



NOTICE OF PUBLIC WORKSHOP
Intent to Adopt Regulations

NOTICE IS HEREBY GIVEN that the Division of Public and Behavioral Health will hold a public workshop to consider amendments to Nevada Administrative Code (NAC) 439A regarding the Conrad30/J-1 Visa Waiver program and NAC 439.220. The workshop will be conducted via videoconference and/or teleconference beginning at **10:30 AM on Monday, January 27, 2020**, at the following locations:

Division of Public and Behavioral Health 4150 Technology Way, Room 303 Carson City, Nevada 89706	Division of Public and Behavioral Health Bureau of Health Care Quality and Compliance 4220 South Maryland Parkway, Suite 810, Building D Las Vegas, Nevada 89119
--	--

This workshop will be conducted in accordance with NRS 241.020, Nevada's Open Meeting Law.

Agenda

1. Introduction of workshop process
2. Review of proposed amendments to NAC 439A, NAC 439.220, and Small Business Impact Statement
3. Public comment on proposed amendments of NAC 439A regarding the Conrad30/J-1 Physician Visa Waiver program
4. Public comment

Summary of amendments

- Provisions for the administration of the Physician Visa Waiver Program, including the following:
 - Increase to a \$2,000 fee for letters of support, at least half of which must be paid by the employer and employee;
 - Removal of website and address specific information
- Contract requirements entered by J-1 visa physician transferring to a new employer:
 - Remove Foreign Labor Certificate Data Center website address;
 - Require physicians to agree to begin work within 90 days of notice of transfer;
 - Require contract be for a term long enough for J-1 physician to complete the J-1 visa waiver obligation;
- Locations of employment:
 - Allow physicians to work in locations approved by the Administrator;
 - Require practices to inform patients either by posted sign, or in writing that, fees based on sliding fee scale are available for certain patients demonstrating need;
 - Submit Affidavit every 6 months demonstrating physician only working in locations approved by the Administrator;

- Administrator (Division of Public and Behavioral Health) is required to do the following:
 - Remove requirement to have Primary Care Advisory Council investigate complaints;
 - Shall, report to Bureau of Health Care Quality and Compliance of the Division of Public and Behavioral Health if a violation affected the health and safety of a patient;
- Employer violations to the provisions of Conrad 30/J-1 Visa Waiver Program:
 - Allow Administrator to prohibit future participation in the program by employers with program violations for a period of two years;
 - Require employers prohibited from using the program to demonstrate changes made and ability to remain in compliance with the Conrad 30/J-1 Visa Waiver program;
 - Allow Administrator to assist J-1 physician with a transfer to a new employer in the event of a program violation by the employer;
 - Remove the requirement that the Administrator report noncompliance to the United States Department of State;
- Replace the publication in a newspaper with posting on the website of the Division of Public and Behavioral Health for any variance heard by the Board of Health.

Additional Information

Members of the public may make oral comments at this meeting. Persons wishing to submit written testimony or documentary evidence in excess of two typed pages must submit the material to Joseph Tucker, Manager, Primary Care Office, **no later than January 03, 2020** at the following address: Primary Care Office, 4150 Technology Way, Suite 300, Carson City, NV 89706.

Members of the public who require special accommodations or assistance at the workshop are required to notify Joseph Tucker, Manager at the above address, by telephone at (775) 684-2232, or via email jtucker@health.nv.gov at least five (5) working days prior to the date of the public workshop.

Written comments, testimony, or documentary evidence in excess of two typed pages will not be accepted at the time of the hearing. The purpose of this requirement is to allow for adequate time to review the documents.

A copy of the notice and the proposed regulations are on file for inspection and/or may be copied at the following locations during normal business hours: Primary Care Office, Nevada Division of Public and Behavioral Health, 4150 Technology Way, Suite 300, Carson City, NV; and Nevada State Library and Archives, 100 Stewart Street, Carson City, NV.

A copy of this notice has been posted at the workshop locations as well as the Nevada Conrad30/J-1 Physician Visa Waiver website: <http://dpbh.nv.gov/Programs/Conrad30/Conrad30-Home/>. A Copy of the notice and proposed regulations are on file for inspection and/or may be obtained in person, by mail, email at jtucker@health.nv.gov, or by calling (775) 684-2232 during normal business hours.

