

## **NOTICE OF PUBLIC WORKSHOP**

NOTICE IS HEREBY GIVEN that the Division of Public and Behavioral Health will hold a public workshop to consider amendments to Nevada Administrative Code (NAC) Chapter 640E.

The workshop will be conducted via videoconference beginning at 10:00 AM on Wednesday, December 20, 2017, at the following locations:

Division of Public and Behavioral Health Bureau of Health Care Quality and Compliance 727 Fairview Drive, Suite E Carson City, NV 89701	Division of Public and Behavioral Health Bureau of Health Care Quality and Compliance 4220 South Maryland Parkway, Suite 810, Building D Las Vegas, NV 89119
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These workshops will be conducted in accordance with NRS 241.020, Nevada's Open Meeting Law.

### **AGENDA**

1. Introduction of workshop process
2. Public comment on proposed amendments to Nevada Administrative Code Chapter 640E
3. Public Comment

The proposed changes will revise Chapter 640E of the Nevada Administrative Code and are being proposed in accordance with NRS 640E.110, NRS 622.510 and Senate Bill 69 of the 2017 Legislative Session.

The proposed regulations provide provisions for the following:

- 1) Reduce dietitian licensing fees.
- 2) Establishes the criteria required for a dietitian to obtain a license by endorsement in accordance with Senate Bill 69 of the 2017 legislative session.
- 3) Outlines licensure through reciprocity requirements for active members and veterans of the Armed Forces of the United States, and spouses as outlined in NRS 622.510.

Members of the public may make oral comments at this meeting. Persons wishing to submit written testimony or documentary evidence may submit the material to Leticia Metherell, Health Program Manager III at the following address:

Division of Public and Behavioral Health  
727 Fairview Drive, Suite E  
Carson City, NV 89701  
775-684-1073 (FAX)

Members of the public who require special accommodations or assistance at the workshops are required to notify Leticia Metherell, Health Program Manager III, in writing to the Division of Public and Behavioral Health, 727 Fairview Drive, Suite E, Carson City, Nevada, 89701, or by calling (775) 684-1030 at least five (5) working days prior to the date of the public workshop.

You may contact Leticia Metherell, Health Program Manager III by calling 775-684-1045 for further information on the proposed regulations.

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

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

Division of Public and Behavioral Health  
4220 S. Maryland Parkway, Suite 810, Bldg D  
Las Vegas, NV

Nevada State Library and Archives  
100 Stewart Street  
Carson City, NV

A copy of the regulations and small business impact statement can be found on the Division of Public and Behavioral Health's web page:

[http://dpbh.nv.gov/Reg/MedicalLabs/Notice\\_of\\_Public\\_Workshops\\_and\\_Proposed\\_Regulations/](http://dpbh.nv.gov/Reg/MedicalLabs/Notice_of_Public_Workshops_and_Proposed_Regulations/)

A copy of the public workshop 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.

A copy of this notice has been posted at the following locations:

1. Division of Public and Behavioral Health, 4150 Technology Way, First Floor Lobby, Carson City
2. Nevada State Library and Archives, 100 Stewart Street, Carson City
3. Legislative Building, 401 S. Carson Street, Carson City
4. Grant Sawyer Building, 555 E. Washington Avenue, Las Vegas
5. Washoe County District Health Department, 9<sup>TH</sup> and Wells, Reno

Copies may also be obtained from any 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

Clark County District Library  
833 Las Vegas Boulevard North  
Las Vegas, NV 89101

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 4<sup>th</sup> Street  
Goldfield, NV 89013-0484

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

Humboldt County Library  
85 East 5<sup>th</sup> Street  
Winnemucca, NV 89445-3095

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

Mineral County Library  
110 1<sup>st</sup> Street  
Hawthorne, NV 89415-1390

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

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

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

Henderson District Public Library  
280 South Water Street  
Henderson, NV 89105

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

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

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

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

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

Per NRS 233B.064(2), upon adoption of any regulations, 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.

## PROPOSED REGULATION OF THE DIVISION OF PUBLIC AND BEHAVIORAL HEALTH

AUTHORITY: NRS 640E.110, NRS 622.510 & Senate Bill 69 of the 2017 Legislative Session

**Section 1** NAC 640E.060 is hereby amended to read as follows:

1. The following nonrefundable fees must be paid by a licensee or an applicant for a license to engage in the practice of dietetics, as applicable:

- (a) For the issuance of a license.....\$~~[200]~~ 100
- (b) For the issuance of a provisional license..... ~~[200]~~ 100
- (c) For the issuance of a temporary license..... 25
- (d) For the renewal of a license..... ~~[200]~~ 100
- ~~[(e) For the late renewal of a license..... 100]~~
- (f) For the reinstatement of a license..... ~~[200]~~ 100
- (g) For ~~[the issuance of a duplicate license or]~~ changing the name on a license.... 20

2. The amount of the fees charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for the handling of the fingerprint cards and issuance of the reports of criminal histories must be paid by the applicant.

