

Division of Child and Family Services
LCB File R110-13
May 7, 2014

NAC 424 Proposed Regulations

Informational Statement per NRS 233B.066

Attachment A – Updated Small Business Impact Statement
Attachment B – Attendees of NAC 424 Public Meetings
Attachment C – Adopted Regulations – LCB file #R110-13

1. A clear and concise explanation of the need for the adopted regulation.

The need for the adopted foster home regulations are a result of several factors, to include: reduction in use of licensing waivers, which will increase federal Title IV-E funding reimbursement to Nevada; legislative changes over the years to the Nevada Revised Statutes, Chapter 424 – Foster Homes for Children; changes in child welfare practice; improvements in overall standards for regulating foster care; and ensuring appropriate clarification of NRS 424 statutes within regulation. All these factors led to making necessary amendments and new requirements within the Nevada Administrative Code, Chapter 424. The changes made to the adopted regulations better ensure the overall safety and wellbeing of children in the custody of Nevada's child welfare agencies and within their actual placement into safe and caring foster homes.

2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Copies of the proposed regulations, notices of workshop and notices of intent to act upon the regulation and agendas were sent by U.S. mail, fax and/or email to persons known to have an interest in the subject of foster care licensing as well as any persons who specifically requested such notice. These documents were also made available on the website of the Division of Child and Family Services and the Nevada Legislature. Notices were posted at DCFS offices in every county that DCFS has an office, Clark County Department of Social Services, Washoe County Department of Social Services and in each county library in Nevada where there is not a DCFS or foster care licensing authority location. Posting occurred at the following locations:

- **Legislative Counsel Bureau** website and 401 S. Carson Street, Carson City, NV
- **Division of Child and Family Services** 4126 Technology Way, Carson City, NV
- **Division of Child and Family Services District Office** 1677 Old Hot Springs Road Suite B, Carson City, NV
- **Division of Child and Family Services Field Office** 740 Park Avenue, Ely, NV
- **Division of Child and Family Services Field Office** 55 North Center Street #3, Fernley, NV
- **Division of Child and Family Services Field Office** 215 Bridge Street, Suite 4, Yerington, NV

- **Division of Child and Family Services District Office** 1010 Ruby Vista Drive, Suite 101, Elko, NV
- **Division of Child and Family Services District Office** 1735 Kaiser Street, Fallon, NV
- **Division of Child and Family Services Field Office** 2280 Calvada Blvd, Suite 302, Pahrump, NV
- **Division of Child and Family Services Field Office** 475 W. Haskell Street, Winnemucca, NV
- **Division of Child and Family Services** 2655 Enterprise Road, Reno, NV 89512
- **Division of Child and Family Services** 6171 W. Charleston Blvd, Bldg. 8, Las Vegas, NV
- **Washoe County Department of Social Services** 350 S. Center Street, Reno, NV
- **Clark County Department of Family Services** 121 So. Martin Luther King Blvd, Las Vegas, NV
- **Douglas County Public Library** (Lander County) 1625 Library Lane, Minden, NV
- **Esmeralda County Library** 10190 Monroe Street, Eureka, NV
- **Battle Mountain Branch Library** 625 S Broad Street, Battle Mountain, NV
- **Lincoln County Library** 63 Main Street, Pioche, NV
- **Mineral County Public Library** 110 1st Street, Hawthorne, NV
- **Pershing County Library** 1125 Central Avenue, Lovelock, NV
- **Storey County Court House** 26 South B Street, Virginia City, NV
- **Tonopah Public Library** 167 South Central Street, Tonopah, NV
- **State Library** 100 Stewart Street, Carson City, NV

Public Workshop – Summary of responses

There were six attendees that testified at the public workshop, five in Las Vegas and one in Carson City. All five testified to the same section, NAC 424.600. This section identifies the requirements for foster caregivers that own and use guns.

All six persons testified that persons, such as law enforcement officers and persons with a permit to carry concealed weapons (CCW) should be authorized to carry a loaded firearm as a foster parent and also to maintain a loaded firearm within the home for purposes of self-defense. One of the persons testifying was a police officer and a licensed foster parent. She made public comment regarding the increased risk of accidental shootings, by law enforcement -foster parents, due to the increased need to unload and load the firearm due to the existing requirements in NAC 424.600.

DCFS also received a written comment regarding the current NAC 424 restrictions regarding persons with communicable disease. It was recommended that language should be used that protects children, but does not prohibit and/or discriminate against a person from becoming a foster caregiver if they have a communicable disease that does not put children in foster care at risk of contracting the disease from the caregiver.

