

Joe Lombardo  
Governor



Richard Whitley,  
MS  
Director

DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

NEVADA DIVISION of PUBLIC  
and BEHAVIORAL HEALTH



Cody Phinney,  
MPH  
Administrator

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

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NOTICE OF PUBLIC HEARING

Case #770, James Dettling MD, variance to Nevada Administrative Code (NAC) 459.556, Administrative controls: Minimum exposure techniques; use of portable or mobile equipment, sections 556(1)(c) and (d).

NOTICE IS HEREBY GIVEN THAT James Dettling MD, 801 South Rancho Drive., #F2 has requested a variance from Nevada Administrative Code, 459.556(1)(c) and (d).

A public hearing will be conducted on September 6, 2024, at 9:00 am by the Nevada State Board of Health to consider this request. This meeting will be held online and at physical locations, listed below.

Physical 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

Meeting Link:

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_ZjcxNGQzYjQtMzMlOS00MTNiLTg1ZWYtMmExODkwZTBkMTQ0%40thread.v2/0?context=%7b%22id%22%3a%22e4a340e6-b89e-4e68-8eaa-1544d2703980%22%2c%22oid%22%3a%22768e443d-3be6-48f0-9bb0-7e72f1276b8d%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZjcxNGQzYjQtMzMlOS00MTNiLTg1ZWYtMmExODkwZTBkMTQ0%40thread.v2/0?context=%7b%22id%22%3a%22e4a340e6-b89e-4e68-8eaa-1544d2703980%22%2c%22oid%22%3a%22768e443d-3be6-48f0-9bb0-7e72f1276b8d%22%7d)

*Please Note: If you experience technical difficulties connecting online, please call into the meeting to participate by phone.*

Join by Phone:

1-775-321-6111

Phone Conference ID Number: 382 183 728#

1. Procedures and auxiliary equipment designed to minimize exposure to the patient and personnel commensurate with obtaining the needed diagnostic information must be utilized, including the following:
  - (c) Except as otherwise provided in paragraph (d), portable or mobile equipment may be used only for:
    - (1) Examinations where it is impractical to transfer the patient to a stationary radiographic installation; and
    - (2) Its designed purpose, as specified by the manufacturer; and

- (d) Portable or mobile equipment may be used in lieu of stationary equipment for a period of not more than 90 days while the facility is awaiting the delivery of new stationary equipment or the repair of registered stationary equipment if the following conditions are satisfied:
  - (1) The portable or mobile equipment has been registered and the appropriate fee has been paid in accordance with NAC 459.154 and 459.161; and
  - (2) The registrant has requested, in writing, and been granted authorization from the Division to use the portable or mobile equipment in lieu of stationary equipment. Such a request must include, without limitation:
    - (I) The date of installation of the portable or mobile equipment; and
- (II) The expected duration of the use of the portable or mobile equipment.

Any person who, because of unique circumstances, is unduly burdened by a regulation of the State Board of Health and thereby suffers hardship and the abridgement of a substantial property right may apply for a variance from a regulation. (NAC 439.200(1))

1. The State Board of Health will grant a variance from a regulation only if it finds from the evidence presented at the hearing that:
  - (c) There are circumstances or conditions which:
    - (1) Are unique to the applicant.
    - (2) Do not generally affect other persons subject to the regulation.
    - (3) Make compliance with the regulation unduly burdensome; and
    - (4) Cause a hardship to and abridge a substantial property right of the applicant; and
  - (d) Granting the variance:
    - (1) Is necessary to render substantial justice to the applicant and enable him to preserve and enjoy his property; and
    - (2) Will not be detrimental or pose a danger to public health and safety.
2. Whenever an applicant for a variance alleges that he/she/they suffers or will suffer economic hardship by complying with the regulation, they must submit evidence demonstrating the costs of compliance with the regulation. The Board will consider the evidence and determine whether those costs are unreasonable. (NAC 439.240)

Therefore, it is important for your variance request to be as complete as possible. It is your responsibility to attach documentation supporting your variance request.

#### Statement of degree of risk of Health

The health risk is increased radiation exposure to radiological technologists, patients, and non-radiation workers such as support staff and members of the public.

