

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.

Steve Sisolak
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Richard Whitley, MS
Director



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HEALTH AND HUMAN SERVICES
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Lisa Sherych
Administrator

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

September 1, 2022

MEMORANDUM

To: Jon Pennell, DVM, Chair
State Board of Health

From: Lisa Sherych, Secretary
State Board of Health

Re: Consideration and adoption of proposed regulation amendment(s) to Nevada Administrative Code (NAC) 640E, "Dietitians", LCB File No. R095-22.

PURPOSE OF 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. The purpose of the proposed regulations is to align current regulations governing the practice of dietetics with the requirements in Assembly Bills 73 and 330. In addition to the requirements of Assembly Bills 73 and 330, the purpose of the proposed amendments is to:

- 1) Require an unlicensed complaint investigation be investigated prior to issuing a cease and desist to avoid a negative fiscal impact to an individual who may not need a license to practice, but who would have to cease and desist prior to an investigation being completed to determine if they are practicing unlicensed.
- 2) Require the subject of an unlicensed complaint investigation to fully cooperate in the investigation in order to be able to make a well-informed determination as to whether an individual is engaged in the practice of dietetics without a license.
- 3) To better protect the public by making it clear that an individual who has been found to be practicing dietetics without a license, not be able to do so until such time that they become licensed.
- 4) To increase the efficiencies of the current complaint process against a licensed dietitian.

Background

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:

1. 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.

2. 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.

3. 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.

SUMMARY OF CHANGES TO NEVADA ADMINISTRATIVE CODE (NAC) 640E.

Section 1 requires an applicant for a license to engage in the practice of dietetics to submit transcripts or other documentation of the courses completed as part of the training program and a copy of the certificate issued for the completion of the training program in order to receive equivalent credit towards the satisfaction of requirements for the issuance of a license if the person completes a training program in secondary or postsecondary education for occupational, vocational, career, trade or technical education which meets certain requirements.

Sections 2, 3 and 9 to 11 update the names of the national entities for credentialing dietitians and accrediting dietetics education programs.

Section 4 eliminates the fee for the late renewal of a license and the issuance of a duplicate license to conform with the changes made by Assembly Bill 73.

Section 6 removes the requirement that the purpose of the provisional license being issued is to allow a person time to complete all licensure requirements during the period of the provisional license, to conform with existing law relating to that examination.

Section 7 adds a requirement that an application for a temporary license include the applicant's registration number from the Commission on Dietetic Registration.

Section 8 removes a requirement that the Executive Officer of the Board send a certified letter to a person about whom such a complaint was made directly upon the receipt of such a complaint which directs the person to immediately cease and desist from the practice of dietetics; and requires the person to submit an application for a license to practice dietetics within 10 days and instead requires the Executive Officer to first investigate any such complaint before directing the person to cease and desist; and require the person to submit an application for a license. If the Executive Officer determines after an investigation that the person is engaging in the practice of dietetics without a license, the Executive Officer must direct the person to cease and desist from the practice and require the person to submit an application to practice within 10 days. It also requires that the matter be referred to the Office of the Attorney General and the district attorney if the person being investigated fails to submit an application to practice dietetics within 10 days after the date that the Executive Officer notifies the person on which such an application is required; or cooperate fully with the investigation.

Section 8 also prohibits a person who is found to be engaging in the practice of dietetics without a license, and who is subsequently required to apply for a license, from engaging in the practice of dietetics until the Board issues a license and prohibits such a person whose application is denied from re-applying for licensure for 2 years after the date on which the application was denied.

Section 9, to the extent money is available, authorizes the Executive Officer to first examine a complaint to determine whether good cause exists to conduct an investigation before sending the complaint to the Commission or its successor organization for investigation. If the Executive Officer finds that good cause exists to investigate, to the extent that money is available to do so, the Executive Officer may commence an investigation or, if money is not available to do so, forward the complaint to the Commission or its successor organization. If the Executive Officer conducts an investigation and finds credible evidence to support the complaint, the Executive Officer may forward the complaint, any information collected as part of the investigation and the findings of the investigation to the Commission or its successor organization.

Section 12 The proposed regulations repeal NAC 640E.120 and NAC 640E.130 which are no longer relevant with the passage of Assembly Bill 73.

POSSIBLE OUTCOME IF PROPOSED AMENDMENT IS NOT APPROVED

If the proposed amendments are not approved by the Board of Health, the Board will not be in compliance with Assembly Bill 330 of the 81st (2021) legislative session, the current regulations will not be aligned with the requirements in Assembly Bill 73, and the potential for the positive impacts noted in the purpose of amendment section would not be implemented.

