

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

LCB File No. R117-21

December 9, 2021

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

AUTHORITY: §§ 1 and 2, NRS 439.200 and 441A.120.

A REGULATION relating to vaccinations; requiring certain employees and contractors of the State Government to be vaccinated for COVID-19; establishing certain exceptions; prohibiting requests for a variance from such requirements; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the State Board of Health to adopt regulations governing the control of communicable diseases in this State, including regulations specifically relating to the control of such diseases in medical and correctional institutions. (NRS 441A.120) **Section 2** of this regulation requires employees and certain contractors of the State Government who are required to enter into an institution for vulnerable populations as part of the regular scope of their employment or as part of their regular duties under the contract to be fully vaccinated for COVID-19 in accordance with the most current recommendations of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, with certain exceptions. Specifically, **section 2**: (1) establishes a grace period of 60 days after the issuance of new recommendations by the Centers for Disease Control and Prevention during which such an employee or contractor of the State Government who is fully vaccinated in accordance with the previous recommendations may continue his or her employment or service under the contract without being fully vaccinated in accordance with the new recommendations; and (2) authorizes an employee or contractor of the State Government who is new to his or her position and is not fully vaccinated for COVID-19 to enter into such an institution if he or she has received his or her first dose of a vaccine for COVID-19. **Section 2** requires such an employee or contractor to continue to receive doses of vaccine until he or she is fully vaccinated in order to maintain his or her employment or continue to serve under the contract, as applicable. **Section 2** also authorizes an exception to the vaccination requirement where a reasonable accommodation is granted pursuant to federal or state law.

Existing regulations authorize certain persons to apply for a variance from a regulation of the State Board of Health. (NAC 439.200-439.280) **Sections 1 and 2** of this regulation provide that any employee or contractor of the State Government who is required by **section 2** to be vaccinated for COVID-19 is ineligible to request a variance from a regulation of the Board relating to that requirement.

Section 1. NAC 439.200 is hereby amended to read as follows:

439.200 1. ~~[Any]~~ *Except as otherwise provided in section 2 of this regulation, any person who, because of unique circumstances, is unduly burdened by a regulation of the State Board of Health and thereby suffers a hardship and the abridgment of a substantial property right may apply for a variance from the regulation.*

2. *An application for such a variance must be made to the State Board of Health unless the regulation is enforced by a district board of health, in which case the application must be made to the appropriate district board.*

Sec. 2. Chapter 441A of NAC is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2 or 3 or where a reasonable accommodation is granted pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., or any other federal or state law:

(a) An employee of the State Government who is required to enter into an institution for vulnerable populations as part of the regular scope of his or her employment must be fully vaccinated for COVID-19 in accordance with the most current recommendations of the Centers for Disease Control and Prevention.

(b) A contractor of the State Government who is required to enter into an institution for vulnerable populations as part of his or her regular duties under the contract and who has direct exposure to persons served by the institution or more than de minimis exposure to employees of the State Government must be fully vaccinated for COVID-19 in accordance with the most current recommendations of the Centers for Disease Control and Prevention.

2. If the Centers for Disease Control and Prevention issues new recommendations concerning full vaccination for COVID-19, an employee or contractor of the State Government described in paragraph (a) or (b) of subsection 1 who is fully vaccinated for COVID-19 in accordance with the most recent previous recommendations of the Centers for Disease Control and Prevention may continue his or her employment or service under the contract for not more than 60 days after the issuance of the new recommendations without being fully vaccinated for COVID-19 in accordance with the new recommendations.

3. An employee or contractor of the State Government who is beginning service in a position described in paragraph (a) or (b) of subsection 1 and who is not in compliance with subsection 1 may begin his or her employment or service under the contract if he or she has received his or her first dose of a vaccine for COVID-19. In order to maintain his or her employment or service as a contractor, as applicable, the employee or contractor must continue to receive doses of vaccine for COVID-19 in accordance with the most current recommendations of the Centers for Disease Control and Prevention until he or she is fully vaccinated for COVID-19 in accordance with those recommendations.

4. An employee or contractor of the State Government who is subject to the requirements of subsection 1 or 3 shall submit to the personnel unit of the agency of State Government responsible for the employment or contract, as applicable, proof of vaccination in accordance with those requirements.

5. Any person or entity who is subject to the provisions of this section is not eligible to request a variance pursuant to NAC 439.200 to 439.280, inclusive.

6. As used in this section:

(a) “Centers for Disease Control and Prevention” means the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

(b) “Contractor” means a person who is not an employee of the State Government but regularly performs work for the State Government pursuant to a contract.

(c) “Institution for vulnerable persons” means:

(1) Caliente Youth Center;

(2) Desert Regional Center;

(3) Desert Willow Treatment Center;

(4) Dini-Townsend Hospital;

(5) Lake’s Crossing Center;

(6) Nevada Youth Training Center;

(7) Psychiatric Residential Treatment Facility (PRTF) – Enterprise;

(8) Psychiatric Residential Treatment Facility (PRTF) – North;

(9) Psychiatric Residential Treatment Facility (PRTF) – Oasis;

(10) Rawson Neal Psychiatric Hospital;

(11) Stein Hospital;

(12) Summit View Youth Center; and

(13) Any facility of the Department of Corrections.