

DIVISION OF PUBLIC & BEHAVIORAL HEALTH
Health Protection and Preparedness Bureau
Radiation Control Program
LCB File No. R021-18RP3

Informational Statement per NRS 233B.066

1. It is being proposed that NAC regulations related to the Radiation Control Program (RCP) be amended for the following programs.
 - Radioactive Materials Program (RAM). To provide for compatibility with existing Nuclear Regulatory Commission (NRC) agency's regulations and to clarify licensing requirements and inspection criteria.
 - Radiation Producing Machines Program (RPM). To address advancements in X-ray technology related to our inspection procedures and registration requirements. Authorizes the Division to charge a \$25 fee for a duplicate registration certificate for a radiation machine or for the person installing, servicing or repairing radiation machines.
 - Mammography Program. To address requests from the medical community to expand the use of a mammography machine for purposes beyond imaging of the breast for mammography.
2. RCP distributed 4,810 Small Business Impact Questionnaires to licensees and registrants utilizing the U.S. mail and Listserv email addresses. The proposed regulations in LCB File No. R021-18 RP3 were posted on the Divisions website with a link provided in the questionnaire.

RCP held a Public Meeting on September 30, 2019 in Carson City and Las Vegas, Nevada to consider the amendments to Nevada Administrative Code Chapter 457 and Chapter 459 contained in LCB File No. R021-18RP3. No one from any government entity other than the Division of Public and Behavioral Health attended. Five members of the public attended, however no one testified or made public comment in Carson City or Las Vegas.

RCP held a Public Workshop on October 28, 2019 in Carson City and Las Vegas, Nevada to consider amendments to Nevada Administrative Code Chapter 457 and Chapter 459 contained in LCB File No. R021-18RP3. No one from any government entity other than the Division of Public and Behavioral Health attended. Twelve members of the public attended, however no one testified or made public comment in Carson City or Las Vegas.

A Public Hearing Intent to Adopt Regulations was held in conjunction with the Board of Health on December 6, 2019, via videoconference, at the Division of Public and Behavioral Health, 4150 Technology Way, Room 303, Carson City, Nevada and Grant Sawyer Building, 555 E. Washington Ave. Room 5100, Las Vegas, Nevada. An opportunity for the public to make comments on the proposed changes to Nevada Administrative Code Chapter 457 and Chapter 459 was provided. Fourteen members of the regulated public were present at the public hearing. The Board of Health heard public testimony and discussed the submitted comments on the proposed regulations. Much of the testimony given concerning the fee

increase for a mammographers certificate was comingled with the fee structure of Senate Bill 130. A summation of comments follows:

1. There was public testimony opposing the fee increase from \$88 to \$200 for a mammographers certificate. The Board of Health determined that the fee increase should be considered with the regulations related to SB 130 at a later meeting.
2. The Board of Health discussed the written statement submitted concerning the requirement that a radiation machine be functioning as designed and if necessary corrective action be taken before the radiation machine is used to perform an examination on a patient. The Board requested data be gathered and submitted to show the impact of the proposed regulations and the number of patient exams needing to be rescheduled.

Interested persons can obtain a copy of the summary and a copy of the Small Business Impact Statement by contacting the RCP at (775) 687-7550 in Carson City or by utilizing this link to our website.

http://dpbh.nv.gov/Reg/RPM/Radiation_Producing_Machines_-_Home/

3. The RCP conducted the following meetings in Carson City and Las Vegas, the number of persons attending each meeting:

(a) Attended each hearing:

Public Meeting held September 30, 2019 – (17).

Public Workshop held October 28, 2019 – (12).

Public Hearing Board of Health held December 6, 2019 – (31).

(b) Testified at each hearing:

Public Meeting held September 30, 2019 – (0).

Public Workshop held October 28, 2019 – (0).

Public Hearing Board of Health held December 6, 2019 – (4).

(c) Written comments.

Lisa M. Bosworth, Medical Physicist

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(d) Public Testimony.

Public Hearing Intent to Adopt Regulations held December 6, 2019. Testimony was given by:

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4. Pursuant to NRS 233B.0608 (2)(a), the Division of Public and Behavioral Health, Radiation Control Program requested input from small businesses, registrants and licensees likely to be affected by the proposed regulations. The RCP distributed 4,810 Small Business Impact Questionnaires to licensees and registrants utilizing the U.S. mail and Listserv email addresses. One hundred twenty-six questionnaires were returned and analyzed to generate the Small Business Impact Statement. Six respondents indicated an adverse economic effect upon their business without reference to a specific regulation and did not provide clarification in their comments.

