

July 5, 2022

**Sent Via E-mail:**

Nevada Department of Health and Human Services  
Division of Public and Behavioral Health  
Attn: Shannon Bennett  
Immunization Program Manager  
sbennett@health.nv.gov  
vlee@health.nv.gov

**RE:           Preschool-12<sup>th</sup> Grade-Religious Immunization Exemption Certificate Form**

**School:       The Alexander Dawson School at Rainbow Mountain**

**Parents:     Jessica Alvino  
               Dustin Alvino  
               Jamal Johnson  
               Chloe Purcell**

Dear Ms. Bennett and Ms. Lee,

Please be advised that my firm represents Jessica Alvino, Dustin Alvino, Jamal Johnson & Chloe Purcell (“Clients”) in this matter as it pertains to the Nevada Department of Health and Human Services, Division of Public and Behavioral Health’s (“DPBH”) “Preschool-12<sup>th</sup> Grade-Religious Immunization Exemption Certificate Form” (“Exemption Form”).

Due to the Exemption Form, my Clients have been unable to enroll their children in the 2022-2023 school year (“School Year”) at the Alexander Dawson School at Rainbow Mountain’s (“Dawson”). Dawson has confirmed that if DPBH will grant my Clients an exemption regarding the Exemption Form, they will be permitted to enroll their children for the School Year.

As You are aware, my Clients were not required to submit the Exemption Form in prior years when they submitted religious exemptions for their children. Notably, the Exemption Form requires my Clients to initial that they:

- 1) Understand the risk of contracting the disease(s) that the vaccine(s) prevent;
- 2) Understand the risk of transmitting the disease(s) to others;

- 3) Understand that, if an outbreak of vaccine-preventable diseases should occur, an exempt student will be excluded from school by the administrator from school; and
- 4) Understand that the Exemption Form must be submitted annually.

Moreover, the Exemption Form is vaccine specific which check boxes for eight (8) different vaccines, which my Clients also object to signing. My Clients seek to submit their children's religious exemption in the same manner as years prior. There is no administrative or statutory authority requiring my Clients to submit the Exemption Form. As outlined in further detail below, NRS 394.193 forbids the Exemption Form from hindering my Clients children from enrolling because they have not been immunized after they submit their religious exemptions. Dawson has confirmed that if DPBH grants the present request, my Clients will be able to enroll for the School Year.

NRS 394.193 states, that a "private school shall not refuse to enroll a child as a pupil because such child has not been immunized pursuant to NRS 394.192 if the parents or guardian of such child have submitted to the governing body a written statement indicating that their religious belief prohibits immunization of such child." NRS 394.192(1) provides,

Unless **excused because of religious belief or medical condition**, a child may not be enrolled in a private school within this State unless the child's parents or guardian submit to the governing body of the private school a certificate stating that the child has been immunized and has received proper boosters for that immunization or is complying with the schedules established by regulation pursuant to NRS 439.550 for the following diseases:

- (a) Diphtheria;
- (b) Tetanus;
- (c) Pertussis if the child is under 6 years of age;
- (d) Poliomyelitis;
- (e) Rubella;
- (f) Rubeola; and
- (g) Such other diseases as the local board of health or the State Board of Health may determine.

The Nevada Supreme Court has held the court would not look beyond the statute itself when ascertaining meaning when the language of the statute is unambiguous. *City Plan Development, Inc. v. Office of Labor Com'r Dept. of Business and Industry*, 121 Nev. 419, 434 (2005). The Nevada Supreme Court has also held the language of a statute should be given its plain meaning, not render words or phrases superfluous, and award meaning to all words and phrases. *Haney v. State*, 124 Nev. Adv. Op. No. 40, 47811 (2008) citing *Butler v. State*, 120 Nev. 879, 892-93 (2004). Moreover, in *State ex rel. Copeland v. Woodbury*, the Nevada Supreme Court stated, "[w]here a statute is clear, plain and unambiguous, we have repeatedly declared that there is no room for construction and the law must be followed regardless of

results.” *Hickey v. Eighth Judicial Dist. Court In & For County of Clark*, 105 Nev. 729, 734 (1989) citing 17 Nev. 337, 343 (1883).

The plain meaning of NRS 394.193 is clear that the Nevada legislature specifically excluded requiring the Exemption Form from being mandatory. My Clients have submitted their religious exemption requests in prior years with no objection from Dawson or DPBH. They seek to do so in the same manner for the School Year. Requiring a waiver drafted including language that my Clients are negligible for failing to get their Children vaccinated despite their sincerely held religious beliefs contradicts the intent of NRS 394.193. NRS 394.193 entirely omits and requirement to submit the Exemption Form. As such, the Exemption Form violates NRS 394.193 and my Clients should not be required to execute it and their Children should be permitted to enroll for the School Year based on the same.