The authority of the State Board of Health to consider and grant a variance from the requirements of a regulation is set forth at NRS 439.200 and NAC 439.200 – 439.280.

Persons wishing to comment upon the proposed variance may appear at the scheduled public hearing or may submit written testimony at least five days before the scheduled hearing to:

Secretary, State Board of Health  
Division of Public and Behavioral Health  
4150 Technology Way, Suite 300  
Carson City, NV 89706

Anyone wishing to testify for more than five minutes on the proposed variance must petition the Board of Health at the above address. Petitions shall contain the following: 1) a concise statement of the subject(s) on which the petitioner will present testimony; 2) the estimated time for the petitioner's presentation.

This notice has also been posted at the following locations:

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH (DPBH), 4150 TECHNOLOGY WAY, CARSON CITY, NV  
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH WEBSITE:

<http://dpbh.nv.gov/Boards/BOH/Meetings/Meetings/>

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## MEMORANDUM

**DATE:** August 7, 2024,  
**TO:** John Pennell, Chair State Board of Health  
**FROM:** Cody Phinney, Administrator  
Division of Public and Behavioral Health  
**RE:** Variance Case # 770 James Dettling, MD

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**Subject: Case #770, James Dettling, MD, variance to Nevada Administrative Code (NAC) 459.556, Administrative controls: Minimum exposure techniques; use of portable or mobile equipment, sections 556(1)(c) and (d).**

### Staff Review

For the reasons stated below, Division of Public and Behavioral Health (DPBH) staff recommend the State Board of Health deny Case #770, James Dettling, MD, request for a variance to NAC 459.556(1)(c) and (d).

NEVADA ADMINISTRATIVE CODE (NAC) 459.556(1)(c) and (d) state, in relevant part,

1. Procedures and auxiliary equipment designed to minimize exposure to the patient and personnel commensurate with obtaining the needed diagnostic information must be utilized, including the following:

[...]

- (c) Except as otherwise provided in paragraph (d), portable or mobile equipment may be used only for:
- (1) Examinations where it is impractical to transfer the patient to a stationary radiographic. Installation; and
  - (2) Its designed purpose, as specified by the manufacturer; and
- (d) Portable or mobile equipment may be used in lieu of stationary equipment for a period of not more than 90 days while the facility is awaiting the delivery of new stationary equipment or the repair of registered stationary equipment if the following conditions are satisfied:
- (1) The portable or mobile equipment has been registered and the appropriate fee has been paid in accordance with NAS 459.154 and 459.161; and
  - (2) The registrant has requested, in writing, and been granted authorization from the Division to use The portable or mobile equipment in lieu of stationary equipment. Such a request must include,

without limitation:

- (I) The date of installation of the portable or mobile equipment; and
- (II) The expected duration of the use of the portable or mobile equipment.

### Summary of Variance Request:

Variance applicant James Dettling, MD submitted a request for variance from the requirements of NAC 459.556(1)(c) and (d) on July 22, 2024. The Applicant is requesting approval to use a portable x-ray machine in lieu of a stationary x-ray machine to provide imaging services for patients at his office located at 801 S. Rancho Drive, Suite F2, Las Vegas, Nevada 89102.

### Intent of Regulation:

The intent of NAC 459.556(1) (c) and (d) are to protect the health and safety of radiologic technologist and patients by limiting the use of portable or mobile x-ray machines to situations where patients cannot be transferred to a stationary X-ray machine.

The reasons for limiting the use of portable or mobile x-ray machines include:

- Portable and mobile x-ray machines are intended for bedside use when a patient cannot be transported to the designated imaging room with a permanently installed imaging system. Examples include intensive care, critical care, emergency, and surgical patients.
- Portable and mobile x-ray machines produce poorer quality images as compared to stationary machines due to several factors such as: the x-ray tube is less stable, inconsistent measurement of the distance and angle between the x-ray tube and the x-ray film, and limited imaging settings. These factors may lead to blurred or poor-quality images, which will have to be retaken. Repeat imaging increases the overall radiation exposure to patients.
- Portable and mobile x-ray machines do not protect technologists from radiation as well as properly installed stationary machines.

