

Steve Sisolak  
Governor

Richard Whitley, MS  
Director



## DEPARTMENT OF HEALTH AND HUMAN SERVICES

AGING AND DISABILITY SERVICES DIVISION  
*Helping people. It's who we are and what we do.*



Dena Schmidt  
Administrator

August 25, 2022

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

*Via Email*

### **LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY NRS 233B.066 LCB FILE R101-19**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 439B. 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 2019 Legislature, Assembly Bill No. AB469 sponsored by the Committee on Health and Human Services was passed, NRS 439B.700 to 439B.760. This law requires a third-party insurer and an out-of-network provider of health care that have a dispute regarding the payment for medically necessary emergency services rendered to a covered person to participate in arbitration to resolve the dispute.

This regulation is necessary to prescribe requirements concerning the arbitration of certain disputes over payment for medically necessary emergency services, the manner by which certain entities may become subject to provisions of law regarding the resolution of such disputes, and the requirement of reporting certain information concerning payment for medically necessary emergency services.

#### **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, notices of public workshops, and notice of intent via U.S. mail and/ or email upon request or by interest in the subject of a third-party insurer and an out-of-network provider of health care that have a dispute regarding the payment for medically necessary emergency services rendered to a covered person to participate in arbitration to resolve the dispute.

In addition to notices, copies of all documents are available on the following website: [adsd.nv.gov](http://adsd.nv.gov) and any Nevada public library.

An informational session hosted by the Aging and Disability Services Division (ADSD) was held on August 28, 2019, at 401 South Carson St Room 2134 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 on regulations regarding Assembly Bill 469.

A public workshop hosted by the Aging and Disability Services Division (ADSD) was conducted on February 4, 2020, via videoconferencing at 401 South Carson St Room 2135 in Carson City, NV, and 555 East Washington Avenue, 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 439.

A public workshop hosted by the Aging and Disability Services Division (ADSD) was conducted on December 14, 2021, via TEAMS meeting. The purpose of this workshop was to discuss and solicit comment in consideration of revised language to Nevada Administrative Code, Chapter 439.

Following the public workshops, Aging and Disability Services Division (ADSD) provided notice of a hearing held on August 18, 2022. This meeting included public comment and reading of the approved revisions.

Below is a summary of public comments presented during the three workshops and the hearing:

- Request to change the timeframes for opting out of the provisions of NRS 439B.700 to 439B.760
- Clarification of business days versus calendar days
- Request to include codes other than CPT on the request for arbitration application
- Request to remove the requirement of each party to provide three claim samples
- Request for all information to be confidential
- Request for a definition of “stabilization”
- Concerns regarding a provider’s inability to determine if a policy was sold out of state or if the plan is self-funded
- Request for providers to have the ability to submit claims for arbitration in batches/ bundles
- Request to extend the timeframe for a provider to submit a request for arbitration
- Identification of arbitrators’ conflict of interest
- Comments regarding the cost of arbitration
- Request for arbitrators to provide a rationale with the arbitration determinations
- Request for providers to submit all appeal documents included in request for arbitration to the third party
- Request that third party and providers of health care contact information be posted online

**3. The number of persons who attended each meeting or workshop, testified at each hearing, and submitted written statements regarding the proposed regulation is listed below.**

**(a) Attended August 28, 2019 workshop: 25**

**(b) Testified at workshop: 6**

**(c) Submitted to the agency written comments: 0**

**(d) Attended February 4, 2020 workshop: 25**

**(e) Testified at workshop: 10**

**(f) Submitted to the agency written comments: 15**

- (g) **Attended December 14, 2021 workshop:** 21
- (h) **Testified at workshop:** 3
- (i) **Submitted to the agency written comments:** 2

- (j) **Attended August 18, 2022 hearing:** 48
- (k) **Testified at hearing:** 2
- (l) **Submitted to the agency written comments:** 2

- 4. **A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity organization represented, for each person identified above in #3, as provided to the agency, is attached as Exhibit A.**
- 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 and November 2021. 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) Please list each regulation and explain the impact
- 4) 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 Aging and Disability Administrator, Dena Schmidt, Administrator, for summary of response.

Other persons may obtain a copy of this small business impact study, or other public comments by visiting <https://adsd.nv.gov/Programs/regulations/>, or contacting Agnes Francis at [afrancis@adsd.nv.gov](mailto:afrancis@adsd.nv.gov).

- 6. **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 hearing to adopt the regulation was held on August 18, 2022. LCB File No. R101-19, NAC Chapter 439B contained the following changes suggested at the workshops held on August 28, 2019, February 4, 2020, and December 14, 2021: revising calendar days to business days, revising and clarifying time frames, adding language regarding ensuring that “arbitrators do not have a conflict of interest that would prevent the arbitrator from impartially rendering a decision” and defining such conflict and rewording certain sections for clarification.

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.**

### ***Third Party Insurers***

- A. *Adverse effects:* Third party insurers disputing a claim in the amount of \$5,000 or more must follow the arbitration process and procedures set forth by the American Arbitration Association or JAMS.

Third party insurers may experience an adverse effect due to the inability to withdraw the election to participate in the provisions of NRS 439B.700 to 439B.760 in less than 120 business days.

Third party insurers may experience an adverse effect of time and effort spent producing reports due by December 31 of each year.

- B. *Beneficial effects:* Third party insurers may benefit from the proposed regulation based on timeline requirements for an out-of-network provider to submit their request for arbitration. If an out-of-network provider does not submit their request for arbitration within the timelines of the proposed regulation, the claim is ineligible for arbitration.

Within 10 days of receiving the notice for arbitration, third party insurers are provided a list of five arbitrators. Third party insurers are given the opportunity to strike two names off the list of arbitrators and provide the name or names of remaining arbitrators to the Department.

- C. *Immediate effects:* The immediate and long-term effects the regulation will have on the third party insurers is the time and effort needed to produce relevant information in the timeframes specified in the regulation.
- D. *Long-term effects:* The immediate and long-term effects the regulation will have on the third party insurers is the time and effort needed to produce relevant information in the timeframes specified in the regulation.

