

STATEMENT PURSUANT TO NRS 233B.0608(3)

PROPOSED AMENDMENTS TO NAC 432A

Regulation Number 013-14

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 have a negative impact on the formation, operation or expansion of a small business in Nevada in regards to Regulation Number 013-14.

The Division used the methods as described in sections 1, 2 and 3 of the attached Small Business Impact Statement to determine the impact of the proposed regulation on small business. The reasons for the conclusions are also fully described in sections 3 and 7 the attached Small Business Impact Statement.

I, Richard Whitley, 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 and that the information contained in this statement and the attached Small Business Impact Statement is accurate.



Richard Whitley, M.S., Administrator
Division of Public and Behavioral Health
Department of Health and Human Services

SMALL BUSINESS IMPACT STATEMENT 2014

PROPOSED AMENDMENTS TO NAC 432A

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 have a negative impact on the formation, operation or expansion of a small business in Nevada.

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 complies with the requirements of NRS 233B.0609.

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.

Background:

During the 2013 Legislature, Assembly Bill 109 and Assembly Bill 93 were passed in the interest of child welfare and safety. AB 109 concerns the requirements of current and future Directors of Child Care Facilities as well as continued training hours for all employees of Child Care facilities. AB 93 concerns the process requirements for initiated background checks for all employed within Child Care Facilities. These bills were heard in the 2013 legislative session and public input was elicited and taken into consideration by the legislators. They were passed and signed into statute by Governor Sandoval.

Correlating at this time was Legislatures directive for the program to formalize a course of action that would remove the programs use of general funds.

Regulations numbers 010-12, 011-12 and 112-12p have all been consolidated to Regulation Number 013-14, which encompasses the following:

- Delineates the proposed administrative fine structure as it would pertain to Licensed Child Care Facilities.
- Removes requirements for a partial background check and reinforces the mandated full background check of all individuals who work within Licensed Child Care Facilities.
- Removes language from Nevada Administrative Code (NAC) 432A as pertains to nurseries within Group homes and removes language as pertains to waiver process.

Pursuant to NRS 233B.0608 (2) (a), the Division of Public and Behavioral Health has requested input from child care facilities.

A Small Business Impact Questionnaire was sent to child care facilities along with a copy of the proposed regulation changes, on January 10, 2014. 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			
(70 responses were received out of the 492 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 effects upon your business?	Do you anticipate any indirect beneficial effects upon your business?
27-YES 41-NO	8-YES 58-NO	10-YES 52-NO	6-YES 57-NO
*Fines should not be imposed. Child Care Licensing should be a resource and with fines it may not be. *Training requirements are too high, the costs for training is excessive. *Fingerprinting all volunteers including parents will be an extreme cost to the facility or will deter parents from volunteering.	*Director and staff will ensure regulations are being met.	*Fine amount is too steep. *Fines may cause businesses to close	*Will make facilities responsible.

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Latisha Brown at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health
3811 W. Charleston Blvd, Suite 210
Las Vegas, NV 89102
Latisha Brown, Child Care Licensing Program Manager
Phone: 702-486-3822
Email: labrown@health.nv.gov

2) The manner in which analysis was conducted.

Latisha Brown, Child Care Licensing Program Manager, in consultation with Anna Lisa Acosta, Supervisor of Child Care Licensing conducted the analysis of the impact on business. The analysis considered the questionnaire answers and comments as well as past business practices of the regulated industry. Based upon this consideration the agency is following the directive of the legislature and is relying on their expertise in limiting the impact on small business.

3) A description of the methods that DPBH considered to reduce the impact of the proposed regulation on small businesses and statement regarding whether the agency actually used those methods.

The Division of Public and Behavioral Health has held several opportunities for the public and the regulated community to provide comments regarding the AB109 and AB93, including the economic impact the proposed regulations may have. In consideration of the responses received from the questionnaire the program has concluded a need for some amendments and further explanation of purpose and method in efforts to be all inclusive and transparent throughout this process.

- Child Care Licensing acknowledges that parent volunteers at facilities should not be subjected to the same requirements as an employee of the facility or a volunteer not utilizing the facility in a parent/patron capacity. Amendment language will be added to exclude parent volunteers from needing a background check.
- The increase in child care training hours from 15 annual hours to 24 annual hours has been noted as a significant change, which is why implementation has been planned as a gradual increase over a 3 year span:
 - January 1, 2014 – providers will be expected to complete 18 annual training hours
 - January 1, 2015 – providers will be expected to complete 21 annual training hours
 - January 1, 2016 and on – providers will be expected to complete 24 annual training hours

It is also important to note that trainings are also made available online through Nevada Registry to help accommodate the increase in training participation.

