PROPOSED REGULATION OF THE

STATE BOARD OF HEALTH

LCB File No. R168-26

July 17, 2026

EXPLANATION – Matter in ***italics*** is new; matter in brackets **[**~~omitted material~~**]** is material to be omitted.

AUTHORITY: §§ 1, 2 and 4, NRS 442.007; § 3, NRS 442.007 and 449.165.

A REGULATION relating to health care; transferring the responsibility for administering provisions governing CARA Plans of Care from the Health Care Purchasing and Compliance Division of the Nevada Health Authority to the Division of Public and Behavioral Health of the Department of Human Services; revising certain procedures relating to CARA Plans of Care; establishing an administrative penalty for violations of certain requirements relating to CARA Plans of Care; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

As a condition to receiving certain grants, the federal Comprehensive Addiction and Recovery Act of 2016 (CARA) requires a state to require the development of a plan of care for an infant born with and identified as being affected by substance abuse or withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder. (42 U.S.C. § 5106a(b)(2)(B)(iii)) Existing regulations accordingly require a provider of health care who delivers or provides medical services to an infant in a medical facility and who, in his or her professional capacity, knows or has reasonable cause to believe that the infant was born with a fetal alcohol spectrum disorder, is affected by a prenatal substance use disorder or is experiencing symptoms from withdrawal from a substance as a result of exposure to the substance in utero to ensure that a CARA Plan of Care is established for the infant before the infant is discharged from the medical facility. Existing regulations require the medical facility to provide a copy of the CARA Plan of Care to the parent or guardian of the infant. Within 24 hours after the discharge of an infant for whom a CARA Plan of Care is developed from a medical facility, existing regulations additionally require the medical facility to provide a copy of the CARA Plan of Care to the Health Care Purchasing and Compliance Division of the Nevada Health Authority. (NAC 449.947) Existing regulations require the Division to: (1) prescribe the form for the CARA Plan of Care; (2) monitor the implementation of each CARA Plan of Care it receives; and (3) provide a copy of each CARA Plan of Care in its possession to an agency which provides child welfare services upon request. (NAC 449.947, 449.948) **Sections 1-4** of this regulation transfer those duties from the Health Care Purchasing and Compliance Division to the Division of Public and Behavioral Health of the Department of Human Services. **Section 3** additionally authorizes a medical facility to provide a copy of a CARA Plan of Care to the

Division of Public and Behavioral Health by 5:00 p.m. on the next business day if the infant for whom the plan is created is discharged on a weekend or state holiday. **Section 3** also: (1) prescribes requirements governing certain situations where a medical facility is unable to deliver a CARA Plan of Care to the parent or guardian of an infant; and (2) provides for the imposition of a penalty against a medical facility that fails to ensure the establishment of a CARA Plan of Care when required.

Section 1. Chapter 449 of NAC is hereby amended by adding thereto a new section to read as follows:

"Division of Public and Behavioral Health" means the Division of Public and Behavioral Health of the Department of Human Services.

Sec. 2. NAC 449.939 is hereby amended to read as follows:

449.939 As used in NAC 449.939 to 449.948, inclusive, ***and section 1 of this regulation,*** unless the context otherwise requires, the words and terms defined in NAC 449.941 to 449.945, inclusive, ***and section 1 of this regulation*** have the meanings ascribed to them in those sections.

Sec. 3. NAC 449.947 is hereby amended to read as follows:

449.947 1. A provider of health care who delivers or provides medical services to an infant in a medical facility and who, in his or her professional capacity, knows or has reasonable cause to believe that the infant was born with a fetal alcohol spectrum disorder, is affected by a prenatal substance use disorder or is experiencing symptoms of withdrawal from a substance as a result of exposure to the substance in utero shall ensure that a CARA Plan of Care is established for the infant before the infant is discharged from the medical facility.

2. A CARA Plan of Care must be completed using the form prescribed by the Division ***of Public and Behavioral Health*** and include, without limitation:

(a) Measures to ensure the immediate safety of the infant;

(b) Measures to address the needs of the infant and his or her family or caregiver for substance use disorder treatment and health care;

(c) Measures to ensure that the infant and his or her family or caregiver receive any necessary services, including, without limitation, referrals to appropriate providers of such services; and

(d) Any other information necessary to ensure that the needs of the infant are met.

3. When an infant is discharged from a medical facility, the medical facility shall provide a copy of any CARA Plan of Care established pursuant to subsection 1 to:

(a) ~~[Each]~~ ***Except as otherwise provided in subsection 4, each*** parent or legal guardian of the infant to whom the CARA Plan of Care pertains, or both, if applicable; and

(b) The Division ~~[,]~~ ***of Public and Behavioral Health,*** within 24 hours after the discharge ~~[.]~~ ***, or by 5:00 p.m. on the next business day if the discharge occurs on a weekend or state holiday.***

4. If a parent or legal guardian is unavailable, refuses to accept the CARA Plan of Care or leaves the medical facility before receiving a CARA Plan of Care, the medical facility is exempt from the requirement in paragraph (a) of subsection 3. The medical facility shall document in the medical record of the infant:

(a) The attempted delivery of the CARA Plan of Care to the parent or legal guardian; and

(b) The specific reason that the medical facility could not deliver the CARA Plan of Care to the parent or legal guardian.

5. A medical facility shall ensure that each provider of health care described in subsection 1 performs the duties required by subsections 1 and 2. If a medical facility fails to comply with the requirements of this subsection:

(a) The Division of Public and Behavioral Health shall refer the medical facility to the Health Care Purchasing and Compliance Division of the Nevada Health Authority; and

(b) The Health Care Purchasing and Compliance Division shall impose a penalty of $5,000 for each such violation.

Sec. 4. NAC 449.948 is hereby amended to read as follows:

449.948 1. The Division ***of Public and Behavioral Health*** shall:

(a) Monitor, in accordance with 42 U.S.C. § 5106a(b)(2)(B)(iii)(II), the implementation of each CARA Plan of Care that it receives pursuant to NAC 449.947 to ensure that the infant to whom the CARA Plan of Care pertains and his or her family or caregiver are receiving appropriate services; and

(b) Provide a copy of a CARA Plan of Care in the possession of the Division ***of Public and Behavioral Health*** to an agency which provides child welfare services upon request.

2. Except as otherwise provided in this section and NRS 239.0115, each CARA Plan of Care in the possession of the Division ***of Public and Behavioral Health*** or an agency which provides child welfare services and any information associated with such a CARA Plan of Care is confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

3. The Division ***of Public and Behavioral Health*** and an agency which provides child welfare services shall ensure that each CARA Plan of Care in the possession of the Division ***of Public and Behavioral Health*** or the agency which provides child welfare services, as applicable, and any information associated with such a CARA Plan of Care is:

(a) Adequately protected from fire, theft, loss, destruction, other hazards and unauthorized access; and

(b) Stored in a manner that protects the security and confidentiality of the information.

4. As used in this section, "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.