

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 AND INTENT TO ADOPT PERMANENT REGULATIONS

(LCB File No. R002-22)

CANCELLED

NOTICE IS HEREBY GIVEN that the State Board of Health will hold a public hearing to consider amendments to Chapter 441A of the Nevada Administrative Code (NAC). This public hearing is to be held in conjunction with the State Board of Health meeting on September 2, 2022.

The State Board of Health will be conducted via videoconference beginning at 9:00 AM on Friday, September 2, 2022: https://teams.microsoft.com/l/meetup-join/19%3ameeting_YTBhMmY4MDMtNmIxNC00OWYyLThkZmQtZWY4ZGI5ZGNhNDY1%40thread.v2/0?context=%7b%22Tid%22%3a%22e4a340e6-b89e-4e68-8eaa-1544d2703980%22%2c%22Oid%22%3a%22455656b7-d121-4709-ba81-3f70d51b1100%22%7d

Or call in (audio only)

+1 775-321-6111

Phone Conference ID: 655 825 021#

The proposed changes to Nevada Administrative Code (NAC) Chapter 441A are required in accordance with Senate Bill (SB) 211 of the 2021 Legislative Session and Nevada Revised Statutes (NRS) Chapter 441A. Senate Bill (SB) 211 (formerly Bill Draft Request [BDR] 40-563) was introduced during the 2021 Nevada 81st Legislative Session and signed by Governor Steve Sisolak on June 4, 2021. The bill establishes requirements relating to testing for sexually transmitted diseases (STD) and human immunodeficiency virus (HIV). The proposed regulations will update NAC Chapter 441A in accordance with the requirements set forth in SB 211. Current regulations do not outline the requirement to consult with patients about whether they wish to be tested for HIV or STDs.

The proposed changes to NAC Chapter 441A include the following:

- Adopts by reference certain federal guidelines concerning testing for sexually transmitted diseases and offering culturally and linguistically appropriate services;
- Requires a physician, physician assistant, advanced practice registered nurse or midwife to follow the procedures set forth in such guidelines when determining which tests for sexually transmitted diseases are medically indicated;
- Requires a physician, physician assistant, advanced practice registered nurse or midwife to document in the record of the patient: (1) whether any tests were offered and, if so, which tests were offered; and (2) whether the patient agreed to the performance of each test that was offered;
- Requires a physician, physician assistant, advanced practice registered nurse or midwife to communicate with patients concerning such tests in accordance with federal guidelines concerning the provision of culturally and linguistically appropriate services; and
- Makes conforming changes to avoid duplicative reference to acquired immune deficiency

syndrome and the human immunodeficiency virus.

- The errata further defines when a test is medically indicated, under these provisions.

1. Anticipated effects on the business which NAC Chapter 441A regulates:

- Adverse effects:* The Division of Public and Behavioral Health does not anticipate any adverse/negative impacts to businesses or the general public in the State of Nevada.
- Beneficial:* The positive/beneficial effects of the proposed regulations to businesses in the State of Nevada would be increased billing for HIV and STDs testing.
- Immediate:* As soon as the proposed regulations become effective, it would increase opportunities for testing HIV and STDs across Nevada. All insurances in Nevada are required to cover HIV and STD testing following United States Preventive Services Taskforce (USPSTF) and the Centers for Disease Control and Prevention (CDC) Guidelines.
- Long-term:* The long-term positive/beneficial effects of SB 211/ R002-22 to businesses in the State of Nevada include reduction in the future cost of medical care and treatment of late diagnosis of HIV and STDs.

2. Anticipated effects on the public:

- Adverse effects:* The Division of Public and Behavioral Health does not anticipate any adverse/negative impacts to the general public in the State of Nevada.
- Beneficial:* The proposed regulations will eliminate patients' need to self-advocate for HIV and STD testing.
- Immediate:* It will create an open dialogue with medical providers regarding any behaviors impacting their patient's health.
- Long-term:* The long-term positive/beneficial effects to the public include a reduction of the future cost of medical care and treatment of late diagnosis of HIV and STDs. Additionally, it will destigmatize HIV and STDs among medical providers and the public. Lastly, these regulations will decrease HIV and STD occurrence in Nevada and potentially end the HIV epidemic in Nevada.

3. The Division of Public and Behavioral Health determined the impact on small businesses by soliciting responses through the Public Workshop and Small Business Impact (SBI) questionnaire. SBI Statement was solicited via email to multiple listservs targeting medical providers, health facilities, professional MD/DO/NP associations, and more. Additionally, the information for the Public Workshop, SBI questionnaire, SBI Statement was also provided online via the State of Nevada, Office of HIV - Regulation Development Processes Website (Link: https://dphh.nv.gov/Programs/HIV/dta/Policies/HIV_Regulation_Development_Processes/) and posted at the local health authorities offices. Interested parties could also request a physical copy via email (sent via mail) or in person at our office or the local health departments. The Division of Public and Behavioral Health did not receive any negative feedback regarding the proposed regulations.

4. These proposed regulations will not add any costs to the current regulatory enforcement activities conducted by the Division of Public and Behavioral Health.

4. The proposed regulations do not overlap or duplicate federal, state, or local standards.

5. The proposed regulations do not establish a new fee nor increases an existing fee.

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 5 DAYS BEFORE MEETING DATE at the following address:

Secretary, State Board of Health
Division of Public and Behavioral Health
4150 Technology Way, Suite 300
Carson City, NV 89706
stateBOH@health.nv.gov

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 maybe copied at the following locations during normal business hours:

1. Nevada Division of Public and Behavioral Health - 4150 Technology Way, Suite# 300 Carson City, NV 89706
2. Nevada Division of Public and Behavioral Health - 1840 East Sahara Avenue Suite 110-111 Las Vegas, NV 89104
3. Southern Nevada Health District - 280 S Decatur Blvd, Las Vegas, NV 89107
4. Washoe County Health District - 1001 E 9th St B, Reno, NV 89512

A copy of the regulations and small business impact statement can be found on-line by going to:
https://dpbh.nv.gov/Programs/HIV/dta/Policies/HIV_Regulation_Development_Processes/

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
Preston Nguyen Tang, MPH
Division of Public and Behavioral Health
1840 East Sahara Avenue Suite 110-111 Las Vegas, NV 89104
Phone: (702) 486-6488
Email: ptang@health.nv.gov

Copies may also be obtained from the Nevada State Library at the address listed below:
Nevada State Library & Archives
100 N. Stewart Street
Carson City, NV 89701

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.