

**DIVISION OF PUBLIC & BEHAVIORAL HEALTH  
BUREAU OF HEALTH CARE QUALITY AND COMPLIANCE  
LCB File No. R120-16**

**Informational Statement per NRS 233B.066**

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

The Peer Support Recovery Organization regulations were developed to be in compliance with the 2015 Legislature (SB 489) and Nevada Revised Statutes (NRS), Chapter 449.0302, to provide regulatory oversight for this new facility type to ensure public health protection of recipients of peer support recovery services.

- The legislature required sufficient oversight to ensure these vulnerable sub-populations (adult persons with mental illness, addiction or substance abuse; or persons at risk for mental illness or addiction) had regulatory protections and means to address possible grievances.
- The peer support recovery organization services are not medical therapies, rather services to enable the individual to function more independently and get connected with a variety of resources (medical, legal, child care, employment).
- The proposed regulations are minimal in their scope and are limited to:
  - The required statutory requirements: The Nevada Revised Statutes requirements range from staff training in cardiopulmonary resuscitation (CPR) and first aid training; to staff's health screening for tuberculosis; personnel background checks for the protection of the clients; and inclusion of patients' rights.
  - Ensuring that peer support recovery organization maintain evidence of routine, independent business practices. Like any business, the business must identify the entities that they interact with and the activities that occur with those interactions. As part of the typical business transactions, the facility would document services rendered and to whom they were rendered. The documentation assist the inspection agency to readily evaluate the validity of any complaint against the facility and its staff.
  - That staff meet minimal educational requirements to ensure that the peer support recovery organization employees have a level of knowledge about their job as peer support recovery workers, and continue to obtain additional knowledge through annual continuing education.
  - The inspection and licensing agency is a fee based agency. In order to provide the regulatory oversight of the peer support recovery organization, the inspection and licensing agency must charge a fee to cover the expense of that public health service, both initial licensing and annual renewal fees.
- The peer support recovery organization must obtain a license if they are offering for compensation peer support recovery services. The exception would be for existing licensed medical facilities (as defined at NRS 449.0151) and licensed facilities for the dependent (as defined at NRS 449.0045), because these facilities do NOT have to be dually licensed with both their current license and another peer support recovery organization license.

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:

Pursuant to NRS 233B.0608 (2) (a), the Division of Public and Behavioral Health has requested input from Division of Public and Behavioral Health's Substance Abuse, Prevention and Treatment Agency for possible future licensees and conducted online research to confirm and identify other possible candidates as licensees and interested parties. These identified entities were solicited with the proposed regulations, (A) small business impact questionnaire and (B) the public workshops comments. Since we do not currently license any peer support recovery organizations in Nevada, we solicited information from the identified entities that may eventually have a desire to become licensed facilities as peer support recovery organization in the future. As such and in the absence of actual peer support recovery organizations, we decided to reach out to these facilities to obtain comments and best fulfill our responsibilities in accordance with NRS 233B.

(A) A Small Business Impact Questionnaire was sent to 26 Nevada entities that would possibly become a Peer Support Recovery Organization licensees, along with a copy of the proposed regulation, on 01/04/17. 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?

None of the 26 business entities responded to the small business impact questionnaire. The result of the small business impact questionnaire revealed no data for analysis.

(b) Two public workshops were conducted.

The first public workshop was held on May 23, 2017, at the following locations:

- Division of Public and Behavioral Health, 4150 Technology Way, Conference room #303, Carson City Nevada 89706;
- Aging and Disabilities Services Division, 1820 East Sahara Avenue, Suite 201, Las Vegas Nevada; and
- Division of Aging and Disability Services, Early Intervention Services, Suite 102 Elko, Nevada

One participant was present in Carson City and indicated that he had concerns with a number of regulation sections and went item by item with his understanding of the proposed regulations. The state agency's interpretative allowance (IA) and/or the Nevada Revised Statutes (NRS) requirement provide the rational for the specific proposed regulation. Topics include:

