

**ADOPTED REGULATION OF THE HEALTH DIVISION
OF THE DEPARTMENT OF HUMAN RESOURCES**

LCB File No. R042-03

Effective September 24, 2003

EXPLANATION – Matter in *italics* is new; matter in brackets ~~{omitted material}~~ is material to be omitted.

AUTHORITY: §§1-9, NRS 453A.710.

Section 1. Chapter 453A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this regulation.

Sec. 2. *“Division” means the Health Division of the Department of Human Resources.*

Sec. 3. *“State Health Officer” means:*

1. The State Health Officer appointed pursuant to NRS 439.100; or

2. The designee of the Administrator of the Division, if:

(a) No State Health Officer has been appointed pursuant to NRS 439.100;

(b) The position of State Health Officer appointed pursuant NRS 439.100 is vacant; or

(c) The State Health Officer appointed pursuant to NRS 439.100 is absent from the State.

Sec. 4. *1. A person may submit to the State Health Officer, in the form prescribed by the Division, a petition requesting that a particular disease or condition be included among the diseases and conditions that qualify as chronic or debilitating medical conditions.*

2. The contents of a petition submitted pursuant to subsection 1 are confidential and, except as otherwise provided in section 7 of this regulation, neither the State Health Officer nor the Division shall disclose the name or other identifying information of:

(a) The person who submitted the petition; or

(b) The attending physician, if any, of the person who submitted the petition.

3. The Division, through the State Health Officer, will approve a petition submitted pursuant to subsection 1 within 180 days after the date on which the petition is received.

Sec. 5. 1. *The State Health Officer will review each petition that is submitted pursuant to subsection 1 of section 4 of this regulation to determine whether:*

(a) The petition is in the form prescribed by the Division;

(b) The petition is complete; and

(c) The particular disease or condition described in the petition is already included among the diseases and conditions that qualify as chronic or debilitating medical conditions.

2. If, as determined by the State Health Officer, the petition:

(a) Is not in the form prescribed by the Division;

(b) Is not complete; or

(c) Describes a particular disease or condition that is already included among the diseases and conditions that qualify as chronic or debilitating medical conditions,

the State Health Officer will refuse to accept the petition and will return the petition to the person that submitted the petition, accompanied by an explanation of the reason for its return.

Sec. 6. 1. *If a petition that is submitted pursuant to subsection 1 of section 4 of this regulation is determined by the State Health Officer to meet the requirements for submittal that are set forth in section 5 of this regulation, the State Health Officer will determine whether the Division will include the particular disease or condition that is described in the petition among the diseases and conditions that qualify as chronic or debilitating medical conditions.*

2. The determination of the State Health Officer as to whether the Division will include a particular disease or condition among the diseases and conditions that qualify as chronic or debilitating medical conditions must be made in consideration of, without limitation:

(a) The symptoms of the disease or condition;

(b) The expected duration of the symptoms of the disease or condition;

(c) The medical treatments available for the disease or condition;

(d) The side effects of the medical treatments available for the disease or condition, including, without limitation, the duration of those side effects; and

(e) The presentation of scientific literature regarding the disease or condition.

Sec. 7. *Within 10 working days after the date on which the State Health Officer approves or denies a petition that is submitted pursuant to subsection 1 of section 4 of this regulation, the Division will transmit a copy of the approval or denial to:*

1. The person who submitted the petition; and

2. The Director of the Department.

Sec. 8. *The decision of the State Health Officer to deny a petition that is submitted pursuant to subsection 1 of section 4 of this regulation is a final decision for the purposes of judicial review.*

Sec. 9. NAC 453A.010 is hereby amended to read as follows:

453A.010 As used in NAC 453A.010 to 453A.150, inclusive, *and sections 2 to 8, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 453A.020 to 453A.060, inclusive, *and sections 2 and 3 of this regulation* have the meanings ascribed to them in those sections.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R042-03**

The Health Division of the Department of the Department of Human Resources adopted regulations assigned LCB File No. R042-03 which pertain to chapter 453A of the Nevada Administrative Code on August 29, 2003.

