

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. R094-22

NOTICE IS HEREBY GIVEN that the State Board of Health will hold a public hearing to consider amendments to Chapter 640D of Nevada Administrative Code (NAC), Music Therapists, LCB File No. R094-22. 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 Locations:

- [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 needed to be in compliance with 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. 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.

B. 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.

C. 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 therapist complaints by requiring the Executive Officer to investigate such complaints, not allowing unlicensed individuals to engage in the practice of music therapy 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.

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 640D regulates:

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

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

B. *Beneficial Effects* – There are no anticipated direct beneficial economic effects.

Indirect Beneficial Effects – Indirect beneficial effects noted by industry included:

This has no direct economic impact on my business but will make it easier to hold unlicensed practitioners and those who hire them accountable while also protecting my business from false claims. We can't estimate a dollar amount, but increased state oversight will benefit the legitimacy of our profession which will in turn benefit our ability to provide quality services in Nevada

I believe this further increases the validity of and trust towards music therapy in Nevada.

As an organization that employees licensed music therapists it will benefit us to have more support from the state in investigating and following up on complaints.

C. *Immediate Effects* – There are no known immediate adverse or beneficial effects.

D. *Long-term Effects* – There are no known long-term adverse or beneficial effects.

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 music therapy 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 music therapy unlicensed practice.

4. The methods used by the agency in determining the impact on a small business.

The Division reviewed Assembly Bill 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 the bill. 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.

An email was sent to all 28 licensed music therapists 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 help determine the impact on a small business.

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 music therapists.

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 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.

Members of the public who are disabled and require special accommodations or assistance at the hearing are requested to notify Leticia Metherell, in writing, no later than five (5) working days before the hearing via email at: lmetherell@health.nv.gov or by mailing a request to:

Nevada Division of Public and Behavioral Health
Attention: Leticia Metherell
727 Fairview Drive, Suite E
Carson City, NV 89701

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
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 online 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
Governor

Richard Whitley, MS
Director



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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) 640D, "Music Therapists", LCB File No. R094-22.

PURPOSE OF AMENDMENT

The proposed regulations are being moved forward as a result of Assembly Bill 330 of the 81st (2021) legislative session. The purpose of the proposed regulations is to bring the Board of Health in compliance with Assembly Bill 330. In addition to the requirements of Assembly Bill 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 music therapy without a license.
- 3) To better protect the public by making it clear that an individual who has been found to be practicing music therapy 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 music therapist.

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.

In addition, the proposed regulations amend NAC 640D.200 relating to unlicensed music therapist complaints by requiring the Executive Officer to investigate such complaints, not allowing unlicensed individuals to engage in the practice of music therapy 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.

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

Section 1 requires an applicant for a license to practice music therapy to submit a transcript or other documentation of the courses completed as part 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; and to submit a copy of the certificate issued for the completion of the training program in order to receive such equivalent credit.

Section 2 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 music therapy; and requires the person to submit an application for a license to engage in the practice of music therapy within 10 days. It instead requires the Executive Officer to first investigate any such complaint before directing the person to cease and desist and to apply for a license, and requires that if the Executive Officer determines after an investigation that the person is engaging in the practice of music therapy 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 for a license within 10 days. **Section 2** also requires a person who is being investigated for engaging in the practice of music therapy without a license to cooperate fully with the Executive Officer, including, without limitation, by participating in any requested interviews, allowing the onsite inspection of any location at which the alleged unlicensed practice is occurring and providing any requested documentation, including, without limitation, documentation providing satisfactory evidence that the person is not engaged in the practice of music therapy without a license.

Section 2, current regulations requires a person against whom a complaint is filed who fails to submit an application or other evidence in a timely fashion to the Executive Officer 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 to instead require 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 music therapy

within 2 weeks after the date that the Executive Officer notifies the person that the application is required; or fails to cooperate fully with the investigation. **Section 2** also prohibits a person who is found to be engaging in the practice of music therapy without a license, and who is subsequently required to apply for a license, from engaging in music therapy services until the application is granted and the Board issues a license and prohibits such a person whose application is denied from reapplying for licensure for 2 years after the date on which the application was denied.

