

Errata – LCB File No. R090-18.

Blue italic = Proposed language found in LCB File No. R090-18

Green italics = New proposed language added to LCB File No. R090-18 Errata.

~~*Red italic bold bracketed strikethrough*~~ = Proposed omission in Errata to current LCB File No. R090-18 draft.

Sec. 2. 1. To apply for an initial license as a director by endorsement, an applicant who holds a valid, unrestricted license as a director in the District of Columbia or any state or territory of the United States must submit to the Division an application on a form prescribed by the Division. The application must be accompanied by:

(a) Proof that the applicant has achieved a passing score on a nationally recognized examination for licensure as a director.

(b) An attestation, under penalty of perjury, that he or she meets the requirements prescribed in paragraphs (a) to (e), inclusive, of subsection 2 of NRS 622.530.

(c) Payment of the fee prescribed for initial licensure of a director who is not licensed by endorsement prescribed by paragraph (d) of subsection 1 of NAC 652.488.

~~*(d) [A complete set of his or her fingerprints and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report or proof that the applicant has previously passed a comparable criminal background check.]*~~ *Proof of a [A] valid, unrestricted license as a director in the District of Columbia or any state or territory of the United States which shall be deemed to be proof that the applicant has previously passed a comparable background check if the applicant was required to pass such a background check, including, without limitation, the submission of fingerprints to the Federal Bureau of Investigation, as a condition for obtaining that license.*

(e) The statement required by NRS 425.520.

(f) The name of the regulatory authority that issued the valid and unrestricted license which the applicant holds and the number of that license.

~~[2. If the Central Repository for Nevada Records of Criminal History determines that a background investigation of an applicant for an initial license as a director by endorsement cannot be completed because pertinent information is missing, the Division shall send a notice to the applicant which specifies the missing information and provides that, to obtain the license, the applicant must:~~

~~(a) Submit the missing information to the Central Repository for Nevada Records of Criminal History within 30 days after receipt of the notice; or~~

~~(b) Submit satisfactory evidence to the Division that the missing information cannot be obtained.]~~

~~[3. If a background investigation cannot be completed because the applicant has been arrested or issued a citation, or has been the subject of a warrant for alleged criminal conduct, and there has been no disposition of the matter, the applicant must notify the Division immediately upon:~~

~~(a) The scheduling of any judicial proceeding concerning the matter; and~~

~~(b) The disposition of the matter and forward to the Central Repository for Nevada Records of Criminal History evidence of the disposition of the matter as soon as it is available.]~~

4. The Division may request such additional documentation from an applicant as it deems necessary to ensure the provisions of this section and NRS 622.530 are met.

~~[5. As used in this section, "disposition" has the meaning ascribed to it in NRS 179A.050.]~~

~~[Sec. 3. 1. If the holder of a license as a director issued by endorsement believes that the information provided to the Division by the Central Repository for Nevada Records of Criminal History pursuant to paragraph (g) of subsection 2 of NRS 622.530 is incorrect, the holder must inform the Division not later than 10 days after the holder receives the information. If the Division is so informed, the Division shall give the holder at least 30 days to correct the information.]~~

~~[2. During the period in which the holder of a license as a director issued by endorsement seeks to correct information pursuant to subsection 1, the Division may, as it determines is in the best interest of the State:~~

~~(a) Suspend the license; or~~

~~(b) Require the holder to work under the direct supervision of a person who holds a valid license issued by the Division.]~~

Sec. 4. 1. To apply for an initial certificate as laboratory personnel by endorsement, an applicant who holds a valid, unrestricted certificate as laboratory personnel in the District of Columbia or any state or territory of the United States must submit to the Division an application on a form prescribed by the Division. The application must be accompanied by:

(a) Proof that the applicant has achieved a passing score on a nationally recognized examination for certification as laboratory personnel for the personnel type for which they are applying.

(b) An attestation, under penalty of perjury, that he or she meets the requirements prescribed in paragraphs (a) to (e), inclusive, of subsection 2 of NRS 622.530.

(c) Payment of the applicable fee prescribed for initial certification of personnel who are not certified by endorsement prescribed by paragraph (g) of subsection 1 of NAC 652.488.

(d) ~~[A complete set of his or her fingerprints and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report or proof that the applicant has previously passed a comparable criminal background check.] Proof of a [A] valid, unrestricted certificate as laboratory personnel in the District of Columbia or any state or territory of the United States which shall be deemed to be proof that the applicant has previously passed a comparable background check if the applicant was required to pass such a background check, including, without limitation, submission of fingerprints to the Federal Bureau of Investigation, as a condition for obtaining that certificate.~~

(e) The statement required by NRS 425.520.

(f) The name of the regulatory authority that issued the valid and unrestricted certificate which the applicant holds and the number of that certificate.

~~2. If the Central Repository for Nevada Records of Criminal History determines that a background investigation of an applicant for an initial certificate as laboratory personnel by endorsement cannot be completed because pertinent information is missing, the Division shall send a notice to the applicant which specifies the missing information and provides that, to obtain the certificate, the applicant must:~~

~~(a) Submit the missing information to the Central Repository for Nevada Records of Criminal History within 30 days after receipt of the notice; or~~

~~(b) Submit satisfactory evidence to the Division that the missing information cannot be obtained.~~

~~3. If a background investigation cannot be completed because the applicant has been arrested or issued a citation, or has been the subject of a warrant for alleged criminal conduct, and there has been no disposition of the matter, the applicant must notify the Division immediately upon:~~

~~(a) The scheduling of any judicial proceeding concerning the matter; and~~

~~(b) The disposition of the matter and forward to the Central Repository for Nevada Records of Criminal History evidence of the disposition of the matter as soon as it is available.~~

4. The Division may request such additional documentation from an applicant as it deems necessary to ensure the provisions of this section and NRS 622.530 are met.

~~[5. As used in this section, "disposition" has the meaning ascribed to it in NRS 179A.050.]~~

~~*[Sec. 5. 1. If the holder of a certificate as laboratory personnel issued by endorsement believes that the information provided to the Division by the Central Repository for Nevada Records of Criminal History pursuant to paragraph (g) of subsection 2 of NRS 622.530 is incorrect, the holder must inform the Division not later than 10 days after the holder receives the information. If the Division is so informed, the Division shall give the holder at least 30 days to correct the information.*~~

~~*2. During the period in which the holder of a certificate issued by endorsement seeks to correct information pursuant to subsection 1, the Division may, as it determines is in the best interest of the State:*~~

~~*(a) Suspend the certificate; or*~~

~~*(b) Require the holder to work under the direct supervision of a person who holds a valid certificate issued by the Division.]*~~

Rationale for Errata

NRS 622.530 (2) (h) requires an applicant to submit to the regulatory body a complete set of his or her fingerprints and written permission authorizing the regulatory body to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation (FBI), but the FBI did not authorize the use of these statutes; therefore, the endorsement process is only available to those who received a background check when the individual was licensed in the District of Columbia or any state or territory of the United States.

In addition, medical laboratory personnel licensed or certified, as applicable, are not required to be background checked for licensing/certification purposes; therefore, there is no other known statutory authority that would authorize a fingerprint-based background check for the purposes of licensing or certifying laboratory personnel.

Please reference the attached letter from the Nevada Department of Public Safety informing the Division of Public and Behavioral Health that the Criminal Justice Information Law Unit (CJILU) determined the criminal history language in Senate Bill 69 of the 2017 legislative session which has been codified as NRS 622.530 (2) (h) would not qualify for access to FBI criminal history record information (CHRI) under the criteria set forth under Pub. L. 92-544.