**Sec. 2 1.** An initial applicant for licensure as a dietitian who is registered by the Commission on Dietetic Registration of the Academy of Nutrition and Dietetics or its successor organization and holds a corresponding valid and unrestricted license as a dietitian in the District of Columbia or any state or territory of the United States may be issued a license by endorsement if the applicant attests, under penalty of perjury, that he or she:

- (a) Is a citizen of the United States or has the legal right to work in the United States;
- (b) Has not been disciplined by the corresponding regulatory authority of the District of Columbia or any state or territory in which the applicant currently holds or has held a license to engage in an occupation or profession;
- (c) Has not been held civilly or criminally liable in the District of Columbia or any state or territory of the United States for misconduct relating to his or her occupation or profession;
- (d) Has not had a license to engage in an occupation or profession suspended or revoked in the District of Columbia or any state or territory of the United States;
- (e) Has not been refused a license to engage in an occupation or profession in the District of Columbia or any state or territory of the United States for any reason;  
and
- (f) Does not have pending any disciplinary action concerning his or her license to engage in an occupation or profession in the District of Columbia or any state or territory of the United States.

Sec. 3 1. If an applicant holds an active license as a dietitian in the District of Columbia or any state or territory of the United States and the applicant was required to be background checked in order to obtain the license, the active license shall serve as proof that the applicant has passed a comparable background check in accordance with subsection 2 (h) of Section 3 of Senate Bill 69 of the Legislative Session.

2. If an applicant does not meet the background check requirement in subsection 1 of Section 3, then an applicant who applies for a dietitian license pursuant to Section 1, must submit a complete set of his or her fingerprints to the Division and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report, pursuant to subsection 2 (h) of Section 3 of Senate Bill 69 of the Legislative Session. The Central Repository for Nevada Records of Criminal History shall determine whether the applicant has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.174 and immediately inform the Division of whether the applicant has been convicted of such a crime.

3. The Division, upon being informed pursuant to subsection 2 of Section 3 that an applicant applying for a dietitian license pursuant to Section 2, has been convicted of crimes set forth in paragraph (a) of subsection 1 of NRS 449.174:

(a) May revoke, suspend or refuse to renew the license or may deny the application; or

(b) If the applicant has notified the Division pursuant to subsection 5 that the licensee or applicant is challenging the accuracy of information provided by the Division, the Division may suspend the license or deny the application pending the resolution of the challenge.

4. If the Central Repository for Nevada Records of Criminal History determines that a background investigation of an applicant for a dietitian license pursuant to Section 2 cannot be completed and therefore, is an undetermined result because pertinent information is missing, the Division shall send a notice to the licensee or applicant that he or she must submit a challenge to the Repository of the undetermined result within 10 days. The licensee or applicant must:

(a) Submit the missing information to the Central Repository for Nevada Records of Criminal History within 30 days after receipt of the notice; or

(b) Submit satisfactory evidence to the Division and Repository that the missing information cannot be obtained.

2. If a background investigation cannot be completed because the licensee or applicant has been arrested or issued a citation, or has been the subject of a warrant for alleged criminal conduct, and there has been no disposition of the matter, the licensee or applicant shall:

(a) Notify the Division immediately upon the scheduling of any judicial proceeding concerning the matter; and

(b) Notify the Division immediately upon the disposition of the matter and forward to the Central Repository for Nevada Records of Criminal History evidence of the disposition of the matter as soon as it is available.

5. As used in this section, “disposition” has the meaning ascribed to it in NRS 179A.050.

5.If a licensee or an applicant for a dietitian license pursuant to Section 2 wishes to challenge the accuracy of the information provided by the Central Repository for Nevada Records of Criminal History because he or she feels the information is not correct, the licensee or applicant must submit a challenge request to the Repository and notify the Division of the challenge within 10 working days after being notified of the results of the background investigation. Except as otherwise provided in subsection 3 (b) of Section 3, the Division shall give the licensee or applicant not less than 30 days after the Division receives notice of the challenge to provide satisfactory evidence to the Division that the information is incorrect before suspending the license or denying the application.

**Sec. 4** An active member of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran pursuant to NRS 622.510 who holds a valid and unrestricted license as a dietitian that is not recognized by this State and who is registered by the Commission on Dietetic Registration of the Academy of Nutrition and Dietetics or its successor organization may be issued a license through reciprocity.

**Sec. 5** An applicant who applies for a license as a dietitian pursuant to subsection 1 of Section 2 must provide the name of the state or territory of the United States in which the applicant holds a valid dietitian license and the license number.

**Sec. 6** The Division may deny an application or suspend or revoke a license if it is discovered an applicant willingly provided false information during the licensure application process.

**Sec. 7** The Division may request any supporting documents required to ensure the provisions of Sections 1 to 6 are met.

