

Department of Health and Human Services
Director's Office
Certificate of Need
LCB File No. R150-15

Informational Statement per NRS 233B.066

1. A clear and concise explanation of the need for the adopted regulation;
 - *Statutory changes were made to the Certificate of Need program in the 2015 Legislative Session. Subsequently, proposed changes were drafted to update the corresponding regulations. Stakeholders requested additional changes through the public workshop process, which were adopted by the Director through the public hearing. The resulting changes include the following:*
 - *Add definition of "Letter of Approval" to reference Certificate of Need;*
 - *Interpret "routine services for health" to exclude services that require construction of a new facility or expansion, renovation or redesign of the existing office at a cost that exceeds \$2,000,000;*
 - *Remove requirement for cashier's check under NAC 439A.365;*
 - *Allow requests for extension to be communicated through a quarterly report under NAC 439A.465 and 439A.475;*
 - *Remove exception for a facility which will be used solely for the offices of practitioners of health care under NAC 439A.595; and*
 - *Repeal section on capital expenditures for which approval is not required under NAC 439A.338.*
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;
 - *Public comment was solicited through two online surveys for the small business impact questionnaire, as well as three public workshops and one public hearing, noticed through website postings, multiple electronic mailings to stakeholders, and hard copy mailings to state and county libraries for public posting.*
 - *All comments received came from health care facilities representatives, and are summarized under item #4, below, for businesses.*
 - *Response documentation is available through the Department of Health and Human Services, Primary Care Office via email to ljhale@health.nv.gov or via telephone request at (775) 684-4041.*
3. A statement indicating the number of persons who attended each meeting or workshop, 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 at each hearing and/or submitted written statements regarding the proposed regulation, the following information, if provided to the agency conducting the hearing or workshop:

December 15, 2015 Workshop

	Name	Organization	Phone	Email	Support
1	Blayne Osborn	NV Rural Hospital Partners	775-827-4770	blayne@nrhp.org	Y
2	Judy Guzman	Children's Specialty Center of NV	702-862-1123	jguzman@cure4thekids.org	Neutral
3	Gerald Ackerman	NV Office of Rural Health	775-738-3828x22	gackerman@medicine.nevada.edu	Y

January 28, 2016 Workshop

	Name	Organization	Phone	Email	Support
1	Parker Stremmel	Ferrari Public Affairs	(Not provided)	parker@ferraripa.com	Neutral
2	Blayne Osborn	NV Rural Hospital Partners	775-827-4770	blayne@nrhp.org	Y
3	Bill Welch	NV Hospital Association	775-827-0184	bill@nvha.net	Neutral
4	Rob Fuller	Mesa View Regional Hospital	(Not provided)	Robert.fuller@mesaviewhospital.com	Y
5	Patty Holden	Mesa View Regional Hospital	(Not provided)	pattyholden@mesaviewhospital.com	Y

April 12, 2016 Workshop

	Name	Organization	Phone	Email	Support
1	Jason Bleak	Grover C. Dils Medical Center	775-726-3171	jkbleak@gcdmc.org	Y
2	Patricia Bianchi	Pershing General Hospital	775-273-2621	pbianchi@pershinghospital.org	Y
3	Joan Hall	NV Rural Hospital Partners	775-827-4770	joan@nrhp.org	Y
4	Kelly Adams	Desert View Hospital	775-751-7529	Kelly.adams@dvrhc.org	Y
5	Bill Welch	NV Hospital Association	775-827-0184	bill@nvha.net	Y
6	Thomas Maher	Boulder City Hospital	702-291-4111	tmaher@bouldercityhospital.org	Y
7	Blayne Osborn	NV Rural Hospital Partners	775-827-4770	blayne@nrhp.org	Y
8	Judy Newland	Incline Hospital	Not Provided	(Participated via call-in)	Y
9	Patty Holden	Mesa View Hospital	Not Provided	(Participated via call-in)	Y
10	Matt Walker	William B. Ririe Hospital	Not Provided	(Participated via call-in)	Y
11	Peggy Lindsey	Battle Mountain General Hospital	Not Provided	(Participated via call-in)	Y

May 16, 2016 Hearing

	Name	Organization	Phone	Email	Support
1	Joan Hall	NV Rural Hospital Partners	775-827-4770	joan@nrhp.org	Y
2	Blayne	NV Rural Hospital	775-827-4770	blayne@nrhp.org	Y

	Osborn	Partners			
3	Bill Welch	NV Hospital Association	775-827-0184	bill@nvha.net	Y
4	Joanna Jacob	Ferrari Public Affairs for Davita HealthCare Partners	775-351-8978	joanna@ferraripa.com	Neutral
5	Rob Fuller	Mesa View Hospital	Not Provided	(Participated via call-in)	Y
6	Hoyt Skabelund	Banner Churchill Hospital	Not Provided	(Participated via call-in)	Y

