

Steve Sisolak  
Governor



Richard Whitley, MS  
Director

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION OF HEALTH CARE FINANCING AND POLICY

*Helping people. It's who we are and what we do.*



Suzanne Bierman,  
JD MPH  
Administrator

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### **NOTICE OF PUBLIC WORKSHOP**

NOTICE IS HEREBY GIVEN that the Division of Health Care Financing and Policy will hold a public workshop to consider amendments to Nevada Administrative Code (NAC), Chapter 439A – Planning for the Provision of Health Care, as set forth through LCB File No. R060-22RP1.

This public workshop is being conducted as a corrective action. Two public workshops were previously conducted on May 26, 2022 and September 22, 2022, but were not compliant with the public notice requirements of posting the notice within 15 days of the workshop.

The workshop will be conducted by video conference and telephone beginning at 1:00 pm to 2:00 pm on December 7, 2022.

Microsoft TEAMS

[Click here to join the meeting](#)

Or you can join via the following web address:

<https://tinyurl.com/bdnhvxpc>

Audio Only: (775) 321-6111

Conference ID: 689919290#

These workshops will be conducted in accordance with NRS 241.020 Nevada's Open Meeting Law.

#### **AGENDA**

1. Introduction of workshop process
2. **Corrective Action:** A Public Workshop on LCB File No. R060-22I was held on May 26, 2022, as well as LCB File No. R060-22RP1 on September 22, 2022; however Notice was not posted in accordance with NRS 233B.061. To correct the deficient notice, the present Public Workshop is presented. Notice has been provided in accordance with NRS 233B.061.
3. Presentation proposed amendments to NAC 439A (R060-22RP1), including summary of comments provided on May 26, 2022 and September 22, 2022.
  - a. Public Comment on R060-22RP1.
4. General Public Comment: Public testimony may be provided regarding any issue over which the Primary Care Office or Division of Health Care Quality and Control has jurisdiction.
5. Adjournment

## Overview of Proposed Changes

The proposed regulation will revise Chapter 439A (R060-22RP1) of the NAC and are being proposed in accordance with Senate Bill (SB) 379 of the 2021 81<sup>st</sup> Legislative Session. The proposed regulation provides provisions for the following:

1. Certain data elements are required under SB 379, Section 5, to meet requirements for Health Professional Shortage Area (HPSA) designations through the federal Health Resources Services Administration which supports recruitment and retention of health care professionals in Nevada.
2. The proposed regulation in NAC 439A adds additional data elements to the required database under SB 379, Section 5 (m). These additional data elements under SB 379 are also needed for HPSA designation that supports federal and state resources for recruitment and retention of health care providers.
3. SB 379 specifies requirements for affected health authorities and applicants for renewal of license or certificate. This proposed regulation will not create any additional requirements.
4. To collect these data elements, SB 379 requires the Department of Health and Human Services to develop data requests and make them electronically available to certain health professional licensing boards, which shall provide links to their respective applicants. Health care professionals renewing their licenses are encouraged, but not required, to complete the data request as part of the renewal process.
5. Applicants are not subject to disciplinary action, including, without limitation, refusal to issue the biennial registration or renew the license, for refusal or failure to complete a data request.
6. There are no fees associated with this proposed regulation.

Members of the public may make oral comments at this meeting. Persons wishing to submit written testimony or documentary evidence may submit the material to the Primary Care Office at [nvpco@health.nv.gov](mailto:nvpco@health.nv.gov) or at the following address no later than December 7, 2022:

Division of Health Care and Finance and Policy  
Medical Programs Unit / Primary Care Office  
1100 East William Street, Suite 101  
Carson City, NV 89701

Members of the public who require special accommodations or assistance at the workshops are required to notify the Primary Care Office in writing to the above address, email address, or by calling (775) 350-0786 at least five (5) working days prior to the date of the public workshop.

You may contact Erin Lynch by calling (775) 350-0786 for further information on the proposed regulation or how to obtain copies of the supporting documents.

