

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. R111-22)

NOTICE IS HEREBY GIVEN that the State Board of Health will hold a public hearing at 9:00 a.m. on Wednesday, December 2, 2022, in conjunction with the State Board of Health meeting. The purpose of the hearing is to receive comments from all interested persons regarding the Amendment of regulations that pertain to Chapter 440 of Nevada Administrative Code (NAC), Vital Statistics.

The State Board of Health hearing will be conducted via videoconference beginning at 9:00 a.m. on Wednesday, December 2, 2022 at the following locations:

| | |
|--|---|
| Nevada Division of Public and Behavioral Health (DPBH) Hearing Room No. 303, 3rd Floor 4150 Technology Way Carson City, NV 89706 | Rawson-Neal Psychiatric Hospital Training Room B (193) 650 Community College Drive Las Vegas, NV 89146 |
|--|---|

Video Attendance: [Click here for the Teams Video Conference Link](#)

Or call in (audio only)
+1 775-321-6111
Phone Conference ID: 153 453 179#

The following information is provided pursuant to the requirements of NRS 233B.0603.

The changes to NAC 440 in LCB File No. R111-22 are to remove obstacles for advancement that no longer serve the public's best interest and include the following changes:

- Clarifying the English Replacement of a Foreign Birth Certificate
- Clarifying ID requirements for Declarations of Paternity/Parentage
- Clarifying how to fill out the cause of death
- Aligning deadlines for medical certifiers to sign death certificates with existing law
- Clarifying who is responsible to sign a death certificate once the coroner relinquishes jurisdiction
- Clarifying the responsibility of transferring death records from one funeral home to another

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- Clarifying gender identity options and the evidence needed to change it once the record has been registered
- Clarified the delayed birth process and evidence required
- Clarified the non-refundable status of fees once services have been rendered
- Removal of the notary services from regulation

1. Anticipated effects on the business which NAC 440 regulates:

- A. *Adverse effects:* None. The proposed regulations will produce negligible impact on small businesses.
- B. *Beneficial:* None reported.
- C. *Immediate:* None reported.
- D. *Long-term:* None reported.

2. Anticipated effects on the public:

- A. *Adverse:* None.
- B. *Beneficial:* None reported.
- C. *Immediate:* None reported.
- D. *Long-term:* None reported.

3. The six (6) responses were reviewed manually for positive and negative impacts upon small business. One indicated a negative impact. Five (5) indicated no negative nor positive direct impact. One indicated a negative impact. Five (5) indicated no negative indirect impact. One indicated an indirect benefit. Five (5) indicated no indirect benefit.

4. There is no anticipated cost to the agency for enforcement of the proposed regulations.

5. The proposed regulations do not overlap or duplicate state, federal or other law or regulation.

6. The proposed regulations do not establish a new fee or increase an existing fee.

Persons wishing to comment upon the proposed action of the Board of Health may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Board's Secretary, Lisa Sherych, no later than November 25, 2022, at the following address:

Secretary, State Board of Health
Division of Public and Behavioral Health
4150 Technology Way, Suite 300

Steve Sisolak
Governor
Richard Whitley, MS
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Carson City, NV 89706

Written comments, testimony, or documentary evidence in excess of two typed, 8 ½" x 11" pages will not be accepted at the time of the hearing. The purpose of this requirement is to allow Board members adequate time to review the documents.

If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Board of Health may proceed immediately to act upon any written submissions

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

Nevada Division of Public and Behavioral Health
4150 Technology Way
Carson City, NV 89701

Nevada State Library
100 Stewart Street
Carson City, NV 89701

Nevada Division of Public and Behavioral Health
4220 S. Maryland Parkway, Suite 810, Building D
Las Vegas, NV 89119

A copy of the regulations and small business impact statement can be found on-line by going to:
<https://dpbh.nv.gov/Programs/BirthDeath/Birth and Death Vital Records - Home/>

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.

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MEMORANDUM

DATE: October 31, 2022

TO: Dr. Jon Pennell, Chairperson, State Board of Health
Dr. Jeffery Murawsky, Vice Chair, State Board of Health

FROM: Lisa Sherych, Secretary
Administrator, Division of Public and Behavioral Health

RE: Consideration and adoption of proposed regulation LCB File No. R111-22
Amendments to Nevada Administrative Code (NAC) 440

PURPOSE OF AMENDMENTS

The proposed addition/change of regulations to NAC 440 in LCB File No. R111-22 include aligning regulation with existing law, remove notary services from the regulations, and provide clarification requested by the State of Nevada Legislature's Sunset Committee.

SUMMARY OF CHANGES TO THE NAC

The proposed addition/change of regulations to NAC 440 in LCB File No. R111-22 are to clarify:

- How to fill out a death certificate
- Who is responsible for signing a death certificate once a coroner relinquishes jurisdiction
- Which funeral home is responsible for transferring a record
- Identification requirements for declarations of paternity/parentages
- Gender identity options and the evidence needed to change once a record has been registered
- The delayed birth process and evidence required
- Non-refundable fee status once services have been rendered
- English replacements of foreign birth certificates for use in the US only

POSSIBLE OUTCOME IF PROPOSED AMENDMENT IS NOT APPROVED

If NAC 440 regulations are not approved, the department of health will be in direct violation of requirements placed on by the Nevada Legislature's Sunset committee, and confusion will still cause unwarranted delays in processing death certificates, delayed birth certificates and adding fathers to their child's birth certificate.

