

**PROPOSED REGULATION OF THE
STATE BOARD OF HEALTH**

LCB File No. R090-18

October 11, 2019

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §§1-5, NRS 622.530 and 652.125.

A REGULATION relating to medical laboratories; prescribing requirements for applying for a license as a laboratory director or certificate as laboratory personnel by endorsement; prescribing actions by an applicant if a criminal background check cannot be completed for certain reasons; prescribing procedures to correct or supplement information acquired through a criminal background check; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires certain regulatory bodies to adopt regulations providing for the issuance of a license by endorsement to engage in an occupation or profession in this State to a natural person who: (1) holds a corresponding valid and unrestricted license to engage in that occupation or profession in the District of Columbia or any state or territory of the United States; (2) possesses qualifications that are substantially similar to the qualifications required for issuance of a license to engage in that occupation or profession in this State; and (3) satisfies certain other requirements, including submitting to a background investigation by the Central Repository for Nevada Records of Criminal History or providing proof that he or she has passed a comparable background check. (NRS 622.530) **Sections 2 and 4** of this regulation prescribe the information that an applicant for a license as a laboratory director or certificate as laboratory personnel, respectively, by endorsement is required to submit to the Division of Public and Behavioral Health of the Department of Health and Human Services. **Sections 2 and 4** also prescribe conditions under which an applicant who holds a valid, unrestricted license or certificate in the District of Columbia or any state or territory of the United States to practice as a laboratory director or laboratory personnel, respectively, will be deemed to have provided proof that he or she has previously passed a comparable background check for the purposes of obtaining a license or certificate by endorsement in this State.

Sections 2 and 4 require the Division to notify an applicant for a license as a laboratory director or certificate as laboratory personnel, respectively, by endorsement if a background investigation of the applicant cannot be completed because pertinent information is missing. **Sections 2 and 4** require that, to obtain the license or certificate by endorsement, an applicant who is provided such notice submit the missing information to the Central Repository for Nevada Records of Criminal History or submit satisfactory evidence to the Division that the missing information cannot be obtained. **Sections 2 and 4** also require an applicant to take certain action 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.

Sections 3 and 5 of this regulation require: (1) a holder of a license as a laboratory director or certificate as laboratory personnel, respectively, by endorsement to inform the Division if the holder believes that the information provided to the Division by the Central Repository for Nevada Records of Criminal History is incorrect; and (2) the Division to give the holder at least 30 days to correct the information if the Division is so informed. **Sections 3 and 5** also provide that, during the period in which the holder of a license or certificate issued by endorsement seeks to correct the information, the Division may, as it determines is in the best interest of the State: (1) suspend the license or certificate; or (2) require the holder to work under the direct supervision of a person who holds a valid license or certificate issued by the Division.

Section 1. Chapter 652 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

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. A valid, unrestricted license as a director in the District of Columbia or any state or territory of the United States 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.

(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. A valid, unrestricted certificate as laboratory personnel in the District of Columbia or any state or territory of the United States 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.