

SMALL BUSINESS IMPACT STATEMENT

PROPOSED AMENDMENTS TO NAC 432A LCB File #R182-18

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments should not create significant impact upon a small business or hinder the formation, operation or expansion of a small business in Nevada.

A small business is defined in Nevada Revised Statutes NRS 233B 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

In 2017, Legislation was passed for the implementation of administrative sanctions for licensed child care facilities. The proposed regulation supplements and amendments of LCB File #182-18 were generated in efforts to bring the Division of Public and Behavioral Health – Child Care Licensing into compliance with this legislation. The necessary supplements include: a complete framework for grading facilities and amendments include: ratios, trainings, mandated reporting, director qualifications and designated operator qualifications to help build transparency and clarity of standards to help ensure provider compliance.

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.

LCB File #182-18 (amending the regulations of NAC432A) was sent to all Nevada licensed child care facilities and posted publicly for other interested parties. The delivery outlets included postings to the listserv, child care licensing website, as well as, being electronically mailed.

A Small Business Impact Questionnaire was sent to licensed child care facilities along with a copy of the proposed regulation changes, on November 8th, 2018. Some of the responses received indicated that the proposed changes will have an adverse effect on small business in its current state. Individuals who answered the small business impact questionnaire explained that

the effect would put a financial strain on their business and found the changes to be excessive and cumbersome.

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?

Summary of Response

Summary of Comments Received 105 responses were received out of 466 small business impact questionnaires distributed)			
Will a specific regulation have an adverse economic effect upon your business?	Will the regulation (s) have any beneficial effect upon your business?	Do you anticipate any indirect adverse effects upon your business?	Do you anticipate any indirect beneficial effects upon your business?
Respondents that replied yes stated that the increase of training will adversely affect their business because trainings come at a cost. However, there is no increase in training per these regulations only an introduction of a graduated process of training completion. Respondents further stated that sanctions will have an adverse effect on the facility, if imposed.	Respondents did state that although the cost of sanctions could have adverse effects it was mentioned that sanctions will help to ensure everyone is held to the same standard. If you are in compliance it will be reflected through no sanctions being applied. However, most did not see a benefit.	The sanction system is cumbersome and not written for the child care industry. It mirrors health care, but child care is not health care. The sanction system needs to promote improvement and sustain practice with technical assistance.	May help to improve quality through equity of expectations and accountability.

Number of Respondents out 105	Adverse economic effect?	Beneficial effect?	Indirect adverse effects?	Indirect beneficial effects?
Yes replies	26	8	16	8
	105	105	105	105

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

- a) As responses were received they were tallied and set up for further review by Child Care Licensing staff. Once all forms were submitted by the deadline, Child Care Licensing staff reviewed responses to explore if there were effective and comprehensive options to help ensure the least amount of impact on small businesses with these proposed amendments. The Division will schedule a public workshop to promote further communication with the industry.

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.

- a) Grading can pose a possible financial concern for facilities; however, this would only be a concern for facilities that fail to come into compliance within the reasonable timeframe as stipulated by an approved Plan of Correction submitted by the facility operator. Grading will not prevent the provider from violations, rather grading will help assure providers correct violations such that significant violations don't recur.
- b) Training could have an economic effect because trainings do come at cost, however, this regulation was amended to apply completion of trainings using a graduating process to help with timeliness of completion of required training. This regulation does not add additional hours of training.
- c) Mandated Reporting has been clarified to help ensure providers clearly understand the standards expected of them as mandated reporters within the State of Nevada which will help to ensure the safety and well-being children. This should not result in an economic affect.
- d) Director and Designated Operator qualifications are distinguished for providers to understand what will ensure compliance per NAC432A. This should not result in an economic affect.
- e) Ratios in this regulation amendment is intended to clear up confusion for providers and ensure consistency for all providers. This should not result in an economic affect.

4) Provide a description of the methods that the agency considered reducing the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

After reviewing the small business impact questionnaires and analyzing the results, the Division recognizes more communication on how the process would work is needed and more explanation that process was not built to be strictly punitive but that it would also include technical assistance and opportunities for improvement. The Division's aim with grading is to reflect the good work and practices of facilities while also requiring accountability to those who may need more assistance in meeting compliance. The Division will be holding public workshops for child care businesses for further input and comments regarding the proposed amendments to NAC432A

identified in LCB File #182-18. Wherever possible, modifications to the proposed regulations will be made as a result of this input. A workshop for further public input will be scheduled.

5) The estimated cost to the agency for enforcement of the proposed regulation.

NONE

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.

NONE

7) An explanation of why any duplicative or more stringent provisions than federal, state or local standards regulating the same activity are necessary.

NONE

8) Provide a summary of the reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.

The agency recognizes that the proposed amendments are essential to ensuring the continued health and safety of the children and families that utilize child care facilities. However, per the responses, the agency recognizes that open and transparent dialog along with continued education will help to promote, not only, compliance but allow for effective collaboration between the agency and the industry. The agency has been mindful of the economic impact changes can have on facilities, which is why the agency is willing to make modifications that will not compromise the health and safety of the children these facilities serve.