Notice date: 7/25/2003
Hearing date: 8/29/2003

Date of adoption by agency: 8/29/2003
Filing date: 9/24/2003

INFORMATIONAL STATEMENT

- 1. A description of how public comment was solicited, a summary of the public response, and an explanation of how other interested persons may obtain a copy of the summary.**

Answer: Public comment was solicited through newspaper legal notices announcing the public workshops in Las Vegas and Carson City, Nevada on July 29, 2003. Legal notices were published on the following days:

Las Vegas Review Journal:	July 9, 2003
Reno Gazette Journal:	July 9, 2003
Nevada Appeal:	July 9, 2003
Elko Daily Free Press:	July 9, 2003

A copy of the proposed, draft regulation language, the Small Business Impact Statement and the proposed Petition Form were also made available at each main county library between July 3 and July 8, 2003.. A copy of the Public Notice is attached.

A copy of the public notice was also posted on the Heath Division's website, <http://www.health2k.state.nv.us>, on July 7, 2003.

Public Hearing Information

In preparation for the public hearing to be held on August 29, 2003, public comment and testimony was solicited through posting of the proposed regulation language, the Small Business Impact Statement, the proposed Petition Form and the Public Notice at each main county library between July 22 and July 24, 2003. A copy of the public notice was also published in the following newspapers on the following day:

Las Vegas Review Journal:	July 25, 2003
Reno Gazette Journal:	July 25, 2003
Nevada Appeal:	July 25, 2003
Elko Daily Free Press	July 25, 2003

A copy of the public notice was also posted on the Health Division's website, <http://www.health2k.state.nv.us>, on July 24, 2003.

Interested persons may contact the Nevada State Health Division at (775) 684-4200 to obtain a copy of the summary of comments received as well as a copy of the adopted regulations and the adopted petition form.

- 2. The Number of persons who:**
- (a) Attended each hearing.**
 - (b) Testified at each hearing.**
 - (c) Submitted written statements to the agency.**

Answer: (a) No individuals attended the workshops.
(b) No individuals testified at the public workshops.
(c) No written statements were submitted to the Health Division.

(Public Hearing Information)

- (a) No individuals attended the public hearing.
- (b) No individuals testified at the hearing.
- (c) No written statements were received.

- 3. A description of how comment was solicited from affected businesses, a summary of their response(s), and an explanation of how other interested individuals may obtain a copy of the summary.**

Answer: Pursuant to the Small Business Impact Statement prepared by the Health Division, no business, small or large, will be affected by the adoption of the proposed regulation. Therefore, specific comment was not solicited from businesses. Interested individuals may obtain a copy by contacting the Nevada State Health Division at 505 E. King Street, Room 201, Carson City, NV 89701 or by calling (775) 694-4200. Additionally, a copy of the regulations remains on file at each county library.

- 4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reason for adopting the regulation without change.**

Answer: No changes were made.

- 5. 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.**
- (b) both immediate and long term effects.**

Answer: Not applicable. No legal businesses are to be regulated.

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

Answer: The cost to the Health Division to adopt regulations was approximately \$4,000. Estimated costs to the agency to evaluate petitions submitted pursuant to the regulations is expected to be less than \$1,000 in staff time per petition submitted. To date, no petitions have been submitted.

7. 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, the name of the regulating federal agency.

Answer: Not applicable. No overlap or duplication of any regulation is created.

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

Answer: Not applicable.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

Answer: Not applicable.

10. If the agency is required to adopt this regulation pursuant to a federal statute or regulation; and exceeds the agency's specific statutory authority or sets forth requirements more stringent than a statute of this state, includes a statement that adoption of the regulation is required by federal statute or regulation.

Answer: Not applicable.