

Steve Sisolak
Governor



Richard Whitley, MS
Director

**DEPARTMENT OF
HEALTH AND HUMAN SERVICES**
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
Helping people. It's who we are and what we do.



Lisa Sherych
Administrator

Ihsan Azzam,
Ph.D., M.D.
Chief Medical Officer

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Amendment of Regulations of the Board of Health
LCB File No. R094-22

NOTICE IS HEREBY GIVEN that the State Board of Health will hold a public hearing to consider amendments to Chapter 640D of Nevada Administrative Code (NAC), Music Therapists, LCB File No. R094-22. This public hearing is to be held in conjunction with the State Board of Health meeting on December 2, 2022, at 9:00 AM at the following virtual and physical locations.

Virtual Meeting Locations:

- [Click here to join the meeting](#); or
- Call in (audio only): 775-321-6111 (Phone Conference ID: 153 453 179#)

Physical Meeting Locations:

- Southern Nevada Health District (SNHD)
Red Rock Trail Rooms A and B
280 S. Decatur Boulevard
Las Vegas, Nevada 89107
- Nevada Division of Public and Behavioral Health (DPBH)
Hearing Room No. 303, 3rd Floor
4150 Technology Way
Carson City, Nevada 89706

1. The need for and the purpose of the proposed regulation or amendment.

The proposed regulations are needed to be in compliance with Assembly Bill 330 of the 81st (2021) legislative session. Assembly Bill 330 requires each regulatory body, in this case the Board of Health, to adopt regulations to effectuate the purposes of the following bill requirements:

A. A person who, in secondary or postsecondary education, completes a training program for occupational, vocational, career, trade or technical education approved by the State Board of Education and receives a certificate for the completion of that program is eligible to receive equivalent

credit towards the satisfaction of requirements for the issuance of any professional and occupational licenses and certifications relating to the training received.

B. For a person to be eligible to receive equivalent credit pursuant to subsection 1, the secondary or postsecondary education received by the person pursuant to title 34 of NRS must be consistent with the requirements for the issuance of professional or occupational licenses and certifications established pursuant to the provisions of title 54 of NRS and the regulations adopted pursuant thereto.

C. Any person aggrieved by a decision of a regulatory body concerning eligibility for equivalent credit pursuant to this section may appeal to the regulatory body for a determination whether the training satisfies the requirements for professional or occupational licensure or certification, as applicable. An appeal made pursuant to this subsection must be conducted as provided for the appeal of the denial of a professional or occupational license or certificate by that regulatory body.

In addition, the proposed regulations amend NAC 640D.200 relating to unlicensed music therapist complaints by requiring the Executive Officer to investigate such complaints, not allowing unlicensed individuals to engage in the practice of music therapy until the individual becomes licensed, and other related provisions.

The proposed regulations also amend NAC 640D.210, as it relates to a complaint against a licensee or an applicant for a license to practice music therapy, to allow the Executive Officer to conduct an investigation, and if substantiated, to forward the complaint, information collected as part of the investigation, and the investigative results to the Certification Board for Music Therapists.

2. A statement explaining how to obtain the approved or revised text of the proposed regulation. Any persons interested in obtaining a copy of the approved or revised text of the proposed regulations may e-mail, call, or mail in a request to Leticia Metherell, RN, CPM, HPM III at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health
Bureau of Health Care Quality and Compliance
727 Fairview Drive, Suite E
Carson City, NV 89701
Leticia Metherell
Phone: 775-684-1045
Email: lmetherell@health.nv.gov

3. The estimated economic effect of the regulation on the business which it is to regulate and on the public.

a) Anticipated effects on the business which NAC Chapter 640D regulates:

A. *Adverse Economic Effects* – There are no anticipated direct adverse economic effects.

Indirect Adverse Economic Effects – There are no anticipated indirect adverse economic effects.

B. *Beneficial Effects* – There are no anticipated direct beneficial economic effects.

Indirect Beneficial Effects – Indirect beneficial effects noted by industry included:

This has no direct economic impact on my business but will make it easier to hold unlicensed practitioners and those who hire them accountable while also protecting my business from false claims. We can't estimate a dollar amount, but increased state oversight will benefit the legitimacy of our profession which will in turn benefit our ability to provide quality services in Nevada

I believe this further increases the validity of and trust towards music therapy in Nevada.

