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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

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**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 81<sup>st</sup> (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**

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

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Lisa Sherych  
Administrator

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

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## **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](#)

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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 81<sup>st</sup> (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 81<sup>st</sup> (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](mailto: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](mailto: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](mailto: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/](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.