

SMALL BUSINESS IMPACT STATEMENT
PROPOSED AMENDMENTS TO NEVADA ADMINISTRATIVE CODE (NAC) 228

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendment will have a direct financial impact on existing business. Currently there are no fees associated with certifying and regulating domestic violence treatment programs; therefore, these programs are supported by the licensure fees collected from licensed health care facilities. The proposed regulations establish fees to cover the operating costs to certify and regulate the domestic violence treatment programs. Although this will be a new cost for certified domestic violence treatment programs, it is anticipated that it will not be a significant burden on existing businesses and would not deter new businesses from opening. A small business impact questionnaire was sent out to all certified domestic violence treatment programs and there were no responses received indicating that the new fees would result in a financial burden to these programs. This may also have an indirect benefit on licensed health care facilities, as the health facility licensure fees currently being used to support certified domestic violence treatment programs, would be used to cover licensed health care facilities operating costs. The proposed regulations reduce the regulatory burden on industry by removing provisions of current regulations that are not necessary to effectively certify and regulate these programs.

In addition, the proposed regulations bring current regulations into conformance with Senate Bill 45 of the 2021 Legislative Session by removing requirements related to submitting domestic violence treatment program applications to the Committee on Domestic Violence for its recommendations.

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

The three main reasons these proposed regulations are being moved forward are:

- 1) To bring the current regulations into conformance with Senate Bill 45 of the 2021 Legislative Session;
- 2) To carry out the Governor's Executive Order 2023-003 by removing provisions of regulations that are outdated or impose an unnecessary burden on business; and
- 3) To establish fees to certify and regulate certified domestic violence treatment programs in order to be able to cover the operating costs to carry out these duties without having licensure fees from health care facilities subsidize the operating costs to certify and regulate these programs.

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 small businesses that may be affected by the proposed regulations.

Notice was sent to all certified domestic violence treatment program providers, certified at the time of the notice distribution, and to one individual that has expressed interest in receiving this notice, requesting that all interested individuals complete the small business impact questionnaire. An email notice with a link to the small business impact questionnaire and proposed regulations was sent to those with an email address on file with DPBH and to the individual that expressed interest in receiving this information on January 30, 2024. 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

Summary of Comments Received (1 response was received out of 25 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?
Yes- 0 No - 0	Yes – 0 No - 0	Yes – 0 No – 0	Yes – 0 No - 0
Comments:	Comments:	Comments:	Comments:

One response to the questionnaire was received via email asking if the removal of the provision *“Remove the requirement that the director of a program attest in writing that a person meets the requirements to be a supervisor or provider of treatment upon hire or for the purpose of retaining such persons”* would eliminate the experience requirements in regulations for a supervisor. A response was provided noting that the attestation statement being removed does not eliminate any requirements to become a supervisor, it only notes that upon hire you no longer have to attest that they meet all the requirements. A new supervisor or provider would need to

apply and obtain approval by DPBH before they can work as a supervisor or provider; therefore, eliminating the need for the attestation.

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
Bureau of Health Care Quality and Compliance
727 Fairview Drive, Suite E
Carson City, NV 89701
Leticia Metherell
Phone: 775-684-1045
Email: lmetherell@health.nv.gov

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

An analysis of industry input collected was conducted by a health program manager. The analysis involved analyzing feedback obtained from the small business impact questionnaire and review of the proposed regulations to help determine the economic impact to small business. Please see number 4 for the methods the agency considered to reduce the impact of the proposed regulations on small businesses. 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: Although no direct beneficial economic effects are anticipated, it is anticipated that the reduction in regulatory burdens may result in indirect beneficial effects.

Indirect Beneficial Effects: There was at least one instance in which a program was left without approved curriculum and instructional materials because the copyrighted material they were using was pulled from the program. The provision that a program has permission to utilize the curriculum and instructional materials while operational, may result in an economic beneficial effect by avoiding breaks in service and/or loss of certification for not having approved materials.