### Degree of risk to public health or safety:

The health risk is increased radiation exposure to radiological technologists, patients, and non-radiation workers such as support staff and or members of the public.

### **Background Information:**

The Applicant performs x-ray imaging on patients during normal working hours and after hours for the Vegas Golden Knights and Henderson Silver Knights athletes. The applicant is requesting a variance to use a portable x-ray machine, which he already owns, to perform radiographs on patients and athletes instead of a stationary x-ray machine. For the health and safety reasons stated above, NAC 459.556 limits the use of portable or mobile x-ray machines to situations where patients cannot be transferred to a stationary machine. Since persons imaged by the Applicant can be imaged on a stationary x-ray machine, the use of a portable x-ray machine is not allowed pursuant to NAC 459.556. Additionally, the use of a stationary x-ray machine will improve imaging services provided to both patients and athletes. Black Knight Sports and Entertainment, LLC also provides x-ray imaging services for the Vegas Golden Knights and Henderson Silver Knights. Similar medical practices including 89 physicians and 109 chiropractors use stationary x-ray machines to image their patients. Many of these medical practices have patient loads similar to the Applicant.

Exceptional and undue hardship:

Strict application of 459.556(1)(c) and (d), will require the Applicant to purchase and use a stationary x-ray machine. The circumstances associated with this variance are not unique to the Applicant. This is the same financial burden placed on more than two hundred similar medical practices and is not considered an exceptional or undue hardship.

Staff Recommendation:

DPBH staff recommend the State Board of Health deny Variance Case #770, James Dettling, MD's request for a variance to NAC 459.556(1)(c) and (d) because the reasons cited in the variance request are not unique to the Applicant, the financial cost of compliance with the regulations is the same for over 200 similar medical practices, and it would impair the purpose of the regulation.

Impairment to the purpose of the regulation:

Approval of this variance will substantially impair the purpose of the regulations. The reasons listed in the variance request could be applied to over two hundred other registrants including 89 physicians and 109 chiropractors. Since there are no unique or exceptional conditions associated with this variance, it would greatly hinder the purpose of the regulations and create an inequity among similar medical practices. If approved, over 200 physicians and chiropractors as well as 385 small clinics across the state may also apply for a similar variance to these requirements, which would further impair the regulation.

Public Comments:

Notice of the hearing is scheduled to be posted on the Division of Public & Behavioral Health website at <http://dphh.nv.gov/Boards/BOH/Meetings/Meetings/> and at the 4150 Technology Way Office in Carson City, NV 89706 by August 22, 2024, by 9:00 am. The Division of Public & Behavioral Health is not aware of any objections to this variance by any local authorities, and no public comments have been received to date.

Presenter:

John Follette, Manager Radiation Control  
Program Division of Public and Behavioral  
Health  
Bureau Health Protection and Preparedness



NEVADA STATE BOARD OF HEALTH  
4150 Technology Way, Suite 300 CARSON CITY, NV 89706

**APPLICATION FOR VARIANCE**

Please check the appropriate box that pertains to the NAC for which you are requesting a variance.

Division Administration  
(NAC 439, 441A, 452, 453A, & 629)

Health Care Quality & Compliance  
(NAC 449, 457, 459 & 652)

Child, Family & Community Wellness  
(NAC 392, 394, 432A, 439, 441A, & 442)

Office of State Epidemiology  
(NAC 440, 450B, 452, 453, 453A, & 695C)

Public Health & Clinical Services  
(NAC 211, 444, 446, 447, 583, & 585)

Date: 7/22/24

Name of Applicant: James Dotting, MD

Phone: 702-877-6781

Mailing Address: 801 S. Rampart Dr #F2

City: LV

State: NV

Zip: 89106

We do hereby apply for a variance to chapter/section NRS 459, 701 of the Nevada Administrative Code (NAC). (For example: NAC 449.204)

Title of section in question:

Minimum exposure techniques; use of portable or mobile equipment.

