

## **NOTICE OF PUBLIC HEARING**

Intent to Adopt Regulations  
(LCB File No. R021-18RP3)

NOTICE IS HEREBY GIVEN that the State Board of Health will hold a public hearing to consider amendments to Chapter 457 of Nevada Administrative Code (NAC), Cancer and Chapter 459 of Nevada Administrative Code, Hazardous Materials. This public hearing is to be held in conjunction with the State Board of Health meeting on December 6, 2019. The NAC 457 and NAC 459 regulation changes will be heard in the order placed on the State Board of Health agenda.

The State Board of Health will be conducted via videoconference beginning at 9:00 a.m. on Friday, December 6, 2019 at the following locations:

Division of Public and Behavioral Health 4150 Technology Way Room 303 Carson City, NV 89076	Grant Sawyer Building 555 E. Washington Ave. Room 5100 Las Vegas, NV 89101
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The proposed addition/change of regulations to NAC 457 and NAC 459 in LCB File No. R021-18RP3 include provisions for:

- The proposed amendment to (NAC 457.295) Section 1 of this regulation increases the fee for the issuance or renewal of a mammographer's certificate from \$88 to \$200.
- Existing regulations require each facility for mammography that has a digital mammography machine to be capable of printing or providing hard copies of images to certain persons. The proposed amendment to (NAC 457.312) Section 2 of this regulation provides the alternative of being capable of providing images in any other manner approved by the Division.
- Existing law requires the owner, lessee or other person responsible for a radiation machine for mammography that was used to perform mammography to provide to a patient who undergoes mammography a certain statement and a notice concerning the patient's breast density. (NRS 457.1857) Existing regulations require such owner, lessee or other person to provide a similar notice concerning the patient's breast density. The proposed amendment to (NAC 457.313) Section 3 of this regulation removes the requirement to provide a notice concerning the patient's breast density from existing regulations because the requirement already exists in existing law.
- Sections 5-12 of this regulation set forth requirements for the operation of invasive intervention radiation machines that are used to perform federally exempt radiography.
- Existing regulations provide various requirements concerning or involving the control console of radiation machines, X-ray machines and particle accelerators. (NAC 459.154, 459.166, 459.5934, 459.746, 459.748) Sections 11, 18, 21, 27, 29 and 30 of this regulation expand the scope of existing regulations to include such control consoles or

any other assembly approved by the Division of Public and Behavioral Health of the Department of Health and Human Services.

- Section 14 of this regulation revises provisions relating to exemptions from existing regulations governing the control of radiation for certain carriers with regard to transporting and storing sources of radiation in the regular course of carriage for another or storage incident thereto.
- Section 19 of this regulation revises the time limit before which a registrant is required to file his or her application for renewal of a registration certificate for a radiation machine or to install, service or repair radiation machines and pay the appropriate fee to avoid expiration of the registration certificate while the status of the registration certificate is pending with the Division.
- Section 20 of this regulation authorizes the Division to charge \$25 for a duplicate registration certificate for a radiation machine or for the person installing, servicing or repairing radiation machines.
- Section 22 of this regulation revises the requirements for a license for radioactive material from which certain quantities of source material are exempt.
- Sections 15, 23 and 32 of this regulation revise provisions which adopt by reference certain federal regulations.
- Section 24 of this regulation makes certain changes to the provisions relating to certain general licenses.
- Existing regulations require each licensee and registrant to make or cause to be made surveys of areas. Existing regulations authorize the Division of Public and Behavioral Health of the Department of Health and Human Services to exempt a licensee or registrant from making such surveys of areas if the Division determines that the exemption will not result in a significant risk to public health and safety. (NAC 459.337) Section 25 of this regulation requires the Division to evaluate the survey of areas made by a licensee or registrant to determine if a significant risk to public health or safety exists. Section 25 additionally authorizes the Division to require the licensee or registrant to make an additional survey of areas if: (1) the conditions under which the previous survey was made have changed; and (2) the Division determines that such a change may result in significant risk to public health and safety.
- Section 26 of this regulation: (1) revises the requirement relating to the periodic measurements of the exposure rate limits for fluoroscopic X-ray systems; and (2) exempts such an X-ray system from certain requirements if the X-ray system is used, at any time, for radiation therapy simulation.
- Section 31 of this regulation makes a technical change.
- Existing regulations set forth the time limit for a person to file an appeal with a hearing officer to contest proposed disciplinary action by the Division. Specifically, existing regulations require a request for an appeal to be received by the Administrator within 10 business days after the date on which the appellant received notice of the proposed disciplinary action. (NAC 439.346) Section 33 of this regulation makes conforming changes.

