

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 Regulations of the Board of Health
LCB File No. R095-22

NOTICE IS HEREBY GIVEN that the State Board of Health will hold a public hearing to consider amendments to Chapter 640E of Nevada Administrative Code (NAC), Dietetics, LCB File No. R095-22. 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

[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, 3rd Floor
4150 Technology Way; Carson City, Nevada 89706

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

The proposed regulations are being moved forward as a result of Assembly Bill 73 and Assembly Bill 330 of the 81st (2021) legislative session.

Assembly Bill 330 requires each regulatory body, in this case the Board of Health, to adopt regulations to effectuate the purposes of the following bill requirements:

A person who, in secondary or postsecondary education, completes a training program for occupational, vocational, career, trade or technical education approved by the State Board of Education and receives a certificate for the completion of that program is eligible to receive equivalent credit towards the satisfaction of requirements for the issuance of any professional and occupational licenses and certifications relating to the training received.

For a person to be eligible to receive equivalent credit pursuant to subsection 1, the secondary or postsecondary education received by the person pursuant to title 34 of NRS must be consistent with the requirements for the issuance of professional or occupational licenses and certifications established pursuant to the provisions of title 54 of NRS and the regulations adopted pursuant thereto.

Any person aggrieved by a decision of a regulatory body concerning eligibility for equivalent credit pursuant to this section may appeal to the regulatory body for a determination whether the training satisfies the requirements for professional or occupational licensure or certification, as applicable. An appeal made pursuant to this subsection must be conducted as provided for the appeal of the denial of a professional or occupational license or certificate by that regulatory body.

Assembly Bill 73 removes the requirement that the Board of Health establish a fee for the late renewal of a license and the issuance of a duplicate license. The proposed regulations follow suit by removing these fees.

Assembly Bill 73 amends the requirements for a provisional license; therefore, the amendment to NAC 640E.100 (1) in section 4 of the proposed regulations, as it relates to the issuance of a provisional license, refers back to NRS 640E.180.

In addition, the proposed regulations amend NAC 640E.200 relating to unlicensed dietitian complaints by requiring the Executive Officer to investigate such complaints, not allowing unlicensed individuals to engage in the practice of dietetics until the individual becomes licensed, and other related provisions.

The proposed regulations also amend NAC 640E.210, as it relates to a complaint against a licensee or an applicant for a license to practice dietetics, to allow the Executive Officer to conduct an investigation, and if substantiated, to forward the complaint, information collected as part of the investigation, and the investigative results to the Commission on Dietetic Registration.

The proposed regulations also omit NAC 640E.120 and NAC 640E.130 which are no longer relevant with the passage of Assembly Bill 73.

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.
- a. Anticipated effects on the business which NAC Chapter 640E regulates:
- A. *Adverse Economic Effects* – There are no anticipated direct or indirect adverse economic effects.
 - B. *Beneficial Effects* – Direct beneficial effects include the removal of the fee for a late renewal of a license and for the issuance of a duplicate license, as a result of the passage of Assembly Bill 73.
Indirect Beneficial Effects – May have an indirect beneficial financial effect to those in which a complaint is received alleging unlicensed practice by requiring the complaint be investigated, to determine whether the complaint is substantiated, prior to issuing a cease-and-desist letter. This prevents a negative financial impact on individuals who do not require licensure, but who would have had to immediately cease operations, just because an allegation was made.
 - C. *Immediate*: The above noted benefits would come into effect upon the proposed regulations becoming effective.
 - D. *Long-term*: There are no anticipated negative long-term effects on small business. There may be some beneficial long-term effects for small businesses who are able to continue to operate their business without having to cease and desist operations based on an allegation of dietetic unlicensed practice.
- b. Anticipated effects on the public:
- A. *Adverse*: None.
 - B. *Beneficial*: May prevent a negative financial impact on members of the public that are alleged to be practicing dietetics without a license but who are not practicing as such or who are in compliance with statutory and regulatory requirements, by having an investigation be completed prior to having the member of the public stop providing services that they may be legally able to provide.
 - C. *Immediate*: The above noted benefit would come into effect upon the proposed regulations becoming effective.
 - D. *Long-term*: There are no anticipated negative long-term effects on the public. There may be some beneficial long-term effects for members of the public who are able to continue to operate their business without having to cease and desist operations based on an allegation of dietetic unlicensed practice.

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

An email was sent to all actively licensed dietitians, at the time the questionnaire was distributed, and to certain others in our online licensing system, with information on how small businesses could provide input on the proposed regulations and how to access the small business impact questionnaire and proposed regulations through a link to the Division's webpage with links to the questionnaire and proposed regulations. 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 determine the impact on a small business.

The Division reviewed Assembly Bill 73 and 330's requirements for the development of regulations and developed regulations that reduce the impact by requiring the minimal amount of documentation to carry out the provisions of Assembly Bill 330. In addition, the current appeal process outlined in NAC Chapter 439 in the event a person is aggrieved by a decision of the regulatory body will be used instead of creating a new, separate process, in the event an individual files an appeal pursuant to Assembly Bill 330.

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.

5. The estimated cost to the Division of Public and Behavioral Health 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 dietitians.

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 do not provide for a new fee or increase an existing fee.

Persons wishing to comment upon the proposed action of the 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.

If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Board of Health may proceed immediately to act upon any written submissions.

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

Southern Nevada Health District (SNHD)
280 S. Decatur Boulevard
Las Vegas, Nevada 89107

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

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

Nevada State Library
100 Stewart Street
Carson City, NV 89701

A copy of the regulations 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/

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.