Statement of existing or proposed conditions in violation of the NAC:

Please see attached



NEVADA STATE BOARD OF HEALTH  
4150 Technology Way, Suite 300 CARSON CITY, NV 89706

**APPLICATION FOR VARIANCE**

Date of initial operation (if existing): Sept 2009

**ATTENTION: Please read this section closely. Your request for variance will be examined against these criteria:**

Any person who, because of unique circumstances, is unduly burdened by a regulation of the State Board of Health and thereby suffers a hardship and the abridgement of a substantial property right may apply for a variance from a regulation. (NAC 439.200(1))

1. The State Board of Health will grant a variance from a regulation only if it finds from the evidence presented at the hearing that:
  - (a) There are circumstances or conditions which:
    - (1) Are unique to the applicant;
    - (2) Do not generally affect other persons subject to the regulation;
    - (3) Make compliance with the regulation unduly burdensome; and
    - (4) Cause a hardship to and abridge a substantial property right of the applicant; and
  - (b) Granting the variance:
    - (1) Is necessary to render substantial justice to the applicant and enable him to preserve and enjoy his property; and
    - (2) Will not be detrimental or pose a danger to public health and safety.
  
2. Whenever an applicant for a variance alleges that he/she/they suffers or will suffer economic hardship by complying with the regulation, they must submit evidence demonstrating the costs of compliance with the regulation. The Board will consider the evidence and determine whether those costs are unreasonable. (NAC 439.240)

**Therefore, it is important for your variance request to be as complete as possible. It is your responsibility to attach documentation supporting your variance request.**

Statement of degree of risk of health

Please See Attached





NEVADA STATE BOARD OF HEALTH  
4150 Technology Way, Suite 300 CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

Please state in detail the circumstances or conditions which demonstrate that:

1. An exceptional and undue hardship results from a strict application of the Regulation:

Please See attached

2. The variance, if granted, would not:

A. Cause substantial detriment to the public welfare.

Please See attached

B. Impair substantially the purpose of the regulation from which the application seeks a variance.

Please See attached

The bureau may require the following supporting documents to be submitted with and as a part of this application:

Specific Request:

Variance to NRS 459.201 to allowed Continued utilization of a low volume portable X-ray machine in an orthopedic Surgery practice located at 801 S. Rancho Dr #FZ, LV, NV 89106




NEVADA STATE BOARD OF HEALTH  
4150 Technology Way, Suite 300 CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

- 1. Legal description of property concerned
- \_ 2. General area identification map
- \_ 3. Plot map showing locations of all pertinent items and appurtenances
- \_ 4. Well log (if applicable)
- \_ 5. Applicable lab reports
- \_ 6. Applicable engineering or construction/remodeling information
- \_ 7. Other items (see following pages)

This application must be accompanied by evidence demonstrating the costs of your compliance with regulations or specific statutory standards. Your request will be placed on the Board of Health agenda 40 days or more after receipt in this office if accompanied by the required fee (NAC 439.210). The application and supporting documentation will form the basis for the Division of Public and Behavioral Health staff report and recommendation(s) to the Board. Failure to respond to the above statements may cause the Board to deny consideration of the application at the requested Board meeting.

I am/we are requesting this variance request be placed on the next regularly scheduled Board of Health agenda. It is understood that I/we can attend in person at either physical location in Carson City or Las Vegas or we may attend virtual.

Signature: 

Printed Name: JAMES D. DARLING, MD

Title: President

Date: 07/22/24

7/23/24

To the Radiology Control Program:

As the medical director of the Vegas Golden Knights organization Dr James Dettling MD is responsible for all medical care provision to the players of our organization. To that end, it is common for Dr Dettling to provide medical services during non-business hours. These services are comprehensive in nature and include the taking and reading of x-rays. To be clear, the services provided by Dr Dettling at his facility during non-business hours are targeted to the athlete's condition and secure from the public which is not found at a typical emergency room. Unfortunately, radiology facilities close before 6 pm. In the world of professional athletics / sports who typically perform / play during the evening, having a facility such as Dr Dettling's available is indispensable to the provision of care to not only our athletes but also for athletes in all performing arenas.

It is important for the reader to understand, off hour medical services are indispensable to the proper provision of medical care to professional athletes. These services must be targeted to the athlete's injury or condition and secure from the public. The facilities owned and operated by Dr Dettling are necessary for the proper provision of care for our players.

