

**PROPOSED REGULATION OF  
THE STATE BOARD OF HEALTH**

**LCB File No. R006-20**

April 16, 2020

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1, 3-5 and 8, NRS 457.065 and 457.240; §2, NRS 439.150, 457.065, 457.240 and 457.250; §6, NRS 457.065 and 457.250; §7, NRS 439.150, 457.065 and 457.260.

A REGULATION relating to cancer; revising provisions relating to certain publications adopted by reference by the State Board of Health related to reporting and analyzing information on cancers and other neoplasms; revising provisions governing the system for reporting information on cancer and other neoplasms by providers of health care, health care facilities and certain other facilities; revising the fees relating to reporting information on cancer and other neoplasms; authorizing the release of certain information to a patient or the legal representative of the patient; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Under existing regulations, the State Board of Health has adopted by reference certain publications related to reporting and analyzing information on cancers and other neoplasms. (NAC 457.015) **Section 1** of this regulation revises the publications that are adopted by reference.

Existing law requires the Chief Medical Officer to establish and maintain a system for the reporting of information on cancer and other neoplasms and requires, with limited exceptions, a provider of health care who diagnoses or provides treatment for cancer or other neoplasms and a hospital, medical laboratory or other facility that provides screening, diagnostic or therapeutic services to patients with respect to cancer and other neoplasms to report information on cases of cancer and other neoplasms to the system. (NRS 457.230) Under existing law, the Board is required to prescribe by regulation the form and manner in which the information on cases of cancer and other neoplasms must be reported. (NRS 457.240) Existing regulations set forth the information that must be reported by a provider of health, health care facility or other facility on cases of cancer and other neoplasms. (NAC 457.052) **Sections 2 and 8** of this regulation require, instead, each provider of health care, health care facility or other facility required to report information concerning cancer and other neoplasms to provide such information in conformance with the standards set forth by Volumes I to V, inclusive, of the *Standards for Cancer Registries* and the *Standards for Oncology Registry Entry* (STORE). **Section 2** also requires the Chief

Medical Officer to charge a fee in the amount of \$15 for every abstract submitted by a provider of health care, health care facility or other facility that requires additional coding to conform with those standards.

Existing regulations set forth the deadlines for each provider of health care who is required to report information on cases of cancer and other neoplasms and each health care facility or other facility that provides screening, diagnostic or therapeutic services to patients with respect to cancer and other neoplasms to submit an abstract of each case to the Chief Medical Officer. (NAC 457.050) **Section 2** of this regulation requires the Division of Public and Behavioral Health of the Department of Health and Human Services to notify in writing each provider of health care, health care facility or other facility that misses an applicable deadline. If a provider of health care, health care facility or other facility fails to submit the abstract within 30 days after the notice is sent, **section 2:** (1) requires the Chief Medical Officer to charge the provider of health care, health care facility or other facility, as applicable, a late fee of \$50; and (2) requires the Division to prepare the abstract from the records of the provider of health care, health care facility or other facility.

Existing regulations require each abstract concerning cancer and other neoplasms tendered to the Chief Medical Officer be submitted electronically and authorize the Chief Medical Officer to waive that requirement if he or she determines that such a waiver is in the best interests of the general public. (NAC 457.050) **Section 2** of this regulation requires each recipient of such a waiver to pay a \$35 fee for each abstract submitted in paper format.

Under existing regulations, the Chief Medical Officer is required to charge an abstracting fee of \$250 for each abstract related to a case of cancer or other neoplasm prepared by the Division from the records of a provider of health care, health care facility or other facility. (NAC 457.150) **Section 2** of this regulation requires instead that the Chief Medical Officer charge an abstracting fee equal to the actual costs incurred by the Division to abstract the information. **Section 7** of this regulation makes a conforming change.

Existing regulations prohibit, with certain exceptions, the Chief Medical Officer or any person employed in the office in which the Chief Medical Officer conducts the program for reporting information on cancer from disclosing: (1) the existence or nonexistence of a record concerning any patient; or (2) other information about a patient. (NAC 457.110, 457.120) **Section 3** of this regulation authorizes the Chief Medical Officer and employees of the office to disclose such information to the patient or, if the patient is deceased, the patient's legal representative. **Section 3** also requires an employee who receives a request for such information from any person to verify the identity of the requester. **Section 4** of this regulation makes a conforming change. **Section 5** of this regulation sets forth the procedures for verifying the identity of a requester for such information.