A summary of the replies RCP responded to below:

- One respondent questioned whether returning the questionnaire was mandatory. RCP replied that it was not mandatory but to contact the RCP with any concerns.
- Northwest Medical Physics Center questioned if RCP had allowed enough time for a sufficient number of replies to generate the Small Business Impact Statement (SBIS). RCP replied that the SBIS is updated whenever additional responses are received.
- Aspen Quick Care complained about unnecessary regulation and increased costs. RCP responded to these comments by calling Aspen Quick Care and requesting to speak with Dr. White, he was unavailable. RCP provided contact information and sent an email requesting to discuss any questions or concerns.
- Henry, Jerry T. DPM complained that costs are vague with added expenses unforeseen in the regulations and that registration fees have increased. RCP

responded to these comments by calling and requesting to speak with Dr. Henry, he was unavailable. RCP provided contact information and sent an email requesting to discuss any questions or concerns.

- Perfect 32 Dental Care complained about amalgam extractor/separator installation, updating dental equipment, chairs etc. Stated they do not use amalgam in our restorations all resin materials and due to new equipment prices costs will affect employees, as well as, patient costs. RCP responded to these comments by calling and requesting to speak with Mr. Hijazi, he was unavailable. RCP sent an email clarifying there are no proposed regulations that relate to the comments he provided or that would increase the registration fees for dental equipment.
- Interested persons can obtain a copy of the summary and a copy of the Small Business Impact Statement by contacting the RCP at (775) 687-7550 in Carson City or by utilizing this link to our website.
http://dpbh.nv.gov/Reg/RPM/Radiation_Producing_Machines_-_Home/

The Public Hearing, Intent to Adopt Regulations, was held on December 6, 2019 at 9:00 am. A summary of the Small Business Impact Statement and an overview of the proposed regulation changes were available. Fourteen members of the public attended the meeting, four people provided testimony. One person submitted written comments.

5. After consideration of public testimony opposing the regulation to increase the fee from \$88 to \$200 for a mammographers certificate, the Board of Health determined that the fee increase should be considered with the regulations related to SB 130 at a later meeting. The BOH approved the remainder of proposed regulations in R021-18RP3.
6. Anticipated effects on the business which NAC 457 & 459 regulates:
 - (a) *Adverse effects:* May have a negative economic impact on Licensees, registrants and stakeholders that have deficient practices that lead to an administrative sanction. Charges a \$25 fee for a duplicate registration certificate for a radiation machine or for the person installing, servicing or repairing radiation machines.
 - (b) *Beneficial:* Clearly defines what is expected of the regulated community. Protects the public from unnecessary exposure to harmful ionizing radiation. Amend and modify existing language to make regulations more clear, current and compatible with the intent and scope of the Radiation Control Program.
 - (c) *Immediate:* The stated adverse and beneficial effects would be immediate impacts as soon as the proposed regulations become effective.
 - (d) *Long-term:* The long-term impacts would be the same as the immediate impacts as it would not be expected that the impacts would go away.

There are no estimated economic effects of the proposed regulations on the public. The Legislature and the Division determined that any impact on the public would be appropriately justified to meet the needs of the community.

- (a) *Adverse effects:* None Anticipated.
- (b) *Beneficial effects:* Increased public health and safety.

- (c) *Immediate effects*: Increased public health and safety.
 - (d) *Long-term effects*: Increased public health and safety.
7. There is no estimated cost to the Division of Public and Behavioral Health for enforcement of the proposed regulations. Enforcement of the proposed regulations will be incorporated into current administrative, registration, licensing and inspection processes.
 8. The proposed regulations do not overlap or duplicate any other state of Nevada regulations or any federal regulations.
 9. The proposed regulations are not more stringent than federal regulation. Adoption of the proposed regulations ensures compatibility with certain NRC Regulations Title 10, Code of Federal Regulations
 10. The amendments as approved do not increase any existing fees.

The amendments authorize the Division to charge a \$25 fee for a duplicate registration certificate for a radiation machine or for the person installing, servicing or repairing radiation machines. A similar fee charged for duplicate mammography certificates has resulted in minimal fees being collected. The total annual amount would be determined by the number of requests received for a duplicate registration.

The amendments authorize the Division to charge a \$100 fee for a late renewal of a mammographers certificate. A similar fee charged for a late renewal of a radiation machine registration has resulted in minimal fees being collected. The total annual amount would be determined by the number of late registration renewals received.

The funds will be used to provide services for the administrative issuance of duplicate registration certificates, and mammographers certificates.

NOTE: The Informational statement is essential. If this statement is not included with the final regulations or is incomplete or inaccurate, LCB will return the regulation to the agency. Unless a statement is supplied, the LCB will not submit the regulation to the Legislative Commission, and the regulation never becomes effective (NRS 233B.0665).