Sincerely

**STEVE MCCAULEY MHS, LAT, ATC, CSCS**  
**Director of Sports Performance & Medicine**

Vegas Golden Knights  
City National Arena  
1550 S. Pavilion Center Drive | Las Vegas, NV 89135  
C: 725-264-7248  
E: [smccauley@VegasGoldenKnights.com](mailto:smccauley@VegasGoldenKnights.com)

# Application for Variance

## **Statement of existing or proposed conditions in violation of the NAC:**

Use of a portable x-ray machine in an outpatient orthopedic clinical practice at 801 S Rancho Dr., #F2 Las Vegas, NV 89106

## **Statement of degree of Risk of health**

There is negligible risk of health to the public with this variance. Our portable x-ray machine has been used in our office for years. This machine has passed certification/inspection by the Nevada State Radiation Control Board on a routine basis for years and years. A low volume utilization also lends credence to its minimal risk to safety.

## **Please state in detail the circumstances or conditions which demonstrate that:**

### **1. An exceptional and undue hardship results from a strict application of the regulation:**

As the medical director/head team physician for the Vegas Golden Knights I am responsible for care of my organization's professional hockey players at all times. Our x-ray unit is utilized to care for the VGK and HSK (Henderson Silver Knights) athletes on a routine basis, including after hours. The local radiology facilities close after 6pm. X-Ray services are routinely not available at these facilities after hours so the athletes will be x-rayed in our office at 801 S Rancho Dr., #F2 Las Vegas, NV 89106. To dispense of our X-ray ability would create a significant detriment and undue hardship in the care of the Vegas Golden Knight and Henderson Silver Knight professional athletes and in the ability to effectively provide immediate return to play and roster availability decisions to the VGK management and coaching staff.

As a solo practitioner in orthopedic surgery it is not fiscally practical to purchase a new, stand alone stationary X-ray machine and associated supportive equipment for the low volume of X-rays routinely taken in the professional athletic arena and/or in my private practice.

### **2. The variance, if granted, would not:**

#### **A. Cause substantial detriment to the public welfare:**

There is negligible risk of health to the public with this variance. Our portable x-ray machine has been used in our office for years. This machine has passed certification/inspection by the Nevada State Radiation Control Board on a routine basis for years and years. A low volume utilization also lends credence to its minimal risk to safety.

**B. Impair substantially the purpose of the regulation from which the application seeks a variance.**

The purpose of the regulation would not be eroded by this variance as this request seeks variance for a single location that houses a low volume x-ray unit that is utilized in a very narrow, specific avenue of service.

# DTS Sales Agreement

Date: July 24, 2024

Account Manager: Ty Bassham

Tel# (951) 453-8876

Email: ty@deserttechsystems.com

1990 McCulloch Blvd #D276 • Lake Havasu City, Arizona 86403 • Phone (866) 505-9991 • www.deserttechsystems.com

<b>SOLD TO:</b> <b>ProSports Orthopedics</b> 801 S. Rancho Dr F2 Las Vegas, NV 89106	<b>SHIP TO:</b>	<b>BILL TO:</b> <b>ProSports Orthopedics</b> 801 S. Rancho Dr F2 Las Vegas, NV 89106
<b>TERMS:</b> 50% Deposit, Balance Due upon completion		<b>Quote valid for 30 days</b>

Item	Qty	Product Description	Tax	Price
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1		<b>Radmedx URS-SDR Standard Straight Arm with VIVIX-S Series 1717V Direct Radiography</b>		<b>\$48,000.00</b>
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CPI CMP200 40 kW High Frequency X-ray Generator  
208/230 VAC, Single Phase Power  
CPI Vieworks software Integration  
Toshiba X-ray tube  
Collimare Manual Collimator  
Radmedex Straight Arm Tube Stand  
Mobile 4-way float patient table

Vieworks VxVue 1717 Detector system  
VxVue Control Software  
WIN 10 PRO PC Acquisition workstation  
Includes Patient image management & office PC viewing license

**Includes Room Drawings, Lead Shield Plan, Installation, Calibration  
& Training**

**1 Labor & Parts Warranty**

CUSTOMER APPROVAL AS QUOTED

Signature

Title

Date

Desert Technology Systems, Inc.

Ty Bassham

Authorized Signature

July 24, 2024

Date