PUBLIC COMMENT RECEIVED

A Small Business Impact Questionnaire was sent to system users on July 5, 2022. A Small Business Impact Statement was prepared based upon the lack of returned questionnaires. Out of 4,362 sent, six (6) were returned. Only one of the six stated that the regulation will have an adverse economic impact. After a clarifying conversation with a respondent, they rescinded their decision. Of the six only one respondent indicated that there would be a beneficial impact. Only one indicated an indirect adverse effect but rescinded their response after clarifying the regulations. No one indicated an indirect beneficial effect.

Therefore, staff has determined that there is no impact on small businesses in the State of Nevada.

Nevada Division of Public and Behavioral Health (DPBH) Office of Vital Records (OVR) held a Public Workshop on November 14, 2022, to consider proposed regulations (LCB File No. R111-22). The original workshop scheduled for October 12, 2022, was canceled due to an internet outage that affected all state offices and the state website.

Attendees of the Public Workshop

- Kat Sinkewitz of Health Freedom Nevada requested clarification on the proposed regulations. Stephanie Herrera, Melanie Rouse of Clark County Medical Examiner's Office and Shana Rhinehart offered clarification.
- Linda Anderson of Nevada Public Health Foundation congratulated the Office of Vital Records for cleaning up language and making it more user friendly

STAFF RECOMMENDATION

Staff recommends that the State Board of Health adopt the proposed amended regulations to NAC 440 in LCB File No. R111-22.

PRESENTER

Stephanie Herrera, Program Officer III, Bureau of Health Protection and Preparedness, Division of Public and Behavioral Health.

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

LCB File No. R111-22

August 10, 2022

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

AUTHORITY: §§ 1, 6, 8 and 9, NRS 440.120; § 2, NRS 440.120 and 440.303; § 3, NRS 440.120 and 440.325; § 4, NRS 440.120 and 440.310; § 5, NRS 440.120 and 440.380; § 7, NRS 440.120, 440.380 and 440.410; §§ 10-12, NRS 440.120 and 440.620; § 13, NRS 440.175 and 440.700.

A REGULATION relating to vital statistics; revising requirements governing the preparation of replacement, new, supplementary and delayed certificates of birth and death certificates; prescribing the manner to correct certain information on a death certificate; requiring the transfer of an electronic record of death when a body is transferred between funeral homes; providing that certain fees are nonrefundable; adding and removing certain fees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires: (1) the State Board of Health to adopt regulations to provide a system for registering births and deaths in this State; and (2) the State Registrar of Vital Statistics to enforce those regulations. (NRS 440.120)

Section 1 of this regulation requires a funeral director who is responsible for obtaining and filing a certificate of death to indicate the gender identity or expression of the deceased person on the certificate of death. **Section 1** also prescribes the manner in which a person may request to alter or correct the gender identity or expression indicated on a death certificate.

Existing law authorizes a person whose birth certificate or other evidence of birth is written in a language other than English to apply to the State Registrar for a birth certificate in the English language. (NRS 440.303) If a replacement certificate is made to replace an original certificate that was issued in a foreign country and is not in English, **section 2** of this regulation requires the replacement certificate to be translated into English. **Section 13** of this regulation prescribes a fee for replacing a birth certificate issued under such circumstances.

Existing law and regulations authorize the preparation of a new birth certificate upon the establishment of paternity or parentage. (NRS 440.325; NAC 440.110) **Section 3** of this regulation requires: (1) the name of each parent to be obtained from the original birth certificate and transferred to the new birth certificate; and (2) each parent to provide the State Registrar with proof of current and valid photo identification.

Existing law and regulations require the preparation of a new or supplementary certificate of birth when a person is adopted. (NRS 440.310; NAC 440.120) Existing regulations require the

name of each parent on the report of adoption form to match the name recorded on the adoption decree, with the exception of a last name obtained through marriage or domestic partnership. (NAC 440.120) **Section 4** of this regulation removes a redundant provision authorizing the addition of a name or suffix to an adoption decree if the name or suffix is listed on the report of adoption form.

Existing law requires a pronouncement of death to be made by: (1) a physician or advanced practice registered nurse; (2) a physician assistant or registered nurse under the authorization of a physician; or (3) a registered nurse under the authorization of an advanced practice registered nurse. (NRS 440.415) **Section 5** of this regulation requires a physician or advanced practice registered nurse who pronounces a death or authorizes the pronouncement of a death to complete certain portions of the death certificate. **Section 5** also requires the completion of certain tasks relating to a death certificate within 24 hours after the death. If a dead body is transferred between funeral homes, **section 6** of this regulation requires the director of the originating funeral home to transfer an electronic record of death to the receiving funeral home.