As an organization that employees licensed music therapists it will benefit us to have more support from the state in investigating and following up on complaints.

C. *Immediate Effects* – There are no known immediate adverse or beneficial effects.

D. *Long-term Effects* – There are no known long-term adverse or beneficial effects.

b) Anticipated effects on the public:

A. *Adverse*: None.

B. *Beneficial*: May prevent a negative financial impact on members of the public that are alleged to be practicing music therapy without a license but who are not practicing as such or who are in compliance with statutory and regulatory requirements, by having an investigation be completed prior to having the member of the public stop providing services that they may be legally able to provide.

C. *Immediate*: The above noted benefit would come into effect upon the proposed regulations becoming effective.

D. *Long-term*: There are no anticipated negative long-term effects on the public. There may be some beneficial long-term effects for members of the public who are able to continue to operate their business without having to cease and desist operations based on an allegation of music therapy unlicensed practice.

4. The methods used by the agency in determining the impact on a small business.

The Division reviewed Assembly Bill 330's requirements for the development of regulations and developed regulations that reduce the impact by requiring the minimal amount of documentation to carry out the provisions of the bill. In addition, the current appeal process outlined in NAC Chapter 439 in the event a person is aggrieved by a decision of the regulatory body will be used instead of creating a new, separate process, in the event an individual files an appeal pursuant to Assembly Bill 330.

An email was sent to all 28 licensed music therapists with information on how small businesses could provide input on the proposed regulations and how to access the small business impact questionnaire and proposed regulations through a link to the Division's webpage with links to the questionnaire and proposed regulations. 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?

This data was then collected and analyzed to help determine the impact on a small business.

A public workshop was also held on June 8, 2022, to gain further information on the proposed regulations on business, including small businesses. No public comment was received in support or against the proposed regulations.

5. The estimated cost to the Division of Public and Behavioral Health for enforcement of the proposed regulation.

None, as it is anticipated that this workload can be incorporated into the Division's current workload to license and regulate music therapists.

6. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The proposed regulations do not overlap or duplicate any other Nevada state regulations or federal regulations.

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

There are no known federal regulations that regulate the same activity.

8. Whether the proposed regulation establishes a new fee or increases an existing fee.

The proposed regulations do not provide for a new fee or increase an existing fee.

Persons wishing to comment upon the proposed action of Board of Health may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Board's Secretary, Lisa Sherych, to be received no later than November 17, 2022, at the following address:

Secretary, State Board of Health
Division of Public and Behavioral Health
4150 Technology Way, Suite 300
Carson City, NV 89706

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 Board members adequate time to review the documents.

Members of the public who are disabled and require special accommodations or assistance at the hearing are requested to notify Leticia Metherell, in writing, no later than five (5) working days before the hearing via email at: lmetherell@health.nv.gov or by mailing a request to:

Nevada Division of Public and Behavioral Health
Attention: Leticia Metherell
727 Fairview Drive, Suite E
Carson City, NV 89701

A copy of the notice and proposed regulations are on file for inspection and/or may be copied at the following locations during normal business hours:

Nevada Division of Public and Behavioral Health
727 Fairview Drive, Suite E
Carson City, NV 89701

Southern Nevada Health District (SNHD)
280 S. Decatur Boulevard
Las Vegas, Nevada 89107

Nevada Division of Public and Behavioral Health
4150 Technology Way
Carson City, NV 89706

Nevada Division of Public and Behavioral Health
4220 S. Maryland Parkway, Suite 100, Building A
Las Vegas, NV 89119

Nevada State Library
100 Stewart Street
Carson City, NV 89701

A copy of the regulations and small-business impact statement can be found online by going to:

http://dpbh.nv.gov/Reg/HealthFacilities/State_of_Nevada_Health_Facility_Regulation_Public_Workshops/

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

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

Copies may be obtained in person, by mail, or by calling the Division of Public and Behavioral Health at (775) 684-1030 in Carson City or (702) 486-6515 in Las Vegas.

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.