

**SMALL BUSINESS IMPACT STATEMENT**  
**PROPOSED AMENDMENTS TO NEVADA ADMINISTRATIVE CODE (NAC) 439**

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendment will not have a direct financial impact on existing business because this is a new treatment program type with no currently certified businesses. This may provide a new business opportunity for anyone interested in opening a program of treatment for persons who solicit prostitution but there will be a fiscal impact for those applying in the form of applications fees. The fees are every two years and it is not expected that the fee amount would prevent 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**

NRS 4.373 (3) allows the justice of the peace to suspend the sentence for not more than 2 years upon the condition that the person actively participates in a program for the treatment of persons who solicit prostitution which is certified by the Division of Public and Behavioral Health. NRS 439.200 gives the State Board of Health authority to adopt, amend and enforce reasonable regulations consistent with law to protect and promote the public health generally. NRS 439.150 authorizes the State Board of Health to set reasonable fees for the licensing, registering, certifying, inspecting or granting permits for any facility, establishment or service regulated by the Division. These proposed regulations establish the certification and regulation requirements for programs of treatment for persons who solicit prostitution.

The proposed regulations establish the certification and regulatory requirements for a program for the treatment of persons who solicit prostitution including:

- Certification and renewal requirements
- Criteria for attendance of counseling sessions via distance media
- Required curriculum and instructional material requirements
- Program structure
- Certification and associated fees. Renewal fees are based on a two-year renewal cycle.
- Requires programs to offer a payment sliding scale
- Requirements for the completion and termination of a course
- Program record retention schedule
- Confidentiality requirements
- Offender agreement requirements
- Provisions relating to formal training and continuing education

- Program facilitator requirements
- Program director requirements
- Disciplinary action and appeal rights
- Inspection and complaint investigation requirements

There were changes made to the proposed regulations in order to further reduce the financial burden on programs for the treatment of persons who solicit prostitution. For further details on these changes please refer to number 4. In addition, other changes include:

- 1) Removing the authority for the Division to waive certain requirements.
- 2) Allowing for use of a tax identification number if an applicant does not have a social security number.

**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 (DPBH) has requested input from small businesses that may be affected by the proposed regulations. As this is a new treatment program type there are currently no businesses certified as a program for the treatment of persons who solicit prostitution who would be directly impacted by these proposed regulations; therefore, the proposed regulations were sent to certified domestic violence treatment program providers as this may be a business type that would be interested in opening such a business. In addition, the request for input from small businesses was provided to additional individuals in which contact information was provided to the Division who may have an interest in this type of business.

Notice was sent to all certified domestic violence treatment program providers, certified at the time of the notice distribution, and individuals for which contact information was provided that may have an interest in programs for the treatment of persons who solicit prostitution by January 24, 2020, requesting that all interested individuals complete the small business impact questionnaire. An email notice with a link to the small business impact questionnaire and proposed regulations was provided to those with an email address. The proposed regulations were also posted on DPBH's website. 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**  
**(1 response was received out of 32 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?
Yes- 1	Yes - 1	Yes - 1	Yes - 1
Comments: None	Comments: None	Comments: None	Comments: None

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Leticia Metherell, RN, CPM, HPM III at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health  
 Bureau of Health Care Quality and Compliance  
 727 Fairview Drive, Suite E  
 Carson City, NV 89701  
 Leticia Metherell  
 Phone: 775-684-1045  
 Email: [lmetherell@health.nv.gov](mailto:lmetherell@health.nv.gov)

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

An analysis of industry input collected was conducted by a health program manager. The analysis involved analyzing feedback obtained from the small business impact questionnaire and review of statutes to determine how the Division could implement a comprehensive program of treatment for persons who solicit prostitution while at the same time not being overly burdensome. Please see number 4 for the methods the agency considered to reduce the impact of the proposed regulations on small businesses. This information was then used to complete this small business impact statement including the conclusion on the impact of the proposed regulation on a small business found in number 8.

**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.**

*Direct Beneficial Effects:* This new certification type will open a new business opportunity to those interested in operating a program of treatment for persons who solicit prostitution.

*Indirect Beneficial Effects:* A new business opportunity may lead to new or additional income for an individual operating this new business type.

*Direct Adverse Effects:* The associated certification fees may cause a negative financial impact.

*Indirect Adverse Effects:* No indirect adverse effects are anticipated.

**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 identified and used methods to reduce the impact of the proposed regulations on small businesses including distribution of the small business impact questionnaire to certified programs for the treatment of domestic violence, an industry that may be interested in also providing a program of treatment for persons who solicit prostitution. Only one response was received from the small business impact questionnaire which indicated there would be both beneficial and adverse effects on their business but did not provide any comments elaborating on the reasons for the impact. The Division did attempt to reduce the financial impact on small businesses by providing options on how individuals can attend counseling sessions, including via distance media, which may help programs in rural areas obtain clients if this is offered.

The proposed regulations were modified after feedback was received to reduce the burden on small businesses including clarifying that those exempt from the requirement to obtain a state business license are not required to do so, removing the requirement that a program shall ensure that at least 5 percent of offenders accepted by the program are persons who do not have the ability to pay the fee for the program, and providing programs flexibility in the mechanism to ensure participants attending counseling sessions through distance media are the participants who are supposed to be attending the counseling session.

A public workshop will also be held allowing for further input by stakeholders regarding the proposed regulations and their impact. These comments will be taken into consideration for possible further revisions to the regulations to reduce the economic impact on programs.

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

The estimated cost to the agency for the enforcement of the proposed regulations is the amount of fees collected pursuant to number 6. This will depend on the number and type of applications received, for example, if one initial application is received the \$897 would cover two years of licensing and regulating this facility, with an additional \$449 every two years to maintain these services, for a total cost of \$1,346 to regulate and license one program over a four-year period.

**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 total annual amount DPBH expects to collect is unknown because it is based on the number and type of applications received. For example, if no applications were received, DPBH would collect nothing. If one initial application was received, DPBH would collect \$897 but if 10 initial applications were received, it would receive \$8,970. It would also depend on the length of time each program remains certified, because the longer a program remains certified, the more fees DPBH would collect. DPBH will use the money to license and regulate these programs.

**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 other state or federal regulations addressing 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.**

The reasons for the Division's conclusion on the impact of the proposed regulations on small businesses is based on feedback received from the industry and its analysis as outlined in number two. The proposed regulations do establish fees to be collected; therefore, there will be a financial impact on small business who apply for and operate a program for the treatment of persons who solicit prostitution.

**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: 05/25/2022