### ***Providers of Health Care***

- A. *Adverse effects:* Out-of-network providers disputing a claim in the amount of \$5,000 or more must follow the arbitration process and procedures set forth by the American Arbitration Association or JAMS.

Out-of-network providers of medically necessary emergency services have the additional requirements of submitting the request for arbitration in the timeframes specified in the revised proposed regulation. If an out-of-network provider misses the timeframe to submit the request for arbitration, the claim is ineligible for arbitration. This would create an adverse effect on the out-of-network provider's ability to arbitrate a claim for a medically necessary emergency service provided out-of-network.

If a request for arbitration application is not complete and clear, a request for additional information is sent to the out-of-network provider. The out-of-network provider has 10 business

days to submit the additional information requested to the Department or the application is deemed incomplete.

The provider may experience an adverse effect of time and effort spent producing reports due by December 31 of each year.

- B. *Beneficial effects:* Out-of-network providers have the benefit of being able to submit the request for arbitration within 30 business days from the date the third-party refused to pay the request for additional amount or failed to pay the request for additional amount.

Within 10 days of receiving the notice for arbitration, out-of-network providers are provided a list of five arbitrators. Out-of-network providers are given the opportunity to strike two names off the list of arbitrators and provide the name or names of remaining arbitrators to the Department.

- C. *Immediate effects:* Upon passage of the proposed regulation, the immediate and long-term effects the regulation will have on out-of-network providers is the time and effort needed to produce relevant information in the timeframes specified in the regulation.
- D. *Long-term effects:* Upon passage of the proposed regulation, the immediate and long-term effects the regulation will have on out-of-network providers is the time and effort needed to produce relevant information in the timeframes specified in the regulation.

The estimated economic effect of the regulation on the public:

- A. *Adverse effects:* The consumer is responsible for copayment, coinsurance or deductible that the coverage requires the covered person to pay for the services when provided in-network. The average length of time for an arbitrator to make a determination is 4.5 months. An adverse effect the consumer may experience is the inability to know the copayment amount, coinsurance, or deductible until the arbitration determination has been made.
- B. *Beneficial effects:* The beneficial effects of the regulation on the public are the same as the beneficial effects of the statute, in that the consumer cannot be balance billed for medically necessary emergency services provided out-of-network except for any copayment, coinsurance or deductible that the coverage requires the covered person to pay for the services when provided by an in-network provider.

A person covered by an Employee Retirement Income Security Act (ERISA) plan that has elected to submit to the provisions of NRS 439B.700 to 439B.760 has the benefit of being covered by statute beginning on the first day of the following month if the election to participate in the provisions is received on the first through the 14<sup>th</sup> day of the month. If the election to participate in the provisions of NRS 439B.700 to 439B.760 are received on or after the fifteenth day of the month, the application becomes effective on fifteenth day of the following month.

- C. *Immediate effects:* Upon passage of the proposed regulation provide benefits as noted in the beneficial section.
- D. *Long-term:* Upon passage of the proposed regulation provide benefits as noted in the beneficial and immediate sections.

## **8. The estimated cost to the agency for enforcement of the proposed regulation.**

The additional cost to the agency for enforcement of this regulation is estimated to be \$257,700 per year.

- 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 overlap or 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 other state or government agency regulations that the proposed regulation duplicates.

- 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 does not provide a new fee or increase an existing fee. However, NRS 439B.754 (7), provides for the non-prevailing party to pay the costs of the arbitrator.

Effective June 3, 2022, pursuant to NRS 439B.754 (7), Office for Consumer Health Assistance (OCHA) will begin to recover, from the non-prevailing party, the costs of the arbitrator, as outlined below:

439B.754 (7) If the arbitrator requires:

(a) The out-of-network provider to accept the amount paid by the third party pursuant to subsection 2 of NRS 439B.748 or paragraph (c) of subsection 1 or subsection 2 of NRS 439B.751, as applicable, as payment in full for the provision of the medically necessary emergency services, except for any copayment, coinsurance or deductible that the coverage requires the covered person to pay for the services when provided by an in-network provider, the out-of-network provider must pay the costs of the arbitrator.

(b) The third party to pay the additional amount requested by the out-of-network provider pursuant to subsection 2, the third party must pay the costs of the arbitrator.

Please direct any inquiries to Carrie Embree, Governor's Consumer Health Advocate, at [clembree@adsd.nv.gov](mailto:clembree@adsd.nv.gov). Thank you.