AGENDA POSTING LOCATIONS

Division of Public and Behavioral Health – 4150 Technology Way, First Floor Lobby, Carson City, 89706;
NEVADA STATE LIBRARY AND ARCHIVES – 100 North Stewart Street, Carson City, 89701; ELKO

MEDICAID DISTRICT OFFICE – 1010 Ruby Vista Drive, Suite 103, Elko, NV 89801; MEDICAID DISTRICT OFFICE, 1210 South Valley View, Suite 104, Las Vegas, NV 89102; MEDICAID DISTRICT OFFICE, 1030 Bible Way, Reno, NV 89502; DIVISION OF HEALTH CARE FINANCING AND POLICY, 1100 East William Street, Suite 101, Carson City, NV 89701

A copy of the regulations and small business impact statement can be found on the Division of Public and Behavioral Health's web page:

<http://dpbh.nv.gov/Programs/Conrad30/Conrad30-Home/>.

A copy of the public workshop notice can also be found at Nevada Legislature's web page:

<https://www.leg.state.nv.us/App/Notice/A/>

Per NRS 233B.064(2), upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.



SMALL BUSINESS IMPACT STATEMENT 2019 PROPOSED

AMENDMENTS TO NAC 439A

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 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

Proposed amendments to Nevada Administrative Code (NAC) 439A update the following areas:

- Update the application fee requirement to allow the J-1 physician or employer to pay fee.
- Increase application fees to \$2,000 dollars consistent with NRS 439A.170 as amended by Assembly Bill No. 39, chapter 94, Statutes of Nevada 2015; and
- Allow physicians to agree to begin work in 90 days
- Ensure that physicians work only in locations approved by the Administrator
- Allow employers options to provide patients with written information about discounts based on a sliding fee scale.
- Remove the requirement that the Primary Care Advisory Council investigate complaints.
- Update requirement to report program violations affecting patient health and safety to the Board of Medical Examiners or to the Bureau of Health Care Quality and Compliance of the Division of Public and Behavioral Health.
- Update the violations of the provisions of NRS 439A.130 to 439A.185 to allow Administrator the option to prohibit employers from participation in the program and transfer J-1 visa physician when violations occur.
- Remove references to obsolete website and address.

1) A description of the way comment was solicited from affected small business, a summary of their response and an explanation of the way 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 all known stakeholders.

A Small Business Impact Questionnaire was distributed to Nevada Hospital Association, Nevada Rural Hospital Partners, medical facilities licensed throughout the state, the State Office of Rural Health, National Health Service Corps sites, 3RNet Referral List, J-1 Law Firms and J-1 Participants, along with a copy of the proposed regulation changes, on October 30, 2019.

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

(11 responses were received out of 926 contacts invited to complete the small business impact questionnaire)

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 – 1 response No – 9 responses No Answer – 1 response 1 respondent noted <i>\$50k – one fulltime salary of one office nurse</i>	Yes – 1 response No – 10 responses 1 respondent noted <i>\$15,000</i>	Yes -1 responses No - 10 responses 1 respondent noted <i>It will be difficult to Recruit if the fees are Increased.</i>	Yes – 1 response No – 10 responses

Additional responses were collected from two participants who completed the survey but indicated that their business does not meet the small business definition defined above.

One participant answered yes to question 2 and question 5 but provided no further information. The second participant answered no to questions 2-5 and did not provide any additional comments.

2) Describe the way the analysis was conducted.

The Small Business Impact Questionnaire was embedded in an online survey with a link to the proposed amendments to regulation and distributed electronically to the stakeholders identified above. Responses were reviewed individually and collectively to determine potential impacts of the proposed amendments. Staff have reviewed the regulations to ensure there is not a negative impact on small business.

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.

The proposed changes include modest application fee increases for a J-1 visa waiver application to cover increased costs for program administration and monitoring. The cap was increased from \$500 to \$2,000 under NRS 439A.170. The fee schedule in the proposed regulation charges a flat fee of \$2,000 per application to better reflect actual costs, and to help sustain the program. The proposed change to NAC 439.220 will reduce the costs of notice for small businesses that need to seek a variance.