Minor revisions were made in several sections of the NAC 424 to broaden the language around restrictions regarding disease that would not jeopardize the health, safety or wellbeing of children in foster care.

Public Hearing – Summary of responses

At the public hearing, the predominant public comments were in regards to NAC 424.600. These comments supported foster parents ability to carry a concealed weapon (CCW) if they are certified in Nevada for that capacity and to maintain a loaded weapon in a locked manner within their house. The Nevada Youth Care Providers (NYCP) requested clarification regarding the regulations in several areas.

Public Meeting – Summary of responses

Upon the recommendation of the DCFS Deputy Attorney General, an additional public meeting was held on April 30, 2014 to formally adopt the regulations for the record. Only one person made comment at the public meeting. This person commented that a foster child will not be able to be placed in her loving home due to the “flawed” NAC 424.600. She further stated that she wondered who would have to inform a child that due to this the child would have to remain at Child Haven.

Persons interested in the transcript from any of the above public meetings can request a copy by contacting the Division of Child and Family Services, Attn: D Pomin; 4126 Technology Way, 3rd Floor; Carson City, NV 89706.

3. PUBLIC WORKSHOP/PUBLIC HEARING/PUBLIC MEETING Attendees

12/16/2013 – Public Workshop Video Cast Las Vegas - Grant Sawyer Building Carson City -Legislative Building	4/11/2014 – Public Hearing to Adopt Regulations Video Cast Las Vegas - Grant Sawyer Building Carson City -Legislative Building	4/30/2014 – Public Meeting to Adopt Regulations Las Vegas – DCFS Office
Number of Persons – Attending: 20 Testified: 6 Submitted written comments: 6	Number of Persons – Attending: 31 Testified: 12 Submitted written comments: 7*	Number of Persons – Attending: 4 Testified: 1 Submitted written comments: 0

** Internet initiated petition with 210 signatures (162 from Nevada); includes 108 signed template letters and*

48 comments (37 from Nevada) - Submitted by one person; counted as 1 written comment

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3, as provided to the agency.

See Attachment B.

5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

On November 8, 2013, the NAC 424-Proposed Regulations of the Division of Child and Family Services and a Small Business Impact Questionnaire NAC 424 were posted on the DCFS website; additionally, both a mailed letter and an email were sent out on November 9, 2013 to all 37 Nevada Foster Care Agencies and stand-alone Specialized Foster Home businesses. These communications provided small businesses with all necessary information for reviewing the proposed regulations. A Small Business Impact Survey was also included, whereby small businesses could provide information back to DCFS regarding any known positive or negative impact to their businesses. To ensure participation, two separate emails were sent out to all 37 small businesses to remind them of the deadline to submit back their completed surveys and ensure that any concerns were identified. (See item #7 for actual responses)

The Small Business Impact Statement was posted on 11/27/2013 and made publically available on the DCFS website at www.dcfv.nv.us under the “What’s New” section on the right-hand side of the webpage. The document was updated and reposted on March 24, 2014, on the DCFS website and the Nevada Legislature website, with a new section referencing revisions made based upon the public workshop. This new section identified that there was minimal, if any, impact to small businesses from the minor revisions.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

Based upon earlier workgroup discussion and the public comment by the police officer-foster parent, who identified the increased risk of accidental shooting due to unloading/loading the firearm, the decision was made to amend NAC 424.600 to reduce this vulnerability pointed out during the public workshop.

Existing

NAC 424.600:

Weapons and ammunition. (NRS 424.020) Any weapons, such as firearms, air rifles, bows, hunting knives or hunting sling shots, shall be unstrung and unloaded at all times when children are in the home. They shall be stored in locked containers or rooms out of the reach of children or made inoperable. Ammunition and arrows shall be stored in separate locked containers. Weapons shall not be transported in any vehicle in which children are riding unless the weapons are made inoperable and inaccessible.”

Prior to Public Workshop

424.600 initial revision:

1. **Except as otherwise provided in subsection 2**, any weapons, such as firearms, air rifles, bows, hunting knives or hunting sling shots, ~~[shall]~~ **must** be unstrung and unloaded at all times when children are in the home. They ~~[shall]~~ **must** be stored in locked containers or rooms out of the reach of children or made inoperable. Ammunition and arrows ~~[shall]~~ **must** be stored in separate locked containers. Weapons ~~[shall]~~ **must** not be transported in any vehicle in which children are riding unless the weapons are made inoperable and inaccessible.