Existing law and regulations require a medical certificate of death to contain the cause or causes of death. (NRS 440.380, 440.410; NAC 440.165) **Section 7** of this regulation: (1) revises information that must be included on the standard certificate of death relating to the cause of death; and (2) if the cause of death is a drug overdose, requires the listing on the death certificate of the exact components of the drug mixture that caused the overdose.

Existing regulations prescribe certain criteria under which a death is considered to have been attended by a physician or an advanced practice registered nurse. (NAC 440.170) **Sections 8 and 9** of this regulation require: (1) the coroner or medical examiner to relinquish jurisdiction over an attended death to the attending physician or advanced practice registered nurse; and (2) the attending physician or advanced practice registered nurse to determine the cause of death and complete the death certificate. If there is a delay or dispute between physicians or advanced practice registered nurses regarding the death certificate, **section 8** requires the primary care physician or advanced practice registered nurse for the deceased to determine the cause of death and complete the death certificate.

Existing law and regulations establish the proof and prerequisites necessary to file for a delayed certificate of birth, which is a certificate filed more than 1 year after the date of birth of the person of record. (NRS 440.620; NAC 440.300, 440.310) **Section 10** of this regulation requires an applicant filing for a delayed certificate of birth to provide documentary evidence to show that the person of record was born in Nevada and that no other birth certificate has been previously filed in this State or any other state or country. **Section 10** also revises the findings that the State Registrar is required to make before issuing a delayed certificate of birth. **Sections 11 and 12** of this regulation revise requirements governing documentary evidence that is submitted to support filing a delayed certificate of birth. **Section 11** also: (1) requires the State Registrar to determine whether such documentary evidence is sufficient to warrant filing a delayed certificate of birth; (2) authorizes the State Registrar to investigate an application for a delayed certificate of birth; and (3) authorizes the State Registrar to file a delayed certificate of birth in the absence of the required documentary evidence if the State Registrar determines it is appropriate to do so. **Section 12** authorizes the State Registrar to accept alternate documentation in place of certain documentation that is otherwise required to support an application for a delayed certificate of birth.

Existing regulations prescribe certain fees related to the registration of births and deaths in this State. (NAC 440.400) **Section 13** of this regulation provides that such fees are

nonrefundable once services have been provided. **Section 13** also removes a fee for the services of a notary public provided by the State Registrar.

Section 1. Chapter 440 of NAC is hereby amended by adding thereto a new section to read as follows:

1. A funeral director who is responsible for obtaining and filing a certificate of death shall indicate the sex of the deceased person on the certificate of death to match the gender identity or expression of the deceased person, as provided by the informant, using the following notations:

- (a) "M" indicates male;*
- (b) "F" indicates female;*
- (c) "X" indicates nonbinary; or*
- (d) "U" indicates unknown.*

2. A person may request to alter or correct the sex of a deceased person that is indicated on a death certificate to match the gender identity or expression of the deceased person in the manner prescribed by NAC 440.023 to 440.040, inclusive. Evidence supporting such a request for alteration or correction may include, without limitation:

- (a) The fully executed will of the deceased person specifically stating the gender identity or expression of the person;*
- (b) The driver's license of the deceased person at the time of death;*
- (c) Evidence of medical treatment of the deceased person for gender transition; or*
- (d) The updated birth certificate of the deceased person.*

Sec. 2. NAC 440.060 is hereby amended to read as follows:

440.060 1. The State Registrar may prepare a replacement certificate.

2. To the extent possible the information on the certificate must be copied directly from the old certificate to the new certificate. If information necessary to complete the replacement certificate is not included on the original certificate, such information may be added by altering or correcting the certificate in the manner prescribed by NAC 440.023 to 440.040, inclusive.

3. Except for the local registrar's signature, the signatures required for the certificate must be typed or entered in conformity with the signatures appearing on the original certificate. The item labeled "Registrar Signature" must be signed by the State Registrar.

4. The original certificate must be retained for permanent filing.

5. The new certificate must be noted as a replacement certificate for an original certificate on file.

6. If the original certificate was issued in a foreign country and written in a language other than English, the replacement certificate must be translated into English and accompanied by an affidavit executed by the translator before a person who is authorized to administer oaths attesting to the accuracy of the translation. The State Registrar shall retain the original certificate and the translation.

Sec. 3. NAC 440.110 is hereby amended to read as follows:

440.110 **1.** In the case specified by NRS 440.325, all information needed for the new certificate except the name of the child and the information related to ~~the~~ **each** parent must be obtained from the original certificate.

2. The name of the child and the name, age and state of birth of ~~the~~ **each** parent must be obtained from the court order , ~~or~~ Declaration of Paternity or Declaration of Parentage form filed with the State Registrar by ~~a~~ **the** parent.

3. In addition to the information required by subsection 2, each parent must provide the State Registrar with proof of a current and valid photo identification.

Sec. 4. NAC 440.120 is hereby amended to read as follows:

440.120 1. In preparing a new certificate of birth pursuant to NRS 440.310, the items specified by the certified adoption decree and the certified report of adoption must be completed as specified. Except as otherwise provided in subsection 2, if any of the information needed to complete the new certificate is not specified by the adoption decree or the report of adoption form, the information must be transcribed directly from the original certificate.