Section 3 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 Certification Board 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 Certification Board 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 Certification Board or its successor organization.

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 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 music therapists.

An email was sent to all 28 licensed music therapists 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

<p align="center">Summary Of Comments Received (Two (2) responses were received out of 28 small business impact questionnaires distributed)</p>			
<p>Will a specific regulation have an adverse economic effect upon your business?</p>	<p>Will the regulation (s) have any beneficial effect upon your business?</p>	<p>Do you anticipate any indirect adverse effects upon your business?</p>	<p>Do you anticipate any indirect beneficial effects upon your business?</p>
<p>Yes = 0 No = 2</p>	<p>Yes = 2 No = 0</p>	<p>Yes = 0 No = 2</p>	<p>Yes = 2 No = 0</p>
	<p>This has no direct economic impact on my business but will make it easier to hold unlicensed practitioners and those who hire them accountable while also protecting my business from false claims. We can't estimate a dollar amount but increased state oversight will benefit the legitimacy of our profession which will in turn benefit our ability to provide quality services in Nevada.</p>		<p>I believe this further increases the validity of and trust towards music therapy in Nevada. As an organization that employees licensed music therapists it will benefit us to have more support from the state in investigating and following up on complaints.</p>

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) 640D, “Music Therapists”, LCB File No. R094-22.

PRESENTER

Leticia Metherell, RN, Health Program Manager III

Enclosures

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

LCB File No. R094-22

July 14, 2022

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

AUTHORITY: § 1, NRS 622.087, 640D.090 and 640D.110; § 2, NRS 640D.090 and 640D.220;
§ 3, NRS 640D.090 and 640D.160.

A REGULATION relating to music therapy; establishing requirements to receive equivalent credit from certain training programs towards a license to practice music therapy; revising certain procedures governing complaints that a person is engaging in the practice of music therapy without a license; revising certain procedures governing the investigation of complaints against applicants and licensees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Health to issue a license to practice music therapy to applicants who meet certain requirements. (NRS 640D.110) Existing law: (1) authorizes an applicant 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 practice music therapy to submit a transcript 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 regulations establish procedures governing complaints that a person is engaging in the practice of music therapy without a license. (NAC 640D.200) **Section 2** 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 music therapy; and (2) requires the person to submit an application for a license to engage in the practice of music therapy within 10 days. **Section 2** requires the Executive Officer to first investigate any such complaint before directing the person to cease and desist and to apply for a license, and requires that if the Executive Officer determines after an investigation that the person is engaging in the practice of music therapy 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 for a license within 10 days.

Section 2 requires a person who is being investigated for engaging in the practice of music therapy without a license to cooperate fully with the Executive Officer, including, without limitation, by participating in any requested interviews, allowing the onsite inspection of any location at which the alleged unlicensed practice is occurring and providing any requested documentation, including, without limitation, documentation providing satisfactory evidence that the person is not engaged in the practice of music therapy without a license.

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 640D.200) **Section 2** 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 music therapy within 2 weeks after the date that the Executive Officer notifies the person that the application is required; or (2) cooperate fully with the investigation.

Section 2 prohibits a person who is found to be engaging in the practice of music therapy without a license, and who is subsequently required to apply for a license, from engaging in music therapy services until the application is granted and the Board issues a license. **Section 2** prohibits such a person whose application is denied from reapplying 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 music therapy to the Certification Board for Music Therapists or its successor organization for investigation of the complaint. If the Certification Board or its successor organization refuses to investigate the complaint, the Executive Officer is authorized to conduct an investigation. (NAC 640D.210) To the extent money is available to do so, **Section 3** 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 Certification Board 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 Certification Board 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 Certification Board or its successor organization.

Section 1. Chapter 640D 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 640D 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 640D.200 is hereby amended to read as follows:

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

2. A person who is 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 location at which the alleged unlicensed practice of music therapy 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 music therapy, if applicable.

