

**DIVISION OF PUBLIC & BEHAVIORAL HEALTH
BUREAU OF HEALTH CARE QUALITY AND COMPLIANCE
COMMUNITY BASED LIVING ARRANGMENT
LCB File No. R134-18**

Informational Statement per NRS 233B.066

1. A clear and concise explanation of the need for the adopted regulation.
The adopted regulations are needed for the following reasons.

Nevada Administrative Code chapter 433 contains regulations established for oversight of Community Based Living Arrangement (CBLA) facilities. The regulations were adopted on July 1, 2017, in order to regulate providers of CBLA facilities. Currently the regulations do not spell out specific requirements regarding health and safety of the residents living in CBLA's. The proposed regulations have been drafted to ensure health and safety protections, limitations on applicability and to establish fees to properly regulate CBLA facilities.

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

Public comment was solicited via a public workshop which was held on November 2, 2018, on the proposed amended regulations at the Division of Public and Behavioral Health located at Desert Regional Center at 1391 S. Jones Blvd. Las Vegas, NV 89146 and video conferenced to Department of Public and Behavioral Health at 4150 Technology Way, Suite 303. Carson City, NV 89706.

There were 18 participants in the Southern Nevada location and 6 Participants in the Northern Nevada location.

Summary of testimony:

- 2 non CBLA providers gave testimony that CBLA facilities should be held to the same licensure requirements as other residential facilities in Nevada.
- 3 participants agreed with the extinguisher requirements in the proposed regulations in section 10 of the proposed regulations.
- 2 participants did not agree with Section 13 of the proposed regulations with the addition of the \$100 application fee and thinks there should be no fee due to having to pay for multiple certifications for each facility they own would be a financial burden.

The public workshop notice was posted on the LCB website on October 16, 2018 and distributed to CBLA industry providers on October 17, 2018.

The public hearing notice was posted on the LCB website and distributed to CBLA industry providers by November 17, 2018.

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 Amir Bringard, Health Facilities Inspection Manager, at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health
Bureau of Health Care Quality and Compliance
4220 S. Maryland Pkwy, Suite 810, Bldg. D
Las Vegas, NV 89119
Amir Bringard
Phone: 775-668-3202
Email: abringard@health.nv.gov

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

A public hearing was held on December 7, 2018. Although 36 individuals signed in at the Carson City location and 55 individuals signed in at the Las Vegas location, there were other items on the Board of Health agenda, for which individuals may have been attending. For a summary of the testimony provided please refer to number 2. For the list of attendees, please refer to the Carson City and Las Vegas public hearing attendance sign-in sheets included with this informational statement.

One individual commented whether their comments from the public workshop were taken into consideration with the proposed amended regulations. The presenter confirmed with the individual that all comments were taken into consideration in the development of the proposed regulations.

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.

For all certified and pending applicants of the CBLA industry with an email on file, an email notification was sent on October 17, 2018, requesting that all interested individuals complete the small business impact questionnaire. A link to the small business impact questionnaire and proposed regulations was provided. In addition, a phone number was provided which an individual could call to obtain a copy of both documents. If no email was on file, the questionnaire and proposed regulations were mailed to the individual. The proposed regulations were also posted on the Division’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 (17 responses were received out of 70 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?
7 – Yes 5- No 4- No Answer 1-N/A	4-Yes 5- No 7– No Answer 1-N/A	3-Yes 7- No 6 – No Answer 1-N/A	2- Yes 8- No 6 – No Answer 1-N/A

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 Amir Bringard, HFIM at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health
Bureau of Health Care Quality and Compliance
4220 S. Maryland Pkwy, Suite 810, Bldg. D
Las Vegas, NV 89119
Amir Bringard
Phone: 775-668-3202
Email: abringard@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.

The regulations were adopted with changes based on public comment in the Errata that was presented at the Board of Health. The Board of Health adopted the proposed regulations with the Errata.

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.

a) Beneficial Effects:

Removes the requirement that an applicant has enough working capital to provide services for at least 3 months without compensation and changes it to an attestation that an applicant has sufficient working capital to effectively provide services. The Division identified that some CBLA's were having difficulty meeting this working capital financial standard; therefore, potentially causing a financial burden for some or not allowing others to open for business. The proposed regulations continue to require applicants to have sufficient working capital to effectively provide services while eliminating this burden.

Allows training to be completed after the application is submitted instead of having to wait on a screening panel determination to decide, which may speed up the application process allowing a program to start operation and collecting revenue sooner than how the regulations are currently written.

One person indicated they would be able to take on an additional residents, by allowing a maximum of 6 residents in CBLA facilities, which could be a financial benefit.

Beneficial effects to the public may include increased health and safety in CBLA facilities with the proposed regulations.

Adverse Effects:

Public comment indicated with the new amended regulations it would be a financial burdeon to impose a fee for certification of CBLA homes. Currently there is no fee for a provider to get certified. With the amended regulations a non-refundable \$100 fee will be imposed for application to be certified by the Division.

b) No adverse effects to the public are anticipated.

The proposed regulations may have beneficial immediate and long-term effects on public, by having specific regulations to ensure the health and safety of residents in CBLA facilities are maintained through the inspection process.

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

Although funding for inspections will be transferring over from mental health services to cover inspection costs, we have also incurred additional costs to process certification applications.

The \$100 fee for the application for a provisional certificate and the \$100 renewal fee to be collected every 2 years (period not to exceed 2 years) will be used to support the initial and renewal certification application workload, including the issuing of certificates. The cost to process the fees is based on staff hours to process applications, follow up on documents submitted with providers and all correspondence. On average it takes about 5 hours from the beginning to end of the application process for our staff to complete. The \$100 fee is to compensate HCQC for a full-time staff to process the application completely.

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 federal or Nevada state 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;

There are no other state or federal regulations addressing the same activity.

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 amendments to NAC 433 for Community Based Living Arrangements will now include a fee for new provider applications for the provisional certification of \$100 as well as \$100 renewal fee every 2 years. It is estimated that with currently about 120 certified CBLA's, DPBH would collect approximately \$12,000 in renewal fees. DPBH would also collect \$100 for each new application submitted which based on our current new applications would be approximately 40 new applications a year adding approximately an additional \$4000 collected in new applications fees yearly.