- The proposed administrative fines will be utilized after a facility has been given an opportunity to correct the non-compliance item and to act solely as progressive action where deemed necessary through a documented pattern. Nevada has proposed a fine \$100 per day for continued non-compliance; meaning the responsibility to ensure compliance and no fine is completely at the will of the facility. Facilities can only be written out of compliance for violations documented within NAC and NRS 432A. These documents are available to all facilities per the Division website or upon request. Surveyors and the Child Care licensing team will continue to be available to assist through consultation and trainings with facilities to generate and promote compliance through collaboration.

The program chose \$100 fine because after a comparison with the neighboring western states found the following:

VIOLATION FINES IMPOSED IN NEIGHBORING STATES

WASHINGTON	ARIZONA	CALIFORNIA	OREGON	UTAH
\$250 PER DAY PER VIOLATION	\$100 FOR EACH VIOLATION	\$100 PER CITED VIOLATION	\$100 - \$500 PER VIOLATION ACCOMPANIED BY A WRITTEN NOTICE OF VIOLATION	\$50 - \$1000 IF LIKELY RISK IS DETERMINED VIOLATIONS 1,050 - \$5000 IF INJURY TO A CHILD IS A RESULT OF VIOLATIONS
INTEREST COLLECTED FOR EACH DAY FACILITY CONTINUES TO BE OUT OF COMPLIANCE	EACH DAY THAT A VIOLATION OCCURS CONSTITUTES A SEPARATE VIOLATION	ALL PENALTIES ARE DUE AND PAYABLE UPON RECIEPT OF NOTICE FRO PAYMENT	FINES ARE NOT TO EXCEED A \$1000 PER QUARTER	

A fine of \$100 per day after a provider is given reasonable time and opportunity to come into compliance falls in line with what our neighboring states. The mission is to ensure the safety and well-being of children within care through technical assistance while accompanied by progressive action as needed.

The aforementioned modifications and clarification to the proposed regulations have been made as a result of input received and noted. The workshop will be held on February 11, 2014 allowing for further input by the public, regulated community or other interested parties regarding the proposed regulations and their any impact. These comments will be taken into consideration for possible further revisions to the regulations to reduce the economic impact on facilities.

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

At this time, there is no estimated cost to the agency for enforcement of the proposed regulation as it can be incorporated into the inspection process.

5) Total amount DPBH expects to collect from any fees and the manner in which the money will be used.

There is no projection as to fee collection as fees are based on facility compliance after a corrective period has been assigned.

6) An explanation of why any duplicative or more stringent provisions than federal, state or local standards regulating the same activity are necessary.

At this time there are no duplicative provisions. What necessitated these regulations to be adopted were to require facilities ensure continued timely compliance for the health, safety and well-being of children cared for within their facilities.

7) The reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.

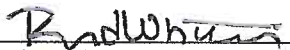
AB 109, AB93 and the proposed regulations require that child care facilities maintain and safeguard the health, safety and well-being of children through appropriate qualifications, trainings, and background checks through facility accountability. Child Care Licensing will continue to be a beacon of technical assistance for all licensed facilities by offering guidance, training, consultations and recommendations.

With respect to Child Care small businesses and Child Care Licensing's' committed efforts to collaborate through working relationships, adjustments and considerations have been made to help ease the transitional impact of the proposed changes by:

- Exempting parent volunteers from background checks
- Gradual incremental change over the next 3 years for increasing annual training hours
- Ensuring opportunity for each facility to correct any violation before a fine is imposed

The commonality in all being proposed through this agency and within the responses is the children. Children command, demand, and deserve all this State has to offer in respect to ensuring safety through the best possible process of risk assessment and analysis as provided through NAC and NRS codes and their amendments.

I, Richard Whitley, Administrator of the Division of Public and Behavioral Health, certify to the best of my knowledge or belief that the information contained in this statement was prepared properly and is accurate.


Richard Whitley, M.S., Administrator
Division of Public and Behavioral Health
Department of Health and Human Services