

Steve Sisolak
Governor



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Director

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August 5, 2020

Legislative Counsel Bureau
Attention Angela Hartzler
401 South Carson St.
Carson City, NV 89701

Via Email

Please find below the Informational Statement required by NRS 233B.066 in regard to LCB File No. R045-19, NAC Chapter 437. A copy of this document with the enclosed statement and regulation draft will also be courtesy copied to the Secretary of State.

1. 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 analysts, assistant behavior analysts, and registering nationally registered behavior technicians. This group of professionals is essential to the treatment and management of circumstances associated with Autism Spectrum Disorder.

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

Interested person(s) were sent copies of the proposed regulations, notice of public workshop, and notice of intent via U.S. mail and/ or email upon request or by interest in the subject of Applied Behavior Analysis. In addition to notices, Copies of all documents can also be obtained from any public library listed below:

Elko County Library
720 Court Street
Elko, NV 89801

Esmeralda County Library
Corner of Crook and 4th Street
Goldfield, NV 89013-0484

Eureka Branch Library
210 South Monroe Street

Henderson District Public Library
280 South Water Street

Eureka, NV 89316-0283

Henderson, NV 89105

Humboldt County Library
85 East 5th Street
Winnemucca, NV 89445-3095

Lander County Library
625 South Broad Street
Battle Mountain, NV 89820-0141

Lincoln County Library
93 Maine Street
Pioche, NV 89043-0330

Lyon County Library
20 Nevin Way
Yerington, NV 89447-2399

Mineral County Library
110 1st Street
Hawthorne, NV 89415-1390

Pahrump Library District
701 East Street
Pahrump, NV 89041-0578

Pershing County Library
1125 Central Avenue
Lovelock, NV 89419-0781

Storey County Library
95 South R Street
Virginia City, NV 89440-0014

Tonopah Public Library
167 Central Street
Tonopah, NV 89049-0449

Washoe County Library
301 South Center Street
Reno, NV 89505-2151

White Pine County Library
950 Campton Street
Ely, NV 89301-1965

In addition, copies were available on the following website: adsd.nv.gov

A public workshop hosted by the Aging and Disability Services Division (ADSD) was held on February 4, 2020 at 401 South Carson St Room 2135 in Carson City, NV, and was teleconferenced to 555 East Washington Ave Room 4412E in Las Vegas. The purpose of this workshop was to discuss and solicit comment in consideration of revised language to Nevada Administrative Code, Chapter 437.

Following the public workshop, Aging and Disability Services (ADSD) provided notice of a hearing held on June 23, 2020. Hearing was called to order and facilitated via ZOOM platform in accordance with the Governor's Declaration of Emergency Directive 006. This meeting included public comment and reading of the approved revisions.

- As per Nevada Governor Sisolak's Declaration of Emergency Directive 006; Subsection 3: The requirements contained in NRS 241.020 (4) (a) that public notice agendas be posted at physical locations within the State of Nevada are suspended.
- As per Nevada Governor Sisolak's Declaration of Emergency Directive 006; Subsection 4: Public bodies must still comply with requirements in NRS 241.020 (4)(b) and NRS 241.020 (4)(c) that public notice agendas be posted to Nevada's notice website and the public body's website, if it maintains one along with

providing a copy to any person who has requested one via U.S. mail or electronic mail.

- As per Nevada Governor Sisolak's Declaration of Emergency Directive 006; Subsection 5: The requirement contained in NRS 241.020 (3)(c) that physical locations be available for the public to receive supporting material for public meetings is suspended.
- As per Nevada Governor Sisolak's Declaration of Emergency Directive 006; Subsection 6: If a public body holds a meeting and does not provide a physical location where supporting material is available to the public, the public body must provide on its public notice agenda the name and contact information for the person designated by the public body from whom a member of the public may request supporting material electronically and must post supporting material to the public body's website, if it maintains one.

3. The number of persons who:

(a) Attended workshop: February 4, 2020: 19

(b) Testified at workshop: 0

(c) Submitted to the agency written comments: 0

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3, as provided to the agency, is attached.

