

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 PUBLIC HEARING

CAMERON MATHEW ROSE IS REQUESTING A VARIANCE, #728, FROM THE NEVADA STATE BOARD OF HEALTH REGULATIONS.

NOTICE IS HEREBY GIVEN that CAMERON MATHEW ROSE has requested a variance from Nevada Administrative Code (NAC) 441A.755, as amended by the Emergency Regulation of the Board of Health, effective August 20, 2021.

A public hearing will be conducted on December 3rd, 2021, at 9:00 am by the Nevada State Board of Health to consider this request. This meeting will be held online.

Meeting Locations:

Join from computer using the Zoom meeting link:

<https://zoom.us/j/91711965467?pwd=WDc0MWJUVnZGRc85VEp1QnNUUExlZz09>

Online Conference ID Number: 917 1196 5467
Passcode: 422977

Join by Phone:

1-669-900-9128 (San Jose) Access Code: 917 1196 5467
Passcode: 422977
Phone Conference ID Number: 439 309 712#

The CAMERON MATHEW ROSE is requesting a variance from NAC 441A.755, as amended by the Emergency Regulation of the Board of Health which states:

NAC 441A.755 University, Community college, and State college students: Proof of immunity to certain communicable diseases required; exceptions; exclusion from university, community college, state college. ([NRS 441A.120](#))

1. Except as otherwise provided in subsection ~~10~~ 11 or unless excused because of religious belief or medical condition, a person shall not attend a university until he submits to the university proof of immunity to tetanus, diphtheria, measles, mumps, rubella, and any other disease specified by the State Board of Health. The Division shall establish the immunization schedule required for admission of the student.

2. Except as otherwise provided in subsection 11 or unless excused because of religious belief or medical condition, a person shall not enroll in courses at a university, community college, or state college on or after November 1, 2021, unless the person submits to the institution proof of a completed COVID-19 vaccination series.

~~2.~~**3.** Except as otherwise provided in subsection ~~10~~ **11** or unless excused because of religious belief or medical condition, a person who:

(a) Is less than 23 years of age; and

(b) Is enrolled as a freshman;

Ê shall not attend a university until he or she submits to the university proof of immunity to Neisseria meningitidis. The Division shall establish the immunization schedule required for admission of the student.

~~3.~~**4.** **Except as required by subsection 2, ~~A~~ a student may enroll in the university, community college, or state college** conditionally if the student, or if the student is a minor, the parent or legal guardian of the student, submits a record of immunization stating that the student is in the process of obtaining the required immunizations, and that record shows that the student has made satisfactory progress toward obtaining those immunizations.

~~4.~~**5.** The university, **community college, and state college** shall retain the proof of immunity on a computerized record or on a form provided by the Division.

~~5.~~**6.** The university, **community college, or state college** shall not refuse to enroll a student because he has not been immunized if the student, or if the student is a minor, the parent or legal guardian of the student, has submitted to the ~~university~~ **institution** a written statement indicating that his religious belief prohibits immunizations. The ~~university~~ **institution** shall keep the statement on file.

~~6.~~**7.** If the medical condition of a student does not permit him to be immunized to the extent required, the student, or if the student is a minor, the parent or legal guardian of the student, must submit to the ~~university~~ **institution** a statement of that fact written by a licensed physician.

The ~~university~~ **institution** shall keep the statement on file.

~~7.~~**8.** If additional requirements of immunity are imposed by law after a student has been enrolled in the ~~university~~ **institution**, the student, or if the student is a minor, the parent or legal guardian of the student, shall submit an additional proof of immunity to the ~~university~~ **institution** stating that the student has met the new requirements of immunity.

~~8.~~**9.** If the health authority determines that, at ~~the~~ **a community college, state college, or university**, there is a case having a communicable disease against which immunity is required for admission to the university, and a student who has not submitted proof of immunity to that disease is attending that university, the president of the **institution** ~~university~~ shall require that:

(a) The student be immunized; or

(b) The student be excluded from the **institution** ~~university~~ until allowed to return by the health authority.

~~9.~~**10.** A student shall not attend a university, **community college, or state college** from which he is excluded until allowed to return by the health authority. The parent or legal guardian of a student, if the student is a minor, shall not allow the student to attend a university, **community college, or state college** from which he is excluded until allowed to return by the health authority.