## NAC 439B

### August 28, 2019 Informational Session Attendance

1. Tina McIntosh, Dignity Health, [tina.mcintosh@optum360.com](mailto:tina.mcintosh@optum360.com), 702-335-3883
2. Dan Musgrove, Valley Sys, [danm@STRATEGIES360.COM](mailto:danm@STRATEGIES360.COM), 702-860-9900
3. Maya Holmes, Culinary Health Fund, [mholmes@CULINARYHEALTHFUND.ORG](mailto:mholmes@CULINARYHEALTHFUND.ORG), 702-423-7494
4. Tray Abney, AHIP/Cigna, [tray@ABNEYTAUCHEN.COM](mailto:tray@ABNEYTAUCHEN.COM), 775-443-5561
5. James Wadhams, NV Hosp. Assn, [jlwadhams@BLACKLOBELLO.LAW](mailto:jlwadhams@BLACKLOBELLO.LAW), 702-318-5064
6. Bobbette Bond, United Health, [bbond@CULINARYHEALTHFUND.ORG](mailto:bbond@CULINARYHEALTHFUND.ORG), 702-860-6089
7. Chelsea Capurro, 3GI
8. Erin Russell, United Health Group, [erin\\_russell@UHC.COM](mailto:erin_russell@UHC.COM), 702-242-7156
9. Katie Ryan, Dignity Health, [katie.ryan@dignityhealth.org](mailto:katie.ryan@dignityhealth.org), 702-616-4847
10. Damon Haycock, PEBP, [dhaycock@pebp.nv.gov](mailto:dhaycock@pebp.nv.gov), 775-684-7020
11. Jennifer Frischman, ADSD, [jfrischmann@adsd.nv.gov](mailto:jfrischmann@adsd.nv.gov), 775-687-0528
12. Laryna Lewis, ADSD, [larynalewis@adsd.nv.gov](mailto:larynalewis@adsd.nv.gov), 775-684-5956
13. Robin Tejada, ADSD, [rmtejada@adsd.nv.gov](mailto:rmtejada@adsd.nv.gov), 775-687-0548
14. Lindsay Knox, NVOS, [Lindsay.Knox@MCDONALDCARANO.COM](mailto:Lindsay.Knox@MCDONALDCARANO.COM), N/A
15. Marla McDade Williams, Strategies 360, [marlamw@STRATEGIES360.COM](mailto:marlamw@STRATEGIES360.COM), 775-315-4728
16. Cat O'Mara, NSMA, [catherine@nvdoctors.org](mailto:catherine@nvdoctors.org), 775-825-6788
17. Jesse Wadhams, NHA, [jessewadhams@BLACKLOBELLO.LAW](mailto:jessewadhams@BLACKLOBELLO.LAW), 775-544-7263
18. Jessica Ferrato, ACCP, [jessica@CROWLEYANDFERRATO.COM](mailto:jessica@CROWLEYANDFERRATO.COM), 775-742-4836
19. Tom Clark, NV Assos. Of Health Plans, [tom@tomclarksolutions.com](mailto:tom@tomclarksolutions.com), 775-813-0523
20. Lea Cartwright, NPA, [lc@jkbeb.com](mailto:lc@jkbeb.com), N/A
21. Madison Huntley, Governor's Office, [m.huntley@dhhs.nv.gov](mailto:m.huntley@dhhs.nv.gov), 775-684-3215
22. Susan Fisher, NVSSA, [sfisher@MCDONALDCARANO.COM](mailto:sfisher@MCDONALDCARANO.COM), N/A
23. Bill Welch, NVHA, [bill@NVHA.NET](mailto:bill@NVHA.NET), 775-827-0184
24. Paul Young, Anthem, N/A, 775-233-0264
25. Joanna Jacob, Physicians for Fair Care, [Joanna.Jacob@CLARKCOUNTYNV.GOV](mailto:Joanna.Jacob@CLARKCOUNTYNV.GOV), 775-351-8970

### February 4, 2020 Public Workshop Attendance

1. Brian Reeder, Dignity Health, [brian@FERRARIPA.COM](mailto:brian@FERRARIPA.COM)
2. Steve Scharmann, Dignity Health, [steve.scharmann@dignityhealth.org](mailto:steve.scharmann@dignityhealth.org)
3. Samantha Sato, Carrara NV, [samantha@carraranv.com](mailto:samantha@carraranv.com)
4. Jan Henry, Silver Summit Health Plan, [jan.henry@silversummithealthplan.com](mailto:jan.henry@silversummithealthplan.com)
5. Christine Hall, Silver Summit Health Plan, [christine.e.hall@silversummithealthplan.com](mailto:christine.e.hall@silversummithealthplan.com)
6. Marcus Conklin, S360/USAP, [marcusc@strategies360.com](mailto:marcusc@strategies360.com)
7. Dan Musgrove, Valley Sys, [danm@strategies360.com](mailto:danm@strategies360.com), 702-860-9900
8. Joanna Jacob, Physicians for Fair Care, [Joanna.Jacob@CLARKCOUNTYNV.GOV](mailto:Joanna.Jacob@CLARKCOUNTYNV.GOV), 775-351-8970

9. Russel Rowe, Prominence, [russ@rowelawnv.com](mailto:russ@rowelawnv.com)
10. Maya Holmes, Culinary Health Fund, [mholmes@CULINARYHEALTHFUND.ORG](mailto:mholmes@CULINARYHEALTHFUND.ORG), 702-423-7494
11. Stacie Sasso, Health Services Coalition, [ssasso@lvhsa.org](mailto:ssasso@lvhsa.org)
12. Erin Russell, United Health Group, [erin\\_russell@UHC.COM](mailto:erin_russell@UHC.COM), 702-242-7156
13. James Wadhams, NV Hosp. Assn, [jlwadhams@BLACKLOBELLO.LAW](mailto:jlwadhams@BLACKLOBELLO.LAW), 702-318-5064
14. Maggie O'Flaherty, McDonald Carano, [moflaherty@mcdonaldcarano.com](mailto:moflaherty@mcdonaldcarano.com)
15. Sara Colhagian, Governor's Office, [saracholhagian@gov.nv.gov](mailto:saracholhagian@gov.nv.gov)
16. Tina Dortch, NV Office of Minority Health and Equity, [tdortch@dhhs.nv.gov](mailto:tdortch@dhhs.nv.gov), 702-486-2151
17. Bobbette Bond, United Health, [bbond@CULINARYHEALTHFUND.ORG](mailto:bbond@CULINARYHEALTHFUND.ORG), 702-860-6089
18. Jennifer Atlas, Griffin, [jennifer@g3nv.com](mailto:jennifer@g3nv.com)
19. Dean Pulse, USAP, [deanpulse@one.com](mailto:deanpulse@one.com)
20. Karen Massey, Medical Group Management Association
21. Dobet Band, Connect Health Plan
22. Don Blankett, Nevada Association of Health Plans
23. Christopher, Patients for Fair Coverage
24. Jessica Ferrato, ACCP, [jessica@CROWLEYANDFERRATO.COM](mailto:jessica@CROWLEYANDFERRATO.COM), 775-742-4836
25. Jaron Hildebran, Nevada State Medical Association