A copy of the notice and the proposed regulation are on file for inspection and/or may be copied at the following locations during normal business hours:

Division of Health Care Financing and Policy  
1100 E. William St., Suite 101  
Carson City, NV 89701

Division of Health Care Financing and Policy  
Las Vegas District Office  
1210 S. Valley View, Suite 104  
Las Vegas, NV 89102

Division of Health Care Financing and Policy  
Elko District Office  
1010 Ruby Vista Drive, Suite 103  
Elko, NV 89801

Division of Health Care Financing and Policy  
Reno District Office  
745 W. Moana Lane, Suite 200  
Reno, NV 89509

Department of Health and Human Services  
400 West King Street, Suite 300  
Carson City, NV 89703

Nevada State Library and Archives  
100 Stewart Street  
Carson City, NV 89701

A copy of the proposed regulation and small business impact statement can be found on the Division of Health Care Financing and Policy webpage: <https://dhcftp.nv.gov/Public/Home/>. See section “NAC 439A Draft Regulations for SB 379.” Also posted at the Division of Public and Behavioral Health, Primary Care Office webpage, [https://dpbh.nv.gov/Programs/PCO/PCO\\_Program\\_Public\\_Hearings\\_Workshops/](https://dpbh.nv.gov/Programs/PCO/PCO_Program_Public_Hearings_Workshops/).

A copy of the public notice can also be found at the following public notice webpages:

<https://www.leg.state.nv.us/App/Notice/A/>

<http://notice.nv.gov>

<https://dhcftp.nv.gov/Public/AdminSupport/PublicNotices/>

[https://dpbh.nv.gov/Programs/PCO/PCO\\_Program\\_Public\\_Hearings\\_Workshops/](https://dpbh.nv.gov/Programs/PCO/PCO_Program_Public_Hearings_Workshops/)

A copy of this notice has been posted at the following locations:

1. Division of Health Care Financing and Policy, 1100 East William Street, Suite 101, Carson City
2. Division of Health Care Financing and Policy, 1010 Ruby Vista Drive, Suite 103, Elko
3. Division of Health Care Financing and Policy, 1210 S. Valley View, Suite 104, Las Vegas
4. Division of Health Care Financing and Policy, 745 W. Moana Lane, Suite 200, Reno
5. Department of Health and Human Services, 400 West King Street, Suite 300, Carson City
6. Legislative Building, 401 S. Carson St. Carson City
7. Grant Sawyer Building, 555 E. Washington Ave, Las Vegas
8. Nevada State Library and Archives, 100 Stewart St., Carson City

Copies may be obtained in person, by mail, or by calling the Division of Health Care Financing and Policy at (775) 684-3676 (Carson City) or (702) 668-4280 (Las Vegas).

Per NRS 233B.064(2), upon adoption of any regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

**REVISED PROPOSED REGULATION OF THE  
DIRECTOR OF THE DEPARTMENT OF  
HEALTH AND HUMAN SERVICES**

**LCB File No. R060-22**

August 29, 2022

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

AUTHORITY: § 1, NRS 439A.116 and 439A.122.

A REGULATION relating to health care; requiring the inclusion of certain information in the database of information collected from providers of health care; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law requires the Director of the Department of Health and Human Services to create and maintain a database of information collected from applicants for the renewal of a license, certificate or registration as a provider of health care. Existing law prescribes the information that must be included in the database and authorizes the Director to adopt regulations prescribing additional information to be included. (NRS 439A.116) This regulation prescribes information, in addition to the information prescribed by existing law, that must be included in the database.

**Section 1.** Chapter 439A of NAC is hereby amended by adding thereto a new section to read as follows:

*In addition to the information prescribed in subsection 1 of NRS 439A.116, the database established pursuant to that section must include, for each applicant for the renewal of a license, certificate or registration as a provider of health care from whom information is collected:*

- 1. The percentage of patients of the provider who are covered by Medicaid;*
- 2. The percentage of patients of the provider who use a sliding fee scale;*

3. *The percentage of patients who are:*
  - (a) *Homeless;*
  - (b) *American Indian or Alaska Native;*
  - (c) *Migrant agricultural workers, as defined in 29 C.F.R. § 500.20; or*
  - (d) *Seasonal agricultural workers, as defined in 29 C.F.R. § 500.20;*
4. *Whether the provider is accepting new patients;*
5. *The average number of patients the provider sees per week;*
6. *The average number of outpatient visits made to the provider per year;*
7. *The average wait time in days for routine or non-urgent appointments with the provider;*
8. *The average wait time in minutes for a patient once the patient arrives in the office of the provider;*
9. *If the provider is a physician, whether the provider is:*
  - (a) *A member of the National Health Service Corps;*
  - (b) *A holder of a J-1 visa waiver, as defined in NRS 439A.155;*
  - (c) *A holder of an H-1B visa;*
  - (d) *A holder of a locum tenens license issued by the Board of Medical Examiners or a temporary license issued by the State Board of Osteopathic Medicine;*
  - (e) *A hospitalist;*
  - (f) *A resident physician;*
  - (g) *An intern;*
  - (h) *An employee of the Federal Government;*
  - (i) *A recipient of student loan repayment from the State Government;*