Thank you for your attention to this matter. Please contact my office with any questions related to this correspondence. Please confirm by July 15th, 2022 that You will confirm with Dawson that my Clients are not required to submit the Exemption Form.

Sincerely,

*/s/ Adam Fulton, Esq.*  
Adam Fulton, Esq.

July 15, 2022

**Sent Via U.S. Mail & E-mail:**

Nevada Department of Health and Human Services  
Board of Health  
4150 Technology Way  
Carson City, NV 89706  
dpbh@health.nv.gov

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Thank you for your attention to this matter. Please contact my office with any questions related to this correspondence. Please confirm by July 22nd, 2022 that You will confirm with Dawson that my Clients are not required to submit the Exemption Form.

Sincerely,

*/s/ Adam Fulton, Esq.*  
Adam Fulton, Esq.

**From:** [Richard Wetzler](#)  
**To:** [DPBH StateBOH](#)  
**Cc:** [Dana Van Laeys](#); [Robin Valentine](#)  
**Subject:** FW: R048-22 NRS 449.24185  
**Date:** Wednesday, July 20, 2022 11:59:17 AM  
**Attachments:** [image001.png](#)  
[Monopoly Alert! R048-22 NRS 449.24185 Proposed Regulation of the State BOH .msg](#)  
**Importance:** High

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Dear Sirs/Madams:

We are concerned about the referenced proposed regulations and the existing Nevada statute that authorizes these regulations. The existing statute and the proposed regulations are addressed in previous emails from our Vice President of Education Development, Dana Van Laeys. Rather than repeating, I am attaching her previous email.

We are concerned that the existing statute and the proposed regulations violate federal and state anti-competitive laws. If approved, these proposed regulations would have the effect of creating additional unnecessary and unreasonable burdens to individuals that are certified by the NCCT. Our surgical technologist certification program is accredited by the same Agency that accredits the equivalent certification program of the certifying agency referenced in the statute and proposed regulation. Approval should not be limited to a sole accrediting agency and certification, but should be open to both accredited certification programs provided by legitimate certifying entities. The statute is already causing harm to our certificate holders and limits their ability to practice their profession; the proposed regulation imposes additional burdens.

We would like to explain our position and seek to correct this situation. Though we do not seek to introduce legislation, our goal, like yours, is to support laws and regulations necessary to insure that the people of your State are provided with the best possible medical care by certified individuals carrying accredited certifications issued by a legitimate provider.

The current statute, as exacerbated by the proposed regulation, does not provide additional protections but deprives qualified individuals of their livelihood. We appreciate your attention to this matter and look forward to further explaining our position in person or by additional written communications.

Richard S. Wetzler | General Counsel  
National Center for Competency Testing  
p 913.766.8893 | f 913.498.1243  
e [richard@ncctinc.com](mailto:richard@ncctinc.com)  
[www.ncctinc.com](http://www.ncctinc.com) | [Facebook](#) | [LinkedIn](#) | [Twitter](#)

**Full-Color-Logo**



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**NCCT:** 7007 College Boulevard, Suite 385, Overland Park Kansas 66211

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**From:** Joe Uccelli  
**Sent:** Monday, July 11, 2022 10:32 AM  
**To:** DPBH StateBOH <[StateBOH@health.nv.gov](mailto:StateBOH@health.nv.gov)>  
**Subject:** NRS 450B.510 Query

Regarding NRS 450B.510: Written do not resuscitate orders

It came up recently in our ICU at Renown whether or not a RN could take a verbal order for a change in a patient's code status, i.e. Full Code to DNR or DNR to Comfort Care. The scenario was that a patient needed to transition to Comfort Care as they were rapidly decompensating, but the physician of record was in the operating room with an emergency operation.

The verbiage of a "written order" in the above NRS is a bit dated considering the wide acceptance of electronic medical records and order placement. I was hoping for some clarification, specifically whether a verbal order for Code/Comfort Care orders can be entered into an electronic medical record by nursing staff to be signed by the physician later.

Thank-you,

Joe R. Uccelli MD, FACS

Western Surgical Group

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**From:** Dana Van Laeys  
**Sent:** Friday, April 29, 2022 5:19 PM  
**To:** DPBH StateBOH  
**Cc:** Robin Valentine; Richard Wetzler  
**Subject:** Monopoly Alert! R048-22 NRS 449.24185 Proposed Regulation of the State BOH

State Board of Health Decision Makers,

This correspondence is accompanied with the highest regard for everything you do for the people you have represent and with the belief that you honorably serve with the best of intentions.