### **December 14, 2021 Public Workshop Attendance**

1. Charles E. Quintana, OCHA, [cequintana@govcha.nv.gov](mailto:cequintana@govcha.nv.gov), 702-486-3854
2. Miles Terrasas, ADSD, [milesterrasas@adsd.nv.gov](mailto:milesterrasas@adsd.nv.gov), 775-687-4210
3. Lea Case
4. Redenta Blacic, OCHA, [redentablacic@govcha.nv.gov](mailto:redentablacic@govcha.nv.gov), 702-486-3582
5. Alejandra Plascencia, OCHA, [aplascencia@govcha.nv.gov](mailto:aplascencia@govcha.nv.gov), 702-486-3545
6. Katie Ryan, Dignity Health, [katie.ryan@dignityhealth.org](mailto:katie.ryan@dignityhealth.org), 702-616-4847
7. Jimmy Lau, N/A, [jimmy@FERRARIPA.COM](mailto:jimmy@FERRARIPA.COM), N/A
8. Susan Purcell, OCHA, [spurcell@govcha.nv.gov](mailto:spurcell@govcha.nv.gov), 702-486-3851
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10. James Wadhams, NV Hosp. Assn, [jlwadhams@BLACKLOBELLO.LAW](mailto:jlwadhams@BLACKLOBELLO.LAW), 702-318-5064
11. Niki Thomson, OCHA, [nthomson@govcha.nv.gov](mailto:nthomson@govcha.nv.gov), 702-486-3852
12. Amanda Brazeau
13. Mike Willden, [michael@THEPERKINSCO.COM](mailto:michael@THEPERKINSCO.COM)
14. Brian Kleven
15. Katie Pace, OCHA
16. Linda Anderson, NV Public Health Foundation
17. Patrick Kelly
18. Jessica Ferrato, ACCP, [jessica@CROWLEYANDFERRATO.COM](mailto:jessica@CROWLEYANDFERRATO.COM), 775-742-4836
19. Tracy Herold, OCHA, [therold@govcha.nv.gov](mailto:therold@govcha.nv.gov), 702-486-4509
20. Khadyja Carter, OCHA, [kdcarter@govcha.nv.gov](mailto:kdcarter@govcha.nv.gov), 702-486-3589
21. Rebecca Ortiz, ADSD, [rebeccaortiz@adsd.nv.gov](mailto:rebeccaortiz@adsd.nv.gov), 775-684-5956



## August 18, 2022 Hearing to Adopt Attendance

1. Mary Squillante, ADSD, [MSquillante@adsd.nv.gov](mailto:MSquillante@adsd.nv.gov)
2. Miles Terrasas, ADSD, [MilesTerrasas@adsd.nv.gov](mailto:MilesTerrasas@adsd.nv.gov)
3. Sherlene Simpson, OCHA, [ssimpson@govcha.nv.gov](mailto:ssimpson@govcha.nv.gov)
4. Kristine
5. Karen Massey, [Karen.Massey@renown.org](mailto:Karen.Massey@renown.org)
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10. Agnes Francis, OCHA, [AFrancis@adsd.nv.gov](mailto:AFrancis@adsd.nv.gov)
11. Kathy Ovenstone, [Kathy.Ovenstone@hometownhealth.com](mailto:Kathy.Ovenstone@hometownhealth.com)
12. Tyler Shaw - FRPA
13. Fernanda Alfaro, OCHA, [FernandaAlfaro@govcha.nv.gov](mailto:FernandaAlfaro@govcha.nv.gov)
14. Vanessa Dunn, [vd@belzcase.com](mailto:vd@belzcase.com)
15. Stacie Sasso, Health Services Coalition, [ssasso@lvhsa.org](mailto:ssasso@lvhsa.org)
16. Niki Thomson, OCHA, [nthomson@govcha.nv.gov](mailto:nthomson@govcha.nv.gov)
17. Jasmine Albert, OCHA, [JasmineA@govcha.nv.gov](mailto:JasmineA@govcha.nv.gov)
18. Dena Schmidt, ADSD, [dschmidt@adsd.nv.gov](mailto:dschmidt@adsd.nv.gov)
19. Stephanie Caruso, [scaruso@soundphysicians.com](mailto:scaruso@soundphysicians.com)
20. Maria Carrillo, ADSD, [MCarrillo@adsd.nv.gov](mailto:MCarrillo@adsd.nv.gov)
21. Kim, Jack H, [Jack.Kim@uhc.com](mailto:Jack.Kim@uhc.com)
22. Ballard-Martenies, Kerri, [Kerri.Ballard-Martenies@uhsinc.com](mailto:Kerri.Ballard-Martenies@uhsinc.com)
23. Huckaby, Rhonda, [Rhonda.Huckaby@healthscopebenefits.com](mailto:Rhonda.Huckaby@healthscopebenefits.com)
24. Bruce Jennings, [Bruce@govcha.nv.gov](mailto:Bruce@govcha.nv.gov)
25. Khadyja Carter, [kdcarter@govcha.nv.gov](mailto:kdcarter@govcha.nv.gov)
26. Holmes, Maya [mholmes@culinaryhealthfund.org](mailto:mholmes@culinaryhealthfund.org)
27. Lea Tauchen, [lea@abneytauchen.com](mailto:lea@abneytauchen.com)
28. Kast, Shannon [Shannon.Kast@uhsinc.com](mailto:Shannon.Kast@uhsinc.com)
29. Lauren Parobek Warden, [lpwarden@mcdonaldcarano.com](mailto:lpwarden@mcdonaldcarano.com)
30. Stockwell, Jesse L, [jesse.stockwell@healthscopebenefits.com](mailto:jesse.stockwell@healthscopebenefits.com)
31. Tray Abney, [tray@abneytauchen.com](mailto:tray@abneytauchen.com)
32. Bond, Bobbette, United Health, [bbond@culinaryhealthfund.org](mailto:bbond@culinaryhealthfund.org)
33. Charles E. Quintana, OCHA, [cequintana@govcha.nv.gov](mailto:cequintana@govcha.nv.gov)
34. James Wadhams, [jlwadhams@blackwadhams.law](mailto:jlwadhams@blackwadhams.law)
35. Michelle Hariu, [mhariu@soundphysicians.com](mailto:mhariu@soundphysicians.com)
36. Redenta Blacic, OCHA, [RedentaBlacic@govcha.nv.gov](mailto:RedentaBlacic@govcha.nv.gov)
37. Steve S James
38. Ramirez, Philip, [Philip.Ramirez@uhsinc.com](mailto:Philip.Ramirez@uhsinc.com)
39. Alejandra Plascencia, OCHA, [APlascencia@govcha.nv.gov](mailto:APlascencia@govcha.nv.gov)
40. Chris Bosse, [Chris.Bosse@renown.org](mailto:Chris.Bosse@renown.org)
41. Miller, Josh, [Josh.Miller@uhsinc.com](mailto:Josh.Miller@uhsinc.com)
42. Jennifer Frischmann, ADSD, [JFrischmann@adsd.nv.gov](mailto:JFrischmann@adsd.nv.gov)
43. Brian Evans