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 used any of those methods.

The regulation will retain an exemption to the fee requirement for a demonstrated hardship.

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

No new costs are anticipated for enforcement of the proposed regulation.

6) If the proposed regulation provides a new fee or increases an existing fee, the total annual amount DPBH expects to collect and the way the money will be used.

The average number of applications received, per year, over the last five years is 11. The average cost per application since the last fee update in 2016, is \$907. If all 11 applications per year were subject to an increase of \$1,100, this would total \$12,100 per year. These funds would be used to administer and monitor the program, including technical assistance, application review, public hearing, data collection, site visits, monitoring, and marketing.

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

The proposed regulation does not include more stringent provisions than the Nevada Revised

Statutes.

8) Provide a summary of the reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.

The response rate to the small business impact questionnaire was relatively low which may be a reflection that stakeholders do not anticipate significant impact from the proposed regulation. Most respondents indicated no impact, with one respondent noting positive impact of the regulation, in general. One respondent did indicate that raising the fees would make it harder to recruit providers. One respondent stated they expect an economic adverse effect and an indirect beneficial effect on their business but left no clarifying comments.

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

Division of Public and Behavioral Health 4150
Technology Way, 3rd Floor
Carson City, NV 89701
Joseph Tucker Phone: (775) 684- 2232
Email: jtucker@health.nv.gov

Certification by Person Responsible for the Agency

I, Lisa Sherych, 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 business and the information contained in this statement was prepared properly and is accurate.

Signature:


for

Date:

12/26/19

Section 1. NAC 439A.720 is hereby amended to read as follows:

439A.720 1. An application for a letter of support must:

- (a) Be complete.
- (b) Include the materials required by subsection 1 of NRS 439A.175.
- (c) Be on the form prescribed by the Division of Public and Behavioral Health.
- (d) Contain the notarized signatures of the employer and the J-1 visa physician.
- (e) Except as otherwise provided in subsection 2, be accompanied by an application fee pursuant to NAC 439A.728. ~~[The fee must be paid in equal amounts by the employer and the J-1 visa physician]~~ *At least half of the application fee must be paid by the employer.*

2. The Administrator may waive ~~[the]~~ *any* portion of the application fee ~~[which must]~~ *to* be paid by the J-1 visa physician or require the J-1 visa physician to pay that portion of the application fee pursuant to a payment plan if the J-1 visa physician is experiencing an economic hardship and the J-1 visa physician submits with the application documentation sufficient to demonstrate that the economic hardship exists.

3. The application fee will not be refunded if the Administrator does not issue a letter of support for the applicant. The Administrator may refund:

(a) One-half of the application fee paid by the J-1 visa physician ~~[and one-half of the application fee paid by]~~ *or* the employer if the application is withdrawn before the Administrator has made a determination whether to issue a letter of support; or

(b) All of the application fee paid by the J-1 visa physician ~~[and]~~ *or* the employer if, at the time the application is received by the Division, all the available spots for enrollment of J-1 visa physicians in the Program have been filled for that fiscal year.

4. An employer or a J-1 visa physician may obtain an application for a letter of support from *website maintained by* the Division of Public and Behavioral Health on the Internet ~~[website maintained by the Division at <http://dpbh.nv.gov/Programs/Conrad30/Conrad30-Home/>]~~ *or* by submitting a written request for an application to the Division of Public and Behavioral Health, Primary Care Office ~~[, 4150 Technology Way, Carson City, Nevada 89706.]~~ *at the address posted on the website maintained by the Division.*

Sec. 2. NAC 439A.725 is hereby amended to read as follows:

439A.725 1. An application for a letter of support must be filed with the Administrator by personal delivery, commercial carrier or mail.

2. The Advisory Council may review an application submitted pursuant to this section for completeness and compliance with the provisions of NRS 439A.130 to 439A.185, inclusive, and NAC 439A.700 to 439A.755, inclusive.