1. Anticipated effects on the business which NAC 457 and NAC 459 regulates:
  - A. *Adverse effects*: The agency concludes the proposed regulations will produce a negligible impact on small businesses.
  - B. *Beneficial*: Clearly defines what is expected of the regulated community. Protects the public from unnecessary exposure to harmful ionizing radiation. Amends and modifies existing language to make regulations more clear, current and compatible with the intent and scope of the Radiation Control Program.
  - C. *Immediate*: The stated adverse and beneficial effects would be immediate impacts as soon as the proposed regulations become effective.
  - D. *Long-term*: The long-term impacts would be the same as the immediate impacts as it is not be expected that the impacts would go away.
2. Anticipated effects on the public:
  - A. *Adverse*: None anticipated.
  - B. *Beneficial*: Increased public health and safety.
  - C. *Immediate*: Increased public health and safety.
  - D. *Long-term*: Increased public health and safety.
3. There is no estimated cost to the Division of Public and Behavioral Health for enforcement of the proposed regulations. Enforcement of the proposed regulations will be incorporated into current administrative, registration, licensing and inspection processes.
4. The amendment to NAC 457.295 Section 1 of this regulation increases the fee for the issuance or renewal of a mammographer's certificate from \$88 to \$200.
5. The proposed regulations do not overlap or duplicate any other Nevada state regulations.
6. Per NRS 233B.0608(3), The Division of Public and Behavioral Health prepared and distributed a Small Business Impact Questionnaire (SBIQ) to all licensee's and registrants of the Radiation Control Program. The responses received were analyzed and used to generate the Small Business Impact Statement (SBIS) which was approved by the Administrator on September 9, 2019.
7. 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 Friday, November 15, 2019 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:

Division of Public and Behavioral Health  
675 Fairview Drive, Suite 218  
Carson City, NV 89701-5629

Division of Public and Behavioral Health  
4220 S. Maryland Parkway, Bldg. D,  
Suite 810  
Las Vegas, NV 89119

Nevada State Library and Archives  
100 N. Stewart Street  
Carson City, NV 89701

Copies may be obtained in person, by mail, or by calling the Radiation Control Program at (775) 687-7550 in Carson City.

A copy of the regulations and this notice can also be found on-line by going to:

[http://dpbh.nv.gov/Reg/RPM/Radiation\\_Producing\\_Machines\\_-\\_Home/](http://dpbh.nv.gov/Reg/RPM/Radiation_Producing_Machines_-_Home/)  
[http://dpbh.nv.gov/Reg/RAM/Radioactive\\_Material\\_Program\\_\(RAM\)\\_-\\_Home/](http://dpbh.nv.gov/Reg/RAM/Radioactive_Material_Program_(RAM)_-_Home/)  
<https://www.leg.state.nv.us/Register/2018Register/R021-18RP3.pdf> (Regulations Only)  
<https://www.leg.state.nv.us/App/Notice/A/>

Copies may also be obtained from any of the public libraries listed below:

Carson City Library  
900 North Roop Street  
Carson City, NV 89702

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

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

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

Elko County Library  
720 Court Street  
Elko, NV 89801

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

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

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

Churchill County Library  
553 South Maine Street  
Fallon, NV 89406

Douglas County Library  
1625 Library Lane  
Minden, NV 89423

Esmeralda County Library  
Corner of Crook and 4<sup>th</sup> street  
Goldfield, NV 89013-0484

Henderson District Public Library  
280 S. Green Valley Pkwy  
Henderson, NV 89102

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 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.