44. Katie Ryan (Dignity Health)
45. Therrien, Katherine J, [TherrienK@aetna.com](mailto:TherrienK@aetna.com)
46. Caller (719) 589-3696
47. Caller (702) 353-9122
48. Caller (919) 656-3685

# Default Report

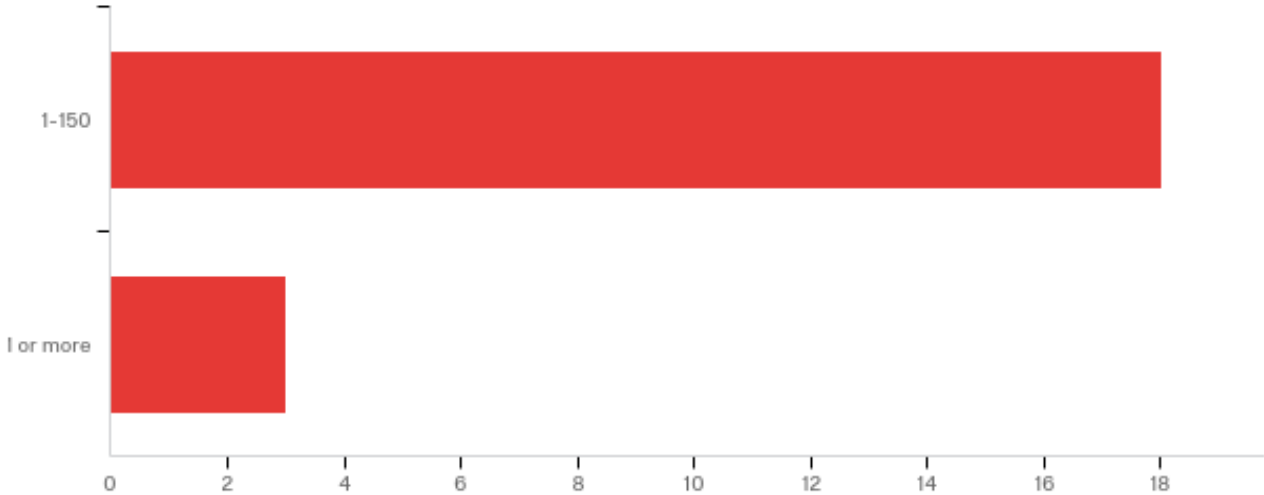
SBIQ: Arbitration per AB 469

January 21st 2020, 5:46 pm MST

## Q2 - Please provide the following information:

Name:	Organization:
David Strull MD	Carson Tahoe Emergency Physicians
David Toone	Carson Tahoe Emergency Physicians
Sara Ream	Carson Tahoe emergency physicians
Ryanne Walther	CTEP
Jenny Penrod	Sierra Neurosurgery Group
Stephanie Elmquist	Carson Tahoe Emergency Physicians Group
Jeremy Gonda	Carson Tahoe Emergency Physicians
brett eisenmesser	carson tahoe emergency physicians
Scott Parkhill	Associated Anesthesiologists
Catherine Topor Diaz	CTEP
meg jack	carson tahoe emergency physicians
Howard Baron	PGNA
Donna W. Juell RN MBA CMPE	Premiere Surgical Specialists
Michael Pendleton	Desert Orthopaedic Center
Karen Massey	Northern Nevada Emergency Physicians
Lisa Mead	Reno Orthopaedic Clinic
Steven Sanders	Bone & Joint Specialists
Fred C Redfern, MD	Fred C Redfern, MD

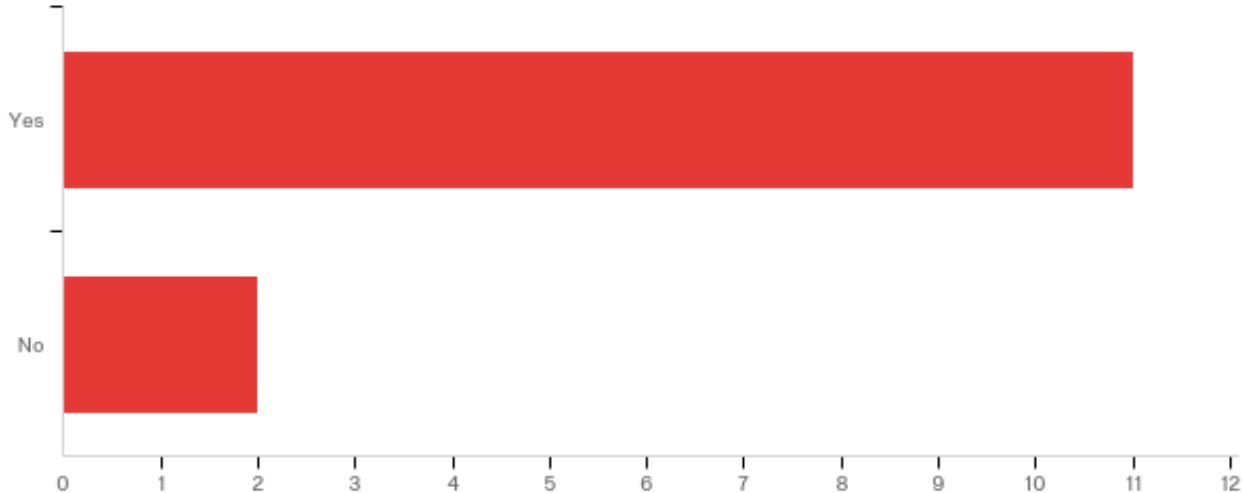
**Q4 - 1. How many employees are currently employed by your business?**



#	Field	Minimum	Maximum	Mean	Std Deviation	Variance	Count
1	1. How many employees are currently employed by your business?	1.00	2.00	1.14	0.35	0.12	21

#	Answer	%	Count
1	1-150	85.71%	18
2	151 or more	14.29%	3
	Total	100%	21

**Q5 - 2. Will a specific regulation have an adverse economic effect upon your business?**



#	Field	Minimum	Maximum	Mean	Std Deviation	Variance	Count
1	2. Will a specific regulation have an adverse economic effect upon your business?	1.00	2.00	1.15	0.36	0.13	13

#	Answer	%	Count
1	Yes	84.62%	11
2	No	15.38%	2
	Total	100%	13

## Q6 - Please list each regulation and explain the impact.

Please list each regulation and explain the impact.

