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## SMALL BUSINESS IMPACT STATEMENT

### PROPOSED AMENDMENTS TO NAC CHAPTER 449, LCB FILE #R016-20

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments should decrease the economic impact upon small businesses and therefore may improve the formation, operation or expansion of a small businesses 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 items 1, 2, 3, and 4 below and provides the reasons for the conclusions of the agency in item 8 below followed by the certification by the person responsible for the agency.

### BACKGROUND

Since 2019, NRS 449.103 has required health care facilities licensed in accordance with this chapter to provide training, so that employees may better understand patients or residents who have different cultural backgrounds. This cultural competency training must be provided through a course or program that is approved by the Department of Health and Human Services. NRS 449.103 also authorizes the Board of Health to adopt regulations regarding cultural competency training. Regulations were adopted in LCB File #R016-20. Those regulations were implemented until changes were made to NRS 449.103 during the 2023 legislative session pursuant to Assembly Bill 267. Pursuant to the modifications to NRS 449.103, the Department of Health and Human Services has generated an initial agency draft of cultural competency training regulations to replace those found in LCB File #R016-20. This initial agency draft was provided to licensed health care facilities and other interested parties to determine the small business impact of these regulations. The Department’s intent with this initial agency draft was as follows:

- Reduce burden on health care facilities by generating cultural competency training (CCT) regulations with minimal standards described in Assembly Bill 267
- Align requirements for review, approval, or rejection of CCT course submissions within 10 days of receipt, in accordance with Assembly Bill 267
- Eliminate the requirement for health facilities to report the specific CCT course the facility will use to educate its employees
- Retain the necessity for inclusion of the statutory topics identified in NRS 449.103
- Reduce burdens on facilities by establishing new timing from initial employment to receipt of CCT
- Establish periodicity and a minimum number of hours of CCT that has some alignment with professional licensure Board requirements established in Assembly Bill 267

- 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 has requested input from all health care facilities licensed pursuant to chapter 449 and those otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed.

A Small Business Impact Questionnaire was sent to all facilities identified above along with a copy of the proposed regulation changes, on 8/28/23. 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 (75 responses were received out of 1834 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?
In summary: Most respondents indicated there would be an adverse economic effect, but did not relate this specifically to the new initial agency draft of CCT regulations, but rather related the adverse effect to the necessity for CCT in general and based related costs on the current regulations in LCB File #R016-20. None of the respondents who indicated there would not be an adverse economic effect provided comments to explain their response.	In summary: Most respondents indicated there would be no beneficial effect and referenced current costs associated with CCT. Some responded that a free course developed by the Department would have a beneficial effect. Some commented that that there would be a beneficial effect associated with reduced hours of instruction.	In summary: An equal number of respondents indicated there would be an indirect adverse effect as opposed to those who indicated there would be no indirect adverse effect. Responses were varied and some expressed concern regarding CCT that employees have already attended. None of the respondents who indicated "No" indirect adverse effect provided comments to explain their response.	In summary: Most respondents indicated there would be no indirect beneficial effect. Some of the respondents that indicated there would be indirect beneficial effects related potential for more positive interaction with patients and better person centered care.
The complete list of written responses is in attachment "A".	The complete list of written responses is in attachment "A".	The complete list of written responses is in attachment "A".	The complete list of written responses is in attachment "A".

Number of Respondents 75	Adverse economic effect?	Beneficial effect?	Indirect adverse effects?	Indirect beneficial effects?
Yes	56	11	35	16
No	15	59	35	54
Left blank	4	5	5	5

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

All of the results from the small business impact questionnaire were reviewed and categorized. Some required interpretation because the written responses were in conflict with the “Yes” or “No” response given regarding the same question. However, most of the written responses provided sufficient information to understand the intent of the respondent. Unfortunately, several respondents did not reply with individual comments, but rather responded with identical text obtained from another respondent. This identical text represents 21 of the total respondents. So, a large portion of the responses relate the exact same comments, rather than comments indicative of the impact the initial agency draft will have on individual small businesses.

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.

The mean cost of CCT by an approved third-party trainer, which is the most commonly used method for facilities to provide the training is approximately \$75 [lowest \$50 and highest \$100], per employee per year. Licensed health care facilities that meet the small business definition may have between 1 and 150 employees. Calculating costs to the facility, would result in the following: 1 employee = ~\$75 annually, 2 employees = ~\$150 annually, and so on. This doesn’t take into account wages paid to the employee while they receive the training. Some respondents provided costs associated with 5 employees being paid wages at \$20 per hour during the training. Using the costs above this would result in the following calculations: 5 x \$75 = \$375, plus 2 hours minimum training, \$20 x 2 = \$40, times the 5 employees = \$200; or \$375 + \$200 = ~\$575 annually for a business with 5 employees that pays wages to the employees during the training. These calculations may represent costs for many very small businesses, whereas small businesses with 100 employees may experience costs according to these calculations: 100 x \$75 = \$7,500, plus 2 hours minimum training, \$20 x 2 = \$40, times 100 employees = \$4,000; or \$7,500 + \$4,000 = ~\$11,500 annually for a business with 100 employees that pays wages to employees during the training. Currently the approved third-party courses are more than 2 hours and range from 3 hours to 9 hours, so the mean is ~6 hours. Using the two situations above, the current annual cost of CCT is approximately:

5 employees training and wages annually = \$375 (training) + \$1,200 (wages) = \$1,575

100 employees training and wages annually = \$7,500 (training) + \$24,000 (wages) = \$31,500

In addition, the initial agency draft proposes several changes to streamline the submission and approval processes for CCT course developers. The intent of these changes is to encourage more course submissions and approval of more courses for both third party developers and for facility specific course developers. Approval of facility specific courses has the potential to significantly reduce costs for the facility annually.

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 provided opportunities for the affected industry to provide input and comments regarding the proposed regulations, including the economic impact the proposed regulations may have on small businesses. Modifications to the proposed regulations may be

made as a result of this input. A workshop will be held on Nov. 14, 2023, allowing for further input by the affected industry and public regarding the proposed regulations and how they will impact businesses and the public. These comments will be taken into consideration for possible further revisions to the regulations to reduce the economic impact on facilities.

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

Nominal, agency staff will review training programs for approval and the agency will determine compliance during regular inspection processes.

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.

None, no new fees are proposed in these regulations.

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

These regulations do not duplicate federal, state or local standards regarding 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.

Based on the calculations regarding approximate current costs of cultural competency training provided in item 3 above, versus the approximate costs upon full implementation of the proposed amendments there should be a marked decrease in costs, to small businesses. Although AB 267 changed responsibilities for the Department and training approval/rejection timelines, the statutory requirements and intent for this mandatory training remained substantially unchanged. Hence the agency is limited in its ability to further reduce the costs of this training on small businesses. However, with the proposed improvements associated with submission, review and approval/rejection of courses, there is a potential for increased reduction in costs for those facilities that generate and submit facility specific courses.

Any persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Sherry Stevens, Administrative Assistant III, at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health  
Sherry Stevens, AAlll  
4150 Technology Way, Suite 300  
Carson City, NV 89701  
Phone: (775) 684-4217  
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### **CERTIFICATION BY PERSON RESPONSIBLE FOR THE AGENCY**

I, Cody Phinney, 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.



Cody Phinney, administrator  
Nevada Division of Public and Behavioral Health

Date: Oct. 25, 2023