2. The information needed to complete the “Parent or Mother” and “Parent or Father” sections of the new certificate of birth must be collected from the report of adoption form devised for that purpose by the State Registrar or the equivalent officer of another jurisdiction. If the report of adoption form does not contain the information required to complete those sections of the new certificate, the information may be obtained from the certified court order. Except for a last name obtained through marriage or domestic partnership, the name of each parent on the report of adoption form must be identical to that on the adoption decree. ~~Any name or suffix omitted on the adoption decree may be added to the decree if it is listed on the certified report of adoption form.~~

Sec. 5. NAC 440.160 is hereby amended to read as follows:

440.160 1. ~~The person who is required to certify the cause of death~~ *Except as otherwise provided in this section, a physician or advanced practice registered nurse who pronounces a death pursuant to NAC 440.158, authorizes the pronouncement of death pursuant to NRS 440.415 or is required to complete a death certificate by NAC 440.170 or 440.180 shall*

complete the portions of the death certificate pertaining to the cause of death and the certification of death within ~~48~~ 24 hours after being assigned as the certifier.

2. If the death did not occur in a hospital or other institution and the death was attended by a physician or advanced practice registered nurse who will not be available within ~~48~~ 24 hours after the death, the certificate must be presented or assigned to an associate physician or advanced practice registered nurse who has access to the attending physician's or advanced practice registered nurse's medical files on the deceased. The associate physician or advanced practice registered nurse shall complete and certify the death certificate within ~~48~~ 24 hours after such presentation or after being assigned as the certifier.

3. If the death occurred in a hospital or other institution and the death was attended by a physician or advanced practice registered nurse who will not be available within ~~48~~ 24 hours after the death, the certificate must be presented or assigned to the chief medical officer of the institution or an associate physician or advanced practice registered nurse who has access to the medical records of the deceased. The chief medical officer or associate physician or advanced practice registered nurse shall complete and certify the death certificate before the end of the next business day after such presentation or after being assigned as the certifier.

4. Any certificate rejected for not containing a certification of cause of death, lack of information or lack of certifier signature must be completed by the certifier within 24 hours after such rejection.

Sec. 6. NAC 440.162 is hereby amended to read as follows:

440.162 *1.* A person completing a certificate of death or fetal death must initiate the certificate:

~~48~~ (*a*) If initiated by a certifier, not later than 24 hours after the death occurred; or

~~12.~~ (b) If initiated by a funeral director, not later than 24 hours after the funeral director receives the ~~corpse.~~ *dead body.*

2. If a dead body is transferred from one funeral home to a different funeral home, the funeral director of the originating funeral home shall ensure the transfer of the electronic record of death or fetal death, as applicable, to the receiving funeral home at the time the dead body is physically transferred into the care of the receiving funeral home.

Sec. 7. NAC 440.165 is hereby amended to read as follows:

440.165 1. The statement of the cause of death in a medical certificate of death is the certifier's best medical opinion and must be:

- (a) Written legibly, when completed on a paper certificate; and
- (b) Expressed clearly and concisely.

2. The State Registrar or local registrar shall return a medical certificate of death to the certifier to be corrected or made more definite if the statement:

- (a) Consists of only the term "natural causes";
- (b) Consists solely of mechanisms of death which merely attest to the fact of death or contains any other indefinite or obsolete term which denotes only the symptom of a disease or the conditions resulting from a disease;
- (c) Is illogically or confusingly written; or
- (d) Contains abbreviations, misspellings or is written in shorthand or in all capital letters.

3. Part I of the statement of the cause of death in the standard certificate of death approved by the United States Public Health Service may contain only the sequence of disease or the injury or other trauma directly resulting in death, as follows:

- (a) Line ~~["A"]~~ *“a. IMMEDIATE CAUSE (Final disease or condition resulting in death)”* must show the immediate (primary) cause of death;
- (b) ~~Lines “B” and “C”~~ *Line “b. Due to (or as a consequence of)”* must show the ~~contributory or intermediate~~ *factors that caused or contributed to the immediate* cause of death ~~;~~ *and* ~~listed in line a;~~
- (c) Line ~~["D"]~~ *“c. Due to (or as a consequence of)”* must show the ~~underlying cause of death;~~ *factors that resulted in or contributed to the factors listed in line b;*
- (d) Line “d. Due to (or as a consequence of)” must show the factors that resulted in or contributed to the factors listed in line c;*
- (e) If the contributing cause of death is unknown for line b, c or d, the certifier of medical information must enter “unknown etiology”; and*
- (f) If the cause of death is a drug overdose, the certifier of medical information must list the exact components of the drug mixture that caused the overdose.*

↪ The underlying cause of death must be the last cause listed. If there are no ~~intermediate~~ *contributing* causes, the underlying cause must be entered on line ~~["B"]~~ *b*. If the immediate cause and the underlying cause are synonymous, only one entry is necessary. It is permissible for a certifier to qualify a cause of death as “probable” or “presumed,” even if the cause has not been definitively diagnosed.

4. Part II of the statement of the cause of death must show the diseases, injuries or other factors which are medically or statistically significant but not directly related to the cause of death.