---

e. A representative sample of at least 3 fees received by the provider in the last 24 months for the same service, in the same region, from health plans in which the provider does not participate. There are many aspects of the legislation and how it will be implemented that makes the financial impact on our business and our continued ability to provide emergency services, which includes unreimbursed services to the most vulnerable members of our society, uncertain. Prior to this legislation almost all of our payments were made "in network". Many of these agreements were not direct contracts, but rather were made, through large networks that we participated in. The rates were then made available to the individual individual insurers. Already, we have had one large insurer offer us a contract at less than 40% of the rate they were paying under a network that they had accessed for over ten years. I should add that never in that time did the insurer approach us about a direct contract, but rather both parties seemed content in this relationship. Our attempt to reach a middle ground were meant with simple rejection. I think it is important that the arbitrator consider "in network" payments made to the practice in the past 24 months. "In network" payments should provide a true benchmark of fair market value for the services provided, as these payments were agreed to as acceptable by both parties.

---

AB 469 will leave for profit insurance companies open to have little incentive to negotiate with hospitals and physicians. This will lead to more time in mediation over billing along with more hardship for physicians and hospitals which could lead to the closer of these. This may also deter quality healthcare providers from working in this state. We need to work together to prevent out of network billing from happening by working with the insurance companies so they have contracts with everyone.

---

This will significantly burden the business by allowing insurance companies to dictate whether to pay a medical bill or not based on their own definition of "medical emergency" and need rather than what a layperson (patient) and the highly trained medical staff think. This will reduce the ability to pay for services for other patients in need of emergency care as well with a trickle down effect on those most destitute. Businesses like our own may need to close if this regulation goes through further limiting access to emergency medical care for the community.

---

Decrease needed revenue to keep our Capitol's regional medical center doors open

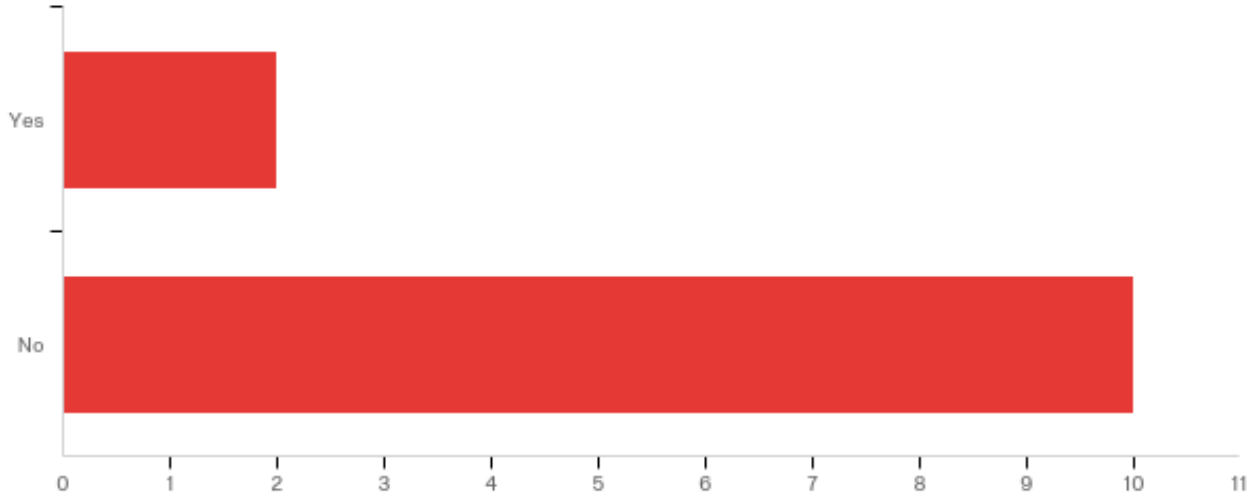
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AB469 We are a small business with 9 physicians. We cover 4 local hospitals for emergency room care. We MUST take care of all patients who come to the ER on our shifts regardless of their ability to pay. ALL of our billing is below \$5000 for this care. We are contracted with all insurances that have negotiated fair pay for our work. The bill will create a HUGE amount of work for our company. This bill was a WIN for the insurance companies who will not negotiate fair payment contracts, they have the staff to do all the paperwork.

---

AB 469 - The regulations are still being finalized so my response is limited to what I understand about the process at this point.

**Q7 - 3. Will the regulation(s) have any beneficial effect upon your business?**



#	Field	Minimum	Maximum	Mean	Std Deviation	Variance	Count
1	3. Will the regulation(s) have any beneficial effect upon your business?	1.00	2.00	1.83	0.37	0.14	12

#	Answer	%	Count
1	Yes	16.67%	2
2	No	83.33%	10
	Total	100%	12

**Q8 - Please explain.**

Please explain.

---

At least for our practice this legislation is a solution looking for a problem. Out of network events were rare in our practice, and as good corporate citizens we were flexible in working with those patients that had financial impact from the decisions of the insurers. Our concern is that insurers will leverage this legislation to simply increase their profits. Emergency services are labor intensive. They require the ability to recruit a highly trained work force and have sufficient staff available 24/7/365 to meet any demand. A significant decrease in reimbursement, which goes not to the patient, but to corporate profits, will jeopardize the continued financial viability of our practice.