Existing regulations authorize the Division to impose an administrative penalty of not more than \$5,000 against certain persons and facilities that fail to make available certain records for each case of neoplasm or fail to abstract information that is specified by the State Board of Health. (NAC 457.145) **Section 6** of this regulation instead authorizes the Division to impose an administrative penalty of not more than \$5,000 against a provider of health care, health care

facility or other facility that fails to properly report information related to cancers and other neoplasms.

**Section 1.** NAC 457.015 is hereby amended to read as follows:

457.015 1. The State Board of Health hereby adopts by reference the most current version of:

(a) The following volumes in the *Standards for Cancer Registries* published by the North American Association of Central Cancer Registries:

(1) Volume I, *Data Exchange Standards and Record Descriptions*;

(2) Volume II, *Data Standards and Data Dictionary*;

(3) Volume III, *Standards for Completeness, Quality, Analysis, Management, Security, and Confidentiality of Data*;

(4) Volume IV, *Standard Data EDITS*; and

(5) Volume V, *Pathology Laboratory Electronic Reporting*.

↪ A copy of each volume adopted by reference may be obtained, free of charge, from the North American Association of Central Cancer Registries at the Internet address

<https://www.naaccr.org>.

(b) The *International Classification of Diseases for Oncology*, published by the World Health Organization. A copy of this publication may be obtained, free of charge, from the ~~World~~

~~Health Organization~~ *International Association of Cancer Registries* at the Internet address

~~<http://codes.iarc.fr/usingiedo.php>~~

[http://www.iacr.com.fr/index.php?option=com\\_content&view=category&layout=blog&id=100  
&Itemid=577](http://www.iacr.com.fr/index.php?option=com_content&view=category&layout=blog&id=100&Itemid=577).

(c) The ~~Facility Oncology Registry Data Standards (FORDS)~~, *Standards for Oncology Registry Entry (STORE)*, published by the Commission on Cancer of the American College of

Surgeons. A copy of this publication may be obtained, free of charge, from the American College of Surgeons at the Internet address ~~<https://www.facs.org/quality-programs/cancer/ncdb/registrymanuals/coemanuals>~~ <https://www.facs.org/quality-programs/cancer/ncdb/call-for-data/cocmanuals>.

2. If a publication adopted by reference in subsection 1 is revised, the Chief Medical Officer shall review the revision to determine its suitability for this State. If the Chief Medical Officer determines that the revision is not suitable for this State, the Chief Medical Officer shall file an objection to the revision with the State Board of Health within 30 days after the standards are revised. If the Chief Medical Officer does not file such an objection, the revision becomes part of the publication adopted by reference pursuant to subsection 1. If the Board determines that the revision is not suitable for this State, it will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the Board does not revise its determination, the Board will give notice that the revision is not suitable for this State within 30 days after the hearing. If the Board does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 1.

**Sec. 2.** NAC 457.050 is hereby amended to read as follows:

457.050 1. ~~{Except as otherwise provided in NAC 457.052, each}~~ **Each** provider of health care who is required to report information on cases of cancer and other neoplasms pursuant to NRS 457.230 and each health care facility and other facility that provides screening, diagnostic or therapeutic services to patients with respect to cancer and other neoplasms shall provide to the Chief Medical Officer information concerning such neoplasms by:

(a) Abstracting ~~[, at a minimum, the information described in NAC 457.052 on a form prescribed by the Chief Medical Officer or a designee thereof,]~~ *each neoplasm described in NAC 457.040 in conformance with the standards for abstracting information concerning neoplasms set forth in subsection 3;* and

(b) ~~[Except as otherwise provided in subsection 7, submitting]~~ *Submitting* that information on ~~[a quarterly basis using an electronic means approved by the Chief Medical Officer or the designee.]~~ *or before the applicable deadline set forth in subsection 2.*

2. Each:

(a) Provider of health care described in subsection 1 shall ~~[provide]~~ *submit* the information to the Chief Medical Officer required pursuant to subsection 1:

(1) For any initial diagnosis made or treatment initiated for cancer or other neoplasms in the first quarter of a calendar year, on or before June 30 of the same calendar year;

(2) For any initial diagnosis made or treatment initiated for cancer or other neoplasms in the second quarter of a calendar year, on or before September 30 of the same calendar year;

(3) For any initial diagnosis made or treatment initiated for cancer or other neoplasms in the third quarter of a calendar year, on or before December 30 of the same calendar year; and

(4) For any initial diagnosis made or treatment initiated for cancer or other neoplasms in the fourth quarter of a calendar year, on or before March 30 of the subsequent calendar year; and

(b) Health care facility and other facility ~~[that provides screening, diagnostic or therapeutic services to patients with respect to cancer and other neoplasms]~~ *described in subsection 1* shall provide the information to the Chief Medical Officer required pursuant to subsection 1 within 6 months after a patient is admitted, initially diagnosed with or treated for cancer or another neoplasm.