2. The provisions of this section do not apply to a law enforcement officer who is required to keep a weapon on his or her person if the weapon is maintained as required by subsection 1 whenever the person is not required to carry the weapon.

Post Public Workshop

424.600 as adopted:

1. ***Except as otherwise provided in subsection 2***, any weapons, such as firearms, air rifles, bows, hunting knives or hunting sling shots, ~~[shall]~~ **must** be unstrung and unloaded at all times when children are in the home. They ~~[shall]~~ **must** be stored in locked containers or rooms out of the reach of children or made inoperable. Ammunition and arrows ~~[shall]~~ **must** be stored in separate locked containers. Weapons ~~[shall]~~ **must** not be transported in any vehicle in which children are riding unless the weapons are made inoperable and inaccessible.

2. The provisions of this section do not apply to a law enforcement officer who maintains a holstered weapon on his or her person if the weapon is maintained as required by subsection 1 whenever the person is not carrying the weapon holstered on his or her person.

3. Firearms which are wholly inoperable and solely ornamental are exempt from the requirements of this section relating to the storage of the weapon.

After consideration of all other public comments regarding firearm storage during the public hearing, the Division adopted the regulation without any additional revision to NAC 424.600. This decision was made since accidental shootings and gun related injuries/deaths continue to be one of the leading causes of unnatural child fatality or injury in the United States.

The Division is legally responsible to make every effort to ensure the safety of children in foster care, who have entered child welfare custody due to significant abuse and/or neglect. Children that do not have access to loaded firearms are at much less risk of an accidental shooting or other gun related injuries or death. NAC 424.600 is no different from other NAC 424 regulations, such as regulations that regulate access to pools or other water hazards; regulate access to medications or potential poisons that could harm a child; or regulate the use of portable heaters or use of electrical extension cords. These regulations are intended to reduce the risk of harm to a child from drowning, poisoning and fire. NAC 424.600 does not attempt to regulate the transfer, sale,

purchase, possession, ownership, transportation, registration and licensing of firearms and ammunition in Nevada. Similar to the other regulations in NAC 424, NAC 424.600 only provides the necessary requirement for proper storage of weapons and ammunition for foster parents/caregivers in Nevada.

7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects; and**
- (b) Both immediate and long-term effects.**

ADVERSE EFFECTS: Comments from Small Business Impact Survey:

- As a COA accredited agency we operate utilizing most, if not all, of the best business practices covered in the proposed regulations. We may have to modify some operational policies and procedures but those should not have any sort of adverse economic impact on our business, other than the staff time required to review the regulations and makes changes.
- More staff hours needed to update policy.
- The new regulations will require us to revise current policies and procedures which will take staff time.
- Given the increased requirements for licensing agencies it is possible that some of the smaller, less experienced agencies will be unable to meet the new requirements, thereby being forced to leave the industry. This would be beneficial to the established, high-quality providers as it would consolidate the market.
- Not exactly from NAC 424, however if you combine AB 348 and the removal of the Medicaid BST Notification Process prior to finding alternate ways to fund Child Welfare, all foster agencies will likely be impacted in an adverse manner.

BENEFICIAL EFFECTS: Comments from Small Business Impact Survey:

- The changes to the regulations, as proposed, will be beneficial, both economically and programmatically.
- More families will be approved, which will allow for more program growth.
- We are supportive of the revisions to NAC 424. We are also supportive of the increased requirements brought forth via AB 348. Our main concern is with the removal of the Medicaid Notification Process for 2 hours, daily of services providers will experience a significant reduction in daily rate to support Nevada's most troubled youth. Funding for foster care needs to be discussed ASAP to ensure appropriate resources.
- Will minimize problems, more clarity will be helpful. May spill over into economic effect on business.
- More specifics will help regulate how things are done; lead to better practice.

IMMEDIATE EFFECTS: Comments from Small Business Impact Survey:

- As a small non-profit foster care agency in California, we are required already to implement the proposed changes. We already have policies & procedures in place to accommodate these regulations.

- Not recruiting foster homes currently due to several circumstances. Not willing to invest financially in something which may not be sustainable.
- Once the Medicaid Notification Process is removed foster care agencies will experience significant rate cuts, yet be asked to do more for less. Our concern is that the state and counties need open and proactive discussion on how to appropriately fund the Child Welfare System before Medicaid implements cuts January 10th, 2014.
- Some of the AB 348 changes will impact the organization's method of oversight.
- Workload for record manager in the Reno office will increase some but not substantially.
- No apparent effect.