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See prior answer

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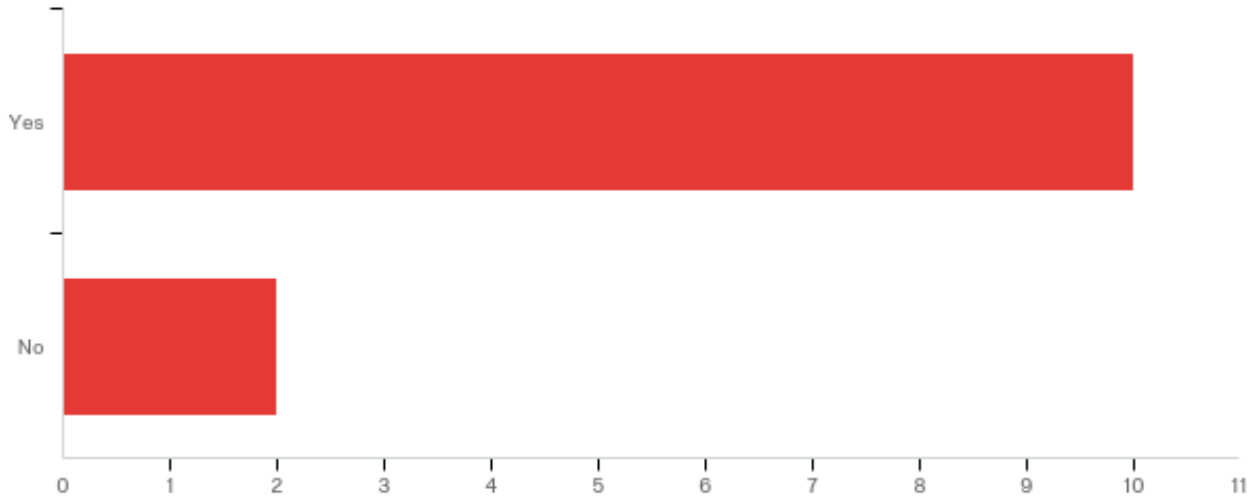
I cannot think of a single instance where this bill will have any benefit on our business.

---

I am pleased that patients will be out of the middle when insurance does not pay market rates. Hopefully, we will receive market rates from the arbitration process which would offset the administration expense of the arbitration process. These outcomes remain to be seen.



**Q9 - 4. Do you anticipate any indirect adverse effects upon your business?**



#	Field	Minimum	Maximum	Mean	Std Deviation	Variance	Count
1	4. Do you anticipate any indirect adverse effects upon your business?	1.00	2.00	1.17	0.37	0.14	12

#	Answer	%	Count
1	Yes	83.33%	10
2	No	16.67%	2
	Total	100%	12

## Q10 - Please explain.

Please explain.

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The labor market for the specialized physicians and physician extenders that we need is very competitive. This is an in demand and highly mobile work force. Our concern is that a major impact on reimbursement will limit our ability to compete in this market.

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Harder recruit to the area

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See prior answer

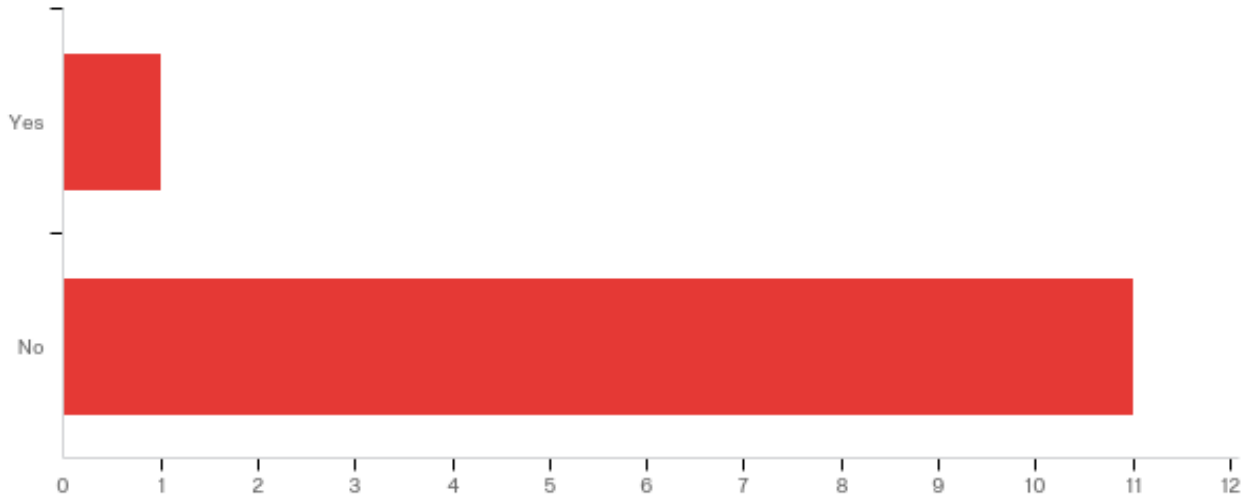
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The added cost of collection from insurance companies that do not want to pay a reasonable amount of money for emergency care received. The added cost of staff time to handle the burden that will be placed on explaining the process to all parties involved.

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At the time of passage, we estimated that 0.7% of our patients were Out of Network. In November, Aetna removed itself from an In-Network arrangement with a 3rd party, so that % is now higher. With a volume of approximately 140,000 visits per year and an estimated Out of Network rate of 1% or higher, we will have approximately 1,400+ bills that will require additional manual processing at the very least and possibly arbitration. I anticipate an increase in billing fees due to this process, but I do not have those figures yet as we are still working on the process.

**Q11 - 5. Do you anticipate any indirect beneficial effects upon your business?**



#	Field	Minimum	Maximum	Mean	Std Deviation	Variance	Count
1	5. Do you anticipate any indirect beneficial effects upon your business?	1.00	2.00	1.92	0.28	0.08	12

#	Answer	%	Count
1	Yes	8.33%	1
2	No	91.67%	11
	Total	100%	12

## Q12 - Please explain.

Please explain.