~~10.~~**11.** Any student who is enrolled in a program of distance education and who does not attend a class on campus is exempt from the requirements of this section.

~~11.~~**12.** As used in this section:

(a) "Postsecondary educational institution" has the meaning ascribed to it in [NRS 394.099](#).

(b) "University" means any university within the Nevada System of Higher Education or any private postsecondary educational institution.

(c) "Community college" means all of the community colleges within the Nevada System of Higher Education.

(d) "State college" means all of the state colleges within the Nevada System of Higher Education.

(e) "Institution" means any university, community college, or state college as described above.

The authority of the State Board of Health to consider and grant a variance from the requirements of a regulation is set forth at NRS 439.200 and NAC 439.200 – 439.280.

Persons wishing to comment upon the proposed variance may appear at the scheduled public hearing or may submit written testimony at least five days before the scheduled hearing to:

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

Anyone wishing to testify for more than five minutes on the proposed variance must petition the Board of Health at the above address. Petitions shall contain the following: 1) a concise statement of the subject(s) on which the petitioner will present testimony; 2) the estimated time for the petitioner's presentation.

This notice has also been posted at the following locations:

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH, 4150 TECHNOLOGY WAY, CARSON CITY, NV

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH WEBSITE:

<http://dpbh.nv.gov/Boards/BOH/Meetings/Meetings/>

Declaration of Economic Hardship.

I, Cameron Matthew Rose, who is applying for a variance through the State Board of health, do declare that I suffer from economic hardship and request that the fees associated for submitting and filing the application for variance be waived.

I am a student with only a Social Security Disability Income and no other source of income. Of which I would not be able to pay the fees in order to have my application for a variance to be heard.

Therefore, I respectfully request to have the fees waived and my application for variance pushed forward to continue the process.

10/22/2021

CMJMJR

Signature

Cameron Matthew Rose

NEVADA STATE BOARD OF HEALTH
 DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
 4150 Technology Way, Suite 300
 CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

Please check the appropriate box that pertains to the NAC for which you are requesting a variance.

Division Administration
 (NAC 439, 441A, 452, 453A, & 629)

Health Care Quality & Compliance
 (NAC 449, 457, 459 & 652)

Child, Family & Community Wellness
 (NAC 392, 394, 432A, 439, 441A, & 442)

Health Statistics, Planning,
 Epidemiology and Response
 (NAC 440,450B, 452, 453, 453A, & 695C)

Public Health & Clinical Services
 (NAC 211, 444, 446, 447, 583, & 585)

Date: 10/22/2021

Name of Applicant: Cameron Matthew Rose

Phone: 775-683-7487

Mailing Address: 601 Keystone Ave. Box #257

City: Reno

State: NV

Zip: 89503

We do hereby apply for a variance to _____ of the Nevada
 chapter/section
 Administrative Code (NAC). (For example: NAC 449.204) NAC 439 and 441A

Title of section in question: Covid-19 mandated vaccine for enrollment at Universities in Nevada.

Statement of existing or proposed conditions in violation of the NAC:

The Covid-19 mandate would subject me to an exceptional and undue hardship of returning back to being homeless as I am against unnecessary use of pharmaceuticals as a treatment. Where the mandate does not follow the least restrictive manner and takes away my treatment options without a court order for an involuntary treatment of which is unnecessary and is not for the benefit of the health of myself or others as I have a healthy immune system that does not get sick.

NEVADA STATE BOARD OF HEALTH
 DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
 4150 Technology Way, Suite 300
 CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

Date of initial operation (if existing): For winter and spring 2022 semesters

ATTENTION: Please read this section closely. Your request for variance will be examined against these criteria:

Any person who, because of unique circumstances, is unduly burdened by a regulation of the State Board of Health and thereby suffers a hardship and the abridgement of a substantial property right may apply for a variance from a regulation. (NAC 439.200(1))

1. The State Board of Health will grant a variance from a regulation only if it finds from the evidence presented at the hearing that:
 - (a) There are circumstances or conditions which:
 - (1) Are unique to the applicant;
 - (2) Do not generally affect other persons subject to the regulation;
 - (3) Make compliance with the regulation unduly burdensome; and
 - (4) Cause a hardship to and abridge a substantial property right of the applicant; and
 - (b) Granting the variance:
 - (1) Is necessary to render substantial justice to the applicant and enable him to preserve and enjoy his property; and
 - (2) Will not be detrimental or pose a danger to public health and safety.
2. Whenever an applicant for a variance alleges that he suffers or will suffer economic hardship by complying with the regulation, he must submit evidence demonstrating the costs of his compliance with the regulation. The Board will consider the evidence and determine whether those costs are unreasonable. (NAC 439.240)

Therefore, it is important for your variance request to be as complete as possible. It is your responsibility to attach documentation supportive of your variance request.

