



NOTICE OF PUBLIC HEARING

Intent to Adopt Regulations
LCB File No. R016-20

NOTICE IS HEREBY GIVEN that the State Board of Health will hold a public hearing to consider amendments to Chapter 449 of Nevada Administrative Code (NAC), Medical Facilities and Other Related Entities, LCB File No. R016-20. This public hearing is to be held in conjunction with the State Board of Health meeting on September 4, 2020.

The State Board of Health will be conducted via teleconference only beginning at 9:00 AM on September 4, 2020.

Phone: 1-669-900-6833
(Access code: 775-684-5906)

Pursuant to Governor Sisolak's March 22, 2020, Declaration of Emergency Directive 006, the requirement contained in NRS 241.023(1)(b) that there be a physical location is suspended in order to mitigate the possible exposure or transmission of COVID-19 (Coronavirus). Accordingly, all members of the public must participate by using the teleconference number provided in this notice.

The proposed changes to NAC Chapter 449 include the following major provisions:

- Specifies the types of prohibited discrimination including: (1) discrimination that results in a person not being treated with dignity; (2) indirect discrimination that may or may not be intentional and which results from the uniform application of policies in a nondiscriminatory manner; (3) discrimination which is based wholly or partially on the discriminated person associating with certain other persons; and (4) harassment or bullying of any kind of a person.
- Prohibits a facility from discriminating against a patient or resident based on the source of payment for the services provided.
- Requires impacted facilities to post prominently in the facility and on any Internet website used to market the facility: (1) notice that a patient or resident who has experienced prohibited discrimination may file a complaint with the Division of Public and Behavioral Health of the Department of Health and Human Services; and (2) the contact information for the Division.
- Sets forth the specific requirements with which a statement, notice and information posted by a facility must comply, including: (1) how large the letters and the physical copy of the statement, notice and information must be; and (2) where such a statement, notice and information must be posted.
- Requires a medical facility, facility for the dependent or certain other licensed facilities to provide a patient or resident, upon admission : (1) a written copy of the statement, notice and information required by existing law and section 9 of the proposed regulations; and (2) a written notice that a patient or resident who has experienced prohibited discrimination may file a complaint with the facility in addition to the complaint that may be filed with the Division.
- Requires a facility to: (1) develop and adopt a written policy on how a complaint filed with the facility is documented, investigated and resolved; and (2) maintain a log that lists certain information.

- Clarifies that to provide express permission, a patient or resident or the authorized representative of the patient or resident must provide such permission in writing.
- Imposes the requirement that a facility conduct training relating specifically to cultural competency for any agent or employee of the facility who provides care to a patient or resident of the facility and that the course or program provided be approved by the Director of the Department or his or her designee.
- Requires a facility to submit to the Department the course or program through which a facility will provide the cultural competency training.
- Requires: (1) the health records that a medical facility keeps include certain information; and (2) the medical facility to develop a procedure to ensure the information of a patient or resident accurately reflects the diverse gender identities or expressions of patients or residents when interacting with insurance providers.
- Requires the statements, notices and information that are provided to patients or residents concerning prohibited discrimination be in English and in any other language the Department determines is appropriate based on the demographic characteristics of this State. In addition to these languages, the proposed regulations authorize a facility to provide the statements, notices and information in any foreign language the facility may desire.
- Requires a facility to make reasonable accommodations for patients or residents who: (1) do not read or speak English or any other language in which the statements, notices and information are written; and (2) have certain communication impairments.
- Requires a facility to designate a representative of the facility who is responsible for ensuring that the facility complies with the provisions of existing law and this regulation.

If a revised LCB draft is not returned prior to the posting requirement deadline, an errata will be moved forward outlining the requested changes to the LCB draft which includes:

- 1) Omitting the language currently in the LCB draft, section 18, and replacing it with language which will provide for a more efficient mechanism for assigning a course number to an approved course or program;
- 2) Clarifying that a patient may refuse to provide the information that health records must include pursuant to Section 19, subsection 2; and
- 3) Clarifying that a medical facility shall develop a method for using medically relevant information of a patient that accurately reflects the diverse gender identities or expressions of patients or residents with diverse gender identifies or expression when interacting with insurance providers.

1. Anticipated effects on the business which NAC Chapter 449 regulates:

A. Adverse effects: NRS 449.104 requires the Board of Health to adopt regulations requiring facilities noted in the bill to adapt electronic records to reflect the gender identities or expressions of patients or residents with diverse gender identities or expressions, and if the facility is a medical facility, adapting health records to meet the medical needs of patients or residents. In addition, NRS 449.103, requires facilities noted in the bill to conduct cultural competency training. Although the Division does recognize that there may be a direct adverse financial effect to certain facilities, the proposed regulations carry out the provisions of NRS 449.0302, and NRS 449.101 to NRS 449.104 while taking measures to reduce the financial impact of the proposed regulations on small businesses.

B. Beneficial: Although some respondents included beneficial effects on their business, it was not clear that these would result in direct economic beneficial effects. The proposed regulations may result in indirect beneficial effects. Responses to the small business impact questionnaire included that teaching the information in the regulations is important for team building and better caregiving and that better trained team members with awareness of a variety of areas is always helpful.