**Concerns:**

- **Sole Sourcing/Monopoly** is of primary concern in **NRS 449.24185** and the related sections in **R048-22**. The current language includes only 1 certification and certifying body, CST(NBSTSA), and excludes accredited equivalent TS-C(NCCT).

Please consider that **amending the language to include TS-C (NCCT) in Proposed Regulation R048-22 and NRS 449.24185** would be the best action for the stakeholders in the State of Nevada before exacerbating the healthcare workforce shortage and limiting your constituents' access to qualified surgical technology professionals (by default, limiting some of those qualified constituents' right to practice unhindered in their field). This regulation as currently written creates unintended consequences.

**Relevant Information:**

Similar legislation and restrictions are introduced state by state and this monopoly creates a bottleneck which **accentuates a workforce shortage in an already stressed medical system.**

**Note the 'State of Emergency' that this monopoly led to in Oregon that took several years to correct:**  
<https://olis.oregonlegislature.gov/liz/2022R1/Downloads/MeasureDocument/HB4106/Introduced>

*See attached link to see how Pennsylvania avoided the emergency beginning with Section 501(1) (I)Page 7 and so on:*

[https://www.iahcsmm.org/images/Advocacy/Certification\\_Bills/PA\\_HB81.pdf](https://www.iahcsmm.org/images/Advocacy/Certification_Bills/PA_HB81.pdf)

In the industry for **over 30 years**, the National Center for Competency Testing (NCCT) is a certifying body that has an **NCCA-accredited certification program** in surgical technology.

The **TS-C (NCCT)** is the **Tech in Surgery-Certified (NCCT)** credential administered by the **National Center for Competency Testing** [[www.ncctinc.com](http://www.ncctinc.com)]. This NCCT certification program **holds the same NCCA accreditation** as does the CST(NBSTSA), thereby **making it an accredited equivalent**. Find the link to the listing of the two accredited surgical tech certification programs here:

[NCCA accredited programs](#) [Organization: National Center for Competency Testing; Accreditation: NCCA; click the I'm not a robot box and Filter]

Organization :  Results Contain  
 Accreditation :  Results Contain  
 Program Acronym :  Results Contain  
 Industry :  Results Contain  
 Program Name :  Results Contain

Showing Records 1 to 7 of 7

Organization	Program Acronym	Program Name	Accreditation	Accredited through / Verification	Website	Industry
National Center for Competency Testing	NCMA	National Certified Medical Assistant	NCCA	Accredited through 11/30/2025	<a href="http://www.nccctinc.com">http://www.nccctinc.com</a>	Healthcare: Medical Assistant/Technician/Healthcare: Other
National Center for Competency Testing	NCPT	Nationally Certified Phlebotomy Technician	NCCA	Accredited through 2/28/2022	<a href="http://www.nccctinc.com">http://www.nccctinc.com</a>	Healthcare: Medical Assistant/Technician/Healthcare: Other
National Center for Competency Testing	TS-C (NCCT)	Tech in Surgery - Certified (NCCT)	NCCA	Accredited through 5/31/2025	<a href="http://www.nccctinc.com">http://www.nccctinc.com</a>	Healthcare: Medical Assistant/Technician/Healthcare: Other
National Center for Competency Testing	NCET	ECG Technician	NCCA	Accredited through 2/28/2022	<a href="http://www.nccctinc.com">http://www.nccctinc.com</a>	Healthcare: Medical Assistant/Technician/Healthcare: Other
National Center for Competency Testing	NCMOA	Medical Office Assistant	NCCA	Accredited through 11/30/2025	<a href="http://www.nccctinc.com">http://www.nccctinc.com</a>	Healthcare: Medical Assistant/Technician/Healthcare: Other
National Center for Competency Testing	NCICS	National Certified Insurance and Coding Specialist	NCCA	Accredited through 10/31/2026	<a href="http://www.nccctinc.com">http://www.nccctinc.com</a>	Healthcare: Medical Assistant/Technician/Healthcare: Other
National Center for Competency Testing	NCPT	National Certified Patient Care Technicians	NCCA	Accredited through 10/31/2026	<a href="http://www.nccctinc.com">http://www.nccctinc.com</a>	Healthcare: Medical Assistant/Technician/Healthcare: Other

Organization	Program Acronym	Program Name	Accreditation	Accredited through / Verification	Website	Industry
National Board of Surgical Technology and Surgical Assisting	CST	Certified Surgical Technologist	NCCA	Accredited through 4/30/2025	<a href="http://www.nbstaa.org">http://www.nbstaa.org</a>	Healthcare: Other

**Twenty-four rigorous standards need to be met before earning NCCA accreditation.** In short, a certification program encompasses many essential elements around a credential, not just the exam. Such elements include: defining who qualifies to sit for the exam, Subject Matter Expert selection/involvement/qualification, formal Job Task Analysis and survey to determine critical job competencies, exam development, validation, psychometric analysis, cut score determination, etc..., all the way to and through credential maintenance.