APPLICABILITY OF PROPOSED AMENDMENT

The proposed regulations will apply statewide.

PUBLIC COMMENT RECEIVED

Pursuant to NRS 233B.0608(2)(a), the Division of Public and Behavioral Health has requested input from licensed dietitians.

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?

Below is a summary of the responses to the questionnaire.

**Summary of Response Summary of Comments Received
(0 responses were received out of 1142 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?
No responses received.	No responses received.	No responses received.	No responses received.

A public workshop was held on June 8, 2022. Ten individuals attended the public workshop, although some individuals may have been attending the public workshop to hear other proposed regulations being heard at the public workshop. No testimony in support or opposed was provided during the public workshop.

STAFF RECOMMENDATION

Staff recommends the State Board of Health adopt the proposed regulation amendments to Nevada Administrative Code (NAC) 640E, “Dietitians”, LCB File No. R095-22.

PRESENTER

Leticia Metherell, RN, Health Program Manager III

Enclosures

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

LCB File No. R095-22

July 13, 2022

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

AUTHORITY: § 1, NRS 622.087 and 640E.110; §§ 2 and 10, NRS 640E.110 and 640E.250; § 3, NRS 622.530 and 640E.110; § 4, NRS 622.530, 640E.110, 640E.150, 640E.180, 640E.190, 640E.220 and 640E.240; §§ 5 and 12, NRS 640E.110; § 6, NRS 640E.110 and 640E.180; § 7, NRS 640E.110 and 640E.190; § 8, NRS 640E.110, 640E.360 and 640E.370; § 9, NRS 640E.110 and 640E.290; § 11, NRS 640E.110 and 640E.130.

A REGULATION relating to dietetics; establishing requirements to receive equivalent credit from certain training programs towards a license to practice dietetics; eliminating certain fees relating to licenses; revising certain provisions governing the issuance of a provisional license; revising certain provisions governing an application for a temporary license; revising certain procedures governing complaints that a person is engaging in the practice of dietetics without a license; revising certain procedures governing the investigation of complaints against applicants and licensees; updating the names of the national entities for credentialing dietitians and accrediting dietetics education programs; repealing certain requirements relating to an application for a license to conform with existing law; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the State Board of Health to adopt regulations establishing reasonable standards for licensing in and professional conduct for the practice of dietetics. (NRS 640E.110) In 2021, during the 81st Legislative Session, the provisions of Assembly Bill No. 73 (A.B. 73) were enacted, which replaced existing requirements for an applicant for a license to engage in the practice of dietetics with a requirement that an applicant provide evidence that he or she is a registered dietitian in good standing with the Commission on Dietetic Registration or its successor organization. (NRS 640E.080, 640E.150) **Section 12** of this regulation repeals existing regulations to conform with this change. **Section 5** of this regulation makes a conforming change to eliminate a reference to the repealed section. **Sections 2, 3 and 9-11** of this regulation update the names of the national entities for credentialing dietitians and accrediting dietetics education programs.

Existing law: (1) authorizes an applicant for a license to engage in the practice of dietetics to receive equivalent credit towards the satisfaction of requirements for the issuance of a

license if the person completes a training program in secondary or postsecondary education for occupational, vocational, career, trade or technical education which meets certain requirements; and (2) requires the Board to adopt regulations relating to the procedure for receiving such equivalent credits. (NRS 622.087) **Section 1** of this regulation requires an applicant for a license to engage in the practice of dietetics to submit transcripts or other documentation of the courses completed as part of the training program and a copy of the certificate issued for the completion of the training program in order to receive such equivalent credit.

Existing law requires the Board to adopt regulations to establish certain fees which must be paid by a licensee or an applicant for a license to engage in the practice of dietetics. (NRS 640E.240; NAC 640E.060) A.B. 73 removed a requirement for the Board to establish fees for the late renewal of a license and the issuances of a duplicate license. (Section 5 of Assembly Bill No. 73, chapter 83, Statutes of Nevada 2021, at page 335) **Section 4** of this regulation eliminates the fee for the late renewal of a license and the issuance of a duplicate license to conform with the changes made by A.B. 73.

Existing law and regulations authorize the Board to grant a provisional license to engage in the practice of dietetics, under the supervision of a licensed dietitian, to an applicant who provides evidence that he or she is eligible to take but has not successfully completed the Registration Examination. (NRS 640E.180; NAC 640E.100) **Section 6** of this regulation removes the requirement that the purpose of the provisional license being issued is to allow a person time to complete all licensure requirements during the period of the provisional license, to conform with existing law relating to that examination.

