

**ADOPTED REGULATION OF THE
STATE BOARD OF HEALTH**

LCB File No. R105-12

Effective February 26, 2014

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

AUTHORITY: §1, NRS 439.150 and 440.120.

A REGULATION relating to the registration of births; increasing certain fees charged by the Division of Public and Behavioral Health of the Department of Health and Human Services; and providing other matters properly relating thereto.

Section 1. NAC 440.210 is hereby amended to read as follows:

440.210 Each person who is legally responsible for registering the birth of a child shall submit a fee to the ~~Health~~ Division *of Public and Behavioral Health* of the Department of Health and Human Services for each birth as follows:

1. If paid on or before the 30th day after the date of the birth of the child, the fee is ~~§71.~~ **§81.**
2. If paid more than 30 days after the date of the birth of the child, the fee is ~~§73.~~ **§83.**

DIVISON OF PUBLIC AND BEHAVIORAL HEALTH

[December 17, 2013]

LCB File # R105-12

Information Statement per NRS 233B.066

1. A clear and concise explanation of the need for the adopted regulation.

Birth registration fees fully fund the dried blood spot screening that identifies congenital and inherited disorders in newborns as required in NRS 442.008. A fee adjustment was approved in the biennial budget during the 2013 Legislative Session. LCB File No. R105-12 amends NAC 440.210 "Registration of birth: Submission of fee to Health Division." Birth registration fees were last adjusted in 2008. In 2008, 81.7% of the fee (\$58 of \$71) was used to pay the contracted laboratory for screening and consulting services. By 2013, the percentage had risen to 98.6% (\$70 of \$71). Without the fee adjustment, the State of Nevada will be unable to continue providing legislatively mandated newborn screening for congenital and inherited disorders.

Amendment to the current regulation will ensure that mandated screening of newborns for congenital and inherited disorders will continue to be provided to infants born in Nevada. An infant with an abnormal screening result will continue to be monitored until it is determined whether the infant has a confirmed condition. Parents of infants that do have a confirmed condition will continue to receive medical guidance and education, and the infants will continue to be referred for appropriate medical care. Primary care physicians will continue to have access to medical consulting services for conditions that are rare and not commonly encountered in everyday practice. Specialty clinics that provide medical care and other support to those affected with conditions identified on the Newborn Screening Panel will continue to occur.

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

Pursuant to NRS 233B.0608 (2) (a), the Division of Public and Behavioral Health requested input from newborn screening birthing partners in Nevada. Input was requested from birthing partners (32 small business midwives who assist in the delivery of babies and 19 Nevada birthing hospital CEOs and 19 CFOs). Hospitals were included in the distribution in order to provide them with courtesy notification of the possible fee adjustment. A summary of responses to the Public Workshop letters is provided in the table following question 5. Additionally, notice was posted in all county libraries in Nevada, at the Division of Aging and Disability Services and Southern Nevada Health District in Las Vegas, at Washoe County Health District in Reno, at the Nevada State Library and Archives, the Legislative Counsel Bureau and the Division of Public and Behavioral Health in Carson City, and at the Division of Health Care Financing and Policy in Elko.

Any persons interested in obtaining a copy of the summary may e-mail, call, or mail a request to:

Mary Pennington
 Newborn Screening Program Manager
 Phone: 775-4-3478
 Email: mpennington@health.nv.gov
 or
 Division of Public and Behavioral Health
 4150 Technology Way, Suite 200
 Carson City, NV 89706

3. The number of persons who: 1) attended the hearing; 2) testified at each hearing; and 3) submitted to the agency written statements.

The State Board of Health Meeting was held on December 13, 2013. There were 14 attendees in Las Vegas and 15 attendees in Carson City. Christine Mackie presented the testimony regarding approval of R105-12, a fee adjustment to the Birth Registration fees that fully support newborn screening in Nevada. No one else testified in support of or in opposition to the fee adjustment. Six hospitals had provided written statements after the Notice of Public Workshop was sent to them in July. No further information was submitted for the Notice of Public Hearing in December. A summary of the written statements received is provided in answer to question 5 below.

4. If provided, the name, telephone number, business address, business telephone number, electronic e-mail address and name of entity represented for individuals described above. (Listed in the same order as comments shown in #5 below)

| Name | Title | Hospital | Business Address | Business Telephone # | E-mail address |
|---------------------|--------------------|--|--|----------------------|----------------|
| Maureen Riggs, ICND | | Mesa View Regional Hospital | 1299 Bertha Howe Mesquite, NV 89027 | 702-346-8040 | N/A |
| Benj Baumann | | Southern Hills Hospital and Medical Center | 9300 W. Sunset Rd. Las Vegas, NV 89148 | 702-880-2100 | N/A |
| Sandi Lehman | | Humboldt General Hospital | 118 E. Haskel St. Winnemucca, NV 89445 | 775-623-5222 | N/A |
| Steve Fraker | CFO | Banner Churchill Community Hospital | 801 E. Williams St. Fallon, NV 89406 | 775-423-3151 | N/A |
| Talitha H. Vanke | Interim Controller | University Medical Center of So. Nevada | 1800 W. Charleston Blvd. Las Vegas, NV 89102 | 702-383-2000 | N/A |
| Jana Hayward | | William Bee Ririe Hospital | 1500 Avenue H Ely, NV 89301 | 775-289-3467 | N/A |

5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Pursuant to NRS 233B.0608 (2) (a), the Division of Public and Behavioral Health requested input from newborn screening birthing partners in Nevada. Input was requested from birthing partners (32 small business midwives who assist in the delivery of babies and 19 Nevada birthing hospital CEOs and 19 CFOs). Hospitals were included in the distribution in order to provide them with courtesy notification of the possible fee adjustment. Additionally, notice was posted in all county libraries in Nevada, at the Division of Aging and Disability Services and Southern Nevada Health District in Las Vegas, at Washoe County Health District in Reno, at the Nevada State Library and Archives, the Legislative Counsel Bureau and the Division of Public and Behavioral Health in Carson City, and at the Division of Health Care Financing and Policy in Elko.