3. Except as otherwise provided in subsection 4, each provider of health care , *health care facility or other facility* described in subsection 1 ~~and each health care facility and other facility that provides screening, diagnostic or therapeutic services to patients with respect to cancer and other neoplasms~~ shall abstract information in conformance with the standards for abstracting information concerning neoplasms set forth in:

(a) Volumes I to V, inclusive, of the *Standards for Cancer Registries*, as adopted by reference in NAC 457.015; and

(b) The ~~Facility Oncology Registry Data Standards (FORDS)~~ *Standards for Oncology Registry Entry (STORE)*, as adopted by reference in NAC 457.015.

4. Ninety days after a publication specified in subsection 3 is revised, a provider of health care , *health care facility or other facility* described in subsection 1 ~~and a health care facility or other facility that provides screening, diagnostic or therapeutic services to patients with respect to cancer and other neoplasms~~ shall abstract information in conformance with the revision unless the Chief Medical Officer files an objection to the revision pursuant to NAC 457.015.

5. ~~A~~ *The Chief Medical Officer shall charge a* provider of health care , *health care facility or other facility* described in subsection 1 ~~and a health care facility or other facility that provides screening, diagnostic or therapeutic services to patients with respect to cancer and other neoplasms which does not use the staff of the Division to abstract information from its records shall cause to have abstracted and reported to the Division the neoplasms described in NAC 457.040 in the manner required by~~ *a fee in the amount of \$15 for every abstract submitted pursuant to* this section ~~that requires additional coding to satisfy the requirements set forth in subsection 3.~~

6. If a provider of health care , ~~for a~~ health care facility or other facility ~~that provides screening, diagnostic or therapeutic services to patients with respect to cancer and other neoplasms fails to comply with~~ *described in subsection 1 does not submit information to the Chief Medical Officer before the applicable deadline set forth in* subsection ~~5.~~ 2, the Division ~~shall give~~ *must notify* the provider of health care , ~~or the~~ health care facility or other facility ~~that provides screening, diagnostic or therapeutic services to patients with respect to cancer and other neoplasms at least~~ , *as applicable, in writing, and the Chief Medical Officer must charge a late fee of \$50. If the provider of health care, health care facility or other facility does not submit the information to the Chief Medical Officer within* 30 days after the ~~time limit set forth in subsection 2 to comply with subsection 5 before~~ *date on which* the *notice is sent*:

(a) *The* Division ~~abstracts~~ *must abstract the* information from the records of the provider of health care , ~~or the~~ health care facility or other facility ~~that provides screening, diagnostic or therapeutic services to patients with respect to cancer and other neoplasms and~~ , *as applicable. Upon the Division's completion of the abstract, the Chief Medical Officer* ~~charges the fee set forth in NAC 457.150.~~ *must charge the provider of health care, health care facility or other facility, as applicable, an abstracting fee equal to the actual costs incurred by the Division to abstract the information, including, without limitation, travel and personnel costs.*

(b) *The Division may impose an administrative penalty on the provider of health care, health care facility or other facility pursuant to NAC 457.145.*

7. ~~The~~ *Information required to be submitted pursuant to this section must be submitted using the electronic means approved by the* Chief Medical Officer ~~may waive the requirement of submitting the information by electronic means pursuant to subsection 1 if~~ *unless* the Chief Medical Officer determines that ~~such a waiver~~ *waiving such requirement* is in the best

interests of the general public. *A provider of health care, health care facility or other facility that receives such a waiver shall pay a fee of \$35 for each abstract submitted in paper format.*

8. If a provider of health care ~~[described in subsection 1]~~ initially diagnoses a case of cancer or another neoplasm, the provider of health care is required to provide the information ~~[set forth in NAC 457.052]~~ *required pursuant to this section* with regard to the initial diagnosis of cancer or other neoplasm. If the provider of health care does not provide treatment for the cancer or other neoplasm, the provider of health care's responsibility to report information on that case of cancer or other neoplasm pursuant to this section and NRS 457.230 ends.