Existing law and regulations authorize the Board to grant a temporary license to engage in the practice of dietetics in this State to a person who holds a corresponding license in another jurisdiction and meets certain requirements. (NRS 640E.190; NAC 640E.110) **Section 7** of this regulation adds a requirement that an application for a temporary license include the applicant's registration number from the Commission.

Existing regulations establish procedures governing complaints that a person is engaging in the practice of dietetics without a license. (NAC 640E.200) **Section 8** of this regulation removes a requirement that the Executive Officer of the Board send a certified letter to a person about whom such a complaint was made directly upon the receipt of such a complaint which: (1) directs the person to immediately cease and desist from the practice of dietetics; and (2) requires the person to submit an application for a license to practice dietetics within 10 days. **Section 8** instead requires the Executive Officer to: (1) first investigate any such complaint before directing the person to cease and desist; and (2) require the person to submit an application for a license. If the Executive Officer determines after an investigation that the person is engaging in the practice of dietetics without a license, the Executive Officer must direct the person to cease and desist from the practice and require the person to submit an application to practice within 10 days.

Existing regulations require that if a person against whom a complaint is filed fails to submit an application or other evidence in a timely fashion to the Executive Officer, the matter must be referred to the Office of the Attorney General and the district attorney of the county in which the alleged violation occurred for investigation and possible prosecution. (NAC 640E.200) **Section 8** instead requires that the matter be referred to the Office of the Attorney General and the district attorney if the person being investigated fails to: (1) submit an application to practice dietetics within 10 days after the date that the Executive Officer notifies the person on which such an application is required; or (2) cooperate fully with the investigation.

Section 8 prohibits a person who is found to be engaging in the practice of dietetics without a license, and who is subsequently required to apply for a license, from engaging in the practice of dietetics until the Board issues a license. **Section 8** prohibits such a person whose application is denied from re-applying for licensure for 2 years after the date on which the application was denied.

Existing regulations require that the Executive Officer forward each complaint against a licensee or an applicant for a license to engage in the practice of dietetics to the Commission or its successor organization for investigation of the complaint. If the Commission or its successor organization refuses to investigate the complaint, the Executive Officer is authorized to conduct an investigation. (NAC 640E.210) To the extent money is available to do so, **section 9** of this regulation authorizes the Executive Officer to first examine a complaint to determine whether good cause exists to conduct an investigation before sending the complaint to the Commission or its successor organization for investigation. If the Executive Officer finds that good cause exists to investigate, to the extent that money is available to do so, the Executive Officer may commence an investigation or, if money is not available to do so, forward the complaint to the Commission or its successor organization. If the Executive Officer conducts an investigation and finds credible evidence to support the complaint, the Executive Officer may forward the complaint, any information collected as part of the investigation and the findings of the investigation to the Commission or its successor organization.

Section 1. Chapter 640E of NAC is hereby amended by adding thereto a new section to read as follows:

A person who wishes to receive equivalent credit pursuant to NRS 622.087 towards the satisfaction of requirements for the issuance of a license pursuant to this chapter and chapter 640E of NRS must submit, as part of the application for the license:

- 1. A transcript or other documentation which shows the courses completed as part of the training program; and*
- 2. A copy of the certificate issued for the completion of the training program.*

Sec. 2. NAC 640E.050 is hereby amended to read as follows:

640E.050 1. All applications submitted pursuant to this chapter and chapter 640E of NRS must be filed with the Executive Officer.

2. In addition to any applicable statutory requirements, an application for a license or provisional license to engage in the practice of dietetics, the renewal of such a license or the reinstatement of a such license must include:

(a) The applicant's full name, including his or her first name, middle name if applicable and last name.

(b) Any other name that has been used by the applicant.

(c) The applicant's date of birth.

(d) The applicant's physical address and the applicant's mailing address if different than the physical address.

(e) A telephone number at which the applicant can be reached.

(f) A method of electronic communication, including, without limitation, an electronic mail address, a telephone number that will accept electronic mail, or any other method by which the Executive Officer may communicate with the applicant other than by telephone or United States mail. The Executive Officer may exempt an applicant from the requirements of this paragraph if the applicant attests that the methods set forth in this paragraph are not feasible for him or her and acknowledges that the United States mail is the only means by which to communicate with the applicant.

(g) The applicant's registration number from the Commission on Dietetic Registration ~~of the Academy of Nutrition and Dietetics~~ or its successor organization.

