

Proposed Regulation of the State Board of Health
Amendments to Nevada Administrative Code (NAC) Chapter 442

Key:

~~Red strikethrough:~~ deletions

Section 1. NAC 442.080 is hereby deleted.

~~NAC 442.080 Chief of Bureau of Children's Services to inform employees of policy. (NRS 442.140, 442.190, 442.330) The Chief of the Bureau of Children's Services shall inform all employees of the Bureau of regulations relating to confidential materials.~~

~~—[Bd. of Health, Confidentiality of Records Reg. § 3, eff. 6-5-72; A and renumbered as § 2.0, 12-20-79]~~

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

SMALL BUSINESS IMPACT STATEMENT 2023 PROPOSED AMENDMENT TO NEVADA ADMINISTRATIVE CODE (NAC) CHAPTER 442

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendment should not have an impact upon a small business or a negative impact on 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

Nevada Administrative Code (NAC) [442.080](#) is proposed for deletion. This Nevada Administrative Code requires the Chief of the Bureau of Children's Services to inform all employees of the Bureau of regulations relating to confidential materials. Current onboarding requirements already ensure all employees of the Division of Public and Behavioral Health receive instruction on confidential materials and this includes all employees of the Bureau. The regulation is redundant since the process referenced in NAC 442.080 occurs as a mandated aspect of Division policy and required trainings.

1) A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

Pursuant to NRS 233B.0608 (2)(a), the Division of Public and Behavioral Health requested input on multiple public health regulations from 9,053 individuals solicited via email and a stakeholder feedback meeting held on March 22nd, 2023.

A Small Business Impact Questionnaire was sent to 9,053 individuals on March 22nd, 2023. The questions on the questionnaire were:

- 1) How many employees are currently employed by your business?
- 2) Will a specific regulation have an adverse economic effect upon your business?
- 3) Will the regulation(s) have any beneficial effect upon your business?
- 4) Do you anticipate any indirect adverse effects upon your business?
- 5) Do you anticipate any indirect beneficial effects upon your business?

Summary of Response

Summary Of Comments Received (2 responses were received specific to NAC 442.080 out of 9,053 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?
No (2 responses)	No (2 responses)	No (2 responses)	No (2 responses)

Number of Respondents out of 9,053 e-mailings and posting to the Division website	Adverse economic effect?	Beneficial effect?	Indirect adverse effects?	Indirect beneficial effects?
2	0	0	0	0

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

An email making stakeholders aware of a pending stakeholder feedback meeting was widely distributed on March 15, 2023, and the meeting was held with a physical and virtual option to attend on March 22, 2023. The Small Business Impact Questionnaire was distributed to 9,053 individuals, requesting feedback on multiple public health regulations. Of the questionnaires distributed, two responses for NAC 442.080 were received, indicating no adverse or beneficial direct or indirect effects or impacts of the proposed regulation deletion.

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 adverse or beneficial estimated direct or indirect economic effect of the proposed regulation deletion.

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 including a meeting on March 22, 2023, for stakeholders to provide input and comments regarding the proposed regulation change,

including the economic impact the proposed regulation deletion may have on relevant stakeholders. Modifications to the proposed regulations have not been made or suggested as a result of this input. A Workshop will be held on April 21, 2023, allowing for further input by interested parties regarding the proposed regulations and how they will impact small businesses. Any future comments will be taken into consideration for possible further revisions to the regulations to prevent or reduce the economic impact on facilities.

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

There is no estimated cost to the agency for enforcement of the proposed regulation.

6) If the proposed regulation provides a new fee or increases an existing fee, the total annual amount DPBH expects to collect and the manner in which the money will be used.

The proposed regulation does not provide a new fee or increase an existing one.

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

There are no duplicative or more stringent provisions than federal, state, or local standards regulating the same activity.

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


Pending any feedback from the public hearing on April 28 2023, currently there are no responses indicating any impact from the small business impact questionnaire mailed and posted on the Division website on March 22, 2023.

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

Division of Public and Behavioral Health
4150 Technology Way, Suite 300
Carson City, NV 89701
Vickie Ives
Phone: (775) 684-2201
Email: vives@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: 04/05/2023

Joe Lombardo
Governor



Richard Whitley, MS
Director

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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%22Tid%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, 3rd 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:

