

**SMALL BUSINESS IMPACT STATEMENT
PROPOSED REGULATIONS TO THE STATE BOARD OF HEALTH**

**PRACTICE OF NAPRAPATHY PURSUANT TO ASSEMBLY BILL 153 OF THE 82ND
LEGISLATIVE SESSION (2023)**

The Division of Public and Behavioral Health (DPBH) has determined that the proposed regulations are not likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business. The proposed regulations are being moved forward as a result of the passage of AB 153 of the 82nd legislative session (2023) governing the practice of naprapathy; therefore, there are no existing Nevada licensees that the proposed regulations would impact. It is anticipated that once the proposed regulations become effective and individuals are able to apply for and become licensed naprapaths that this may increase the formation of small businesses, as some licensees may open a naprapathic medical practice or start a school of naprapathy.

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 proposed regulations are the direct result of the passage of AB 153 of the 82nd legislative session (2023) which requires the Board of Health, with the advice of the Naprapathic Practice Advisory Board, to adopt regulations governing the licensure of naprapaths and the practice of naprapathy.

The proposed regulations provide provisions for the following:

- Infection Control.
- General application requirements.
- Initial application requirements.
- Licensure by endorsement requirements.
- Provisional Licensure requirements.
- Licensure renewal requirements.
- Validity of notices sent to licensees or applicants.
- Requirements to register as a teacher, advisor, or supervisor pursuant to subsection 2 of Section 1.29 of AB 153 of the 82nd legislative session.
- Rules of professional conduct for naprapaths.
- List of crimes, that if convicted, may result in disciplinary action of a naprapath.

- The process for an applicant for licensure as a naprapath or a licensee to petition the Division to not impose disciplinary action despite a report of being convicted of a crime that may result in disciplinary action.
- The required actions by an applicant or licensee that must be taken if a background check cannot be completed.
- The required actions to be taken by an applicant for a license or licensee if the person feels the background check information provided by the Division is not accurate
- The actions the Division may take upon determining that an applicant has been convicted of a crime listed in Section 21 of the proposed regulations.
- Fees.
- Grounds for initiating disciplinary action
- Disciplinary action that may be imposed by the Division; Consultation with Advisory Board.
- Contents of order of revocation of license; reinstatement of license following revocation.
- Licensee to pay costs of disciplinary action.
- Unlicensed practice complaints.
- Complaints against licensee or applicant.
- Terms of suspension of license.
- Appeal of decision related to disciplinary action.
- Reports received by the Division pursuant to subsection 5 of NRS 228.420.
- Continuing education requirements.
- Requirements governing advertising or the use of promotional materials by a naprapath
- Approval by Division of Program of Education in Naprapathy and related items.
- Per diem allowances and reimbursement for travel expenses for Naprapathic Practice Advisory Board members.
- Request for documents by the Division from applicants or licensees.
- Amendments to NAC 459.554 to authorize naprapaths licensed in Nevada to order medical x-rays, excluding nuclear medicine studies or other treatments that use radioactive materials.
- Amendments to NAC 652.155 to authorize naprapaths licensed in Nevada to order medical laboratory tests.

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 (1)(a) (b), the Division of Public and Behavioral Health (DPBH), before conducting the public workshop for the proposed regulation, made a concerted effort to determine whether the proposed regulations are likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business.

The requirement to govern the licensure of naprapaths and the practice of naprapathy was established by AB 153 of the 82nd legislative session (2023); therefore, there was not a list of Nevada licensees available to distribute the list. The Division worked with Dr. Patrick Nuzzo and staff from the

Southwest University of Naprapathic Medicine in New Mexico to distribute the proposed regulations and small business impact questionnaire to the University's alumni. The University's alumni were identified as persons who may have an interest in becoming licensed as a naprapath in Nevada or opening a small business in Nevada, which may include opening a school of naprapathy or an individual naprapathic practice. The proposed regulations and small business impact questionnaire were distributed via email to 35 of the University's alumni on April 16, 2024.

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 Responses

Summary of Comments Received (1 response was received out of 35 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 - 1	Yes – 0 No - 1	Yes –0 No – 1	Yes – 0 No – 1
No additional comments were provided.	No additional comments were provided.	No additional comments were provided.	No additional comments were provided.

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, review of the proposed regulations, review of AB 153 of the 82nd legislative session (2023) and review of literature 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: Direct beneficial effects may include revenue that is collected by persons who open practices of naprapathy or open schools of naprapathy once the regulations become effective. It is expected that once the regulations become effective and persons can apply for and become licensed naprapaths in Nevada, this will result in individuals opening small businesses in Nevada.

Indirect Beneficial Effects: Indirect beneficial effects may include reduced medical and insurance costs for persons who can avoid surgery by being treated by a naprapath.

Direct Adverse Effects: Direct adverse effects include licensure fees, fines, insurance costs, costs to become accredited if opening a program of education in naprapathy and other related costs. Certain fees, such as the \$500 initial application fee and the renewal fee of \$500 is set in statutes and is not a direct result of the proposed regulations but is instead directly related to the passage of AB 153 of the 82nd legislative session (2023).

The fee to register as a teacher, advisor or supervisor pursuant to Section 1.29 of AB 153 of the 82nd legislative session (2023) is set at \$50. It is anticipated that this will not create a significant financial burden or prevent individuals from registering to be a teacher, advisor or supervisor.