(h) The status of any disciplinary action against the applicant by the Commission on Dietetic Registration ~~of the Academy of Nutrition and Dietetics~~ or its successor organization.

(i) A statement by the applicant acknowledging the mandatory reporting requirements concerning the abuse, neglect, exploitation, ~~or~~ isolation *or abandonment* of an older person *or*

vulnerable person set forth in NRS 200.5093 ~~[, the abuse, neglect, exploitation or isolation of a vulnerable person set forth in NRS 200.50935]~~ and the abuse or neglect of a child set forth in NRS 432B.220.

(j) Any other information required by the Executive Officer to determine the applicant's identity or eligibility for licensure.

3. An application which is not complete or which does not include payment of all applicable fees must be returned to the applicant not later than 10 working days after receipt of the application.

4. The Executive Officer shall determine what constitutes satisfactory ~~written~~ evidence required by NRS 640E.150 to be included with an application for a license to engage in the practice of dietetics.

5. The Executive Officer shall determine what constitutes satisfactory documentation and other information required by NRS 640E.220 to be included with an application for renewal.

6. An applicant shall notify the Executive Officer of any change to the information contained in his or her application within 15 days after the change. The notification may be made in writing, by electronic mail or by any other method authorized by the Executive Officer. The failure of an applicant to comply with the requirements of this subsection constitutes grounds for the denial of the application or the suspension or revocation of the applicant's license.

Sec. 3. NAC 640E.055 is hereby amended to read as follows:

640E.055 1. The Executive Officer may issue a license by endorsement to an applicant who is registered by the Commission on Dietetic Registration ~~[of the Academy of Nutrition and Dietetics]~~ or its successor organization and holds a corresponding and unrestricted license as a dietitian in the District of Columbia or any state or territory of the United States if the applicant:

(a) Provides to the Executive Officer the name of the state or territory of the United States, or the District of Columbia, in which the applicant holds a corresponding and unrestricted license and the number of that license;

(b) Attests, under penalty of perjury, that he or she meets the requirements of paragraphs (a) to (e), inclusive, of subsection 2 of NRS 622.530;

(c) Complies with the requirements of paragraphs (f) and (g) of subsection 2 of NRS 622.530; and

(d) Submits to the Executive Officer the information required by NRS 640E.200 and NAC 640E.050.

2. For the purposes of paragraph (g) of subsection 2 of NRS 622.530, a corresponding and unrestricted license as a dietitian 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 criminal 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.

Sec. 4. NAC 640E.060 is hereby amended to read as follows:

640E.060 1. The following nonrefundable fees must be paid by a licensee or an applicant for a license to engage in the practice of dietetics, as applicable:

- (a) For the issuance of a license\$100
- (b) For the issuance of a provisional license100
- (c) For the issuance of a temporary license.....25
- (d) For the renewal of a license100
- (e) ~~For the late renewal of a license or the issuance of a duplicate license5~~

(f) For the reinstatement of a license	100
(g) (f) For changing the name on a license.....	20

2. The amount of the fees charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for the handling of the fingerprint cards and issuance of the reports of criminal histories must be paid by the applicant.

Sec. 5. NAC 640E.065 is hereby amended to read as follows:

640E.065 The Executive Officer may request any documents from an applicant for a license or the holder of a license that the Executive Officer determines are necessary to carry out the duties prescribed in NAC 640E.050 to ~~640E.130,~~ 640E.120, inclusive.

Sec. 6. NAC 640E.100 is hereby amended to read as follows:

640E.100 1. A provisional license may be issued pursuant to NRS 640E.180 . ~~to allow a person time to complete all licensure requirements during the period of the provisional license.~~

2. The Executive Officer shall not issue more than one provisional license to any person.

3. For the purpose of NRS 640E.180, the Board will interpret the term “under the supervision of a licensed dietitian” as used in subsection 3 of NRS 640E.180 to mean the performance of a task or activity under the direction of a licensed dietitian where the licensed dietitian ensures the accomplishment of the task or activity, including initial direction and periodic inspection of the actual accomplishment of the task or activity.

Sec. 7. NAC 640E.110 is hereby amended to read as follows:

640E.110 1. Any temporary license issued pursuant to NRS 640E.190 must be limited to the providing of medical nutrition therapy in this State.

