

**DIVISION OF PUBLIC & BEHAVIORAL HEALTH
BUREAU OF HEALTH CARE QUALITY AND COMPLIANCE
MEDICAL LABORATORY PERSONNEL
LCB File No. R090-18**

Informational Statement per NRS 233B.066

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

The adopted regulations are needed to bring medical laboratory personnel regulations into compliance with NRS 622.530, to the extent possible, as it relates to issuing a medical laboratory personnel certificate or license by endorsement. NRS 622.530 requires the regulatory body, in this case the Board of Health, to adopt regulations for the issuance of a license by endorsement for any natural person who holds a corresponding valid and unrestricted license in any state or territory of the United States, possess qualifications that are substantially similar to the qualifications required for issuance of a license to engage in that occupation in Nevada and satisfy other requirements outlined in the bill. NRS 622.530 (2) (g) notes:

2. *The regulations adopted pursuant to subsection 1 must not allow the issuance of a license by endorsement to engage in an occupation or profession in this State to a natural person unless such a person:*

(g) Submits to the regulatory body a complete set of his or her fingerprints and written permission authorizing the regulatory body to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report or proof that the applicant has previously passed a comparable criminal background check.

The Nevada Department of Public Safety (DPS) notified the Division, through the attached correspondence, that the Criminal Justice Information Law Unit (CJILU) determined that the background check language in NRS 622.530 would not qualify for access to FBI criminal history record information under the criteria set forth under Pub. L. 92-544; therefore, the endorsement process for medical laboratory personnel is only available to those who received a comparable background check when the individual was licensed as a medical laboratory personnel in the District of Columbia or any state or territory of the United States.

In addition, medical laboratory personnel licensed or certified, as applicable, are not required to be background checked for medical laboratory licensing or certification purposes; therefore, there is no other known statutory authority that would authorize a fingerprint-based background check for the purposes of licensing or certifying laboratory personnel.

An errata was adopted by the Board of Health that brings the proposed regulations in line with the background check process currently available to those applying for a laboratory personnel license or certificate by endorsement, as noted previously. In addition, the errata clarifies that the proof of a passing score from a nationally recognized examination for certification as laboratory personnel must be specific to the personnel type for which the applicant is applying.

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

Public Workshop

A public workshop was held on October 30, 2018 at 727 Fairview Drive, Carson City with videoconference to 4220 South Maryland Parkway in Las Vegas, with a teleconference option available as well. Although one person signed in, in support of the proposed regulation, no one testified, verbally or written, in support or against the proposed regulations during the public workshop.

Public Hearing

A public hearing was held on March 6, 2020. No one testified, verbally or written, against or in support of the proposed regulations or provided written statements during the public hearing.

How other interested persons may obtain a copy of the summary

Any other persons interested in obtaining a copy of the summary 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

3. A statement indicating the number of persons who attended each hearing, testified at each hearing, and submitted written statements regarding the proposed regulation. This statement should include for each person identified pursuant to this section that testified and/or provided written statements at each hearing regarding the proposed regulation, the following information, if provided to the agency conducting the hearing:
 - (a) Name
 - (b) Telephone Number
 - (c) Business Address
 - (d) Business telephone number
 - (e) Electronic mail address; and
 - (f) Name of entity or organization represented

Public Hearing

A public hearing was held on March 6, 2020. A total of forty individuals signed the sign in sheets (Carson City and Las Vegas combined). As there were other items on the agenda, it is possible that not all those that signed in were in attendance for LCB File No R090-18. No one

testified against or in support of the proposed regulations or provided written statements during the public hearing. Please see attached sign in sheet.

The following were two email responses that were received regarding LCB File No R090-18:
In Las Vegas, we like the current law. We don't need to change it. It is unfair to us. Paying our licenses include the protection from allowing other residents of other states to work. They must have NV licenses Your concern on this regard is highly appreciated. Thank you...

The other email just noted that it was a bad idea.

4. A description of how comment was solicited (i.e., notices) 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 (DPBH) has requested input from Nevada's licensed/certified laboratory personnel and laboratories licensed by the Division and has made a concerted effort to determine whether the proposed regulations are likely to impose an economic burden upon a small business.