- a) The participant did not like the term license and preferred certificate. NRS 449.030 requires the use of license.
- b) The participant questioned the requirement for a specific location for license when services are offered throughout the community. (IA) Like other licensed facility types, such as home health agencies and personal care agencies, the facility has a central license location and staff go out into the community to provide their respective services. Peer Support Recovery Organizations (PSRO) would operate in a similar manner.
- c) The participant questioned why a PSRO would have to meet typical business practices, such as maintaining liability insurance, maintaining personnel records, and accounting. (IA) All prudent business must follow generic business practices to remain viable.
- d) Section 4, subsection c, there was a concern with the use of and vagueness of “responsible and mature” as a qualification for an administrator. (IA) This is used to let the prospective administrator self-select for the position, and once a person becomes an administrator would know how one must behave that is not reckless. The looseness of the language is to allow for all possible contingencies for recognized bad behavior or judgement (examples: doing drugs or drinking on the job, being under the influence while driving with a client in the vehicle, etc.). This allows the state agency to bring this behavior forward to the administrator or owner for remediation.
- e) The participant does not like the term “administrator.” (IA) Use of administrator is utilized for over 30 different licensed facility types regulated by the state agency for both federal certification and for state licensing. Administrator is a commonly understood term within the Nevada health care community and matches the term used for similar facilities.
- f) There were concerns about the training hour requirements and the division’s approval of said training. (IA) It is important that the facility utilizes qualified and trained staff in the performance of their duties, and continue annual education to maintain quality. The state agency staff will evaluate the training for appropriateness, providers of the training, and number of hours (4 hours annually). As long as the facility can demonstrate that the training can be applied towards their staff’s work and is provided by a reputable educational source it would generally be accepted.
- g) There was concern about why cardiopulmonary resuscitation (CPR) and first aid were requirements. The participant believed it makes the peer support staff too clinical. NRS 449.194 requires the PSRO staff to have these trainings.

On 06/14/17, the 05/23/17 participant, Mr. Trey Delap, submitted a mock-up of the regulations with his proposed changes. This document with the state agency’s responses was also submitted with the Memorandum to the Nevada State Board of Health as an attachment (Attachment #3). Most of his comments/proposed changes either conflicted with the statutes or they did not offer an improvement to the regulations. See how to access this information at the end of this question’s section.

The second public workshop was held on July 06, 2017, at the following locations:

- Division of Public and Behavioral Health, 4150 Technology Way, Conference room #303, Carson City Nevada 89706; and
- Aging and Disabilities Services Division, Desert Regional Center, 1391 South Jones Blvd., Las Vegas Nevada.

This work shop had more attendees and most of their discussions were again interpretation of the statutes and regulations and a repeat of the topics at the prior workshop and the written mock-up submittal. However, additional concerns were presented as described below:

h) There was confusion as to what entity would be required to have a license as a PSRO. Review of the NRS 449.01563 reveals either an agency (facility) or a person that offers peer support services for compensation to the target population would need a license as a PSRO.

i) A concern presented for clarification to the definition of a PSRO at NRS 449.01653 with regard for the need of a license if one was providing peer support services on a voluntary basis and not for compensation. (IA) If a person is truly not being compensated through salary or fee for service regardless of payment source and is totally voluntary service, then the statute is clear that no license is necessary.

j) There was objection to the use of “informal counseling.” (IA) Some of the participants come from recovery background and associate the term to with providing social or psychological guidance from a professional rather than generic meaning of giving advice or recommending a course of action. The use of the term “inform” is used to further distinguish the advice/recommendation from professional counseling.

k) There was also confusion about the need to be dually licensed if the peer support services are offered by an existing facility (either medical or a facility for the dependent). NRS 449.03015 answers this question with no dual licensing. NRS 449.0151 and NRS 449.0045 identifies what a medical facility represents and what a facility for the dependent represents.

The comments from the workshops are included above and are within the Memorandum to the Board of Health and can be reviewed with the below link under the 09/08/17 Board of Health meeting, Regulations LCB number R120-16.

[http://dpbh.nv.gov/Boards/BOH/Meetings/2017/2017\\_Board\\_of\\_Health\\_meetings/](http://dpbh.nv.gov/Boards/BOH/Meetings/2017/2017_Board_of_Health_meetings/)

Or, a summary of the Hearing for Amendment of Nevada Administrative Code, Chapter 449 can be obtained by contacting the Bureau of Health Care Quality and Compliance, 4220 South Maryland Parkway, Building D, Suite 810, Las Vegas, Nevada 89119. Phone: 702-486-6515.

3. A statement indicating the number of persons who attended each hearing, testified at each hearing, and submitted written statements regarding the proposed regulation. This statement should include for each person identified pursuant to this section that testified and/or provided written statements at each hearing regarding the proposed regulation, the following information, if provided to the agency conducting the hearing:

- (a) Name
- (b) Telephone Number
- (c) Business Address
- (d) Business telephone number
- (e) Electronic mail address; and
- (f) Name of entity or organization represented

Twenty-eight people were noted on the sign-in sheets as having attended the September 08, 2017 Board of Health. Note: Some of those individuals were at the hearing for other items being heard at the same hearing.