*(j) A holder of a restricted license; or*

*(k) An instructor; and*

*10. If the provider is a dentist, the number of dental auxiliaries who work with the provider, which may include, without limitation, receptionists, dental assistants, dental hygienists and dental therapists.*

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### SMALL BUSINESS IMPACT STATEMENT 2022

#### PROPOSED AMENDMENTS TO NAC 439A

The Division of Health Care Financing and Policy (DHCFP) has determined that the proposed regulation should not have any adverse effect upon a small business or negatively impact the formation, operation or expansion of a small business in Nevada.

A small business is defined in Nevada Revised Statutes NRS 233B as a "business conducted for profit which employs fewer than 150 full-time or part-time employees."

This small business impact statement is made pursuant to NRS 233B.0608 (3) and complies with the requirements of NRS 233B.0609. As required by NRS 233B.0608(3), this statement identifies the methods used by the agency in determining the impact of the proposed regulation on a small business in sections 1, 2, 3, and 4 below and provides the reasons for the conclusions of the agency in section 8 below followed by the certification by the person responsible for the agency.

#### **Background**

The proposed regulation will revise Chapter 439A of the NAC and are being proposed in accordance with Senate Bill (SB) 379 of the 2021 81<sup>st</sup> Legislative Session. The proposed regulation provides provisions for the following:

- 1) Certain data elements are required under SB 379, Section 5, to meet requirements for Health Professional Shortage Area (HPSA) designations through the federal Health Resources Services Administration which supports recruitment and retention of health care professionals in Nevada.
- 2) The proposed regulation in NAC 439A adds additional data elements to the required database under SB 379, Section 5 (m). These additional data elements under SB 379 are also needed for HPSA designation that supports federal and state resources for recruitment and retention of health care providers.
- 3) SB 379 specifies requirements for affected health authorities and applicants for renewal of license or certificate. This proposed regulation will not create any additional requirements.
- 4) To collect these data elements, SB 379 requires the Department of Health and Human Services to develop data requests and make them electronically available to certain health professional licensing boards, which shall provide links to their respective applicants. Health care professionals renewing their licenses are encouraged, but not required, to complete the data request as part of the renewal process.
- 5) Applicants are not subject to disciplinary action, including, without limitation, refusal to issue the biennial registration or renew the license, for refusal or failure to complete a data request.
- 6) There are no fees associated with this proposed regulation.

The proposed regulation in NAC 439A will provide for:

- Additional questions for the data request allowed by Senate Bill (SB) 379, Section 5 (m) of the 81<sup>st</sup> Legislative Session, to support the health professional shortage area designation to leverage federal resources for recruitment and retention of health professionals.
- These questions will be added to the data request developed by DHCFP with the link provided to health care professional licensing boards for access through licensure renewal.
- Health care professionals renewing their licenses are encouraged, but not required, to complete the data request as part of the renewal process.

**1) A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

Pursuant to NRS 233B.0608 (2)(a), the DHCFP has requested input from small businesses, health care licensees, and stakeholders that are likely to be affected by the proposed regulation.

A Small Business Impact Questionnaire was sent to approximately eight licensing boards, four health professional associations, four managed care organizations, and thousands of enrolled Nevada Medicaid providers, along with a copy of the proposed regulation changes on May 4, 2022. The questions on the questionnaire 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?

**Summary of Responses**

<b>Summary Of Comments Received (69 responses were received out of unknown* small business impact questionnaires distributed)</b>			
<b>Will a specific regulation have an adverse economic effect upon your business?</b>	<b>Will the regulation (s) have any beneficial effect upon your business?</b>	<b>Do you anticipate any indirect adverse effects upon your business?</b>	<b>Do you anticipate any indirect beneficial effects upon your business?</b>
Yes - 27 No - 36 Unknown - 6	Yes - 0 No - 60 Unknown - 9	Yes - 24 No - 38 Unknown - 7	Yes - 3 No - 58 Unknown - 8

<b>Number of Respondents out of Unknown*</b>	<b>Adverse economic effect?</b>	<b>Beneficial effect?</b>	<b>Indirect adverse effects?</b>	<b>Indirect beneficial effects?</b>
69	27	0	24	3

\*Estimated several thousand Nevada health care licensees received the questionnaire via licensing boards, professional associations, Medicaid listserv, Medicaid web announcement, and Managed Care Organizations.