An organization periodically completes a rigorous and lengthy process to show that a certification program meets all 24 Standards **and provides ongoing evidence** of how these standards are met with policies, procedures, reports, and other documentation and reporting mechanisms.

Below are excerpts directly from the ICE website accessed today.  
 Find more information on NCCA and the standards by following this link:

<https://www.credentialingexcellence.org/Accreditation/Earn-Accreditation/NCCA>

*In 1977, in cooperation with the federal government, the National Commission for Health Certifying Agencies (NCHCA) was formed to develop standards of excellence for voluntary certification programs in healthcare. In 1989 the name was changed to the National Commission for Certifying Agencies (NCCA) to accommodate all professions and industries.*

The NCCA's Standards for the Accreditation of Certification Programs were the first standards developed by the credentialing industry for professional certification programs. The NCCA Standards were developed to help ensure the health, welfare, and safety of the public. They highlight the essential elements of a high-quality program. The 2014 NCCA Standards are currently being implemented for the accreditation of certification programs through August 31, 2022. The 2021 NCCA Standards will be implemented beginning the January 31, 2023 application deadline.

The NCCA standards are consistent with The Standards for Educational and Psychological Testing (AERA, APA, & NCME, 1999) and are applicable to all professions and industries. NCCA accredited programs certify individuals in a wide range of professions and occupations including nurses, automotive professionals, respiratory therapists, counselors, emergency technicians, crane operators and more. To date, NCCA has accredited more than 315 programs from more than 130 organizations.

Accreditation for professional or personnel certification programs provides impartial, third-party validation that your program has met recognized national and international credentialing industry standards for development, implementation, and maintenance of certification programs.

**Proposed Language Alternatives:** (beginning ¾ down page 3 of R048-22)

“Existing law, in general, prohibits a hospital, independent center for emergency medical care, psychiatric hospital or ambulatory surgical center from employing a surgical technologist unless the surgical technologist has: (1) successfully completed an accredited training program for surgical technologists, and obtained and maintains certification from an NCCA accredited certification program for surgical technologists as a Certified Surgical Technologist by the National Board of Surgical Technology and Surgical Assisting or a successor organization; [Alternative #2: name both equivalent credentials and certification companies: Tech in Surgery-Certified (NCCT) credential administered by the National Center for Competency Testing] (2) successfully completed a training program for surgical technologists administered by certain federal entities; or (3) engaged in the practice of surgical technology at such a facility before January 1, 2018. Existing law authorizes such a facility to employ a surgical technologist who does not meet those requirements if, after conducting a thorough and diligent search, the facility is unable to employ a sufficient number of surgical technologists who possess such qualifications. (NRS 449.24185) **Section 13** of this regulation prescribes certain qualifications for a surgical technologist who is hired under such circumstances. **Section 13** also establishes the conditions under which an ambulatory surgical center will be deemed to have conducted a thorough and diligent search. Finally, **section 13** requires an ambulatory surgical center that employs a surgical technologist under such circumstances to maintain certain documentation. **Section 59** of this regulation makes a conforming change to indicate the proper placement of **sections 12 and 13** in the Nevada Administrative Code.”

**In closing:**

Thank you for your time and for considering that recognizing both accredited equivalent surgical technology certifications could help you refrain from unintentionally exacerbating the surgical technology workforce shortage and limiting your constituents' access to qualified medical professionals. This could, by default, save you from limiting some of those qualified constituents' right to practice unhindered in their field.

Respectfully Submitted,

**Dana Van Laeys, MA Ed, MLS(ASCP)<sup>CM</sup>MB<sup>CM</sup>, CLS**

Vice President, Education Development

National Center for Competency Testing

p 913.396.0786 | f 913.498.1243

e [dana@ncctinc.com](mailto:dana@ncctinc.com)

[www.ncctinc.com](http://www.ncctinc.com) | [Facebook](#) | [LinkedIn](#) | [Twitter](#)



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**NCCT:** 7007 College Boulevard, Suite 385, Overland Park Kansas 66211

**Office Hours:** M-F 7:30am - 7:00pm CST; Saturday 9:00am - 3:00pm CST