Two of the attendees testified or provided a written statement at the hearing concerning these regulations.

Only the state agency (DPBH) spoke in support of the proposed regulations:

Two people testified in opposition:

Trey Delap	Group Six Partners, LLC	702-772-9735
Heidi Gustafson	did not sign-in	

4. A description of how comment was solicited (i.e., notices) from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Pursuant to NRS 233B.0608 (2) (a), the Division of Public and Behavioral Health has requested input from Division of Public and Behavioral Health's Substance Abuse, Prevention and Treatment Agency for possible future licensees and conducted online research to confirm and identify other possible candidates as licensees and interested parties. These identified entities were solicited with the proposed regulations and the small business impact questionnaire. Since we do not currently license any Peer Support Recovery Organizations in Nevada, we solicited information from the identified entities that may eventually have a desire to become licensed facilities as Peer Support Recovery Organization in the future. As such and in the absence of

actual peer support recovery organizations, we decided to reach out to these facilities to obtain comments and best fulfill our responsibilities in accordance with NRS 233B.

A Small Business Impact Questionnaire was sent to 26 Nevada entities that would possibly become a Peer Support Recovery Organization licensees, along with a copy of the proposed regulation, on 01/04/17. The questions on the questionnaire were:

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None of the 26 business entities responded to the small impact questionnaire. The result of the small business impact questionnaire revealed no data for analysis.

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments should not impose an economic burden upon a small business or prevent the formation, operation or expansion of a small businesses in Nevada.

Other interested persons may obtain a copy of the small business impact statement/summary by following the below website link, which includes a copy of the regulations and small business impact statement.

<http://dpbh.nv.gov/Boards/BOH/Regulations/Regulations/>

Or, a copy of the summary can be obtained by contacting the Bureau of Health Care Quality and Compliance, 4220 South Maryland Parkway, Building D, Suite 810, Las Vegas, Nevada 89119. Phone: 702-486-6515.

5. If, after consideration of public comment, the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change. The statement should also explain the reasons for making any changes to the regulation as proposed.

There were no changes necessary for these regulations. The content of the regulations were minimal and matched similar requirements in other regulations for licensed facility types that function in a similar manner as peer support recovery organizations. The regulations were reviewed for legislative intent and legality by the Legislative Counsel Bureau (LCB). The public comments put forth did not provide any constructive improvements.

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

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

1. Anticipated effects on the business which NAC 449 regulates:

- A. *Adverse effects*: No adverse effects are anticipated.
- B. *Beneficial*: The regulations provides structure and standardization for peer support recovery organizations. By being license, it offers a level of confidence to the public that there is some oversight to providers of peer support recovery services.
- C. *Immediate*: The regulations would guide proposed peer support recovery organizations with features necessary for successful business operations.
- D. *Long-term*: There would be consistent peer support services within the state.

2. Anticipated effects on the public:

- A. *Adverse*: No adverse effects are anticipated.
- B. *Beneficial*: Recipients of peer support services would find structured administration of care, protections in place for that care, and remedies if the care is not provided in the interest of the clients.
- C. *Immediate*: Persons that propose to offer peer support services would become licensed.
- D. *Long-term*: There would be an increase of licensed peer support recovery organizations in Nevada.

7. The estimated cost to the agency for enforcement of the proposed regulation.

The estimated cost to the Division of Public and Behavioral Health for enforcement of the proposed regulations is estimated to be an initial fee of \$1000.00 and an annual renewal fee of \$500.00. These fees are currently set in regulation and would be used to cover the costs to enforce the proposed regulations.

8. 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, name the regulating federal agency.

There are no other state or government agency regulations that overlap or duplicate the proposed regulations.

- 9.** If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions; and

There are no federal regulations for peer support recovery organizations, thus no conflict exist.

- 10.** If the regulation establishes a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used.

The new fees have been proposed as follows:

Initial licensure	\$1,000
Renewal	\$500

It is difficult to anticipate the number of new licensees. Many of those that may provide peer support recovery services may already work for an existing medical facility or a facility for the dependent, which would then be exempt from being dually licensed. Those entities that are not affiliated with a medical facility or a facility for the dependent that provide peer support recovery services would have to be licensed as a peer support recovery organization. These latter entity numbers would be small initially, and estimate at 3-7 providers. Using the highest number the initial licensing fees would amount to \$7,000.00.

Initial fees are used to offset the cost of initial licensing, training of staff, initial inspection(s), and complaint investigations throughout the first year of licensure. Renewal fees are used to offset the cost of renewal license application processing, periodic inspection(s) and complaint investigations in the year of renewal.