2. An application for a temporary license must include the following information:

(a) The applicant's name, the jurisdiction in which the applicant holds a corresponding license , ~~and~~ the number of that license ~~;~~ *and the applicant's registration number from the Commission on Dietetic Registration or its successor organization;*

(b) A declaration that the license is in good standing in the jurisdiction in which it was issued;

(c) The name of the entity for which the licensee will be providing services; and

(d) The address at which the licensee will be providing services.

Sec. 8. NAC 640E.200 is hereby amended to read as follows:

640E.200 1. Upon receipt of a complaint that a person is engaging in the practice of dietetics without a license, the Executive Officer shall ~~send a certified letter to the person about whom the complaint was made which;~~ *investigate such a complaint.*

2. A person being investigated pursuant to subsection 1 shall cooperate fully with the Executive Officer in the investigation, including, without limitation, by:

(a) Participating in any requested interviews;

(b) Allowing the onsite inspection of any locations at which the alleged unlicensed practice is occurring; and

(c) Providing any requested documentation, including, without limitation, documentation providing satisfactory evidence that the person is not engaged in the practice of dietetics, if applicable.

3. If the Executive Officer determines the person is engaging in the practice of dietetics without a license, the Executive Officer shall:

(a) ~~Directs~~ *Direct* the person immediately to cease and desist from the practice of dietetics; and

(b) ~~Requires~~ *Notify* the person ~~to~~ *that he or she must* submit to the Executive Officer , within 10 days , an application for a license to engage in the practice of dietetics or satisfactory evidence that the person is not engaged in the practice of dietetics.

4. A person who submits an application pursuant to paragraph (b) of subsection 3 shall not engage in the practice of dietetics until the Board issues a license to the person pursuant to NRS 640E.230.

~~2.~~ *5. If the person fails to submit the application ~~for evidence~~ required pursuant to paragraph (b) of subsection ~~1 timely:~~ 3 within 10 days after the date on which the Executive Officer notifies the person that such an application is required, or if the person fails to cooperate fully with the investigation pursuant to subsection 2:*

(a) The matter must be referred to the Office of the Attorney General and the district attorney of the county in which the alleged violation occurred for investigation and possible prosecution pursuant to NRS 640E.370; and

(b) A civil penalty may be imposed in accordance with the requirements and limitations of NRS 640E.370.

6. If an application submitted pursuant to paragraph (b) of subsection 3 is denied, the applicant shall not be allowed to apply for licensure as a dietitian pursuant to this chapter and chapter 640E of NRS for 2 years after the date on which the application was denied.

Sec. 9. NAC 640E.210 is hereby amended to read as follows:

640E.210 1. The Executive Officer shall receive a complaint against a licensee or an applicant for a license to engage in the practice of dietetics from any person.

2. ~~The~~ *Except as otherwise provided in this subsection, the* Executive Officer shall forward each complaint to the Commission on Dietetic Registration ~~of the Academy of~~

~~Nutrition and Dietetics~~ or its successor organization for investigation of the complaint. ~~If the Commission on Dietetic Registration of the Academy of Nutrition and Dietetics or its successor organization refuses to investigate the complaint,~~ *To the extent that money is available to do so, the Executive Officer may first examine the complaint to determine whether good cause exists to conduct an investigation. If good cause is found, the Executive Officer shall, pursuant to NRS 640E.290:*

(a) Forward the complaint to the Commission on Dietetic Registration or its successor organization for investigation and request a written report of the findings of the investigation; or

(b) To the extent that money is available to do so, commence an investigation. If, after investigation, the Executive Officer finds credible evidence to support the complaint, the Executive Officer may forward to the Commission on Dietetic Registration or its successor organization:

(1) The complaint;

(2) Any information collected as part of the investigation; and

(3) The findings of the investigation.

3. If, after reviewing the findings of an investigation conducted pursuant to subsection 2, the Executive Officer finds grounds for taking disciplinary action, the Executive Officer shall, after notice and hearing, issue a decision in the matter.

4. The failure of a licensee to cooperate with an investigation conducted pursuant to subsection 2 constitutes grounds for disciplinary action against the licensee.

Sec. 10. NAC 640E.260 is hereby amended to read as follows:

640E.260 1. The Executive Officer shall, in each order of revocation, prescribe a period during which a licensee may not apply for the reinstatement of his or her license. The period must not be less than 1 year or more than 10 years.

2. An applicant for the reinstatement of a license must:

- (a) Submit an application for reinstatement on a form prescribed by the Executive Officer;
- (b) Satisfy all the requirements for renewal of a license;
- (c) Attest that he or she has not, during the period of revocation of his or her license, violated any state or federal statute or regulation governing the practice of dietetics; and
- (d) Attest that there is no disciplinary action pending against the licensee before the Commission on Dietetic Registration ~~[of the Academy of Nutrition and Dietetics]~~ or its successor organization.

