

Joe Lombardo  
Governor

Richard Whitley,  
MS  
Director



# DEPARTMENT OF HEALTH AND HUMAN SERVICES



Cody Phinney,  
MPH  
Administrator

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

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## **NOTICE OF INTENT TO ACT UPON A REGULATION**

Notice of Hearing for the Amendment of Regulations of the Board of Health  
LCB File No. R080-23 relating to Environmental Health Section, Bottled Water in NAC 445A.

NOTICE IS HEREBY GIVEN that the State Board of Health will hold a public hearing at 9:00 a.m. on March 1, 2024, 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 the Chapter 445A of Nevada Administrative Code (NAC), Water Controls, Bottled Water.

The State Board of Health will be conducted via videoconference and in person beginning at 9:00 a.m. on Friday, March 1, 2024, at the following locations:

### **Physical Meeting Locations:**

*Southern Nevada Health District (SNHD)*  
Red Rock Trail Rooms A & B  
280 S. Decatur Blvd., Las Vegas, NV 89107

Nevada Division of Public and Behavioral Health  
Hearing Room 303, 3<sup>rd</sup> Floor  
4150 Technology Way, Carson City, NV 89706

### **Meeting Link:**

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_NGY3ZGM2ZjUtMmO5NC00MzI2LWFhMDMtNmJhZmRjNzk1MWE3%40thread.v2/0?context=%7b%22Tid%22%3a%22e4a340e6-b89e-4e68-8eaa-1544d2703980%22%2c%22Oid%22%3a%22e2f9f008-841c-437d-b037-927c30ea003e%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_NGY3ZGM2ZjUtMmO5NC00MzI2LWFhMDMtNmJhZmRjNzk1MWE3%40thread.v2/0?context=%7b%22Tid%22%3a%22e4a340e6-b89e-4e68-8eaa-1544d2703980%22%2c%22Oid%22%3a%22e2f9f008-841c-437d-b037-927c30ea003e%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: 273 597 72#

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, Cody Phinney, no later than February 23, 2023, 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, 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:

1. Nevada Division of Public and Behavioral Health - 4150 Technology Way, First Floor Lobby, Carson City, NV 89701
2. Nevada Division of Public and Behavioral Health - 4126 Technology Way, Carson City, NV 89701
3. Nevada Division of Public and Behavioral Health - 1020 Ruby Vista Drive, Elko, NV 89801
4. Nevada State Library & Archives - 100 Stewart Street, Carson City, NV 89701

A copy of the regulations and small business impact statement can be found on-line by going to: [https://dpbh.nv.gov/Reg/Trending\\_EHS/Trending\\_Health\\_Topics/](https://dpbh.nv.gov/Reg/Trending_EHS/Trending_Health_Topics/)

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.

#### PUBLIC COMMENT RECEIVED

The Small Business Impact Questionnaire, along with a copy of the regulation changes was posted by the Nevada Division of Public and Behavioral Health in compliance with the Executive Order. Two comments were received. None of the respondents believe the regulations will have an adverse effect on their business.

#### PUBLIC WORKSHOP

The public workshop was held on April 21, 2023. There were no comments from the public during the workshop.

#### STAFF RECOMMENDATION

Staff recommends the State Board of Health adopt the proposed regulation amendments to NAC 445A LCB File No. R080-23.

#### PRESENTER

Teresa Hayes, Health Program Manger III, Environmental Health Section

445A.547 1. No bottled water produced in a plant located ~~outside of~~ in this State may be sold or distributed within this State unless the operator or distributor has obtained a permit issued by the appropriate health authority ~~H~~ pursuant to NAC 445A.545.

2. An applicant for such a permit must submit with his or her application:

(a) A copy of the document which records the approval of the source of water by the health authority which has jurisdiction;

~~(b) A copy of the permit issued to the applicant by the state or country in which his or her plant is located;~~

~~(c)~~ A report by the applicant regarding his or her past compliance with the applicable regulations on the quality and sampling of the water the applicant produced or distributed;

~~(d)~~ (c) A copy of each type of label which will be displayed with the bottled water distributed in this State;

~~(e)~~ (d) A copy of the most recent analysis conducted pursuant to:

(1) Paragraph (b) of subsection 1 of NAC 445A.555; and

(2) Paragraph (c) of subsection 1 of NAC 445A.555;

~~(f)~~ (e) Copies of the three most recent analyses conducted pursuant to paragraph (a) of subsection 1 of NAC 445A.555; and

~~(g)~~ (f) The fee required pursuant to NAC 445A.589.