9. As used in this section, "initial diagnosis" or "initially diagnosed" means that the provider of health care or the health care facility or other facility that provides screening, diagnostic or therapeutic services to patients with respect to cancer and other neoplasms was the first provider of health care or the health care facility or other facility to designate a cancer code in the medical record of the patient and to inform the patient of his or her diagnosis. The term does not include the preparation of a diagnostic tool, including, without limitation, an image, if that diagnostic tool will be interpreted by another provider of health care or another health care facility or other facility that provides screening, diagnostic or therapeutic services to patients with respect to cancer and other neoplasms for the purpose of diagnosing cancer or another neoplasm.

**Sec. 3.** NAC 457.110 is hereby amended to read as follows:

457.110 1. The Chief Medical Officer or person employed in the registry shall not disclose the existence or nonexistence in the registry of a record concerning any patient or disclose other information about the patient except to:

- (a) *The patient or, if the patient is deceased, the patient's legal representative;*
- (b) The provider of health care who treated the patient;

~~[(b)]~~ (c) The health care facility, medical laboratory or other facility that provides screening, diagnostic or therapeutic services to patients with respect to cancer and other neoplasms where the patient was treated;

~~[(e)]~~ (d) A health care facility, medical laboratory or other facility that provides screening, diagnostic or therapeutic services to patients with respect to cancer and other neoplasms or a registry connected with one of those entities which has participated or is participating in treating the patient;

~~[(d)]~~ (e) Other states' cancer registries or federal cancer control organizations with which the Department of Health and Human Services has entered into data sharing agreements which ensure confidentiality; or

~~[(e)]~~ (f) A qualified researcher in cancer.

2. ~~[(If a request for information about a patient is made over the telephone by the provider of health care who treated the patient or by a representative of the health care facility, medical laboratory or other facility that provides screening, diagnostic or therapeutic services to patients with respect to cancer and other neoplasms in which the patient was treated, and the caller is not known to the)]~~ An employee who receives ~~[(the call at the registry, the employee)]~~ *a request for information about a patient pursuant to subsection 1* must verify the identity of the ~~[(caller)]~~ *requester* in the manner described in NAC 457.130.

**Sec. 4.** NAC 457.120 is hereby amended to read as follows:

457.120 ~~[(The)]~~

*1. Except as otherwise provided in subsection 2 and NAC 457.140, the* Chief Medical Officer or person employed in the registry may provide confidential medical information in the registry concerning a patient's medical treatment for cancer ~~[(with any health care facility,~~

~~medical laboratory or other facility that provides screening, diagnostic or therapeutic services to patients with respect to cancer and other neoplasms or registry connected with one of those entities which has participated or is participating in treating that patient's illness}~~ *to a person described in NAC 457.110* if the person seeking the information:

~~1.1~~ (a) Has been identified in the manner described in NAC 457.130;

~~1.2~~ (b) Furnishes the employee of the registry with specific information, other than the patient's name, which is sufficient to identify the patient without using his or her name; and

~~1.3~~ (c) Gives assurances to the employee of the registry that the confidentiality of the information will be maintained to the same extent as is required in NAC 457.010 to 457.150, inclusive.

*2. The provisions of paragraph (c) of subsection 1 do not apply if the requester is the patient or the patient's legal representative.*

Sec. 5. NAC 457.130 is hereby amended to read as follows:

457.130 *1. Except as otherwise provided in subsections 2 and 3, an employee in the registry shall not provide confidential information to a requester pursuant to NAC 457.110, 457.120 or 457.140 unless the requester has submitted to the Division documentation that establishes the requester's identify.*

*2. An employee in the registry shall not provide confidential information to a requester who claims to be a legal representative of a patient unless the requester has submitted to the Division documentation that establishes that the patient is deceased and that the requester is an authorized legal representative of the patient's estate.*

*3. If an employee in the registry receives a request to provide confidential information over the telephone ~~[pursuant to NAC 457.110 or 457.120,]~~ and the employee does not personally*

know the requester, the employee shall verify the identity of the requester by making a telephone call to the telephone number, listed in a directory or given by an operator, for the purported person or facility.

**Sec. 6.** NAC 457.145 is hereby amended to read as follows:

457.145 1. ~~{Before imposing an administrative penalty pursuant to this section, the Division shall give notice in the manner set forth in NAC 439.345 which includes, without limitation, a time determined by the Chief Medical Officer within which the person must correct the violation of NRS 457.250. The Division may, for good cause shown, extend the time within which the person must correct the violation.~~

~~—2.~~ If a ~~{person}~~ *provider of health care, health care facility or other facility described in subsection 1 of NAC 457.050* fails to correct an alleged violation of ~~{NRS 457.250 for which a notice of violation has been issued pursuant to subsection 1}~~ *NAC 457.050* within the time allowed for correction, the Division may impose an administrative penalty of not more than \$5,000 against the person.