3. The Executive Officer may designate requirements in addition to the requirements of subsection 2 that must be satisfied before an applicant will be considered for reinstatement of his or her license, including, without limitation, completion of additional courses or programs if the applicant's license has been revoked for more than 2 years.

4. The Executive Officer:

- (a) Shall review an application for the reinstatement of a license to determine whether the application satisfies the requirements of this section; and
- (b) May deny an application for the reinstatement of a license which the Executive Officer determines does not satisfy those requirements.

5. In considering an application for the reinstatement of a license which has been revoked, the Executive Officer shall evaluate:

- (a) The severity of the act which resulted in the revocation of the license;

- (b) The conduct of the applicant after the revocation of the license;
- (c) The lapse of time since the revocation of the license;
- (d) The degree of compliance by the applicant with any conditions the Executive Officer specified as a prerequisite for the reinstatement of the license;
- (e) The degree of rehabilitation attained by the applicant as evidenced by statements to the Executive Officer from qualified people who have professional knowledge of the applicant; and
- (f) The truthfulness of the attestations made by the applicant pursuant to subsection 2.

6. After completing his or her evaluation, the Executive Officer shall deny or grant the reinstatement of the license.

7. If the Executive Officer takes any disciplinary action against a licensee after the reinstatement of his or her license, the first such disciplinary action shall be deemed to be the licensee's first offense.

Sec. 11. NAC 640E.300 is hereby amended to read as follows:

640E.300 1. The Dietitian Advisory Group is hereby established pursuant to NRS 640E.130.

2. The Advisory Group consists of the following five members appointed by the Board:

- (a) Four licensed dietitians; and
- (b) One person who represents the general public.

3. The term of each member of the Advisory Group is 4 years. A member may be reappointed.

4. If a vacancy occurs in the membership of the Advisory Group, the Board will appoint a qualified person to fill the vacancy.

5. The Advisory Group shall meet at least once per year or as otherwise called by the Chair or at the direction of the Board or the Executive Officer.

6. To the extent practicable and allowed by law, the Advisory Group shall conduct its meetings by telephone, videoconference or other electronic means.

7. At its first meeting each year, the members of the Advisory Group shall select a Chair from among its members. The Chair serves as the liaison to the Board and the Executive Officer.

8. The Executive Officer shall provide administrative assistance to the Advisory Group.

9. A majority of the members of the Advisory Group constitutes a quorum for the transaction of business. A member shall be deemed present at a meeting if the member is available to participate at the meeting by telephone, videoconference or other electronic means.

10. The Advisory Group may:

(a) Facilitate the development of materials which may be used to educate the public concerning the practice of dietetics;

(b) Facilitate the exchange of information between dietitians, the Commission on Dietetic Registration ~~{of the Academy of Nutrition and Dietetics}~~ or its successor organization, the Board and the Executive Officer; and

(c) To provide recommendations to the Board and the Executive Officer concerning regulations or practices that affect licensees, review disciplinary actions, appeals, denials or revocations of licenses and terms of the suspension or reinstatement of licenses.

11. The Advisory Group shall advise the Board and the Executive Officer on issues relating to dietetics if requested.

Sec. 12. NAC 640E.120 and 640E.130 are hereby repealed.

TEXT OF REPEALED SECTIONS

640E.120 Waiver of examination requirement. (NRS 640E.110)

1. The Executive Officer may waive the requirement of an examination set forth in paragraph (e) of subsection 1 of NRS 640E.150 if the Executive Officer is satisfied that the experience and qualifications of the applicant for a license to engage in the practice of dietetics justify granting the license without examination.

2. The Executive Officer may seek guidance from the Dietitian Advisory Group established pursuant to NAC 640E.300 concerning any request for such a waiver.

640E.130 Registration with certain organizations deemed to satisfy certain requirements for licensure. (NRS 640E.110) A dietitian who is registered by the Commission on Dietetic Registration of the Academy of Nutrition and Dietetics or its successor organization shall be deemed to have satisfied the requirements for licensure set forth in paragraphs (c), (d) and (e) of subsection 1 of NRS 640E.150.

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

SMALL BUSINESS IMPACT STATEMENT 2022
PROPOSED AMENDMENTS TO NAC 640E

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments should not have a negative economic impact upon a small business or discourage 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

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:

- 1. 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.*
- 2. 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.*
- 3. 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 in 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 repeal NAC 640E.120 and NAC 640E.130 which are no longer relevant with the passage of Assembly Bill 73.