There will be a cost associated with obtaining the liability insurance required pursuant to subsection 1 (d) of Section 14 of the proposed regulations. The actual costs are unknown as they may vary based on the amount of coverage a person obtains and other factors. The proposed regulations set a minimum coverage of \$200,000 per claim and a minimum aggregate amount of \$600,000 per year. As it is anticipated most practicing naprapaths would carry liability insurance, it is not anticipated that this would prevent persons from becoming licensed as naprapaths in Nevada. By providing a minimum coverage amount it also provides flexibility for individuals who want to purchase a higher level of coverage.

AB 153 of the 82nd legislative session (2023) requires the Board, with the advice of the Advisory Board, to adopt regulations related to the requirements for continuing education for the renewal of a license as a naprapath. There are costs associated with continuing educations but the proposed regulations are written to provide several options to meet the continuing education requirements

which may allow flexibility in the cost of courses. The cost is unknown as it is dependent on which courses are chosen and the applicable costs.

If disciplinary action is imposed on a licensee there are additional costs that may be incurred, for example penalties may be incurred that are not to exceed \$5,000 for each violation of this Chapter or AB 153 of the 82nd legislative session (2023). In addition, a licensee is required pay all costs incurred in connection with any disciplinary action taken against the licensee. It is anticipated that the majority of licensees will not be subject to disciplinary action; therefore, these costs would not apply. If disciplinary action is taken it is unknown what the costs would entail as it would be dependent on a variety of factors.

AB 153 of the 82nd legislative session (2023) requires the Board, with the advice of the Advisory Board, to adopt regulations prescribing the requirements for the approval of programs of education in naprapathy by the Division, including, without limitation, regulations governing the curriculum for such programs. Although the proposed regulations do not set a fee for the approval of such programs, there is a requirement that a program be accredited by a nationally recognized accrediting agency of institutions of higher education that is recognized by the United States Department of Education. The cost is unknown as it is dependent on several factors, including, but not limited to the accrediting organization. One estimate cited on the JAC Consulting website (<https://jacconsultingservices.com/how-much-does-it-cost-to-get-a-school-accredited/>) noted that *“Accreditation costs are between 5% and 10% of the overall investment costs of any institution.”*

There is also a preventable fine related to failing to notify the Division of a change of information, of \$1,000 per instance. An applicant or licensee can avoid paying this fine by complying with the change of information requirements noted in subsection 3 of Section 13 of the proposed regulations.

Section 1.4 of AB 153 of the 82nd legislative session (2023) requires each applicant for a license, to submit to the Division a complete set of fingerprints 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. The proposed regulations require 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 be paid by the applicant. According to the Nevada Department of Public Safety’s website, checked on April 16, 2024, fingerprint-based submissions include a \$13.25 FBI fee and a \$27 State fee for a total fee of \$40.25. The applicant would also be responsible for the cost to have their fingerprint rolled which varies depending on the entity that is used.

Indirect Adverse Effects: Indirect adverse effects may include loss of revenue if disciplinary action is taken that impacts a person’s ability to practice naprapathy, for example if a license is suspended or revoked. Complaints against a licensee that result in disciplinary action may also have indirect adverse effects including the potential loss of clients.

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 considered and used the following method to reduce the impact of the proposed regulation on small business.

The Division reviewed AB 153 of the 82nd legislative session (2023) to identify the minimum requirements that must be established in regulations and attempted to meet those requirements without adding a significant financial burden to small business. The Division also identified requirements that could not be modified via regulations, for example, the costs for initial and renewal applications are set in statutes; therefore, cannot be modified in regulations. The costs related to being fingerprinted pursuant to Section 1.4 of AB 153 of the 82nd legislative session (2023) is set by outside entities, such as the Department of Public Safety.

An industry member was also consulted during regulation development to help ensure minimum requirements were not a significant financial burden, for example when setting the minimum coverage required for professional liability insurance.

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 enforcement of the proposed regulations is \$15,489.

This is an estimate based on an estimated workload as the true workload is unknown at this time.

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 DPBH expects to collect is unknown because we do not know the number of individuals that will apply to become licensed as a naprapath, register as a teacher, advisor or supervisor, or be assessed fines. Below is an example of a possible scenario to illustrate what the total amount may look like, but again this is an unknown amount.

Thirty (30) initial applicants at \$500 per application equals \$15,000. If all 30 applicants remained licensed and renewed annually it would be expected the Division would collect \$15,000 a year. This amount may increase or decrease depending on whether new applicants are added or existing licensees drop their licensure.

Five (5) individuals register as a teacher, advisor or supervisor at \$50 per year. In this case, the total amount collected would be \$250.

An annual amount collected as a result of disciplinary action is not included as it is anticipated that there will be no, to very few cases of disciplinary action imposed on naprapaths and if imposed the amount and frequency is unknown.

Based on the above scenario the total annual amount DPBH would be expected to collect is \$15,250 annually but the true total annual amount DPBH expects to collect is unknown.

The money would be used to cover the Division's operating costs related to the work associated with governing the licensure of naprapaths and the practice of naprapathy in accordance with AB 153 of the 82nd legislative session (2023) and the proposed regulations.

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 known federal, state, or local standards that regulate 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 conclusion of the Division regarding the impact of a regulation on small business include:

The requirement to license naprapaths and govern the practice of naprapathy is the direct result of the passage of AB 153 of the 82nd legislative session (2023). The proposed regulations address the requirements in the bill without adding a significant additional burden beyond the bill's requirements.

It is anticipated that the passage of the proposed regulations will encourage individuals to become licensed naprapaths in Nevada which may result in the opening of small businesses such as naprapathic medical practices.

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: 4/26/2024