPM III at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health  
Bureau of Health Care Quality and Compliance  
727 Fairview Drive, Suite E  
Carson City, NV 89701

Leticia Metherell  
Phone: 775-684-1045  
Email: lmetherell@health.nv.gov

### **3. The estimated economic effect of the regulation on the business which it is to regulate and on the public.**

Anticipated effects of Chapter 433 of the Nevada Administrative Code (LCB File No. R093-22) on the businesses which it regulates:

*A. Adverse effects:* The overall adverse financial effects are anticipated to be none to minimal for most small businesses, with the potential for an adverse financial impact on small businesses that are found not to be in compliance with the sections of statutes which allows for the imposition of a civil penalty. It will not have an adverse effect on small businesses and/or individuals that remain in compliance with NRS 433.631 and NRS 433.639. For example, a person or entity, after employing a person to provide or supervise the provision of peer recovery support services in a position where the person has regular and substantial contact with minors or retaining a person as an independent contractor to provide or supervise the provision of peer recovery support services in such a position, does not complete a child abuse and neglect screening or terminate the employment or contract of the employee or independent contractor, in accordance with NRS 433.639, may be subject to the civil penalties established in the proposed regulations.

In addition, it may also have an adverse financial impact on adults who violate NRS 433.631 for providing peer recovery support services for compensation as a regular part of their job duties or holds themselves authorized to provide such services without holding a valid certificate as a peer support specialist issued by the Nevada Certification Board, or supervise the provision of such services, without holding a valid certificate as a peer recovery support specialist supervisor issued by the Nevada Certification Board.

Indirect adverse effects - The proposed regulations may result in an individual filing a complaint with the Division related to statutory violations; therefore, resulting in increased staff time and potential costs to address the complaint.

*B. Beneficial:*

There is no direct financial beneficial effect anticipated for small businesses. Indirect beneficial effects may allow individuals that would normally be disqualified from providing or supervising the provision of peer recovery support services and have regular and substantial contact with minors despite, the report, to continue to work and provide these services, if the petition submitted pursuant to section 5 of the proposed regulations to continue to provide these services is granted. This may reduce costs related to staff turnover.

*C. Immediate:*

There are no immediate beneficial or adverse effects expected for individuals and small businesses that remain in compliance with the applicable statutory requirements. For those found to be in non-compliance with the applicable statutory requirements, there may be a negative financial impact if civil penalties for non-compliance are imposed in accordance with the proposed regulations. Penalties imposed pursuant to the proposed regulations must not exceed \$10,000 in the aggregate. The exact amount of the financial impact is unknown because it is unknown the number of individuals that will be found to be in non-compliance; therefore, subject to a monetary penalty.

*D. Long-term:*

The long-term negative financial effects would be dependent on whether individuals and small business remain in compliance with the applicable statutory requirements. As this is unknown, the amount of the negative financial impact cannot be determined. There may be a positive financial impact for individuals and small businesses in which the owner or employees are found to have a substantiated report of child abuse or neglect or found to be in violations of certain statutes pursuant to Section 5, who work with minors, and are able to continue to work after a successful petition to the Division allowing the individual to provide peer recovery support services to minors.

Anticipated effects on the public:

*A. Adverse:*

There are no anticipated negative financial impacts expected on members of the public not engaged in providing or supervising the provision of peer recovery support services. The anticipated impacts for members of the public providing or supervising the provision of peer recovery support services would be the same as the adverse effects indicated in “1. Anticipated effects on the business which NAC 433 regulates”. There are also no anticipated adverse financial effects for members of the public who utilize peer recovery support services.

*B. Beneficial:*

The anticipated beneficial effects for members of the public providing or supervising the provision of peer recovery support services would be the same as the beneficial effects indicated in “1. Anticipated effects on the business which NAC 433 regulates”.

*C. Immediate:*

The anticipated immediate effects for members of the public providing or supervising the provision of peer recovery support services would be the same as the immediate effects indicated in “1. Anticipated effects on the business which NAC 433 regulates”.

*D. Long-term:* The anticipated long-term effects for members of the public providing or supervising the provision of peer recovery support services would be the same as the long-term effects indicated in “1. Anticipated effects on the business which NAC 433 regulates”.

4. The methods used by the agency in determining the impact on a small business.

The methods used by the agency in determining the impact of the proposed changes to Chapter 433 of the Nevada Administrative Code (LCB File No. R093-22) on a small business are as follows:

A Small Business Impact Questionnaire was sent to Peer Recovery Support Specialists certified by the Nevada Certification Board and others on their Listserv. On 3/25/2022, the Nevada Certification Board, notified the Division that the Certification Board’s listserv was at 308 subscribers and that 105 people had opened the above-mentioned email. 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?

This data was then collected and analyzed to help determine the impact on a small business.