5. The statement of the cause of death must be submitted electronically by the certifier to an electronic death registry system approved by the Division of Public and Behavioral Health of the

Department of Health and Human Services and attested to by the certifier by means of an electronic signature.

6. As used in this section, “electronic signature” means an electronic sound, symbol or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

Sec. 8. NAC 440.170 is hereby amended to read as follows:

440.170 **1.** Except as otherwise provided in NAC 440.180, a death shall be considered to have been attended by a physician or advanced practice registered nurse if the deceased:

~~1-1~~ **(a)** Had been examined or treated, including, without limitation, having been prescribed medications or provided care by the physician or advanced practice registered nurse, as applicable, for an acute or chronic condition, within 180 days preceding the death;

~~1-2~~ **(b)** Was pronounced dead by a registered nurse or physician assistant pursuant to NRS 440.415; or

~~1-3~~ **(c)** Was diagnosed by a physician or advanced practice registered nurse as having an anticipated life expectancy of not more than 6 months.

2. *If a coroner or medical examiner receives a report or investigates a death and determines that any of the conditions set forth in subsection 1 apply, the coroner or medical examiner shall relinquish jurisdiction of the death to the physician or advanced practice registered nurse in attendance of the death. That physician or advanced practice registered nurse shall determine the cause of death and sign the death certificate.*

3. *If there is a delay or dispute between physicians or advanced practice registered nurses regarding a death certificate, the primary care physician or advanced practice registered nurse for the deceased shall determine the cause of death and sign the death certificate.*

Sec. 9. NAC 440.180 is hereby amended to read as follows:

440.180 **1.** If the deceased had been under the care of a physician or advanced practice registered nurse under the conditions set forth in *subsection 1 of* NAC 440.170, but the cause of death was unrelated to the purpose for which the deceased consulted the physician or advanced practice registered nurse, as applicable, the death shall not be considered to have been attended and must be referred to the county coroner or medical examiner for review.

2. *If, upon review, the coroner or medical examiner determines in accordance with NAC 440.170 that the death was related to the purpose for which the deceased consulted the physician or advanced practice registered nurse, the coroner or medical examiner shall relinquish jurisdiction of the death to the physician or advanced practice registered nurse in attendance of the death. That physician or advanced practice registered nurse shall determine the cause of death and sign the death certificate.*

Sec. 10. NAC 440.310 is hereby amended to read as follows:

440.310 **1.** ~~{A person for whom}~~ *An applicant for the filing of* a delayed certificate of birth ~~{is to be filed}~~ must ~~{have been}~~ *provide the documentary evidence required by subsection 3 and documentary evidence showing that:*

(a) The person for whom the delayed certificate is to be issued was born in Nevada ; ~~{}~~ and

(b) {a} A birth certificate for the person {must} was not {have been} previously filed in this state or any other state or country. {An applicant must provide} Such evidence may include, without limitation, a verification from the State Registrar or a local registrar that a registered record of birth does not currently exist within this State.

2. ~~{Before filing a delayed certificate of birth, the}~~ *The* State Registrar ~~{must find that the following facts have been established concerning the person whose birth is to be registered:}~~

shall not file a delayed certificate of birth unless, based upon the documentary evidence supplied pursuant to subsection 3, the State Registrar is able to determine:

- (a) ~~{Date of birth;}~~ *The parentage of the person;*
- (b) ~~{Birthplace; and}~~ *That a pregnancy occurred;*
- (c) ~~{Parentage.}~~ *That a live birth occurred; and*
- (d) That the birth occurred in this State.*

3. An applicant for the filing of a delayed certificate of birth must present at least two documents from independent sources to prove each fact listed in subsection 2. One document may be used to prove more than one of those facts. In certain cases, to be determined by the State Registrar, the applicant's inability to furnish documentary evidence does not preclude the State Registrar from filing the certificate.

Sec. 11. NAC 440.320 is hereby amended to read as follows:

440.320 1. Any document presented must ~~{be at least}~~ *have been created within* 5 years ~~{old}~~ *before or after the event which is documented* in order to ~~{be considered as evidence.}~~ *show that the event occurred in Nevada,* except where ~~{:~~

~~—(a) The person whose birth is involved is less than 12 years of age; or~~

~~—(b) The~~ *the* State Registrar determines *it is appropriate* to take into account *older or* more recent records in his or her investigation of the case.

2. *The State Registrar shall determine whether the documentary evidence submitted pursuant to NAC 440.330 is sufficient to warrant the filing of a delayed certificate of birth. The State Registrar may conduct an independent investigation of an application for a delayed certificate of birth at any time.*

3. Any document *submitted as evidence of the facts necessary for the filing of a delayed certificate of birth* must be authenticated by being an original ~~copy,~~ *document or a copy of a* verifiable ~~copy or a notarized copy in a sealed file from an independent source,~~ *document*. The State Registrar may ~~permit~~ *accept* documents not otherwise authenticated ~~to be~~ *if* accompanied by an affidavit from the applicant declaring the authenticity of the document or the applicant's belief in the truth of its contents.