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Carson City, NV 89706

Summary of Small Business Impact Questionnaire Responses

| How many employees are currently employed by your business? | 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? | Comments |
|---|--|--|--|---|--|
| 237 | No Response | No Response | No Response | No Response | "We are not a small business. We are not-for-profit with more than 150 employees." |
| 198 | No | No | No | No | <u>Adverse Economic Effect</u> - "Birth registration increase. Volumes are low." <u>Beneficial Effect</u> - "Our volumes are low and it will not benefit or have an adverse economic effect." |
| 590 | Yes | No | Unknown | Unknown | <u>Adverse Economic Effect</u> - "(NAC) 440.210. The increase in birth registration fee from \$71/\$73 to \$81/\$83 will increase hospital cost by \$12,290 per year based on the number of births at ... hospital from 7/01/2012 thru 6/30/2013." |
| 236 | No | No | No | No | None |
| +4000 | No | No | Yes | No | <u>Indirect Adverse Effect</u> - "As a public safety net county hospital, all increases in our cash outflows and expenses are closely monitored and must have an offset from another area of the hospital" |
| 145 | No | No | No | No | None |

6. If 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 adopted regulation changed the Birth Registration fees as follows:

LCB File No. R105-12 amends Nevada Administrative Code (NAC) 440.210 to read as follows:

Each person who is legally responsible for registering the birth of a child shall submit a fee to the Health Division (now Division of Public and Behavioral Health) of the Department of Health and Human Services for each birth as follows:

1. If paid on or before the 30th day after the date of the birth of the child, the fee is ~~[\$71.]~~ **\$81.**
2. If paid more than 30 days after the date of the birth of the child, the fee is ~~[\$73)]~~ **\$83.**

- **EXPLANATION:** Matter in *bolded italics* is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

Birth Registration fees fully fund costs associated with the legislatively mandated newborn screening. Without the fee increase, newborn screening in Nevada could not be guaranteed and newborns with potentially devastating conditions might not be identified and provided necessary follow-up in a timely manner.

7. 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:
> **Both adverse and beneficial effects; and**
> **Both immediate and long-term effects**

Anticipated effects on the business which NAC 440.210 regulates:

- A. Adverse: There should be no significant adverse impact upon businesses as payment for the birth registration fee is passed through from the business to parents or third party payers.
- B. Beneficial: Mandated screening of newborns for congenital and inherited disorders will continue to occur and will be monitored by the Nevada Newborn Screening Program until the condition is either confirmed as a positive case or the screening is determined to be in the normal range and the case is closed. Parents of infants identified with an identified condition will continue to be provided medical guidance and education, and infants will continue to receive short-term follow-up.
- C. Immediate: Those persons/entities identified in regulation as being legally responsible for reporting births and submitting the required birth registration fee will be responsible for submitting the revised fee or causing the revised fee to be submitted.
- D. Long-term: None

Anticipated effects on the public:

- A. Adverse: None
- B. Beneficial: Nevada newborns will continue to be screened for the 29 primary and 25 secondary congenital and inherited disorders that are included in the Newborn Screening Panel. Early identification and intervention will help ensure the best possible medical outcome for those infants who have a confirmed condition. Costs for long-term care will be reduced due to mitigation of adverse medical affects.
- C. Immediate: None
- D. Long-term: None

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

At this time, there is no additional estimated cost to the agency for enforcement of the proposed regulation as submitters of the birth registration fee will continue to use the same process to submit birth registration fees but will calculate the total fee due using the new rate times number of births.

9. 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 regulatory federal agency.

NAC 440.210 is the only regulation that specifies the fee that will be charged for birth registrations. Also, this is the only regulation that details the process that must be followed to submit the fee.

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

There are no federal regulations that regulate newborn screening.

11. 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.

The total amount that will be collected from the fee adjustment is dependent upon the number of births that occur in Nevada during the year. The SFY14 budget used the State Demographer's projection of 41,731 births annually or approximately 3,478 births per month. Actual births for July through October have averaged 3,026 births per month, which will annualize to 36,312. If the December through July birth rate is consistent with the current average, the revenue generated by the adjusted fees (\$81) for December through July is projected to be \$1,715,742 instead of a projected \$1,503,922 at \$71.

The large majority (approximately 86.4%) of the revenue collected is used to pay the cost associated with dried blood spot specimens that are submitted to and processed by the

contracted newborn screening laboratory. A total of \$11 (approximately 13.6%) of each birth registration fee will be used to support all other activities required for an effective newborn screening program. These include, but are not limited to, specialty clinics for those affected with conditions identified through newborn screening, specialty formula and foods for short-term support of individuals while long-term support services are identified, personnel costs (including program quality assurance, education, and follow-up) and operating expenses.