**2) Describe the manner in which the analysis was conducted.**

The DHCFP prepared and distributed a Small Business Impact Questionnaire to eight health professional licensing boards, four health professional associations, five Managed Care Associations, and thousands of enrolled Nevada Medicaid providers. A Public Workshop will be held on May 26, 2022 to allow for further input by the public and regulated community regarding the proposed regulation and how it will impact Small Businesses. Any comments will be taken into consideration for possible revisions to the regulation to reduce any impact.

**3) The estimated economic effect of the proposed regulation on the small business which it is to regulate including, without limitation both adverse and beneficial effects and both direct and indirect effects.**

There is no estimated economic effect of the proposed regulation on small business.

**4) Provide a description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.**

The proposed regulation to add questions to the data request under SB 379 should not present a significant impact on small businesses because they are not required to complete the data request. The DHCFP will develop the data request and provide a link to health professional licensing boards, as required under SB 379. In addition, input and comments from small businesses, health care licensees, and stakeholders regarding the proposed regulation, including the economic impact the proposed regulation may have, will be taken into consideration for possible further revisions to the regulation to reduce any possible impact.

Feedback from the Small Business Impact Questionnaire reflected concerns from many respondents regarding the cost of tracking the data needed to answer these questions. The DHCFP will post a Question and Answer document, with notice to respondents and stakeholders, to provide clarification that there is no penalty for declining to complete the data request. In addition, for the purposes of the Health Professional Shortage Area designations, the federal administrative authority – Health Resources Services Administration – allows respondents to estimate these numbers and percentages. Consequently, data systems are not required for the providers to respond to the data request if they choose to do so.

A small number of respondents expressed privacy concerns regarding information about their businesses or their patients. In accordance with SB 379, data will only be published in aggregate form. No identifying information of businesses or clients will be published. All data will be secured on the Medicaid database.

**5) The estimated cost to the agency for enforcement of the proposed regulation.**

There is minimal cost to the agency for enforcement of the proposed regulation.

**6) If the proposed regulation provides a new fee or increases an existing fee, the total annual amount DPBH expects to collect and the manner in which the money will be used.**

This proposed regulation does not include a new fee or increase of an existing fee.

**7) An explanation of why any duplicative or more stringent provisions than federal, state or local standards regulating the same activity are necessary.**

The questions proposed for addition are part of the Health Professional Shortage Area designation process required to access federal resources for recruitment and retention of health professionals, and are allowed under SB 379, Section 5, Subsection (m), *Any other information prescribed by regulation of the Director.*

**8) Provide a summary of the reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.**

The DHCFP concludes the proposed regulation will produce a limited impact on small businesses. The impacted licensing boards are required to post a link for the data request that will reside on the DHCFP website, regardless of the proposed additional questions. The impacted health professionals are encouraged, but not required, to complete the data request upon renewal of licensure.

Although many respondents to the small business impact questionnaire identified labor and electronic health record system costs to track data to answer these questions, any potential costs will be minimized because there is no penalty for not completing the data request. Further, as noted above, estimates are allowable by the federal authority for Health Professional Shortage Area designations.

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to:

Division of Health Care Financing and Policy  
Medical Programs Unit / Primary Care Office  
1100 E. William Street, Suite 101  
Carson City, NV 89701  
Tarryn Emmerich-Choi  
Phone: (775) 684-2204  
Email: [temmerichchoi@dhefp.nv.gov](mailto:temmerichchoi@dhefp.nv.gov)

**Certification by Person Responsible for the Agency**

I, Suzanne Bierman, Administrator of the Division of Health Care Financing and Policy certify to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and the information contained in this statement was prepared properly and is accurate.

Suzanne Bierman

Signature: [Suzanne Bierman \(May 11, 2022 11:55 PDT\)](#)

05/11/2022

Date: \_\_\_\_\_