Sec. 2. NAC 445A.589 is hereby amended to read as follows:

445A.589 The Division shall charge and collect the following fees:

Joe Lombardo  
Governor



Richard Whitley, MS  
Director

**DEPARTMENT OF  
HEALTH AND HUMAN SERVICES**  
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH  
*Helping people. It's who we are and what we do.*



Lisa Sherych  
Administrator

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

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## **NOTICE OF PUBLIC WORKSHOP**

NOTICE IS HEREBY GIVEN that the Division of Public and Behavioral Health will hold a public workshop, in accordance with Executive Order 2023-003 (entered January 12, 2023), to consider changes to Nevada Administrative Code (NAC) Chapters 228, 442, 445A, 449, 450B, 458, and 652.

The workshop will be conducted via videoconference beginning at 9:00 AM on Friday, April 21, 2023, at the following locations:

**Meeting Link:**

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_NDdjODI4ZTYtNDdjMy00ZmFjLWE3YjMtZTdlNWYyMjQzNzJl%40thread.v2/0?context=%7b%22id%22%3a%22e4a340e6-b89e-4e68-8eaa-1544d2703980%22%2c%22oid%22%3a%22e2f9f008-841c-437d-b037-927c30ea003e%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_NDdjODI4ZTYtNDdjMy00ZmFjLWE3YjMtZTdlNWYyMjQzNzJl%40thread.v2/0?context=%7b%22id%22%3a%22e4a340e6-b89e-4e68-8eaa-1544d2703980%22%2c%22oid%22%3a%22e2f9f008-841c-437d-b037-927c30ea003e%22%7d)

**Join By Phone:**

+1 775-321-6111 United States, Reno  
Phone Conference ID: 636 019 077#

**Physical Location:**

*Nevada Division of Public and Behavioral Health (DPBH)*  
Hearing Room No. 303, 3<sup>rd</sup> Floor  
4150 Technology Way, Carson City, Nevada 89706

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 recommended amendments to Nevada Administrative Code (NAC) Chapter 228
3. Public comment on recommended amendments to Nevada Administrative Code (NAC) Chapter 442
4. Public comment on recommended amendments to Nevada Administrative Code (NAC) Chapter 445A ✍
5. Public comment on recommended amendments to Nevada Administrative Code (NAC) Chapter 449
6. Public comment on recommended amendments to Nevada Administrative Code (NAC) Chapter 450B
7. Public comment on recommended amendments to Nevada Administrative Code (NAC) Chapter 458
8. Public comment on recommended amendments to Nevada Administrative Code (NAC) Chapter 652
9. General Public Comment

The proposed changes would amend Nevada Administrative Code (NAC) and are being recommended in accordance with [Governor's Executive Order #2023-003](#).

The proposed amendments provide provisions for the following:

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4150 Technology Way, Suite 300 • Carson City, Nevada 89706  
775-684-4200 • Fax 775-687-7570 • dpbh.nv.gov