A public workshop was also held on June 8, 2022, to gain further information on the proposed regulations on business, including small businesses. No public comment was received in support or against the proposed regulations.

A health program manager reviewed the requirements of NRS 433.631 and NRS 433.639, the proposed regulations, the small business impact questionnaire responses, and the lack of opposition during the public workshop to determine the impact on small businesses. The proposed regulations carry out the requirement that the Division adopt regulations to establish civil penalties to be imposed against any person or entity that fails to comply with the requirements of NRS 433.639 and allows the Division to impose upon an adult who violates NRS 433.631 a civil penalty. The proposed regulations and the provisions of NRS 433.631 and NRS 433.639 were then analyzed along with the feedback received from industry to complete the small business impact statement.

**5. The estimated cost for the Division of Public and Behavioral Health for enforcement of proposed changes to Chapter 433 of the Nevada Administrative Code (LCB File No. R093-22) are as follows:**

There is no significant cost anticipated for the enforcement of the proposed regulations by the Division. No additional positions were requested as a result of the passage of NRS 433.631 and NRS 433.639 to carry out the provisions of the proposed regulations as it is anticipated this workload can be incorporated into the Division's current regulatory and enforcement workload. There may be costs associated with conducting a complaint investigation, including but not limited to, potential travel costs, but the amount to be used is unknown; therefore, an estimated cost could not be determined. If no complaints are received the costs would be zero, if complaints were submitted, it would be based on the number of complaints received, if travel were required, and other related items, which is unknown.

**6. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.**

The proposed regulations do not overlap or duplicate any other Nevada state regulations or federal regulations.

**7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

There are no known federal regulations that regulate the same activity.

**8. Whether the proposed regulation establishes a new fee or increases an existing fee.**

The proposed regulations establish a civil monetary penalty in accordance with NRS 433.631 and NRS 433.639. The proposed regulations allow the imposition of a civil monetary penalty to any person or entity, for each violation of applicable sections of NRS 433.631 and NRS 433.639, of \$100 for each such violation. In addition, a monetary penalty for each day of noncompliance from the date the noncompliance is identified until compliance is verified, may be imposed. The aggregate civil penalty that may be imposed against a person or entity may not exceed \$10,000.

The total annual amount DPBH expects to collect, if any, is unknown as it is dependent on whether the criteria to impose a civil monetary penalty are met. If there are no violations of the applicable statutes then DPBH would collect nothing, if there are alleged violations, then it would be dependent on the number of violations that are substantiated and whether daily monetary penalties are imposed or not.

The money would be used for the Division's operating costs to carry out the provisions of the statutes and proposed regulations.

Persons wishing to comment upon the proposed action of Board of Health may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Board's Secretary, Lisa Sherych, to be received no later than November 17, 2022, at the following address:

Secretary, State Board of Health  
Division of Public and Behavioral Health  
4150 Technology Way, Suite 300  
Carson City, NV 89706

Written comments, testimony, or documentary evidence in excess of two typed pages will not be accepted at the time of the hearing. The purpose of this requirement is to allow Board members adequate time to review the documents.

Members of the public who are disabled and require special accommodations or assistance at the hearing are requested to notify Leticia Metherell, in writing, no later than five (5) working days before the hearing via email at: lmetherell@health.nv.gov or by mailing a request to:

Nevada Division of Public and Behavioral Health  
Attention: Leticia Metherell  
727 Fairview Drive, Suite E  
Carson City, NV 89701

A copy of the notice and proposed regulations are on file for inspection and/or may be copied at the following locations during normal business hours:

Nevada Division of Public and Behavioral Health  
727 Fairview Drive, Suite E  
Carson City, NV 89701

Nevada State Library  
100 Stewart Street  
Carson City, NV 89701

Nevada Division of Public and Behavioral Health  
4220 S. Maryland Parkway, Suite 100, Building A  
Las Vegas, NV 89119

Nevada Division of Public and Behavioral Health  
4150 Technology Way, Suite 300  
Carson City, NV 89706

Southern Nevada Health District (SNHD)  
Red Rock Trail Rooms A and B  
280 S. Decatur Boulevard  
Las Vegas, Nevada 89107

A copy of the regulations, public hearing notice, and small business impact statement can be found on-line by going to:

[http://dpbh.nv.gov/Reg/HealthFacilities/State\\_of\\_Nevada\\_Health\\_Facility\\_Regulation\\_Public\\_Workshops/](http://dpbh.nv.gov/Reg/HealthFacilities/State_of_Nevada_Health_Facility_Regulation_Public_Workshops/)

A copy of the public hearing notice can also be found at Nevada Legislature's web page:

<https://www.leg.state.nv.us/App/Notice/A/>

Copies may be obtained in person, by mail, or by calling the Division of Public and Behavioral Health at (775) 684-1030 in Carson City or (702) 486-6515 in Las Vegas.

Per NRS 233B.064(2), upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.