

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 PUBLIC HEARING

Intent to Adopt Regulations
LCB File No. R062-21

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. R062-21. This public hearing is to be held in conjunction with the State Board of Health meeting on June 3, 2022.

Join Zoom Meeting

<https://zoom.us/j/94244271039?pwd=V0s1UW5aKy9pdIVTNzIzR0xLODU4dz09>

Meeting ID: 942 4427 1039

Passcode: 479010

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Find your local number: <https://zoom.us/u/abdO8IzLYd>

The proposed changes to NAC Chapter 449 are being moved forward as a result of Assembly Bill 287 of the 81st (2021) legislative session which voids the obstetric center regulations codified as NAC 449.6113 to 449.61178 and requires the Board of Health to adopt separate regulations governing the licensing and operation of freestanding birthing centers that align with the standards established by the American Association of Birth Centers, the accrediting body of the Commission for the Accreditation of Birth Centers, or another nationally recognized organization for accrediting freestanding birthing centers. In addition, the regulations adopted by the

Board of Health must allow for the provision of supervised training to providers of health care, as appropriate, at a freestanding birthing center.

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

- A freestanding birthing center to be accredited by the Commission for the Accreditation of Birth Centers within a prescribed period after applying for a license from the Division.
- The application submitted for the issuance or renewal of a license to operate a freestanding birthing center to specify the number of beds in the freestanding birthing center.
- Certain construction standards and equipment requirements of a freestanding birthing center be met.
- A freestanding birthing center to submit plans for any new construction or remodeling to the Division for review before the construction or remodeling begins.
- The Division to conduct an on-site inspection of a freestanding birthing center before issuing a license to the freestanding birthing center.
- A freestanding birthing center to maintain a supply of oxygen that is adequate to provide oxygen supplementation to all persons receiving care at the freestanding birthing center and requires the director of a freestanding birthing center to establish policies and procedures for the safe administration and storage of oxygen at the freestanding birthing center.
- A freestanding birthing center to develop and implement written policies and procedures for the control of infection and train certain staff members concerning those policies and procedures and requires members of the staff to follow the manufacturer's guidelines for the use and maintenance of all equipment, devices and supplies.
- A freestanding birthing center to maintain at least a 14-day supply of personal protective equipment to protect staff members from infectious diseases.
- A freestanding birthing center to comply with certain laws and regulations and provide any record maintained by the freestanding birthing center to the Division upon request.
- A freestanding birthing center to comply with and maintain a copy of the Commission for the Accreditation of Birth Centers standards adopted by reference.
- The director of a freestanding birthing center to ensure that the center maintains a personnel file for each member of its staff and each member of the staff of the freestanding birthing center holds the appropriate professional license, certificate or registration where required. It further establishes requirements for the staff who must attend each birth at a freestanding birthing center and certain additional requirements governing the provision of care.
- Certain qualifications for a birth assistant and outlines the activities that can be performed by a birth assistant.
- A program of supervised training for providers of health care offered at a freestanding birthing center to meet the requirements set forth in the proposed regulations.
- The director of a freestanding birthing center to establish criteria for determining whether a pregnant person may give birth at a freestanding birthing center.
- A freestanding birthing center to inform a pregnant person or a person who has given birth at the center of their rights and the health status of the person and the fetus or newborn and allows a pregnant person or person who has given birth to inspect and purchase photocopies of their medical record. It also requires the director of a freestanding birthing center to adopt a procedure by which a person may submit a complaint concerning care provided or not provided by the freestanding birthing center.
- The storage and administration of drugs at a freestanding birthing center meet the requirements set forth in the proposed regulations.

- The director of a freestanding birthing center or his or her designee to notify the Division not later than 24 hours after a death at the freestanding birthing center and requires the director of a freestanding birthing center to establish a procedure to ensure the provision of appropriate counseling to certain persons affected by a death at the freestanding birthing center.

In addition, the proposed regulations:

- Prescribe the fees to apply for the issuance or renewal of a license.
- Provide that episiotomy or repair of lacerations sustained during delivery does not constitute surgery and thus authorizes the performance of those procedures at a freestanding birthing center.

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

A. *Adverse effects:* on a small business opening a brand-new freestanding birthing center includes costs for building space, staffing costs, equipment and supplies, and other costs related to opening a new freestanding birthing center. The costs may vary depending on multiple factors, including but not limited to, location, size of the center, the number of staff employed, the staff mix, and other factors; therefore, the cost cannot be determined. There are also costs associated with the requirement to obtain and maintain current accreditation by the Commission for the Accreditation of Birth Centers.

B. *Beneficial:* The small business questionnaire revealed the following beneficial effects:

With the proposed changes to birth attendants, our birth center can save an average of \$5,200/month and \$63,000/year on salaries. This is calculated at 30 births/month at \$350 per birth for a total of \$10,500. Estimating a conservative coverage for birth attendant at 50% coverage by student midwife/midwife in training.

C. *Immediate:* The cost saving measure noted in, B. Beneficial, would be available to be implemented immediately upon the proposed regulations becoming effective.

D. *Long-term:* Cost savings associated with having the proposed regulations, to the extent possible, align with the accreditation body standards; therefore, reducing the regulatory burden to be met.

2. Anticipated effects on the public:

A. *Adverse:* None.

B. *Beneficial:* Gives pregnant persons that meet the criteria to give birth in a freestanding birthing center such an option. Provides a safe, regulated alternative for pregnant persons who meet the criteria to give birth in a freestanding birthing center to give birth.

C. *Immediate:* Upon the regulations becoming effective, will provide pregnant persons the benefits listed in B.

D. *Long-term:* Continued safe, regulated alternative for pregnant persons who meet the criteria to give birth in a freestanding birthing center to give birth.

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 as HCQC has been regulating obstetric centers and the freestanding birthing center proposed regulations will be replacing the obstetric center regulations.

Overlapping or duplicate Nevada state regulations will not be an issue as the obstetric center regulations have been declared void by Section 36.5 by Assembly Bill 287 of the 81st (2021) legislative session.

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 May 17, 2022, 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
4150 Technology Way
Carson City, NV 89706

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/>

A copy of the public hearing notice and proposed regulations were sent to:
Nevada State Library, Archives and Public Records
100 N 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) 684-1030 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.