~~{3.}~~ 2. If a ~~{person}~~ *provider of health care, health care facility or other facility described in subsection 1 of NAC 457.050* is aggrieved by a decision of the Division relating to the imposition of an administrative penalty pursuant to this section, the aggrieved person may appeal the decision pursuant to the procedures set forth in NAC 439.300 to 439.395, inclusive.

~~{4.}~~ 3. A company that owns and operates multiple health care facilities may satisfy the ~~{requirement}~~ *requirements* set forth in ~~{subsection 1 of NRS 457.250}~~ *NAC 457.050* for all such health care facilities in one report without segregating by health care facility, or by provider of health care, the records subject to reporting.

~~4.1~~ 4. If a company chooses to make the records subject to reporting available to the Chief Medical Officer or the Chief Medical Officer's representative for multiple health care facilities owned or operated by the company in the manner described in subsection ~~4.1~~ 3, any administrative penalty imposed by the Board pursuant to this section for the failure of any health care facility owned or operated by the company to comply with ~~subsection 1 of NRS 457.250~~ **NAC 457.050** will be imposed upon the company rather than the health care facility.

**Sec. 7.** NAC 457.150 is hereby amended to read as follows:

457.150 The Chief Medical Officer shall charge and collect from ~~f~~:

~~1.—A provider of health care who is required to report information on cases of cancer and other neoplasms pursuant to NRS 457.230 or a health care facility or other facility that provides screening, diagnostic or therapeutic services to patients with respect to cancer and other neoplasms, a fee of \$250 for each abstract prepared by the Division from the records of the provider of health care or the health care facility or other facility.~~

~~—2.—~~ **A** medical researcher who obtains data from the registry, a fee of \$200 or the actual cost of providing the data, whichever is more.

**Sec. 8.** NAC 457.052 is hereby repealed.

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**TEXT OF REPEALED SECTION**

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**457.052 Reporting of information by provider of health care, health care facility and certain other facilities: Required contents; request for variance from requirement. (NRS 457.065, 457.240)**

1. A provider of health care who is required to report information on cases of cancer and other neoplasms pursuant to NRS 457.230 and each health care facility and other facility that provides screening, diagnostic or therapeutic services to patients with respect to cancer and other neoplasms must include, without limitation, the following information on the form provided to the Chief Medical Officer pursuant to NAC 457.050:

(a) The name, address, date of birth, gender and race or ethnicity of the patient, and, if available, the social security number of the patient and the name of the primary payer from which the provider of health care or the health care facility or other facility that provides screening, diagnostic or therapeutic services to patients with respect to cancer and neoplasms may receive payment for the services to the patient;

(b) Except as otherwise provided in subsection 2, the name, address and National Provider Identifier (NPI) number of the provider of health care or health care facility or other facility that provides screening, diagnostic or therapeutic services to patients with respect to cancer and neoplasms that is making the report;

(c) The date and final diagnosis of the patient;

(d) The anatomical site of the lesion; and

(e) The date of the last contact with the patient and the vital status of the patient at the time of the last contact.

2. If a company provides information for multiple health care facilities owned or operated by the company pursuant to subsection 4 of NAC 457.145, the only address that is required to be included is the address of the company providing the information.

3. A provider of health care and a health care facility and other facility that provides screening, diagnostic or therapeutic services to patients with respect to cancer and other neoplasms that is required pursuant to NAC 457.050 to provide the information set forth in subsection 1 and is unable to do so may request a variance from that requirement pursuant to NAC 439.200 to 439.280, inclusive, except that a variance is not necessary if the information required to be abstracted:

(a) Is not made available by the patient; or

(b) Is not readily obtainable, as determined by the Division, by the provider of health care or the health care facility or other facility that provides screening, diagnostic or therapeutic services to patients with respect to cancer and other neoplasms.

4. To the extent that information concerning which a variance could be requested is the subject of a notice of violation pursuant to NAC 457.145, a health care facility, or as applicable, a company that owns or operates multiple health care facilities, may defer making a request for a variance until the time allowed for correcting the violation expires, including any extension of time to correct the violation issued by the Division.