- a. NAC 449.079 in its entirety, as this section affects licensed facilities for the treatment of alcohol or other substance use disorders;
  - b. The word "ironed" from NAC 449.126(4), NAC 449.15357(4), and NAC 449.74357(4) to reduce time during staffing storages, as well as relieving overall burden on industry;
  - c. NAC 449.154991(2), NAC 449.232(3), NAC 449.154937(2), and NAC 449.39516(2)(b), due to telephone directory regulations not being utilized anymore;
  - d. NAC 449.77417(2)(a) which clarifies confusion of enforcing authority; and,
  - e. Section 14 of LCB File No. R016-20 in its entirety to eliminate the annual requirement for cultural competency training.
2. Editions to NAC 449.079 includes the requirement for a licensed facility for the treatment of alcohol or other substance use disorders to obtain certification in accordance with NRS 458.025. This requirement was stricken from the statutory definition in 2015 by Senate Bill 500. The result was the statutory definition NRS 449.00455 for a facility for the treatment of alcohol or other substance use disorders does not require certification in order to be licensed. Repealing this section implements legislative intent.
  3. Editions to NAC 449.126, NAC 449.15357, and NAC 449.74357 reduce extra work required by the facility by excluding the requirement for ironing. This may also help relieve workload during staff shortages.
  4. Editions to NAC 449.15499, NAC 449.232, NAC 449.154937, and NAC 449.39516 eliminates language regarding requirements for facilities to be listed in a phone directory, which is no longer utilized.
  5. Editions to NAC 449.77417 clarifies authority for requirements outlined already through Nevada Revised Statutes (NRS). Current regulation under this section provides the ability of a SNF and ICF to apply for a variance, which is not applicable, as this requirement is outlined in statute. Statutes take precedence over the regulation, and as one of the restrictions to variances, the Board does not have the authority to vary a statute. Removing this language will prevent future occurrences of facilities attempting to vary the statute, by using the regulatory language. Further, the statutory requirements remain in place, so removing this language does nothing to diminish the requirements.
  6. @Editions to Section 14 of LCB File No. R016-20 eliminate the annual requirement for cultural competency training, reducing extreme financial burden on facilities.
  7. Recommendations for amendment or deletion within Chapter 449 would clarify and remove extraneous verbiage that is outdated or covered by other regulations and remove barriers for business.

#### **Nevada Administrative Code (NAC) Chapter 450B**

1. Removes NAC 450B.456, NAC 450B.457, NAC 450B.458, and NAC 450B.459 due to the DPBH Emergency Medical Services Office not regulating dispatchers.
2. Editions within Nevada Administrative Code (NAC) Chapter 450B outlined above would remove Nevada regulations regarding certification of emergency medical dispatchers. Dispatchers use a nationally accredited program. DPBH has not issued an Emergency Medical Dispatcher certification with approximately 5 years. Upon discussion with dispatcher supervisors, the removal of these sections would reduce barriers since the current regulations do not benefit dispatchers or their organizations.
3. The removal of this NAC subsection will reduce barriers to the public and business in accordance with the Governor's Executive Order 2023-003.

#### **Nevada Administrative Code (NAC) Chapter 458**

1. Removes NAC 458.342(2)(e) due to duplication of background checks.
2. Editions within Nevada Administrative Code (NAC) Chapter 458 outlined above would update provisions for Nevada detoxification technician certifications by removing the redundant requirement of obtaining fingerprinting. Treatment agencies may already have a process in place for obtaining background checks; therefore, there is no need for both the treatment agency and the Division to conduct background checks.
3. The removal of this NAC subsection will reduce barriers to the public and business in accordance with the Governor's Executive Order 2023-003.

Copies may be obtained in person, by mail, or by calling the Division of Public and Behavioral Health at 775-684-4200.

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.

## Summary of Response

<b>Summary Of Comments Received</b> <b>(Two (2) responses were received out of 9,053 small business impact questionnaires distributed)</b>			
<b>Will a specific regulation have an adverse economic effect upon your business?</b>	<b>Will the regulation (s) have any beneficial effect upon your business?</b>	<b>Do you anticipate any indirect adverse effects upon your business?</b>	<b>Do you anticipate any indirect beneficial effects upon your business?</b>
Yes: 0	Yes: 1	Yes: 1	Yes: 1
No: 2	No: 1	No: 1	No: 1

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

An online small business impact survey was distributed via email and posted publicly on the DPBH website, as described above. All questionnaire responses were conducted via the web, and none were received via email, fax or mail. The proposed regulations, as well as existing regulations, were reviewed. EHS analyzed the information from the questionnaire to determine if the proposed regulation had an impact on small businesses or if it was existing regulations that had an impact on small businesses. The statement was prepared by the EHS Manager.

**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.**

The proposed change will allow businesses from all states and countries to import water into Nevada enabling small businesses to participate in commerce.

**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 of Public and Behavioral Health has held several opportunities for the public to provide input and comments regarding the proposed 445A regulations, including a Stakeholder Feedback Meeting on March 22<sup>nd</sup>, 2023 in addition to soliciting the economic impact the proposed regulations may have on the public and business. Modifications to the proposed regulations have been made as a result of this input. Workshops will be held on April 21<sup>st</sup>, 2023 allowing for further input by the public regarding the proposed regulations and how they will impact businesses. 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 not direct cost to the agency for enforcement of the proposed regulations.