Written Statements and Letters of Support

	Name	Organization	Phone	Format	Support
1	Hoyt Skabelund	Banner Churchill Hospital	Not Provided	e-mail via NV Rural Hospital Partners and Letter of Support	Y
2	Toni Inserra	South Lyon Medical Center	Not Provided	e-mail via NV Rural Hospital Partners	N
3	Rick Palagi	Northeastern Nevada Regional Hospital	775-738-5151	Letter of Support	Y
4	Richard Munger	Mt. Grant General Hospital	775-945-2461	Letter of Support	Y
5	Thomas Maher	Boulder City Hospital	702-293-4111	Letter of Support	Y
6	Patty Holden	Mesa View Regional Hospital	702-345-4280	Letter of Support	Y
7	Matthew Walker	William B Ririe Hospital	Not Provided	Letter of Support	Y
8	Peggy Lindsey	Battle Mountain General Hospital	775-635-2550	Letter of Support	Y
9	Jason Bleak	Grover C. Dils Medical Center	Not Provided	Survey Response	Y

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.
 - *Public comment was solicited through two online surveys for the small business impact questionnaire, as well as three public workshops and one public hearing, noticed through website postings, multiple electronic mailings to stakeholders, and hard copy mailings to state and county libraries for public posting.*
 - *Following the first public workshop, representatives for Nevada Rural Hospital Partners and Nevada Hospital Association proposed revised language to remove the exclusion for physician-owned facilities. Subsequently, revised regulations were drafted and distributed to stakeholders for comment.*
 - *Letters of support were received from several rural hospitals, with the following key statements:*
 - *The proposed regulation will provide much needed guidance and clarify the ambiguous nature governing the \$2,000,000 capital expenditure limit for health facility construction and equipment projects. . . Without the proposed clarification, a variety of medical or diagnostic clinics could skirt the current CON process [and] threaten existing medical providers, particular those in rural areas.*

- *The state's CON construct should be fair and consistent in its applicability across all providers. The current interpretation that allows for a "medical office building or an office of a health practitioner to be used solely to provide routine health services. . ." to be exempt from the CON process places the government in the position of choosing winners and losers in the private marketplace.*
 - *The proposed regulation does not limit innovation or stifle competition. It simply ensures the continuation of a level playing field for all health care providers.*
 - *As CEO of Boulder City Hospital, I am acutely aware of the threat this regulation without the proposed changes can have on the only independent non-profit hospital in Nevada that is not part of a larger corporate structure nor is eligible to receive tax or mining subsidies.*
 - *When a large business comes in to provide services, they rarely offer the services to everyone. Instead they offer it to the insured and not the uninsured or underinsured. . . This shift means we take on a larger responsibility of absorbing the cost . . .and will be forced to limit services or go out of business.*
 - *The following statements were received via email and survey responses from health care facilities:*
 - *CON regulations protect our small hospital district allowing for long term operations. As a small county hospital service approximately 4000 residents, the introduction of other health service that would undercut our services will make it more difficult if not impossible to continue operation.*
 - *Potential to save a few hundred thousand by not oversaturating the market leading to all facilities census dropping.*
 - *(Indicating indirect beneficial effects) Prevents duplication of services that would raise our cost per unit of service. We treat Medicaid patients and uninsured patients while many boutique outpatient service providers that could enter the market would not.*
 - *(Indicating indirect adverse effects)With master planning including the construction of a stick built building to replace our temporary modular clinic in the near future, this additional restriction will not only increase cost but the time for completion.*
 - *Response documentation is available through the Department of Health and Human Services, Primary Care Office via email to ljhale@health.nv.gov or via telephone request at (775) 684-4041.*
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.
- *The changes proposed by stakeholders were made to the regulation and adopted by the Director for the Department of Health and Human Services.*
 - *These changes support the Department's statutory function under NRS 439A.081 to provide for the effective use of methods for controlling increases in the cost of health care; providing for the adequate supply and distribution of health resources; providing for equal access to health care of good quality at a reasonable cost; and providing*

education to the public regarding proper personal health care and methods for the effective use of available health services.

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.
 - *The Certificate of Need (CON) is required for projects costing \$2 million or more, in rural communities, and there is an application fee of \$9,500 for the state's review, hearing and oversight process. For existing health facilities, the CON supports sustainability by requiring that new construction proposals must document need, financial feasibility, and effect on the cost of health care. The immediate effect is the cost of the application and the opportunity for the state, the public and other stakeholders to review the proposed project. The long-term effect is to stabilize access to and cost of health care in rural communities.*
7. The estimated cost to the agency for enforcement of the proposed regulation.
 - *Funding for the agency to administer the CON program is fully supported by the application fees.*
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.
 - *This regulation does not overlap or duplicate any other state or government agency 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 that regulate this activity.*
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 regulation does not establish a new fee nor does it increase the existing fee.*

NOTE: The Informational statement is essential. If this statement is not included with the final regulations or is incomplete or inaccurate, LCB will return the regulation to the agency. Unless a statement is supplied, the LCB will not submit the regulation to the Legislative Commission, and the regulation never becomes effective (NRS 233B.0665).