LONG TERM EFFECTS:

- May improve staff caliber, and
- Same as Immediate effects noted above.

PUBLIC:

ADVERSE: None anticipated.

BENEFICIAL: The benefit to the public is the increased safety and well-being of children in the foster care system. Foster parent/caregiver compliance with the regulation will create better consistency of care and practice within the foster care system statewide.

IMMEDIATE: Same as Public Beneficial effects noted above.

LONG TERM: Same as Public Beneficial effects noted above.

8. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for enforcement of this regulation.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agency regulations that the adopted regulation duplicates.

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

The adopted regulations are not more stringent than federal regulation.

11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

This regulation does not provide a new fee or increase an existing fee.

Attachment B -Attendees of NAC 424 Public Meetings

Public Workshop Attendees –

Carson City		
<p>Chris Empey P.O. Box 11130, Reno, NV 337-7566 cempey@washoecounty.us Washoe County Dept. of Social Services</p> <p>Alice LeDesma WCDSS, P.O. Box 11130, Reno 89520 775-337-4445 aledesma@washoecounty.us Washoe County Social Services 775-337-4445</p>	<p>Stacey Jones P.O. Box 11130 337-4456 smjones@washoecounty.us Washoe County Dept. of Social Services</p> <p>Jeri Krause-Thain 1677 Old Hot Springs Rd. 687-4943, x231 jkrause-thain@dcfs.nv.gov DCFS</p>	<p>Mikie Franklin P.O. Box 11130, Reno, NV 337-4471 mfranklin@washoecounty.us Washoe County Dept. of Social Services</p> <p>Greg Ross 3875 Toucan Ct., Reno, NV 89508 775-247-1586 greg.ross@defeat.com</p>
Las Vegas		
<p>James N. Raffel 4285 N. Rancho Drive, Las Vegas 89130 702-385-5331, ext. 2424 raffelj@safy.org Specialized Alternatives for Families and Youth</p> <p>Denise Tanata Ashby 2102 S. Jones, Suite 100, LV, NV 89146 702-228-1869 denise.tanata@caanv.org Children's Advocacy Alliance</p> <p>Michelle Jutz 1117 Nawkee Dr., NLV, NV 89031 (702) 429-7202 slumbermichelle@yahoo.com Licensed Foster Parent</p> <p>Barbara de Castro 702-869-4300 bdecastro@majestichealth.net NYCP</p>	<p>Jennifer Anderson 4285 N. Rancho Dr., #130, LV, NV 89130 702-385-5331 andersonje@safy.org SAFY</p> <p>Brian Wilson 5512 Tincup Dr., Las Vegas, NV 89130 (702-331-6886 brian@ttinc.us</p> <p>Raelara Tilden 3155 E. Patrick Lane, LV, NV 89120 702-992-0576 raelarat@applegrovefostercare.com Apple Grove Foster Care 702-992-0576</p> <p>Heather Brockway 4285 N. Rancho, Ste 130 385-5331 soceah@safy.org SAFY</p> <p>Tara Donohue 121 Martin Luther King 702.455.8167 donohute@ClarkCountyNV.gov Clark County DFS 702-455-8167</p>	<p>Duncan Mackie 702-232-2654 randy@nvfac.org Nevada Firearms Coalition</p> <p>Valerie Wilson 5512 Tincup Dr. 702-331-6886 Valerie@ttinc.us</p> <p>Valerie Hicks 4285 N. Rancho 385-5531 hicksv@safy.org SAFY 385-5331</p> <p>Karlene Wbase 702-927-9271 karleneu@bountifulfamilyservices.org Bountiful Family Services 702 547-0201</p> <p>Alex Ortiz PO Box 81681, LV, NV 89180 702.813.5966 ortiza@ClarkCountyNV.gov Clark County 702.455.5966</p>