~~3.~~ 4. Documents that show erasures or alterations must not be accepted as ~~proof of the facts of birth,~~ *evidence of a homebirth. If an applicant for a delayed certificate of birth for a homebirth has been unable to provide valid documentary evidence, a complete statement of the facts and the reason for the absence of such evidence must be noted on the delayed certificate of birth of the child.*

~~4.~~ 5. All accepted documentary evidence must be listed as part of the record of delayed certificate of birth.

6. *The inability of the applicant to furnish documentary evidence required by NAC 440.300 to 440.360, inclusive, does not preclude the State Registrar from filing a delayed certificate of birth if the State Registrar determines it is appropriate to do so.*

Sec. 12. NAC 440.330 is hereby amended to read as follows:

440.330 ~~The~~

1. *Except as otherwise provided in subsection 2, the* types of documentary evidence which the State Registrar may accept to establish the facts necessary for the filing of a delayed certificate of birth ~~follow in the order of preference:~~

~~1. A hospital record of birth.~~

~~2. A physician's record of birth.~~

~~—3.— An affidavit. If the affidavit is to prove the date of the applicant’s birth, the affiant must state why he or she knows and remembers the date. The relationship of the affiant to the applicant must be stated in the affidavit.~~

~~—4.—~~ *are as follows:*

(a) To show parentage:

(1) A current and valid photo identification; and

(2) Two completed witness information forms provided by the State Registrar.

(b) To show that a pregnancy occurred:

(1) Prenatal health care records;

(2) An affidavit from a licensed physician, registered nurse or other qualified health care provider who consulted with the applicant during the pregnancy;

(3) An ultrasound performed on the applicant during the pregnancy; or

(4) If the documents described in subparagraphs (1), (2) and (3) are not available, affidavits from three persons, none of whom is a parent of the child, who have personal knowledge of the pregnancy.

(c) To show that a live birth occurred:

(1) An affidavit from a licensed physician, registered nurse or other qualified health care provider who witnessed or examined the child not later than 14 days after the date of the birth; or

(2) The completed documents described in paragraphs (a), (b) and (d) and an appointment attended in person by the parent and child with the State Registrar or a local registrar of vital statistics or by videoconference if the parent and child reside outside this State. If the appointment is conducted by videoconference, the State Registrar must receive the

completed documents described in paragraphs (a), (b) and (d) before the date of the appointment.

(d) To show that a homebirth occurred in this State:

(1) A utility bill showing ~~both~~ residency of the parent in this State at the time of birth ~~and at least one~~ which displays the parent's name ~~;~~

- ~~5. A record of the United States Census Bureau.~~
- ~~6. A record of the Social Security Numerical Identification System.~~
- ~~7. A full page of a newspaper containing a notice of birth, showing the name and date of birth.~~
- ~~8. A certificate of baptism or confirmation, a cradle roll or other church record.~~
- ~~9. An entrance record from a school.~~
- ~~10. An insurance policy or a copy of a signed application for an insurance policy.~~
- ~~11. A certificate of discharge from the Armed Forces.~~
- ~~12. A record in a family bible if the information was recorded before the applicant's first birthday.~~
- ~~13. A driver's license.~~
- ~~14. A marriage record.~~
- ~~15. A record of a voter's registration.~~
- ~~16. An employment record.~~
- ~~17. A birth certificate of the applicant's child.~~
- ~~18. A record from an organization of which the applicant is or was a member.~~
- ~~19. Any other relevant document.} ; or~~

(2) A statement which:

- (I) Shows a credit or debit card transaction completed by the parent in this State; and*
- (II) Includes the date and location of the transaction.*

2. The State Registrar may accept alternate documentary evidence in place of any documentary evidence required by subsection 1.

Sec. 13. NAC 440.400 is hereby amended to read as follows:

440.400 1. A health district shall remit to the State Registrar:

- (a) For each registration of a birth or death in its district.....\$2
- (b) For each copy issued of a certificate of birth in its district, other than a copy issued pursuant to paragraph (a) of subsection 3 of NRS 440.1757
- (c) For each copy issued of a certificate of death in its district.....4

↪ Any amount remitted to the State Registrar pursuant to paragraphs (b) and (c) is inclusive of any amount a health district remits to the State Registrar pursuant to subsection 2 or 3 of NRS 440.700, as applicable.

2. Except as otherwise provided in NRS 440.175 and 440.700 and as applicable, the State Registrar will, or a local registrar may, charge and collect the following fees ~~+~~ *which are nonrefundable if services have been provided:*

- (a) For searching the files for one name, regardless of whether a record is located, if no copy is made\$10
- (b) Except as otherwise provided in paragraph (c), for verifying or witnessing a vital record or document or issuing a certified abstract of a certificate10
- (c) For electronic verification of a vital record through the Electronic Verification of Vital Events (EVVE) system2

(d) For establishing and filing a record of paternity with the State Registrar, other than a hospital-based paternity, and providing a certified copy of the new record45

(e) For establishing and filing a record of paternity with the State Registrar, other than a hospital-based paternity, where the record of paternity is filed by the Division of Welfare and Supportive Services of the Department of Health and Human Services and a certified copy of the new record is not provided.....10

