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Nevada Secretary of State  
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*Via Hand Delivery*

Please find below the Informational Statement required by NRS 233B.066 and the enclosed original Statement in Support of Emergency Regulation signed by Governor Brian Sandoval along with the draft regulations. A copy of this document with the enclosed statement and regulation draft will also be courtesy copied to the Governor's Office and Legislative Counsel.

**Informational Statement Pursuant to NRS 233B.066**

- (a) A clear and concise explanation of the need for the adopted regulation.

In the 2017 Legislative Session, SB286 was passed related to Aging and Disability Services Division taking on a role in the licensing of behavioral technicians. This group of professionals is essential to the treatment and management of circumstances associated with Autism Spectrum Disorder. Currently, their licensure is overseen by the Nevada Board of Psychological Examiners but as of January 1, 2019, an independent board is mandated by law. Unfortunately, much like the daily need for behavioral therapies for individuals with autism, the work of these professionals does not pause while board members are appointed, by-laws are created, and eventually regulations for the receipt of licensing fees and the issuing of licenses in various circumstances. Regulations are essential on day one of the effective date of the statute and these emergency regulations are proposed for your approval so that licensing may operate without interruption.

*(intervening subsections eliminated under subsection (2) as they do not apply to emergency regulations)*

(g) 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:

- (1) Both adverse and beneficial effects; and

The legislative history of SB 286 (2017) can be accessed here: <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/5249/Overview> for more information but the fiscal notes from the Board of Psychological Examiners and the Department of Health and Human Services appear there. In summary, at the time the Nevada Board of Psychological Examiners submitted indications of the fiscal impact regarding loss of funding with the transfer of licensure to ADSD (Aging and Disability Service Division) and the law was passed requiring the change referenced in subsection (a). At this time, in order for the statutorily mandated changes to be effective on January 1, 2019, the enclosed regulations are necessary.

As such, these regulations, which were patterned after existing regulations followed by the Board of Psychological Examiners, are not anticipated to have adverse effect but instead to prevent adverse effects for individuals holding these licenses. It is possible that because of statutory (and not regulatory) mandates regarding background checks, applicants for these licenses will go through two background check processes (for the division as well as for any national certification they may have), but these regulations are not the root cause of that duplication.

ADSD fiscal staff estimates the bi-annual revenue from fees will be \$204,405.

(2) Both immediate and long-term effects.

The immediate effect of the regulations will be to allow the continued licensure of individuals who need such licenses to do important work for individuals with autism by way of behavioral therapies. The incoming board meant to oversee regulation and operation of licensing will not be able to meet until after January 1, 2019 but the work of those licensed is daily and ongoing even as the new board gets up and running.

Long-term, these emergency regulations would ideally be replaced by regulations through ordinary process and with opportunity for individuals affected to be heard and considered in light of the language adopted by the legislature in SB 286.

These regulations require a Registered Behavioral Technician (RBT) to pay a licensing fee of \$70 bi-annually which is currently not a requirement. This regulation could have a fiscal impact to individuals currently licensed as RBT's or their employers.

(h) The estimated cost to the agency for enforcement of the proposed regulation.

ADSD anticipated the fees collected for licensure to cover any operational costs.

(i) 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.

The emergency regulations have been adopted based on current regulations under the Board of Psychological Examiners in order to prevent adverse effect to individuals holding these licenses. Initially the processes will appear duplicative of those current required under the Board of Psychological Examiners. Once the new Board is established, they will have the opportunity to adopt changes to the current process.

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

This regulation requires Registered Behavior Technicians, who already hold a national registration, to also register with the Aging and Disabilities Services Division; this is new effective January 1, 2019.

(k) 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 regulation included the addition of licensing fees for Registered Behavior Technicians. The fees will be used for ADSD operational costs associated with the Board and licensing activities. ADSD fiscal staff estimates the bi-annual revenue from fees will be \$204,405 for all fees collected.

Please direct any inquiries to Jennifer Frischmann, Quality Assurance Manager, at 775-687-0528 or [jfrischmann@adsd.nv.gov](mailto:jfrischmann@adsd.nv.gov). Thank you.