



DIVISION OF PUBLIC & BEHAVIORAL HEALTH

BUREAU OF BEHAVIORAL HEALTH WELLNESS AND PREVENTION

LCB File No. R012-20

Informational Statement per NRS 233B.066

1. A clear and concise explanation of the need for the adopted regulation;

These regulations were created and adopted as a result of the passage of AB85 during the 80th Session of the Nevada Legislature. The legislation requires the Board of Health to adopt regulation concerning the care and treatment of individuals alleged to be in a mental health crisis and other related matters. The necessary supplements include the establishment of a procedure for determining whether to involuntarily administer psychotropic medication to a patient at a public or private mental health facility. This amendment has been developed by the Division in consultation with providers and stakeholders from around the state to bring NAC 433A into compliance with the legislation passed in 2019 and are meant to improve the way we care for those in mental health crisis.

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 comment and feedback was solicited from the community and stakeholders during a public workshop which was held on February 6, 2020. Concern was expressed by Jessica Murphy, Chief Deputy Public Defender, Clark County Public Defender's Office (jmurphy@clarkcounty.nv.gov), over the use of the procedure outlined in these regulations in lieu of court hearings for the involuntary administration of medication. The Division consulted with the Attorney General's office on this issue and the procedure in this regulation is consistent with procedures upheld by the United States Supreme Court.

Public comment was also solicited at the public hearing of the Board of Health, held on June 5, 2020. Due to Section 37 of the Governor's Directive 21, the Board of Health meeting on June 5th was conducted by phone conference without a physical location for attendees. All members of the public had the opportunity to join and provide testimony. No one testified, verbally or in written form, in support or against the proposed regulation.

Anyone interested in obtaining further information can contact the Bureau of behavioral Health Wellness and prevention at 4126 Technology Way Suite 200, Carson City, NV 89706.

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 workshop which was held on February 6, 2020. At that workshop, twenty-six individuals signed in both in Carson City and Las Vegas. Please see the attached sign in sheets.

A public hearing was held on June 5, 2020. At that hearing, twenty-five people called in and made their presence known. That number includes the members of the Board of Health, staff of the Division of Public and Behavioral Health, as well as members of the public. As there were other items on the agenda, it is possible that not all those that signed in were in attendance for LCB File No R011-20. No one testified in support of or against the proposed regulation or provided written statements during the hearing. The names of the attendees are; Jon Pennell, DVM, Jeffrey Murawsky, M.D., Monica Ponce, DDS, Judith Bittner, Charles Smith, Dipti Shah, M.D., Joseph Filippi, Executive Assistant; Rex Gifford, Administrative Assistant III; Lisa Sherych, Administrator DPBH; Dr. Ihsan Azzam, State of Nevada Chief Medical Officer; Stephen Wood, Health and Human Services Specialist; Dr. Leon Ravin, Statewide Psychiatric Medical Director; Dawn Yohey, Clinical Program Planner; Joseph Tucker, Manager Primary Care Office; Latisha Brown, Childcare Facilities Surveyor Manager; Paul Shubert, Chief, Bureau of Health Care Quality and Compliance; Jesse Wellman, Biostatistician, Linda Anderson, Deputy Attorney General; Julie Slabaugh, Deputy Attorney General; Dr. Fermin Leguen, SNHD County Health Officer; Dr. Sharon Knafo, School Head, Shenker Academy; Steve Messinger, Policy Director Nevada Primary Care Association; Chris Schneider, Mountain View Lutheran; Diane Nicolette, TMCC E.L. Cord Childcare Foundation Center; Hailey Hammel, Washoe County Child Advisory Board.

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.

Pursuant to NRS 233B.0608 (2) (a), The Division of Public and Behavioral solicited comments as well as distributed draft copies of the regulation via email and the Bureau of Behavioral Health Wellness and Prevention listserv to behavioral health providers across the state. No response was received by the Division. Anyone interested in obtaining further information can contact the Bureau of Behavioral Health Wellness and prevention at 4126 Technology Way Suite 200, Carson City, NV 89706.

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.

During the public workshop held on February 6, 2020, public comment was received the use of the procedure outlined in these regulations in lieu of court hearings for the involuntary administration of medication. The Division consulted with the Attorney General's office on this issue and the procedure in this regulation is consistent with procedures upheld by the United States Supreme Court. For this reason, the Division did not propose a change based on the stated concern. No other comment from regulated businesses or the public was received.

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.

Anticipated effect on regulated businesses:

- Adverse effect: There is no anticipated adverse effect on businesses.
- Beneficial effect: With the adoption of this regulation, mental health facilities will be able to appropriately treat patients in mental health crisis with an internal procedure that ensures due process for the patient.
- Immediate effect: The regulated mental health facilities will have to establish the internal procedure for the involuntary administration of psychotropic medication.
- Long-term effect: Mental health facilities will have an established, internal, procedure to follow, ensuring due process for the patient, when a practitioner requests the involuntary administration of psychotropic medication.

Anticipated effect on the public:

- Adverse effect: there is no anticipated adverse effect on the public.
- Beneficial effect: Members of the public, should their treating practitioner request the involuntary administration of medication for them, will have access to an internal procedure at the mental health facility that ensures their right to due process as well as what their treating practitioner feels is best for their condition.
- Immediate effect: Mental health facilities will be required to implement said procedure, benefiting members of the public who are patients at those facilities.
- Long-term effect: Same as the immediate effect.

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

There is no estimated cost to the agency for enforcement of the proposed regulation.

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.

This regulation does not overlap with the regulations of any state or federal agency.

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 applicable federal regulations.

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.

This regulation does not create a new fee nor does it increase an existing fee.