(f) For a certified copy of a record of birth25

(g) For a certified copy of a record of death originating in a county in which the board of county commissioners has not created an account for the support of the office of the county coroner pursuant to NRS 259.025.....22

(h) For a certified copy of a record of death originating in a county in which the board of county commissioners has created an account for the support of the office of the county coroner pursuant to NRS 259.02525

(i) Except as otherwise provided in paragraph (j), for correcting a record on file with the State Registrar and providing a certified copy of the corrected record45

(j) For correcting a record on file with the State Registrar where the correction is filed by a certifier and the State Registrar determines that the correction is not the result of an error by the certifier10

(k) For replacing a record on file with the State Registrar and providing a certified copy of the new record.....45

(l) *For replacing a birth certificate of a person who was born in a foreign country and providing a certified copy of the translated record.....45*

| | |
|---|---------------|
| (m) For filing a delayed certificate of birth <i>or a homebirth</i> with the State Registrar and providing a certified copy of the certificate | 45 |
| {(m) For the services of a notary public provided by the State Registrar | 2} |
| (n) For an index of records of marriage provided on microfiche to a person other than a county clerk or a county recorder of a county of this State..... | 200 |
| (o) For an index of records of divorce provided on microfiche to a person other than a county clerk or a county recorder of a county in this State..... | 100 |
| (p) For compiling data files which require specific changes in computer programming..... | 500 |

Steve Sisolak
Governor



Richard Whitley, MS
Director

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Lisa Sherych
Administrator

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

SMALL BUSINESS IMPACT STATEMENT 2022
PROPOSED AMENDMENTS TO NAC 440

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments should not have any adverse effect upon a small business or negatively impact 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 DPBH determined that existing Nevada Administrative Code (NAC) 440 needed to be reviewed with regulation additions and changes proposed. As the Office of Vital Records identifies areas of concern, the regulations required additions and updates to help reduce the risks. Current industry standards, practices and requirements required regulations to be reviewed and changed to ensure the Office of Vital Records could adhere to those standards, practices, and requirements. These regulations will clarify time constraints for signing death certificates (as required by the Sunset committee), how to fill out the cause of death, clarify the responsibility for death record creation during a transfer of service providers, standardize requirements for delayed and homebirth registration and English language replacements of foreign birth certificates whose language is not English, create a fee for an English language replacement of a foreign birth certificate not in English, identify requirements for paternities and parentage, establish residency requirements for parents during the adoption process, and provide Gender Identity options on a death certificate and the evidence needed to correct the gender on a death record.

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), DPBH has requested input from stakeholders, small businesses, and users of the Vital Records System.

A Small Business Impact Questionnaire was sent to all users of the Vital Records System which include funeral homes, county coroners / medical examiners, the Nevada Board of Medical Examiners, Nevada

Nursing Board, the Nevada State Medical Association, Nevada Funeral Services Board, Clark County Vital Records Office, Washoe County Vital Records Office, physicians, advanced practice registered nurse, hospital/hospice oversight personnel, birth clerks and midwives along with a copy of the proposed regulation changes on July 5, 2022. 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? If so, please indicate the estimated dollar amount(s) you believe the adopted regulations will cost you over one calendar year with a brief explanation as to how the dollar amount was calculated.
- 3) Will the regulation(s) have any beneficial effect upon your business? If so, please include any cost savings you believe the adopted regulations will save you over one calendar year with an estimated dollar amount if applicable.
- 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 (6 responses were received out of 4,362 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? |
| 1 – Yes 5 - No 0 - Unknown | 1 - Yes 5 - No 0 - Unknown | 1 – Yes 5 - No 0 - Unknown | 0 – Yes 6 - No 0 - Unknown |

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

Analysis was conducted using an Excel spreadsheet to quantify responses.

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.

There is no estimated economic effect of the proposed regulations on small business.

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 DPBH received six (6) responses via email. Only two (2) had a comment which were responded to via email. One was in support of the changes and the other needed clarification and had a question on who could access the system, when the new system would go into effect and if the new system would be available on a cell phone. No modifications to the proposed regulations have been made as a result of this

input. A Public Workshop will be held on October 12, 2022, allowing for further input by the public and regulated community regarding the proposed regulations and the impact. These comments will be taken into consideration for possible further revisions to the regulations to reduce the economic impact on facilities.

5) The estimated cost to the agency for enforcement of the proposed regulation.

There is no anticipated cost to the agency for enforcement of the proposed regulations.

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.

There are no fee increases.

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

At this time, there are no duplicative or more stringent provisions than federal, state or local standards.

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

The agency concludes the proposed regulations will produce negligible impact on small businesses. Most of NAC 440 had proposed regulation changes didn't appear to have economic impact on small businesses. As instructed by the Nevada State Legislature's Sunset Committee, the proposed changes were to provide additional clarification to existing regulations while adding or updating others to current industry standards and practices or to assist in meeting program requirements through federal contracts. The DPBH developed regulations that would not be unduly burdensome on small business, such as midwives, funeral homes and medical offices. Overall, small businesses in the State of Nevada appear not to be impacted by the proposed regulations.