Reducing unnecessary regulatory burdens such as the requirement to use a form approved by the Division instead of allowing programs to develop forms that best fit their program to carry out the provisions of Section 6, removing the requirement that the director attest in writing that a new supervisor or provider of treatment meets the requirements to become a supervisor or provider, as applicable, and removing the requirement to submit proof of completion of continuing education hours with a renewal application (will be done via an audit system) should increase efficiencies and reduce regulatory burden; therefore, potentially saving time (salary costs).

Direct Adverse Effects: The direct adverse economic effect includes going from not paying any fees to become and maintain certification as a program for the treatment of domestic violence to paying the fees outlined in Section 3 of the proposed regulations.

Indirect Adverse Effects: Section 8 of the proposed regulations lists the fields of study that would be considered a “field of clinical human services” for the purposes of possessing a master’s or doctorate degree to satisfy the educational requirement to become a supervisor of treatment at a program. A supervisor who does not have a master’s or doctorate degree in one of the listed fields of study would no longer meet the educational requirement to be a supervisor, but they would meet the educational requirement to be a provider of treatment. This may or may not have a negative financial impact on an individual depending on their particular circumstances.

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 setting reasonable fees to cover costs for application processing, inspections at an interval to help keep costs down, and to investigate complaints. The method of having an inspection interval in policy to keep costs down was implemented. A small business impact questionnaire was sent out to all certified domestic violence treatment programs and there were no responses received indicating that the new fees would result in a financial burden to these programs.

Certain sections, as noted below, were heard before the Board of Health on April 28, 2023.

- Text of Repealed Sections: NAC 228.101
- Section 5: NAC 228.102 (1) (b)
- Section 8: LCB File No. R071-20 Section 6 (10), (10) (a), and (10) (b)
- Section 9: LCB File No. R071-20, Section 7 (2)(d)(1), (2)(d)(2), (2)(d)(5) and (4)(b), (4)(b)(1) and (4)(b)(2)

There was no testimony heard at the Board of Health on April 28, 2023, addressing the specific sections noted above which were heard before the Board of Health. Testimony from one individual was heard recommending that the current regulations reduce the number of providers of treatment present during group counseling sessions from two providers to one provider. This small business impact statement reflects the impact of the proposed regulations being moved forward and not on current regulations that are not included in the proposed regulations.

A public workshop will be held allowing for further input by stakeholders regarding the proposed regulations and their impact. 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.

The estimated cost to the agency for the enforcement of the proposed regulations is the amount of fees collected pursuant to number 6. It is anticipated that the Division would collect an estimated amount of \$10,166 per year to certify and regulate domestic violence treatment

programs. This is only an estimate, as existing programs may close and new programs may open, which would impact the amount of revenue collected.

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 total annual amount the Division expects to collect from renewal application is \$7,176 (24 actively certified programs X \$299). There are currently no out-of-state certified programs; therefore, no renewal fees are expected to be collected at this time for the renewal of a certificate by endorsement.

It is unknown how many new applicants will apply, how many certified programs will submit an application to operate an additional location, or how many certified programs will notify the Division of a change to their certificate, pursuant to Section 7; therefore, the revenue generated from these sources is unknown. Based on a three-year average of 5 new programs a year it is estimated to bring in \$2,990.

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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 Division's conclusion regarding the impact of a regulation on a small business is based on an analysis of the proposed regulations and whether or not they increased or decreased regulatory burden and on the responses received after sending out the small business impact questionnaire. Only one response was received out of the 25 questionnaires distributed and no one provided feedback indicating the proposed regulations would result in a negative financial impact on the industry; therefore, the conclusion is that although the proposed regulations will result in a negative financial impact on programs, they also reduce regulatory burden and increase efficiencies, without resulting in a significant negative financial impact.

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.

Signature Cody Phinney Date: 2/26/2024