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

Nevada Administrative Code (NAC) Chapter 228

1. Removes the following:
 - a. NAC 228.101 and NAC 228.102(1)(b) to bring into compliance with removal of requirements in Senate Bill 45 of the 2021 Legislative Session;
 - b. Section 6(10)(a) and (b) of LCB File No. R071-20, as each supervisor or provider of treatment must be individually approved and this can be easily verified, if needed; and,
 - c. Section 7(2)(d)(1), (2), and (5), and Section 7(4)(b), (4)(b)(1), and (4)(b)(2), of LCB File No. R071-20, as proof of continuing education completion will be conducted via an audit process, which will save program applicants a lot of time when submitting their renewals.
2. Editions within Nevada Administrative Code (NAC) Chapter 228 (edits to 228.101 and 228.102) would benefit health facilities and those hired as an employee or independent contractor by removing barriers in the certification process.
3. Editions to Section 6 of LCB File No. R071-20 will reduce extra burden on Domestic Violence Treatment Program providers. Each supervisor or provider of treatment must be individually approved, and this can be easily verified, if needed. The programs will still be required to provide the names/supervisors during the application process which can be used to verify the individuals have appropriate approval; therefore, the section being omitted is not needed.
4. Editions to Section 7 of LCB File No. R071-20 will reduce additional barriers for providing proof of continuing education completion. This will be conducted via an audit process, similar to what the Board of Nursing does which will save Program applicants a lot of time when submitting their renewals because they won't have to upload all of their supervisor and provider CEU documents which will create a less burdensome, more efficient application process.
5. 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 442

1. Removes NAC 442.080 in its entirety, as the bureau name is outdated and there is no need for the Bureau Chief to inform employees; all employees are already required to take a class on confidential health information.
2. Removal of NAC 442.080 eliminates regulation requirement of the Bureau Chief to provide all employees information regarding regulations relating to confidential materials. Recommendations for deletion within Chapter 442 would remove regulatory requirement for action that can be achieved with Bureau level policy.
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 445A

1. Changes NAC 445A.547 from "outside" to "within" in the section title and in (1) and removes the annual permit to sell or distribute bottled water produced in a plant located outside of the state in NAC 445A.589.
2. Provisions or deletions within Nevada Administrative Code (NAC) Chapter 445A outlined above update provisions for Nevada companies producing bottled water for distribution within this State and benefit bottled water companies with out-of-state water plants by removing the permit requirements to sell or distribute bottled water within Nevada. It is unrealistic for Nevada to permit water that is bottled in other parts of the country or world but would still allow Environmental Health Services to have the authority to address complaints about bottled water sold outside of its jurisdiction.
3. Recommended amendment to NAC 445A.589 would eliminate a fee of \$175 annually if the water production plant is outside the State of Nevada.
4. 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 449

1. Removes the following:

- 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.

Nevada Administrative Code (NAC) Chapter 652

1. Removes NAC 652.600 in its entirety due to not being used in the past and no plans for the program to use these in the future.
2. Editions within Nevada Administrative Code (NAC) Chapter 652 outlined above would update Nevada regulation by removing certification requirements to be an approved program for training laboratory technicians. Eliminates NAC 652.600 Program of training for certification as technicians. Approved training is listed in previous sections of NAC 652 as well as NRS 652.
3. The removal of this section will reduce barriers to the public and business in accordance with the Governor's Executive Order 2023-003.

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 the Executive Assistant of the Division of Public and Behavioral Health, Autumn Blattman at the following email or address:

Division of Public and Behavioral Health
ATTN: Autumn Blattman
4150 Technology Way, Suite 300
Carson City, NV 89706
a.blattman@health.nv.gov
775-684-5850

Members of the public who require special accommodations or assistance at the workshops are required to notify Autumn Blattman by emailing a.blattman@health.nv.gov at the Division of Public and Behavioral Health, or by calling 775-684-5850 at least five (5) working days prior to the date of the public workshop.

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:

1. Division of Public and Behavioral Health, 4150 Technology Way, Carson City, NV 89706
2. Division of Public and Behavioral Health, Rawson Neal Psychiatric Hospital, 1650 Community College Dr., Las Vegas, NV 89146
3. Nevada State Library and Archives, 100 Stewart Street, Carson City, NV, 89701

A copy of the regulations and small business impact statement can be found on the Division of Public and Behavioral Health's web page, at the following locations:

1. NAC Chapters 228, 449, and 652: [State of Nevada Health Facility Regulation Public Workshops \(nv.gov\)](#)
2. NAC Chapter 458: [Home - SAPTA \(nv.gov\)](#)
3. NAC Chapter 445A: [Trending Health Topics \(nv.gov\)](#)
4. NAC Chapter 442: [Maternal, Child and Adolescent Health \(MCH\) \(nv.gov\)](#)
5. NAC Chapter 450B: [EMS \(nv.gov\)](#)
6. All recommendations for NAC removals: [2023 Nevada State Board of Health \(nv.gov\)](#)

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, NV 89706
2. Division of Public and Behavioral Health, Rawson Neal Psychiatric Hospital, 1650 Community College Dr., Las Vegas, NV 89146
3. Nevada State Library and Archives, 100 Stewart St., Carson City, NV 89701

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.