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Again, out of network events were very rare in our practice. I don't recall of there ever being an instance when an insurer approached us in good faith to execute an "in network" agreement and we could not come to terms. Those rare out of network events were generally the result of an insurer not even attempting to contract, and then reimbursing us at below market rates. In those cases we would work with the patient to allow a fair outcome. In fact, I felt we took better care of those patients than the insurer they depended on.

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See prior answer

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Absolutely not, the opposite as payers are able to circumvent contracting to get lower rates.

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I do not expect benefits for our business, but I am pleased for our patients.

# Default Report

*SBIQ: Arbitration per AB 469*

January 21st 2020, 5:46 pm MST

Pursuant to NRS 233.B.0608 (3), the Administrator of the Aging and Disability Services Division has reviewed this Small Business Impact Study and is certifying that, to the best of her knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in the statement is accurate.



Dena Schmidt  
Administrator, Aging and Disability Services Division

6/30/2022

Date

## Q2 - Please provide the following information:

Name:	Organization:
David Strull MD	Carson Tahoe Emergency Physicians
David Toone	Carson Tahoe Emergency Physicians
Sara Ream	Carson Tahoe emergency physicians
Ryanne Walther	CTEP
Jenny Penrod	Sierra Neurosurgery Group
Stephanie Elmquist	Carson Tahoe Emergency Physicians Group
Jeremy Gonda	Carson Tahoe Emergency Physicians
brett eisenmesser	carson tahoe emergency physicians
Scott Parkhill	Associated Anesthesiologists
Catherine Topor Diaz	CTEP
meg jack	carson tahoe emergency physicians
Howard Baron	PGNA
Donna W. Juell RN MBA CMPE	Premiere Surgical Specialists
Michael Pendleton	Desert Orthopaedic Center
Karen Massey	Northern Nevada Emergency Physicians
Lisa Mead	Reno Orthopaedic Clinic
Steven Sanders	Bone & Joint Specialists
Fred C Redfern, MD	Fred C Redfern, MD

## Q13. Small-Business Impact Questionnaire: Nevada Administrative Code for Arbitration-Related Issues

The Nevada Department of Health and Human Services is putting forth proposed changes to Nevada Administrative Code Ch. 439B as a result of [AB 469 from the 80th session of the Nevada Legislature](#). A Small Business Impact Survey was completed in December 2019 based on Proposed Regulations LCB file No. R101-19 Revised 12-9-19. Since December 2019 further revisions were made and submitted to LCB for review. Due to these revisions and receipt of the LCB Revised Proposed Regulation LCB File No. R101-19 September 9, 2021 another Small Business Impact Survey is requested.

The following questions pertain to how the changes in the Nevada Administrative Code presented in the proposed changes will affect your business. These revised proposed regulations provide a process for Sec. 17, submission, contents and review of requests for arbitration for claims of less than \$5,000 for medically necessary emergency services, list of arbitrators and information requested by the arbitrator. The draft regulations also include requests for arbitration for claims of \$5,000 or more for medically necessary emergency services. Regulations for Sec. 18.1 include the process for third party election to participate in AB 469. Sec. 19. 2. (a) (b) regulations cover additional reporting for third parties.

If it is determined that the proposed regulation is likely to impose a direct and significant economic burden upon a small business, or directly restrict the formation, operation or expansion of a small business, then the agency will take any or all of the following actions:

1. Insofar as practicable, consult with owners and officers of affected small businesses,
2. Consider methods to reduce the impact of the proposed regulation, and
3. Prepare a small business impact statement and make copies of the statement available to the public at the workshop conducted and the public hearing held pursuant to NRS 233B.061.

[To review the proposed regulations, visit the Office for Consumer Health Assistance website and click "NEW! Draft of Proposed Regulation R101-19 \(Rev. 9/9/2021\)."](#)

You also can call the Office for Consumer Health Assistance at (702) 486-3587.

Please answer each of the questions that apply and add any qualifying remarks that may help us to understand your position. *We request your response on or prior to Oct. 15, 2021.*

Q2. Please provide the following information:

Name:

David Strull MD

Organization:

Carson-Tahoe Emergency Physicians

Q3. [NRS 233B.0382 "Small Business defined."](#) "Small business" means a business conducted for profit, which employs fewer than 150 full-time or part-time employees.

Q4. 1. How many employees are currently employed by your business?

151 or more

Q5. 2. Will a specific regulation have an adverse economic effect upon your business?

Yes

No

Q6. Please list each regulation and explain the impact.

The entire arbitration process has had an adverse economic impact on our business. We are unable to clearly identify ERISA plans that are not covered by arbitration until far too late in the billing process. The process is cumbersome and the awards have been clearly slanted towards the insurers. As we continue to soldier on in the front lines of the pandemic it is disheartening to have to deal with this system. It was passed by the legislature in 2019 and is still not functioning well.

Q7. 3. Will the regulation(s) have any beneficial effect upon your business?

Yes

No

Q8. Please explain.

Q9. 4. Do you anticipate any indirect adverse effects upon your business?

Yes

No

Q10. Please explain.

I can't see anything in these regulations that fixes the primary problems with the arbitration system. These include being unable to determine if a patient is covered under AB 469 upfront. A costly and time consuming process. A system that seems slanted towards the insurer (look at the numbers decided in favor of the insurers in 2020)

Q11. 5. Do you anticipate any indirect beneficial effects upon your business?

Yes

No

Q12. Please explain.

### Location Data

**Location:** ([39.150695800781](#), [-119.74589538574](#))

**Source:** GeolIP Estimation





**Q13. Small-Business Impact Questionnaire: Nevada Administrative Code for Arbitration-Related Issues**

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You also can call the Office for Consumer Health Assistance at (702) 486-3587.

Please answer each of the questions that apply and add any qualifying remarks that may help us to understand your position. We request your response on or prior to Oct. 15, 2021.

Pursuant to NRS 233.B.0608 (3), the Administrator of the Aging and Disability Services Division has reviewed this Small Business Impact Study and is certifying that, to the best of her knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in the statement is accurate.



Dena Schmidt  
Administrator, Aging and Disability Services Division

6/29/2022

Date

Q2. Please provide the following information:

Name:

David Strull MD

Organization:

Carson-Tahoe Emergency Physicians