Notice was sent to all licensed/certified laboratory personnel and laboratories licensed by the Division by November 8, 2017, requesting that all interested individuals complete the small business impact questionnaire. An email notice with a link to the small business impact questionnaire and proposed regulations was provided to those with an email address. Those without an email address were mailed the small impact questionnaire and proposed regulations. The proposed regulations were also posted on DPBH's website. 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 (7 responses were received out of 15,599 small business impact questionnaires distributed)			
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- 0 No – 4 N/A - 1	Yes - 1 No- 3 N/A - 1	Yes - 0 No – 4 N/A - 1	Yes - 1 No – 3 N/A - 1
<p>Comments: The proposed regulation states that is applies to “initial applicant” for lab personnel certification of lab director licensure. All of our Lab personnel are residents of Nevada and are already licensed in Nevada.</p>	<p>Comments: The proposed regulation states that is applies to “initial applicant” for lab personnel certification of lab director licensure. All of our Lab personnel are residents of Nevada and are already licensed in Nevada.</p> <p>Would eliminate the cost of certification for already credential applicants.</p>	<p>Comments: The proposed regulation states that is applies to “initial applicant” for lab personnel certification of lab director licensure. All of our Lab personnel are residents of Nevada and are already licensed in Nevada.</p>	<p>Comments: The proposed regulation states that is applies to “initial applicant” for lab personnel certification of lab director licensure. All of our Lab personnel are residents of Nevada and are already licensed in Nevada.</p>

One individual did not submit a small business impact questionnaire but provided the following feedback: Who will endorse? The current system that under the jurisdiction of the Dept. of Health works well. It would be tough to circumvent by other private entity. The current system protects well the participants as well as the job of the Nevada lab personnel. Just imagine if there will be an influx of lab staffs coming to our state and take our jobs by reason of endorsements.

How other interested persons may obtain a copy of the summary

Any other persons interested in obtaining a copy of the summary 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

5. If, after consideration of public comment, 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.

Because the requirement that a regulatory body adopt regulations providing for the issuance of a license by endorsement to engage in an occupation or profession in this State is a statutory requirement and not a regulatory requirement no changes were made relating to comments received that expressed this was a bad idea or felt the current law should not be changed.

There were revisions made to the proposed regulations relating to the background check requirement due to the notice received from the Nevada Department of Public Safety (DPS) indicating that the background check language in NRS 622.530 would not qualify for access to FBI criminal history record information; therefore, the proposed regulations were revised to account for the limitation this has imposed on the current statutory language by making the endorsement process for medical laboratory personnel only available to those who received a comparable background check when the individual was licensed as a medical laboratory personnel in the District of Columbia or any state or territory of the United States.

6. 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; and
 - (b) Both immediate and long-term effects.

Anticipated effects on the businesses which NAC 640D regulates:

- A. *Adverse effects:* For applicants who chose to obtain certification/licensure through endorsement applicable background check processing fees and additional time to process background checks would not be applicable until such time that statutory language is revised to meet FBI requirements -See #1; therefore, at this time no adverse effects are anticipated.
- B. *Beneficial:* No direct economic beneficial effects are anticipated as the certification/licensing costs are the same for a regular (non-endorsement) license as for a license for endorsement (applicable background check processing fees would not be applicable until such time that statutory language is revised to meet FBI requirements - See #1)
- C. *Immediate:* Ability to apply for a medical laboratory personnel license by endorsement if application criteria are met.
- D. *Long-term:* The same as the immediate effect.

Anticipated effects on the public:

- A. *Adverse*: There are no adverse anticipated effects on the public.
- B. *Beneficial*: There are no beneficial anticipated effects on the public.
- C. *Immediate*: There are no immediate anticipated effects on the public.
- D. *Long-term*: There are no long-term anticipated effects on the public.

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

NRS 622.530 requires applicants for license by endorsement to pay applicable fees for the issuance of a license that are otherwise required for a person to obtain a license; therefore, the Division would collect fees based on existing fees outlined in current regulations to pay for the enforcement of the proposed regulations. At this time, it is anticipated the Division would be able to incorporate this workload into existing resources.

8. 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 regulating federal agency.

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

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

Federal regulations do not require separate licensure/certification of laboratory personnel, including licensure by endorsement, but Nevada does have regulations outlining the qualifications and duties of medical laboratory personnel, in accordance to NRS 652.123 (2)

NRS 652.123 Limitations on stringency of regulations adopted by State Board of Health.
Regulations adopted by the Board pursuant to this chapter may not be more stringent than the provisions of Part 493 of Title 42 of the Code of Federal Regulations, except that the Board may adopt regulations which are more stringent relating to:

- 2. *The qualifications and duties of the personnel of a medical laboratory.*

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

The Division would collect fees based on existing fees outlined for medical laboratory personnel licensing and certification to license/certify medical laboratory personnel by endorsement. The total amount the agency expects to collect is unknown as there is no way of determining how many medical laboratory personnel would apply for a license/certificate by endorsement.