5. A description of how comment was solicited from affected business, a summary of their response, and an explanation how other interested person(s) may obtain a copy of the summary.

A Small Business Impact Survey was posted to the Aging and Disability Services Division website along with a copy of the proposed regulation changes, in January 2020. Questions on the survey 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?

*See attached Small Business Impact Study, signed and certified by Nevada Board of Applied Analysis President, Dr. Brigid Fronapfel, for summary of response.

Other persons may obtain a copy of this small business impact study, or other public comments by visiting <http://adsd.nv.gov/Boards/ABA/ABA/>, or contacting Laryna Lewis at larynalewis@adsd.nv.gov.

6. If the regulation was adopted without changing any part of the proposed regulation, summary of the reasons for adopting the regulation without change.

Regulations being proposed do include an errata. Section 2 is updated to require that applicants that do not pass the state jurisprudence exam after two attempts, must obtain approval from the Board to attempt again. In Section 9, specific website links were changed to the general Behavior Analysis Certification Board website to prevent any broken links in the future.

7. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Both adverse and beneficial effects; and

(b) Both immediate and long-term effects.

1. Anticipated effects on the business which NAC 437 regulates:

A. *Adverse effects:* By requiring Registered Behavior Technicians (RBT) to be registered with the State of Nevada, this creates an additional fee for providers and a potential delay to begin providing direct service to individuals.

B. *Beneficial:* By requiring Registered Behavior Technicians (RBT) to be registered with the State of Nevada, they may be paid more and have more work and the registration and licensure processes may provide added protections to businesses. In addition, aligning supervision and continuing education requirements with the Behavior Analysis Certification Board (BACB) increases the quality and integrity of services delivered to consumers protecting the field of behavior analysis and services delivered in applied settings.

C. *Immediate:* Upon passage of the proposed regulations, providers may experience an increase in business costs due to the state registration of the RBT's. However, by requiring Registered Behavior Technicians (RBT) to be registered with the State of Nevada, they may be paid more and have more work and the registration and licensure processes may provide added protections to businesses. In addition, aligning supervision and continuing education requirements with the Behavior Analysis Certification Board (BACB) increases the quality and integrity of services delivered to consumers protecting the field of behavior analysis and services delivered in applied settings.

D. *Long-term:* By requiring Registered Behavior Technicians (RBT) to be registered with the State of Nevada, they may be paid more and have more work and the registration and licensure processes may provide added protections to businesses. In addition, aligning supervision and continuing education requirements with the Behavior Analysis Certification Board (BACB) increases the quality and integrity of services delivered to consumers protecting the field of behavior analysis and services delivered in applied settings.

2. Anticipated effects on the public:

A. *Adverse:* No adverse effects on the public are anticipated.

- B. *Beneficial*: By requiring Registered Behavior Technicians (RBT) to be registered with the State of Nevada, they may be paid more and have more work and the registration and licensure processes may provide added protections to businesses. In addition, aligning supervision and continuing education requirements with the Behavior Analysis Certification Board (BACB) increases the quality and integrity of services delivered to consumers protecting the field of behavior analysis and services delivered in applied settings.
- C. *Immediate*: Upon passage of the proposed regulations provide the benefits as noted in the beneficial section.
- D. *Long-term*: Upon passage of the proposed regulations provide the benefits as noted in the beneficial and immediate sections.

3. The currently effective regulations already assess a fee to register RBT's. The fees have been calculated to cover the cost of the necessary oversight.

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

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

At this time, it is estimated that there would be no additional cost to the agency to enforce the proposed regulations. Further, it is estimated that the other provisions in the proposed regulations would not result in an additional cost to the agency.

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, the name of the regulating federal agency.

There is no duplication of current regulation.

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

There are no federal regulations that apply.

11. If the regulation provides a new fee or increases an existing fee, the total annual amount of 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.

August 18, 2020
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Please direct any inquiries to Jennifer Frischmann, Quality Assurance Manager, at jfrischmann@adsd.nv.gov. Thank you.