Public Hearing - Attendees

Carson City		
<p>John Wagner 780 Norfolk Drive, Carson City, NV 89703 775-883-2752 Independent American Party johnwagner2000@charter.net</p> <p>Alice LeDesma WCDSS, P.O. Box 11130, Reno 89520 775-337-4445 aledesma@washoecounty.us Washoe County Social Services 775-337-4445</p>	<p>James M. Benthin 155 Big Smokey Dr., Reno, NV 775-830-2619 jamesbenthin@gmail.com</p>	<p>Ross Armstrong 150 Mt. Rose, #4 775-851-4101 rarmstrong@ag.nv.gov AG's Office</p>
Las Vegas		
<p>Kirby Burgess 2349 Renaissance Drive 702-739-7716 kirbyb@abrighterdayfamilyservices.org A Brighter Day Family Services 702-739-7716</p> <p>Michael Knight 702-455-1401 Michael.knight@ClarkCountyNV.gov Clark County DFS</p> <p>Duncan Mackie 702-232-2654 randy@NFVAC.org Nevada Firearms Coalition</p> <p>Bob Irwin 2900 E. Tropicana 454-1110 Media</p> <p>Denise Tanata Ashby 2101 S. Jones, Suite 100 Las Vegas, NV 89146 702-228-1869 denise.tanata@caa.nv.org Children's Advocacy Alliance</p> <p>Dave Doyle 7381 Prairie Falcon Las Vegas, Nevada 89128 702-376-0612 didoyle@eaglequest.us.com Eagle Quest</p>	<p>Shauna Davis 2139 S. Jones, Las Vegas 702-228-0560 shauna.davis@caanv.org CAA</p> <p>Kathryn Martin 6171 W. Charleston Blvd. 486-7741 kathrynmartin@dcfs.nv.gov State of Nevada</p> <p>Marc Englander 2117 Echo Bay St., #104 Las Vegas, NV 89128 702-460-1266</p> <p>Mary Jo Fata 3204 Knight Hill Pl., North Las Vegas, NV 89031 530-394-0595</p> <p>Kerri Korin 1785 E. Sahara, Suite 445 Las Vegas, NV 89104 702-576-0535 kerri.korin@kidspeace.org KidsPeace</p> <p>Michael Flynn 3137 Pecos McLeod Las Vegas 89121 702-433-3038 or 702-752-3686, cell Michael@bamboosunrise.net Bamboo Sunrise</p>	<p>Barbara de Castro 702-869-4300 bdecastro@majestichealth.net NYCP</p> <p>Valerie Wilson 5512 Tincup Dr. Las Vegas, NV 89130 702-331-6886 Valerie@ttinc.us</p> <p>Brian Wilson 5512 Tincup Dr., Las Vegas, NV 89130 (702-331-6886 brian@ttinc.us</p> <p>Max Miller-Hooks 9420 Crown Vista Ln. 702-900-6293 max@max4nevada.com</p> <p>Paula Hammaek 8121 Martin Luther King Blvd. 702-455-1959 hammapm@ClarkCounty.nv.gov Clark County Dept. of Family Services 702-455-1959</p> <p>Edy Lynn Quijaew 7381 Prairie Falon Rd., Ste. 110, 89126 equijano@eaglequest.us.com Eagle Quest 702-646-KIDS</p>

<p>Anya Earl 4285 N. Rancho 385-5221 earla@safy.org SAFY</p> <p>Shirley Holdeman 4278 Cautegena Way 702-283-3702 shirleyh@bamboosunrise@gmail.com Bamboo Sunrise LLC 702-433-3038</p> <p>Tara Donohue 121 S. Martin Luther King 702-455-8167 donohut@ClarkCountyNV.gov DFS Licensing</p>	<p>Jennifer Erber 1050 E. Flamingo 702-733-8098 ierbes@maplestar.net Maple Star Nevada</p> <p>Lauren Soskin 121 S. Martin L. King 455-0597 soskinLA@ClarkCountyNV.gov DFS</p> <p>John Ridgeway 3519 One Nation Ave., Las Vegas, NV 89121 702-558-5772 jlr1927@gmail.com Represent myself</p>	<p>Sharie Harvin 3228 Channel 7 Dr 702-604-3091 sharvin@8newsnow.com 8 News Now</p> <p>Jennifer Bevacqua 4285 N. Rancho Drive, Ste 160 702-685-3459 Jennifer-bevacqua@olivecrest.org Olive Crest</p> <p>Aga Pinkerton 333 Las Vegas Blvd., South 388-5020 aga-pinkerton@reid.senate.gov Senator Reid</p>
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Public Meeting – Attendees

<p>Valerie Wilson 5512 Tincup Dr. Las Vegas, NV 89130 702-331-6886 Valerie@ttinc.us</p> <p>Shannon Rooney 121 S. MLK DFS 702 455-7416</p>	<p>Brian Wilson 5512 Tincup Dr., Las Vegas, NV 89130 (702-331-6886 brian@ttinc.us</p>	<p>Brenda Herbstman 121 S. MLK Las Vegas, NV 89106 DFS 455-4677</p>
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