

# PROPOSED REGULATION OF THE STATE BOARD OF HEALTH

## LCB File No. R151-15

**Section 1.** Chapter 439A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5 inclusive of this regulation.

**Sec. 2** *“Primary Care Provider” means a Medical Doctor or Osteopathic Doctor practicing family medicine, internal medicine, general practice, pediatrics, obstetrics-gynecology or geriatrics.*

**Sec. 3** *“Specialist” means a Medical Doctor or Osteopathic Doctor practicing in any area other than primary care.*

**Sec. 4** *“Designated Health Professional Shortage Area” means an area that has been designated a Health Professional Shortage Area by the Secretary of Health and Human Services (HHS) under the authority of section 332 of the Public Health Service (PHS) Act and 42 CFR part 5.*

**Sec. 5** *“Flex Slot” means an area which is not designated as underserved, but that serves individuals residing in neighboring underserved communities.*

**Sec. 6**

*1. Fees for application for a letter of support from the Division of Public and Behavioral Health shall be charged an amount set forth in the schedule established by the Division of Public and Behavioral Health pursuant to this section.*

*2. The Division of Public and Behavioral Health shall establish a fee schedule which is based on the following:*

*(a) A cost analysis of the services provided by the Primary Care Office; and*

*(b) The characteristics of the applicant, including whether the applicant is a primary care provider or a specialist;*

*(c) The characteristics of the worksite, including whether the worksite is in a designated health professional shortage area or a flex slot; and*

*(d) The characteristics of the employer, including whether the employer is a health facility administrator or a third-party contractor.*

*3. The Division of Public and Behavioral Health shall renew and, if necessary, revise the fee schedule established pursuant to this section according to generally accepted accounting principle as needed to account for modifications to the Physician Visa Waiver program*

**Sec. 7. NAC 439A.710 is hereby amended to read as follows:**

1. The Primary Care Advisory Council is hereby created within the Division of Public and Behavioral Health. The Advisory Council consists of members appointed by the Administrator as follows:

(a) One member who represents the ~~{Great Basin}~~ Nevada Primary Care Association, or a successor organization;

- (b) One member who represents a federally qualified health center in this State;
- (c) One member who represents the Nevada Office of Rural Health within the University of Nevada School of Medicine;
- (d) One member who is a physician licensed in good standing pursuant to chapter 630 of NRS and who has successfully completed an employment contract under the Program;
- (e) One member who represents the Nevada State Medical Association, or its successor organization;
- (f) Members who are health care professionals; and
- (g) Representatives from the communities being served by the Program.

2. In addition to the members appointed pursuant to subsection 1, the Administrator may appoint nonvoting members from the Division of Public and Behavioral Health or other governmental agencies who have knowledge of and experience in health care and the Program.

3. Each member of the Advisory Council serves for a term of 2 years. A member may be reappointed.

4. If a vacancy occurs during the term of a member, the Administrator shall appoint a person similarly qualified to replace that member for the remainder of the unexpired term.

5. The Advisory Council shall meet at least ~~once each calendar quarter~~ *annually* and at such other times as specified by a call of the Chair.

6. At the first meeting, and *biennially* ~~annually~~ thereafter, the Advisory Council shall select a Chair from among its members.

7. The Chair of the Advisory Council may appoint a subcommittee to review applications, complaints and policies and procedures of the Program and make recommendations to the Advisory Council.

*8. Each member is expressly authorized to designate a person to attend the meeting in the place of a member for purposes of NRS 241.025(2).*

~~18.19.~~ As used in this section, “federally qualified health center” has the meaning ascribed to it in 42 U.S.C. § 1396d(l)(2)(B).

**Sec. 8. NAC 439A.720 is hereby amended to read as follows:**

1. An application for a letter of support must:
  - (a) Be complete.
  - (b) Include the materials required by subsection 1 of NRS 439A.175.
  - (c) Be on the form prescribed by the Division of Public and Behavioral Health.
  - (d) Contain the notarized signatures of the employer and the J-1 visa physician.
  - (e) Except as otherwise provided in subsection 2, be accompanied by an application ~~fee of \$500~~ *according to the fee schedule defined in Section 6*, which must be paid in equal amounts by the employer and the J-1 visa physician. *The fee schedule will be posted on the Internet website maintained by the Division of Public and Behavioral Health by September 30 of each year. Part of the fee may be returned under the following circumstances:*
    1. *If the Division of Public and Behavioral Health recommends the waiver to the US Department of State, none of the application fee will be returned to the applicant;*
    2. *If the Division of Public and Behavioral Health does not recommend the waiver to the US Department of State, following the public hearing, none of the application fee will be returned to the applicant;*
    3. *If the applicant withdraws the application before any recommendation is submitted by the Division of Public and Behavioral Health to the United States Department of*