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

Division of Public and Behavioral Health
Office of Vital Records
Attn: Stephanie Herrera, Program Officer III
4150 Technology Way, Suite 104
Carson City, NV 89701
Phone: 775-684-4162
Email: s.herrera@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: 09/27/2022

Steve Sisolak
Governor



Richard Whitley, MS
Director

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Lisa Sherych
Administrator

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

NOTICE OF PUBLIC WORKSHOP

NOTICE IS HEREBY GIVEN; the Nevada Division of Public and Behavioral Health will hold a public workshop to consider amendments to Nevada Administrative Code (NAC) 440 – Vital Statistics, as set forth in LCB File No. R111-22. The workshop will be conducted on site and via videoconference beginning at 11:00 am on November 14, 2022, at the following locations:

| | |
|--|---|
| Division of Public and Behavioral Health 4150 Technology Way Room 303 Carson City, Nevada 89706 | Division of Public and Behavioral Health 2080 E. Flamingo Road Suite 319 Las Vegas, Nevada 89119 |
|--|---|

Join on your computer, mobile app or room device

[Click here to join the meeting](#)

Meeting ID: 228 267 767 725

Passcode: JdNBL5

[Download Teams](#) | [Join on the web](#)

Or call in (audio only)

[+1 775-321-6111,201907007#](#) United States, Reno

Phone Conference ID: 201 907 007#

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

AGENDA

1. Introduction of workshop process
2. Presentation on the 2022 proposed regulations in LCB File No. R111-22 for NAC 440 - Vital Records and Statistics and the Small Business Impact Statement
3. Public Comment Regarding proposed changes to NAC Code 440
4. Adjournment

The proposed changes will revise Chapter NAC 440 of the Nevada Administrative Code and are being proposed in accordance with Nevada Revised Statutes (NRS) 440.285, 440.303, 440.380, 440.420, 440.430, 440.490, 440.540, 440.620, 440.690, and NRS 440.700.

The proposed regulations provide provisions for the following:

The proposed addition/change of regulations in LCB File No. R111-22 include:

- Clarifying the English Replacement of a Foreign Birth Certificate

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Richard Whitley, MS
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- Clarifying ID requirements for Declarations of Paternity/Parentage
- Clarifying how to fill out the cause of death
- Aligning deadlines for medical certifiers to sign death certificates with existing law
- Clarifying who is responsible to sign a death certificate once the coroner relinquishes jurisdiction
- Clarifying the responsibility of transferring death records from one funeral home to another
- Clarifying gender identity options and the evidence needed to change it once the record has been registered
- Clarified the delayed birth process and evidence required
- Clarified the non-refundable status of fees once services have been rendered
- Removal of the notary services from regulation

The Division is bringing forward this change to clarify regulations as instructed by the Nevada State Legislature's Sunset Committee.

1. Anticipated effects on the business and on the general public:

- A. *Adverse effects*: None
- B. *Beneficial*: None
- C. *Immediate*: None
- D. *Long-term*: None

2. These proposed regulations will not add any costs to the current regulatory enforcement activities conducted by the Division of Public and Behavioral Health. Additionally, the proposed regulations do not provide for a new fee or increase any existing fee.

The proposed regulations are not duplicative or more stringent than any federal, state, or local standards.

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 Stephanie Herrera, Division of Public and Behavioral Health, Office of Vital Records:

Division of Public and Behavioral Health
Office of Vital Records
4150 Technology Way, Suite 104
Carson City, NV 89706-5629
FAX (775) 684-4156

Steve Sisolak
Governor



Richard Whitley, MS
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Members of the public who require special accommodations or assistance at the workshops are required to notify Stephanie Herrera in writing to the Division of Public and Behavioral Health, 4150 Technology Way, Suite 104 Carson City, NV 89706, or by calling (775) 684-4242 at least five (5) working days prior to the date of the public workshop.

You may contact Stephanie Herrera by calling (775) 684-4162 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
4150 Technology Way, Ste 104
Carson City, NV

Emergency Medical Services
120 Ruby Vista Drive, Ste 102
Elko, 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/Programs/BirthDeath/Birth_and_Death_Vital_Records_-_Home/

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. Emergency Medical Systems, 1020 Ruby Vista Drive, Ste. 102, Elko
4. Southern Nevada Health District, 280 S Decatur Blvd, Las Vegas
5. Washoe County District Health Department, 1001 E. Ninth, Building B, Reno
6. Rawson-Neal Psychiatric Hospital, 1650 Community College Drive, Las Vegas
7. Nevada Early Intervention Services, 3811 W. Charleston Blvd. Ste. 112, Las Vegas
8. Nevada State Division of Public and Behavioral Health, Office of Vital Records web page:
http://dpbh.nv.gov/Programs/BirthDeath/Birth_and_Death_Vital_Records_-_Home/
9. Nevada Public Notice Website: <http://notice.nv.gov>
10. Nevada Legislature Website: <https://www.leg.state.nv.us>

Copies may be obtained in person, by mail, or by calling the Division of Public and Behavioral

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Health at (775) 684-4242.

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.