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.

Pursuant to NRS 233B.0608(2)(a), the Division of Public and Behavioral Health has requested input from licensed dietitians.

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?

Summary of Response

Summary Of Comments Received (0 responses were received out of 1142 small business impact questionnaires distributed)			
Will a specific regulation have an adverse economic effect upon your business? No responses received.	Will the regulation (s) have any beneficial effect upon your business? No responses received.	Do you anticipate any indirect adverse effects upon your business? No responses received.	Do you anticipate any indirect beneficial effects upon your business? No responses received.

Other interested persons may obtain a copy of the summary by calling, writing or emailing:

Nevada Division of Public and Behavioral Health
Bureau of Health Care Quality and Compliance
Attention: Leticia Metherell
727 Fairview Drive, Suite E
Carson City, NV 89701
Phone: 775-684-1030
Email: lmetherell@health.nv.gov

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

A health program manager reviewed the requirements of Assembly Bill 330 and Assembly Bill 73 of the 81st (2021) legislative session, the proposed regulations, Nevada Revised Statutes Chapter 640E, Nevada Administrative Code Chapter 640E, and the small business impact questionnaire responses to determine the impact on small businesses. The proposed regulations carry out the requirement that the Board of Health adopt regulations to effectuate the purposes of carrying out provisions of Assembly Bill 330. In addition, Nevada Revised Statutes Chapter 640E and Nevada Administrative Code Chapter 640E were reviewed, related to unlicensed and licensed dietitian complaints, and revised to address potential issues, for example, allowing an individual who was found to be engaged in the unlicensed practice of dietetics, to be able to continue to do so, just because a licensure application to become a dietitian was submitted, but prior to the issuance of a license to practice dietetics.

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 in removing these fees.

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.

Adverse Economic Effects – There are no anticipated direct adverse economic effects.

Indirect Adverse Economic Effects – There are no anticipated indirect adverse economic effects.

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.

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

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.

The Division will hold a public workshop to obtain further feedback on the proposed regulations. The Division will take the feedback into consideration when determining if further modifications to the proposed regulations are needed, and the impact to small businesses.

5) The estimated cost to the agency 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) 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.

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

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

There are no other known duplicate or more stringent provisions regulating to the same activity.

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

The Division concluded the proposed amendments should not have a negative economic impact upon a small business or discourage the formation, operation or expansion of a small business in Nevada. The reason for the conclusion is based on the analysis of the proposed language and that no responses were received from industry indicating that the proposed regulations would result in a negative financial impact.

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

Division of Public and Behavioral Health
727 Fairview Drive, Suite E
Carson City, NV 89701
Leticia Metherell
Phone: 775-684-1045
Email: lmetherell@health.nv.gov

Certification by Person Responsible for the Agency

I, Lisa Sherych, 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: 05/12/2022

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 WORKSHOP

NOTICE IS HEREBY GIVEN that the Division of Public and Behavioral Health will hold a public workshop to consider amendments to Nevada Administrative Code (NAC) Chapters 433, 640D and 640E.

The workshop will be conducted via videoconference and will have a call-in option available beginning at 2 PM on Wednesday, June 8, 2022, by using the information provided below to join on your computer or by calling in via telephone. If you have difficulties joining in by computer, you can call in utilizing the number below.

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

+1 775-321-6111, (Phone Conference ID: 104 244 541#)

[Find a local number](#) | [Reset PIN](#)

These workshops will be conducted in accordance with NRS 241.020, Nevada's Open Meeting Law.

AGENDA

1. Introduction of workshop process
2. Public comment on proposed amendments to Nevada Administrative Code, Chapter 433, Administration of Mental Health and Intellectual and Developmental Disability Programs.
3. Public comment on proposed amendments to Nevada Administrative Code, Chapter 640D, Music Therapists.
4. Public comment on proposed amendments to Nevada Administrative Code, Chapter 640E, Dietetics.
5. Public Comment

Nevada Administrative Code, Chapter 433 - Background

The proposed regulations are being moved forward as required by Senate Bill (SB) 69 of the 81st (2021) Session.

Section 8 of the bill, in general, requires an adult to be certified by the Nevada Certification Board, or its successor organization, as a peer recovery support specialist or peer recovery support specialist supervisor before providing or supervising the provision of, as applicable, peer recovery support services for compensation as a regular part of his or her job duties; provides for the imposition of a civil penalty against an adult who violates that requirement; and authorizes an adult who is not certified to provide peer recovery support services to adults for compensation as an intern under certain circumstances.