*State, 50% of the application fee paid by each party will be returned to each party;  
or*

- 4. If at the time the application is received by the Division of Public and Behavioral Health, all slots have been used for the fiscal year, 100% of the application fee will be returned to the applicant.*

2. The Administrator may waive the portion of the application fee which must be paid by the J-1 visa physician or require the J-1 visa physician to pay that portion of the application fee pursuant to a payment plan if the J-1 visa physician is experiencing an economic hardship and the J-1 visa physician submits with the application documentation sufficient to demonstrate that the economic hardship exists.

3. An employer or a J-1 visa physician may obtain an application for a letter of support from the Division of Public and Behavioral Health on the Internet website maintained by the Division of Public and Behavioral Health ~~<http://health.nv.gov/PrimaryCare.htm>~~ or by submitting a written request for an application to the Division of Public and Behavioral Health, Primary Care Office, 4150 Technology Way, Carson City, Nevada 89706.

**Sec. 9. NAC 439A.725 is hereby amended to read as follows:**

1. An application for a letter of support must be filed with the Administrator by personal delivery, commercial carrier or mail.

2. The Advisory Council may review an application submitted pursuant to this section for completeness and compliance with the provisions of NRS 439A.130 to 439A.185, inclusive, and NAC 439A.700 to 439A.755, inclusive.

3. Applications must be reviewed in the order in which they were received.

4. The Administrator is responsible for the review and the approval or denial of all applications. The Administrator shall provide notice of the approval or denial of an application to the applicant. If an application is incomplete, the Administrator shall provide notice to the applicant within 14 days after receipt of the application and provide a written explanation of the missing information or documentation. An application may be resubmitted with the additional required information or documentation.

5. The Administrator shall accept applications pursuant to this section until all available spots for enrollment of J-1 visa physicians in the Program have been filled. The Administrator shall post the status of the number of available spots for enrollment on the Internet website maintained by the Division of Public and Behavioral Health ~~<http://health.nv.gov/PrimaryCare.htm>~~.

6. The Administrator shall not issue a letter of support to:

(a) An employer who was penalized for a violation of NRS 439A.130 to 439A.185, inclusive, or NAC 439A.700 to 439A.755, inclusive, or convicted of a violation of a federal statute or regulation relating to immigration within the immediately preceding 2 years.

(b) A J-1 visa physician who was determined by the Administrator to have violated a provision of NRS 439A.130 to 439A.185, inclusive, or NAC 439A.700 to 439A.755, inclusive, or convicted of a violation of a federal statute or regulation relating to immigration within the immediately preceding 2 years.

**Sec. 10. NAC 439A.745 is hereby amended to read as follows:**

1. A complaint about an employer or a J-1 visa physician may be submitted to the Program on the Internet website maintained by the Division of Public and Behavioral Health

~~[http://health.nv.gov/PrimaryCare\\_J-1.htm](http://health.nv.gov/PrimaryCare_J-1.htm)~~ or by submitting a written complaint to the Division of Public and Behavioral Health, Primary Care Office, 4150 Technology Way, Carson City, Nevada 89706.

2. The Administrator shall investigate or require the Advisory Council to investigate each complaint submitted pursuant to this section. The investigation must commence within 45 days after receipt of the complaint, except that if the complaint alleges that the safety of a patient was threatened, the investigation must commence as soon as practicable. The Administrator is responsible for the investigation of complaints submitted pursuant to this section.

3. If the Administrator determines that a violation of NRS 439A.130 to 439A.185, inclusive, or NAC 439A.700 to 439A.755, inclusive, has occurred, the Administrator:

(a) Shall, if the violation affected the health and safety of a patient, submit a report to the Board of Medical Examiners; or

(b) May, if the violation did not affect the health or safety of a patient, submit a report to the Board of Medical Examiners or to the Bureau of Health Care Quality and Compliance of the Division of Public and Behavioral Health.