Statement of degree of risk of health

I avoid pharmaceuticals unless there is no other treatment options available. For example, infections are remedied with antibiotics with limited to no side effects. Other treatment options exist without the vaccine of which the vaccine does not provide protection from infection. And this is a component as to why I have great health is my avoidance of pharmaceuticals and unnecessary treatments. where I feel the vaccine will compromise my immunity where my immune system is working as it should with out it.

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 CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

Please state in detail the circumstances or conditions which demonstrate that:

1. An exceptional and undue hardship results from a strict application of the Regulation:

Would result in my return to being homeless. I am against the treatment as I am against all pharmaceuticals unless no other alternatives exist because I was forced medicated as a child where I feel the vaccine would violate an over 20 year (Aug 26th 2001) avoidance of pharmaceuticals through the unnecessary treatment.

2. The variance, if granted, would not:

- A. Cause substantial detriment to the public welfare.

By returning back to being homeless, would actually cause more of a detriment to public welfare over staying in school because I would be less likely to infect others under quarantine over being forced to live in public view at all times if I happened to become infected by Covid-19. Where instruction would only be loss for the duration of the sickness and not a full semester or longer.

- B. Impair substantially the purpose of the regulation from which the application seeks a variance.

The purpose of the regulation is so that we can return back to normal instruction. Yet, we have returned to a more traditional form of normal instruction without a mandated vaccine. Where the Covid-19 vaccine does not prevent infection. And where without the vaccine I still have not been sick even once since my year and a half with the university of Nevada, Reno.

The bureau may require the following supporting documents to be submitted with and as a part of this application:

1. Legal description of property concerned

2. General area identification map

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Lisa Sherych
Administrator

Ihsan Azzam,
Ph.D., M.D.
Chief Medical Officer

MEMORANDUM

DATE: November 16, 2021

TO: Jon Pennell, DVM, Chairperson, State Board of Health

FROM: Ihsan Azzam, Ph.D., M.D., Chief Medical Officer, State of Nevada

RE: Variance Case #728 – Cameron Rose - variance to Nevada Administrative Code (NAC) 439 and 441a.

Staff Review

The Secretary of the Board of Health, at the Division of Public and Behavioral Health, received an Application for Variance (“Application”) from Cameron Rose (“Applicant”), requesting the Nevada State Board of Health to grant a variance waiving the requirements of NAC 441A.775, as amended by the Emergency Regulation adopted August 20, 2021, requiring any individual enrolling in a Nevada university, community college, or state college, on or after November 1, 2021, to provide proof of a completed COVID-19 vaccination series.

INTENT OF THE REGULATION

The Nevada State Board of Health unanimously approved COVID-19 vaccine requirements for Nevada System of Higher Education (NSHE) students at an emergency meeting held Friday, August 20, 2021. This regulation requires all students in NSHE institutions to be fully vaccinated for COVID-19 and to provide proof of vaccination to be able to enroll when Spring 2022 semester enrollment opens on November 1st, 2021.

Since March 2021, COVID-19 infected more than 450,000 and killed 7,850 Nevada residents. The pandemic is ongoing and COVID-19 continues to spread, replicate and actively mutate. COVID-19 vaccine is very effective and safe in reducing and preventing severe COVID-19 infections, hospitalizations and death.

The Centers for Disease Control and Prevention (CDC) recommends all eligible individuals receive a COVID-19 vaccine as soon as possible, as fully vaccinated individuals can start resuming pre-pandemic activities. Similarly, on August 5, 2021, the Governor Sisolak’s Medical Advisory Team recommended that Nevada should require all post-secondary students within NSHE institutions to become fully vaccinations for COVID-19. The only way to control this pandemic is through vaccinating all eligible individuals in Nevada as soon as possible.