Section 15 of the bill authorizes the Division to bring an action to enjoin any adult from providing or supervising the provision of peer recovery support services in violation of section 8.

Section 15.6 of the bill requires an employer, a person or an entity who employs a person for the purpose of providing or supervising the provision of peer recovery support services in a position where the person has regular and substantial contact with minors or retains an independent contractor to provide those services in such a position to undergo a screening to determine whether the person has, within the immediately preceding 5 years, been the subject of a substantiated report of the abuse or neglect of a child; or a violation of provisions prohibiting certain sexual conduct regarding minors, corporal punishment in public schools or the use of aversive interventions against pupils with disabilities in private schools. In general section 15.6 prohibits the employment of a person or retention of a person as an independent contractor for the purpose of providing peer recovery support services in a position where the person has regular and substantial contact with minors if the person has been found to have engaged in such conduct within the immediately preceding 5 years; and requires the termination of an employee or independent contractor who provides peer recovery support services in a position where the person has regular and substantial contact with minors and has been found to have engaged in such conduct within that period. It also authorizes an employee or independent contractor who believes that the information provided through a screening is incorrect to attempt to correct the information.

Section 15.6, subsection 7 of Senate Bill 69, requires the Division to adopt regulations to establish civil penalties to be imposed against any person or entity that fails to comply with the requirements of Section 15.6. In addition, it authorizes the Division to adopt regulations establishing a process to determine whether an employee or independent contractor who has been found to have engaged in such conduct within the immediately preceding 5 years may continue to provide peer recovery support services and have regular and substantial contact with minors.

Nevada Administrative Code, Chapter 640D, Music Therapists - Background

The proposed regulations are being moved forward as a result of Assembly Bill 330 of the 81st (2021) legislative session which requires each regulatory body, in this case the Board of Health, to adopt regulations to effectuate the purposes of the following bill requirements:

- 1. 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.*
- 2. 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.*
- 3. 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.

In addition, the proposed regulations amend NAC 640D.200 relating to unlicensed music therapy complaints by requiring the Executive Officer to investigate such complaints, not allowing unlicensed individuals to engage in music therapy services until the individual becomes licensed, and other related provisions.

The proposed regulations also amend NAC 640D.210, as it relates to a complaint against a licensee or an applicant for a license to practice music therapy, 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 Certification Board for Music Therapists.

Nevada Administrative Code, Chapter 640E, Dietetics - Background

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:

- 1. 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.*
- 2. 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.*
- 3. 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.

Members of the public may make oral comments at this meeting. Persons wishing to submit written testimony or documentary evidence may submit the material to Leticia Metherell, Health Program Manager at the following address:

Leticia Metherell
Division of Public and Behavioral Health
727 Fairview Drive, Suite E
Carson City, NV 89701
Phone: 775-684-1030
Fax: 775-684-1073
Email: lmetherell@health.nv.gov

Members of the public who require special accommodations or assistance at the workshops are required to notify Leticia Metherell, Health Program Manager, in writing to the Division of Public and Behavioral Health, 727 Fairview Drive, Suite E, Carson City, NV 89701, by calling 775-684-1045 or via email at: lmetherell@health.nv.gov at least five (5) working days prior to the date of the public workshop.

You may contact Leticia Metherell by calling 775-684-1045 or via email at lmetherell@health.nv.gov for further information on the proposed regulations or how to obtain copies of the supporting documents.

A copy of the notice and the proposed regulations are on file for inspection and/or may be copied at the following locations during normal business hours:

Division of Public and Behavioral Health
727 Fairview Drive, Suite E
Carson City, NV

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

Nevada State Library and Archives
100 Stewart Street
Carson City, NV

A copy of the regulations and small business impact statement can be found on the Division of Public and Behavioral Health's web page:

https://dpbh.nv.gov/Reg/HealthFacilities/State_of_Nevada_Health_Facility_Regulation_Public_Workshops/

A copy of the public workshop notice can also be found at Nevada Legislature's web page:

<https://www.leg.state.nv.us/App/Notice/A/>

A copy of this notice has been posted at the following locations:

1. Division of Public and Behavioral Health, 4150 Technology Way, First Floor Lobby, Carson City
2. Nevada State Library and Archives, 100 Stewart Street, Carson City
3. Legislative Building, 401 S. Carson Street, Carson City
4. Grant Sawyer Building, 555 E. Washington Avenue, Las Vegas

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 regulations, 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.