3. If the Executive Officer determines after an investigation that a person is engaging in the practice of music therapy without a license, the Executive Officer shall:

(a) ~~Directs~~ Direct the person immediately to cease and desist from the practice of music therapy; 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 music therapy . ~~for~~

~~satisfactory evidence that the person is not engaged in the practice of music therapy.~~

~~—2. If the person fails to submit the application or evidence required pursuant to subsection 1 timely, the~~

4. *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

~~if the person:~~

(a) *Fails to submit an application as required pursuant to paragraph (b) of subsection 3 within 10 days after the date on which the Executive Officer notifies the person that the application is required; or*

(b) *Fails to cooperate fully with the investigation pursuant to subsection 2.*

5. *Except as otherwise provided in NRS 640D.080, a person who submits an application pursuant to paragraph (b) of subsection 3 shall not engage in music therapy services until the Board issues a license to the person pursuant to NRS 640D.110.*

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 music therapist pursuant to this chapter and chapter 640D of NRS for 2 years after the date on which the application was denied.*

Sec. 3. NAC 640D.210 is hereby amended to read as follows:

640D.210 1. The Executive Officer shall receive a complaint against a licensee or an applicant for a license to practice music therapy from any person.

2. ~~The~~ *Except as otherwise provided in this subsection, the* Executive Officer shall forward each complaint to the Certification Board for Music Therapists or its successor organization for investigation of the complaint. ~~If the Certification Board for Music Therapists 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 a complaint to determine whether good cause exists to* conduct an investigation. *If good cause is found, the Executive Officer shall, pursuant to NRS 640D.160:*

(a) Forward the complaint to the Certification Board for Music Therapists 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 conducting an investigation, the Executive Officer finds credible evidence to support the complaint, the Executive Officer may forward to the Certification Board for Music Therapists 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 in the manner provided in NAC 640D.220.

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

Steve Sisolak
Governor



Richard Whitley, MS
Director

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

**SMALL BUSINESS IMPACT STATEMENT 2022
PROPOSED AMENDMENTS TO NAC 640D**

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 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.

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 music therapists.

An email was sent to all 28 licensed music therapists 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 (Two (2) responses were received out of 28 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?
Yes = 0 No = 2	Yes = 2 No = 0	Yes = 0 No = 2	Yes = 2 No = 0
	This has no direct economic impact on my business but will make it easier to hold unlicensed practitioners and those who hire them accountable while also protecting my business from false claims.		I believe this further increases the validity of and trust towards music therapy in Nevada. As an organization that employees licensed music therapists it will

	<p>We can't estimate a dollar amount but increased state oversight will benefit the legitimacy of our profession which will in turn benefit our ability to provide quality services in Nevada.</p>		<p>benefit us to have more support from the state in investigating and following up on complaints.</p>
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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 of the 81st (2021) legislative session, the proposed regulations, Nevada Revised Statutes Chapter 640D, Nevada Administrative Code Chapter 640D, 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 640D and Nevada Administrative Code Chapter 640D, were reviewed, related to unlicensed and licensed music therapist complaints, and revised to address potential issues, for example, allowing an individual who was found to be engaged in unlicensed music therapy services, to be able to continue to do so, just because a licensure application to become a music therapist was submitted, but prior to the issuance of a license to practice music therapy.

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 – There are no anticipated direct beneficial economic effects.

Indirect Beneficial Effects – Indirect beneficial effects noted by industry included:

This has no direct economic impact on my business but will make it easier to hold unlicensed practitioners and those who hire them accountable while also protecting my business from false claims. We can't estimate a dollar amount but increased state oversight will benefit the legitimacy of our profession which will in turn benefit our ability to provide quality services in Nevada

I believe this further increases the validity of and trust towards music therapy in Nevada.

As an organization that employees licensed music therapists it will benefit us to have more support from the state

in investigating and following up on complaints.

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 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 the bill. 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 music therapists.

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 industry feedback which indicated there would be no direct or indirect adverse economic impact on their business and the analysis of the proposed regulations, that concluded the same.

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
4150 Technology Way, Suite 300
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 business this statement was prepared properly and is accurate.

Signature: 

Date: _____04/28/2022_____

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.