3. Applications must be reviewed in the order in which they were received.

4. The Administrator is responsible for the review and the approval or denial of all applications. The Administrator shall provide notice of the approval or denial of an application to the applicant. If an application is incomplete, the Administrator shall provide notice to the applicant within 14 days after receipt of the application and provide a written explanation of the missing information or documentation. An application may be resubmitted with the additional required information or documentation.

5. The Administrator shall accept applications pursuant to this section until all available spots for enrollment of J-1 visa physicians in the Program have been filled. The Administrator shall post the status of the number of available spots for enrollment on the Internet website maintained by the Division of Public and Behavioral Health ~~[at <http://dphh.nv.gov/Programs/Conrad30/Conrad30-Home/>]~~

6. The Administrator shall not issue a letter of support to:

(a) An employer who was penalized for a violation of NRS 439A.130 to 439A.185, inclusive, or NAC 439A.700 to 439A.755, inclusive, or convicted of a violation of a federal statute or regulation relating to immigration within the immediately preceding 2 years.

(b) A J-1 visa physician who was determined by the Administrator to have violated a provision of NRS 439A.130 to 439A.185, inclusive, or NAC 439A.700 to 439A.755, inclusive, or convicted of a violation of a federal statute or regulation relating to immigration within the immediately preceding 2 years.

Sec. 3. NAC 439A.728 is hereby amended to read as follows:

439A.728 1. Except as otherwise provided in this section and NAC 439A.720, the application fee ~~[is]~~ **is \$2000** for a letter of support from the Division of Public and Behavioral Health. ~~[are as follows:]~~

~~—(a) For a primary care provider employed by a health facility in a designated health professional shortage area..... \$500~~

~~—(b) For a primary care provider employed by a health facility in a flex slot..... 800~~

~~—(c) For a primary care provider employed by a third-party contractor in a designated health professional shortage area..... 1,100~~

~~—(d) For a primary care provider employed by a third-party contractor in a flex slot..... 1,400~~

~~—(e) For a specialist employed by a health facility in a designated health professional shortage area.....800~~

~~—(f) For a specialist employed by a health facility in a flex slot..... 1,100~~

~~—(g) For a specialist employed by a third-party contractor in a designated health professional shortage area.....1,100~~

~~—(h) For a specialist employed by a third-party contractor in a flex slot..... 1,400~~

~~—2. If the actual cost to the Division of processing an application exceeds the amount listed in subsection 1, the Division shall impose an additional amount equal to that cost, except the total fee may not exceed \$2,000.]~~

3. As used in this section:

(a) “Designated health professional shortage area” means an area designated by the Secretary of Health and Human Services pursuant to 42 U.S.C. § 254e.

(b) “Flex slot” means an area which is not a designated health professional shortage area or a medically underserved area but which contains health facilities that are utilized by persons who reside in neighboring areas which are designated health professional shortage areas or medically underserved areas.

(c) “Medically underserved area” means an area designated by the Secretary of Health and Human Services pursuant to 42 U.S.C. § 254b as containing a medically underserved population.

(d) “Primary care provider” means a physician or osteopathic physician who practices in the area of family practice, general practice, geriatrics, internal medicine, obstetrics and gynecology, pediatrics or psychiatry.

(e) “Specialist” means a physician or osteopathic physician who practices in any area other than an area specified for a primary care provider.

(f) “Third-party contractor” means the employer of a physician or an osteopathic physician who is not a health facility.

Sec. 4. NAC 439A.730 is hereby amended to read as follows:

439A.730 1. In addition to the requirements of subsection 2 of NRS 439A.175, the contract entered into by the employer and the J-1 visa physician must:

(a) Except as otherwise provided in subsection 2, require the J-1 visa physician *to agree* to begin work within 90 days after receipt of the J-1 visa waiver.

(b) Except as otherwise provided in subsection 2, be for a term of at least 3 years.

(c) Provide that the J-1 visa physician will work a minimum of 40 hours each week at the location identified on the petition submitted by the J-1 visa physician to the Waiver Review Division of the United States Department of State.

(d) Specify the wage that the J-1 visa physician will earn. The wage must not be less than the prevailing wage determined by the Office of Foreign Labor Certification of the United States Department of Labor, which may be found on the Internet website maintained by the Foreign Labor Certification Data Center ~~[at <http://www.flcdatcenter.com>]~~.