According to the Georgetown University, McCourt School of Public Policy, Health Policy Institute:

“A culturally competent health care system can help improve health outcomes and quality of care, and can contribute to the elimination of racial and ethnic health disparities. Examples of strategies to move the health care system towards these goals include providing relevant training on cultural competence and cross-cultural issues to health professionals and creating policies that reduce administrative and linguistic barriers to patient care.”

“People with chronic conditions require more health services, therefore increasing their interaction with the health care system. If the providers, organizations, and systems are not working together to provide culturally competent care, patients are at higher risk of having negative health consequences, receiving poor quality care, or being dissatisfied with their care.”

According to internal analysis, improved patient satisfaction through better interactions with staff may lead to improved public relations and a larger customer base. Cultural competency training, stricter anti-discrimination requirements, and adapting health records to meet the medical needs of patients may mitigate risk from poor patient care (including possible abuse or neglect) that may reduce potential for lawsuits and associated financial loss.

- C. Immediate:* Facilities would need to take action, upon passage of the regulations, to prohibit discrimination and provide cultural competency training to agents or employees being contracted or hired, to help agents and employees to more effectively treat patients or care for residents and better understand individuals who have different cultural backgrounds. Immediate adverse effects may include increased costs to provide the initial cultural competency trainings.
- D. Long-term:* Long-term beneficial benefits include better health outcomes, improved quality of care and increased patient satisfaction for all patients. Long-term adverse effects may include increased cost and resources to provide the annual cultural competency training.

2. Anticipated effects on the public:

- A. Adverse:* No adverse effects to the public are anticipated.
- B. Beneficial:* The beneficial effects on the public may include better health outcomes, improved quality of care and increased patient satisfaction for all patients.
- C. Immediate:* Immediate beneficial benefits include moving facilities towards providing care that more effectively treats patients with an improved understanding of cultural background which may improve public health and safety. There are no anticipated immediate adverse effects on the public.
- D. Long-term:* Long-term beneficial benefits include better health outcomes, improved quality of care and increased patient satisfaction for all patients. There are no anticipated long-term adverse effects anticipated to the public.

3. The estimated cost to the Division of Public and Behavioral Health for enforcement of the proposed regulation.

These proposed regulations will not add any costs to the current regulatory enforcement activities conducted by HCQC. The facilities impacted by the new laws are already licensed and inspected by HCQC and these new training and posting/patient notification requirements can be incorporated into HCQC's current workload.

Overlapping or duplicate Nevada state regulations addressing discrimination in health care facilities are omitted in the proposed regulation in order to ensure consistency in carrying out the statutory requirements for all impacted health care facilities and to avoid the potential for regulations that may conflict with each other.

Members of the public may make oral comments at this meeting. Persons wishing to submit written testimony or documentary evidence in excess of two typed, 8-1/2" x 11" pages must submit the material to the Board's Secretary, Lisa Sherych, to be received no later than August 20, 2020 at the following address:

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

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

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

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

Nevada Division of Public and Behavioral Health
4220 S. Maryland Parkway, Suite 100, Building A
Las Vegas, NV 89119

A copy of the regulations and small business impact statement can be found on-line by going to:

http://dpbh.nv.gov/Reg/HealthFacilities/State_of_Nevada_Health_Facility_Regulation_Public_Workshops/

A copy of the public hearing notice can also be found at Nevada Legislature's web page:

<https://www.leg.state.nv.us/App/Notice/A/>

Copies may be obtained in person, by mail, or by calling the Division of Public and Behavioral Health at (775) 684-1030 in Carson City or (702) 486-6515 in Las Vegas.

If the public library is open during the COVID-19 pandemic, copies may be obtained from one of the public libraries listed below:

Carson City Library
900 North Roop Street
Carson City, NV 89702

Churchill County Library
553 South Main Street
Fallon, NV 89406

White Pine County Library
950 Campton Street
Ely, NV 89301-1965

Clark County District Library
1401 East Flamingo Road
Las Vegas, NV 89119

Douglas County Library
1625 Library Lane
Minden, NV 89423

Elko County Library
720 Court Street
Elko, NV 89801

Esmeralda County Library
Corner of Crook and 4th Street
Goldfield, NV 89013-0484

Eureka Branch Library
80 South Monroe Street
Eureka, NV 89316-0283

Henderson District Public Library
280 South Green Valley Parkway
Henderson, NV 89012

Humboldt County Library
85 East 5th Street
Winnemucca, NV 89445-3095

Lander County Library
625 South Broad Street
Battle Mountain, NV 89820-0141

Lincoln County Library
93 Maine Street
Pioche, NV 89043-0330

Lyon County Library
20 Nevin Way
Yerington, NV 89447-2399

Mineral County Library
110 1st Street
Hawthorne, NV 89415-1390

Pahrump Library District
701 East Street
Pahrump, NV 89041-0578

Pershing County Library
1125 Central Avenue
Lovelock, NV 89419-0781

Storey County Library
95 South R Street
Virginia City, NV 89440-0014

Tonopah Public Library
167 Central Street
Tonopah, NV 89049-0449

Washoe County Library
301 South Center Street
Reno, NV 89505-2151

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.