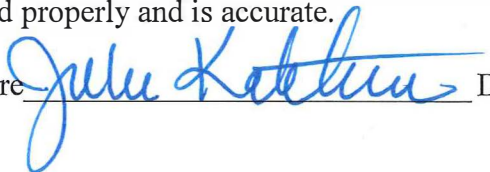
Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Latisha Brown at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health
3811 W. Charleston Blvd, Suite 210
Las Vegas, NV 89102
Latisha Brown
Phone: 702-486-3822
Email: ChildCareLicensing@health.nv.gov

Certification by Person Responsible for the Agency

I, Julie Kotchevar, 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: _____

2-1-19

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Background

In 2017, Legislation was passed for the implementation of administrative sanctions for licensed child care facilities. The proposed regulation supplements and amendments of LCB File #135-18 were generated in efforts to bring the Division of Public and Behavioral Health – Child Care Licensing into compliance with this legislation. The necessary supplements include: a complete framework for applying sanctions and amendments include: ratios, trainings, mandated reporting, director qualifications and designated operator qualifications to help build transparency and clarity of standards to help ensure provider compliance.

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.

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the effect would put a financial strain on their business and found the changes to be excessive and cumbersome.

The questions on the questionnaire were:

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Will a specific regulation have an adverse economic effect upon your business?	Will the regulation (s) have any beneficial effect upon your business?	Do you anticipate any indirect adverse effects upon your business?	Do you anticipate any indirect beneficial effects upon your business?
Respondents that replied yes stated that the increase of training will adversely affect their business because trainings come at a cost. However, there is no increase in training per these regulations only an introduction of a graduated process of training completion. Respondents further stated that sanctions will have an adverse effect on the facility, if imposed.	Respondents did state that although the cost of sanctions could have adverse effects it was mentioned that sanctions will help to ensure everyone is held to the same standard. If you are in compliance it will be reflected through no sanctions being applied. However, most did not see a benefit.	The sanction system is cumbersome and not written for the child care industry. It mirrors health care, but child care is not health care. The sanction system needs to promote improvement, and sustain practice with technical assistance.	May help to improve quality through equity of expectations and accountability.

Number of Respondents out 105	Adverse economic effect?	Beneficial effect?	Indirect adverse effects?	Indirect beneficial effects?
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2) Describe the manner in which the analysis was conducted.

- a) As responses were received they were tallied and set up for further review by Child Care Licensing staff. Once all forms were submitted by the deadline, Child Care Licensing staff reviewed responses to explore if there were effective and comprehensive options to help ensure the least amount of impact on small businesses with these proposed amendments. The Division will schedule a workshop to promote further communication with the industry.

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.

- a) Sanctions do pose a possible financial concern for facilities; however, this would only be a concern for facilities that fail to come into compliance within the reasonable timeframe as stipulated by an approved Plan of Correction submitted by the facility operator. Sanctions will not prevent the provider from violations, rather sanctions will help assure providers correct violations such that significant violations don't recur.
- b) Training could have an economic effect because trainings do come at cost, however, this regulation was amended to apply completion of trainings using a graduating process to help with timeliness of completion of required training. This regulation does not add additional hours of training.
- c) Mandated Reporting has been clarified to help ensure providers clearly understand the standards expected of them as mandated reporters within the State of Nevada which will help to ensure the safety and well-being children. This should not result in an economic affect.
- d) Director and Designated Operator qualifications are distinguished for providers to understand what will ensure compliance per NAC432A. This should not result in an economic affect.
- e) Ratios in this regulation amendment is intended to clear up confusion for providers and ensure consistency for all providers. This should not result in an economic affect.

4) Provide a description of the methods that the agency considered reducing the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

After reviewing the small business impact questionnaires and analyzing the results, the Division recognizes more communication on how the process would work is needed and more explanation that process was not built to be strictly punitive but that it would also include technical assistance and opportunities for improvement. The Division's aim with sanctions is to ensure accountability while empowering facilities to reflect and build on their strengths in maintaining and meeting compliance. The Division will be holding public workshops for child care businesses for further input and comments regarding the proposed amendments to NAC432A identified in LCB File

#135-18. Wherever possible, modifications to the proposed regulations will be made as a result of this input. A workshop for further public input will be scheduled.

5) The estimated cost to the agency for enforcement of the proposed regulation.

NONE

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.

NONE

7) An explanation of why any duplicative or more stringent provisions than federal, state or local standards regulating the same activity are necessary.

NONE

8) Provide a summary of the reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.

The agency recognizes that the proposed amendments are essential to ensuring the continued health and safety of the children and families that utilize child care facilities. However, per the responses, the agency recognizes that open and transparent dialog along with continued education will help to promote not only compliance but allow for effective collaboration between the agency and the industry. The agency has been mindful of the economic impact changes can have on facilities, which is why the agency is willing to make modifications that will not compromise the health and safety of the children these facilities serve.

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Latisha Brown at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health
3811 W. Charleston Blvd, Suite 210
Las Vegas, NV 89102
Latisha Brown
Phone: 702-486-3822
Email: ChildCareLicensing@health.nv.gov

Certification by Person Responsible for the Agency

I, Julie Kotchevar, 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: 2-1-19