(e) Contain the signatures of the employer and the J-1 visa physician and the date on which the contract was signed by each person.

(f) Identify the conditions for termination of the contract, which must not include a provision authorizing termination without cause.

2. If a J-1 visa physician is transferred to a different employer pursuant to NAC 439A.750, the contract entered into by the employer to which the J-1 visa physician is transferred and the J-1 visa physician must comply with paragraphs (c) to (f), inclusive, of subsection 1 and:

(a) Require the J-1 visa physician *to agree* to begin work within 90 days after receiving notice that the transfer was granted; and

(b) Be for a term ~~[equal to the time remaining on the previous contract]~~ *sufficient for the J-1 visa physician to complete the J-1 visa waiver obligation.*

3. A contract entered into by an employer and a J-1 visa physician may contain a clause for liquidated damages. If a contract entered into by an employer and a J-1 visa physician contains a clause for liquidated damages, the employer may not receive liquidated damages if the contract is terminated by the J-1 visa physician before the end of the contract because the employer has violated a provision of the contract, NRS 439A.130 to 439A.185, inclusive, or NAC 439A.700 to 439A.755, inclusive.

Sec. 5. NAC 439A.735 is hereby amended to read as follows:

439A.735 An employer shall:

1. Offer fees based on a sliding scale to patients whose income is at or below 200 percent of the federally designated level signifying poverty.

2. Ensure that the J-1 visa physician works only in ~~[a location which is identified on the petition submitted by the J-1 visa physician to the Waiver Review Division of the United States Department of State]~~ *locations approved by the Administrator.*

3. ~~[Post a sign in the waiting room of each location where the J-1 visa physician works which states that]~~ *Notify patients either with a sign or in writing that:*

(a) Fees based on a sliding scale are available for certain patients who have demonstrated a financial need for assistance to pay for care and services.

(b) Patients will be provided care and services regardless of the ability of the patient to pay.

4. Provide documentation satisfactory to the Division of Public and Behavioral Health that the employer participates in Medicaid, Medicare and Nevada Check Up.

5. File the schedule of fees with the Administrator for review.

6. Submit an affidavit to the Administrator once every 6 months which attests that the J-1 visa physician ~~[:]~~ worked at least 40 hours each week at ~~[a]~~ locations ~~[which is identified on the petition submitted by the J-1 visa physician to the Waiver Review Division; and~~

~~—(b) Is not employed at any location which is not identified on the petition.]~~ *approved by the Administrator.*

Sec. 6. NAC 439A.740 is hereby amended to read as follows:

439A.740 A J-1 visa physician must be in the final year of residency or a fellowship program or be requesting a transfer from the J-1 visa waiver program of another state and shall:

1. Comply with the requirements of 8 U.S.C. § 1184(k).

2. If the J-1 visa physician will prescribe or dispense controlled substances:

(a) Obtain any certificate or registration required by chapters 453 and 639 of NRS and any regulations adopted pursuant thereto; and

(b) Register with the Drug Enforcement Administration of the United States Department of Justice.

3. Accept patients who are enrolled in Medicaid, Medicare or Nevada Check Up.

4. Provide care and services based on the sliding scale of fees filed with the Administrator pursuant to subsection 5 of NAC 439A.735.

5. Only work in ~~[a]~~ locations ~~[which is identified on the petition submitted by the J-1 visa physician to the Waiver Review Division of the United States Department of State.]~~ *approved by the Administrator.*

6. Submit an affidavit to the Administrator once every 6 months which attests that the J-1 visa physician ~~[: (a)]~~ Worked at least 40 hours each week at ~~[a]~~ locations ~~[which is identified on the petition submitted by the J-1 visa physician to the Waiver Review Division; and~~

~~—(b) Is not employed at any other location which is not identified on the petition.]~~ *approved by the Administrator.*

Sec. 7. NAC 439A.745 is hereby amended to read as follows:

439A.745 1. A complaint about an employer or a J-1 visa physician may be submitted to the Program on the Internet website maintained by the Division of Public and Behavioral Health ~~[at <http://dphh.nv.gov/Programs/Conrad30/Conrad30-Home/>]~~ or by submitting a written complaint to the Division of Public and Behavioral Health, Primary Care Office ~~[, 4150~~

~~Technology Way, Carson City, Nevada 89706.]~~ *at the address posted on the website maintained by the Division.*

2. The Administrator shall investigate ~~[or require the Advisory Council to investigate]~~ each complaint submitted pursuant to this section. The investigation must commence within 45 days after receipt of the complaint, except that if the complaint alleges that the safety of a patient was threatened, the investigation must commence as soon as practicable. The Administrator is responsible for the investigation of complaints submitted pursuant to this section.

3. If the Administrator determines that a violation of NRS 439A.130 to 439A.185, inclusive, or NAC 439A.700 to 439A.755, inclusive, has occurred, the Administrator ~~is~~

~~—(a)—~~ *shall, if the violation affected the health and safety of a patient, submit a report to the Board of Medical Examiners or to the Bureau of Health Care Quality and Compliance of the Division of Public and Behavioral Health.; or*

(b) May, if the violation did not affect the health or safety of a patient, submit a report to the Board of Medical Examiners or to the Bureau of Health Care Quality and Compliance of the Division of Public and Behavioral Health.

Sec. 8. NAC 439A.750 is hereby amended to read as follows:

439A.750 1. If an employer violates the provisions of NRS 439A.130 to 439A.185, inclusive, or NAC 439A.700 to 439A.755, inclusive, the Administrator *may prohibit the employer from future participation in the program and assist in the transfer of the J-1 visa physician to a different employer. The Administrator without limitation, may submit a letter to the J-1 visa physician which documents the reasons for the transfer and provides documentation for designating a new location in which the J-1 visa physician may work. In addition, the Administrator may:*

(a) For a first offense, impose an administrative fine of \$1,000.

(b) For a second offense, impose an administrative fine of \$10,000.

~~[—(c) For a third offense, withdraw the support of the Division of Public and Behavioral Health for the employer and assist in the transfer of the J-1 visa physician to a different employer pursuant to subsection 2.~~

~~—2.— If an employer is penalized for a third offense pursuant to paragraph (c) of subsection 1, the Administrator shall, in cooperation with a different employer, the J-1 visa physician and the Waiver Review Division of the United States Department of State, assist in the transfer of the J-1 visa physician to a different employer, including, without limitation, submitting a letter to the J-1 visa physician which documents the reasons for the transfer and providing documentation for designating a new location in which the J-1 visa physician may work.]~~

2. The Administrator may allow an employer prohibited from program participation pursuant to subsection 1 of NAC 439A.750 to recommence participation in the program after a period of two years if the employer provides sufficient justification including:

(a) a detailed description of key management and/or policy changes that have occurred that will sufficiently protect the interests of future J-1 visa waiver physicians; and

(b) an attestation that key management have reviewed and will comply with state and federal J-1 visa waiver program requirements.

3. If a J-1 visa physician *or employer* does not comply with the provisions of NRS 439A.130 to 439A.185, inclusive, and NAC 439A.700 to 439A.755, inclusive, the Administrator may report the failure to comply to the United States Citizenship and Immigration Services ~~[and~~

~~the United States Department of State]~~ and recommend *transfer of the J-1 visa physician or* that the J-1 visa waiver of the J-1 visa physician be revoked.

Sec. 9. NAC 439.220 is amended as follows:

1. The Secretary of the State Board of Health shall provide public notice of the application and the date of the public hearing by publishing the notice ~~in one or more newspapers of general circulation within the area affected by the requested variance.~~ *on the website for the Division of Public and Behavioral Health.*

2. The notice must be published at least once, not less than 10 days before the hearing and must specify the time, date and place of the hearing, the nature of the application and the regulation involved.

3. The Board will hold a public hearing on the application 40 or more days after the date on which the Secretary receives the application. The hearing will be held:

- (a) At its next regularly scheduled meeting;
- (b) At its next meeting in Carson City, Las Vegas or Reno, as requested by the applicant in the application; or
- (c) As soon as the schedule of the Board permits.