**SMALL BUSINESS IMPACT STATEMENT 2017**  
**PROPOSED AMENDMENTS TO NEVADA ADMINISTRATIVE CODE (NAC) 640D**

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendment should not have a financial impact upon small businesses, and may have a small positive impact, and should not 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**

Senate Bill 69 (SB 69) of the 2017 legislative session requires a regulatory body to adopt regulations providing for the issuance of a license by endorsement to engage in an occupation or profession in Nevada. The proposed regulations are being moved forward as required by Senate Bill 69.

The proposed regulations provide provisions for the following:

- Establishes the criteria required for a music therapist to obtain a license by endorsement in accordance with Senate Bill 69 of the 2017 legislative session.
- Outlines licensure through reciprocity requirements for active members and veterans of the Armed Forces of the United States, and spouses as outlined in NRS 622.510.

**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 Nevada's licensed music therapists and has made a concerted effort to determine whether the proposed regulations are likely to impose an economic burden upon a small business.

An email notification was sent to all licensed music therapists on October 5, 2017, requesting that all interested individuals complete the small business impact questionnaire. A link to the small business impact questionnaire and proposed regulations was provided. In addition, a phone number was provided which an individual could call to obtain a copy of both documents. 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

<b>Summary of Comments Received</b> <b>(2 responses were received out of 19 small business impact questionnaires distributed)</b>			
<b>Will a specific regulation have an adverse economic effect upon your business?</b>	<b>Will the regulation (s) have any beneficial effect upon your business?</b>	<b>Do you anticipate any indirect adverse effects upon your business?</b>	<b>Do you anticipate any indirect beneficial effects upon your business?</b>
Yes- 0 No - 2	Yes - 0 No- 2	Yes - 0 No - 2	Yes - 2 No – 0
Comments:	Comments:	Comments:	Comments: “With limited music therapists currently residing in Nevada, when I need to hire – I generally have to attract out of state. If their existing state license will help with that transition, it could increase willingness for people to relocate.” “If we were to hire an out of state music therapist who is licensed in another state it could help us for them to be able to start working sooner. We would not have to wait for them to be licensed here. If the employee licensed in another state must still pay the fee to be licensed here; it would not save us money, but may save us time which could be used to make money.”

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  
4150 Technology Way, Suite 300  
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 the input collected was conducted by a Health Program Manager III. The analysis involved analyzing feedback obtained from the small business impact questionnaire, review of current statutes and review of the requirements of Senate Bill 69 to determine how the Division could reduce the impact on small businesses through the proposed regulations. Current statutes require that all initial music therapist applicants undergo a background check. Review of Senate Bill 69 revealed that in the case of license by endorsement the Division could accept proof that an applicant has previously passed a comparable criminal background check instead of having to require the applicant be background checked again. The Division added a provision to the proposed regulations that would allow for this, thus reducing the costs related to background checks in this scenario.

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:* Cost savings for applicants who were required to be background checked as part of their out-of-state music therapy license by allowing us to accept their active out-of-state license as comparable proof of being background checked.

*Indirect Beneficial Effects:* May make it easier for current music therapy businesses to hire out-of-state music therapists as currently there are only 19 licensed music therapists in Nevada.

*Direct Adverse Effects:* No direct adverse effects were noted.

*Indirect Adverse Effects:* No indirect adverse effects were noted.

**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 Nevada licensed music therapists so they could provide input on how the proposed regulations may impact their business, review of current statutes and review of Senate Bill 69 to determine how to reduce the burden on small business by moving

forward proposed regulations. The Division did implement the measure it identified to reduce the burden on small businesses by allowing the Division to accept a comparable background check instead of requiring a new one, thus saving on background check costs. This may reduce the burden on a music therapist applicant coming to Nevada to open a music therapy practice and for small businesses that may employ licensed music therapists and pay or help pay for their background check fees as part of employment.

A public workshop will also be held allowing for further input by stakeholders regarding the proposed regulations and how they will impact licensed music therapists. 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.**

Senate Bill 69 requires applicants for license by endorsement to pay applicable fees for the issuance of a license that are otherwise required for a person to obtain a license; therefore, the Division would collect fees based on existing fees outlined in current regulations to pay for the enforcement of the proposed regulations.

**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 proposed regulations do not provide for a new fee or increase an existing fee.

**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.

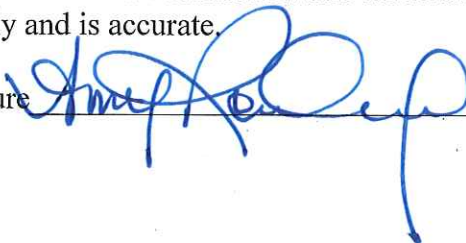
**8) Provide a summary of the reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.**

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 conclusion is the proposed regulations may have a positive financial impact on music therapists that obtain licensure by endorsement by possibly reducing background check costs and may make it easier for existing music therapy businesses in Nevada to hire music therapists.

**Certification by Person Responsible for the Agency**

I, Amy Roukie, 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:

11/1/17