EXCEPTIONAL AND UNDUE HARDSHIP

The Applicant asserts that he is against all pharmaceuticals unless no other alternatives exist, stating that he is on Social Security Disability and compliance with the mandate will result in him becoming homeless. However, it is unclear from his application how the requirements of NAC 441A.755 will result in the applicant “being homeless.” To the extent that the Applicant has a religious or medical basis for refusing the vaccine, such an accommodation may be sought through the NSHE institution he attends. However, with no other indication as to how the regulations causes a unique hardship to the Applicant, the statements within the Application suggest that the Applicant has a philosophical objection with the COVID-19 vaccine, and pharmaceuticals more broadly. Such objections do not create an exceptional or undue hardship which would justify a variance.

As recently emerging COVID-19 lineages such as the delta variant are highly transmissible, and as infective as the varicella virus, unvaccinated individuals can certainly cause an increased risk to other students and staff in the university houses, dorms and other NSHE facilities.

Similarly of note, vaccinating the homeless population in Nevada is high priority. Homeless individuals pose a very high risk for contracting and transmitting COVID-19 to other individuals in homeless shelters. Additionally, due to very high rates of mortality due to COVID-19 among the homeless in Nevada, vaccinating the homeless population was one of the highest priorities for the State Division of Public and Behavioral Health (DPBH).

It has been determined by the Governor’s Medical Advisory Team and the Nevada Board of Health that the COVID-19 vaccine is necessary for the safety of NSHE students and staff.

DEGREE OF RISK TO HEALTH AND SAFETY

The Applicant has asserted that the variance, if granted, would not cause substantial detriment to public welfare, as he would be less likely to infect others while enrolled in school than if he were homeless. As noted above, the risk of transmission is high in both homeless communities and educational institutions. The Governor’s Medical Advisory Team has recommended that to ensure student safety, all post-secondary students within NSHE institutions should be required to receive the COVID-19 vaccine. The failure of eligible individuals to receive the COVID-19 vaccine causes an increased risk of transmission to other students in NSHE facilities.

The Applicant further asserts that the variance, if granted, would not impair substantially the purpose of the regulation. However, as stated above, the intent of this regulation to protect all students and staff at NSHE institutions per the recommendations of the CDC and the Governor’s Medical Advisory Team.

According to the CDC, Food and Drug Administration (FDA) and numerous national and international studies and research, the COVID-19 vaccine is safe and effective.¹ Under the most intense safety monitoring in the United States (U.S.) history, more than 432 million doses of COVID-19 vaccine have been given in the U.S. from December 14, 2020, through November 8, 2021.

¹<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/safety/safety-of-vaccines.html#:~:text=%E2%80%A2%20COVID%2D19%20vaccines,as%20soon%20as%20possible.>

CRITERIA FOR DENYING VARIANCE

Pursuant to NRS 439.200(3), the Board of Health may grant a variance waiving the requirements of a regulation, if it finds that:

- (a) Strict application of that regulation would result in exceptional and undue hardship to the person requesting the variance; and
- (b) The variance, if granted, would not:
 - (1) Cause substantial detriment to the public welfare; or
 - (2) Impair substantially the purpose of that regulation.

The Applicant, in asserting a philosophical objection to the COVID-19 mandate, has not established the exception and undue hardship, unique to this individual. Philosophical objections to the COVID-19 vaccine, or more broadly, pharmaceuticals, do not constitute a unique circumstance which would justify the granting of a variance. The regulation, which allows for accommodations due to religious or medical reasons, does not provide a philosophical exemption, as sought here.

Further, for the reasons stated above, if granted, this variance would cause substantial detriment to the public welfare and substantially impair the purpose of NAC 441A.755.

Denying this variance request is consistent with CDC recommendations and would be in the best interest of the Applicant, other students, and staff in the NSHE and the Nevada community as a whole. Receiving the COVID-19 vaccine is the only way to protect him and others from contracting severe COVID-19 infection and transmitting it to other individuals or even dying from it.

PUBLIC COMMENT RECEIVED

None.

STAFF RECOMMENDATION

Staff recommends the State Board of Health deny the variance for Case #728.

PRESENTER: Ihsan Azzam, Ph.D., M.D., Chief Medical Officer, State of Nevada