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DIVISION OF PUBLIC AND BEHAVIORAL HEALTH

BUREAU OF HEALTH CARE QUALITY AND COMPLIANCE

LCB FILE NO. R043-22

INFORMATIONAL STATEMENT PER NRS 233B.066

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

During the inception of these modifications to the administrative code regarding residential facilities for groups, which began circa 2019, the Division met with stakeholders including licensed facility operators, the Alzheimer's Association, the Task Force for Alzheimer's Disease, Medicaid and other interested parties as a group as well as separately to discuss current requirements, current facility practices. The purpose of the proposed regulations is to implement revisions that would both support the latest requirements for ensuring a resident's expression of self-determination, yet also establish acceptable levels of mitigated risk as well as establish a standardized method for application and approval of required medication management training.

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;

The Division of Public and Behavioral Health, Bureau of Health Care Quality and Compliance held a virtual Public Workshop on December 6, 2022, to consider proposed regulations LCB File No. R043-22 and 18 callers attended the public workshop excluding Division of Public and Behavioral Health staff. There was public comment from one caller proposing changes and indicating support of the written statement submitted. There were two written statements that were submitted for the public workshop held on December 6, 2023. Proposed changes were addressed in the errata.

Any persons interested may obtain a copy of the meeting summary from the Public Workshop may e-mail, call, or mail in a request to Tina Leopard, Health Facilities Inspection Manager at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health
Bureau of Health Care Quality and Compliance
4220 South Maryland Parkway, Building A, Suite 100
Las Vegas, NV 89119
Tina Leopard
Phone: 702-486-6515
Email: tleopard@health.nv.gov

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 was held on December 6, 2023, and 18 callers attended the public workshop excluding Division of Public and Behavioral Health staff. There was public comment from one caller proposing changes and indicating support of the written statement submitted by Wendy Simons.

- (1) Jeanne Bishop-Parise

There were two written statements that were submitted for the public workshop held on December 6, 2023, proposing changes which were addressed in the errata.

- (1) Wendy Simons
1530 Pass Drive
Reno, Nevada, 89505
775-771-1188
- (2) Brett Salmon, President/CEO of the Nevada Health Care Association and the Nevada Center for Assisted Living.
2990 Sunridge Heights Pkwy, Suite 140
Henderson, Nevada 89052

Any persons interested may obtain a copy of the meeting summary and written statements from the Public Workshop may e-mail, call, or mail in a request to Tina Leopard, Health Facilities Inspection Manager at the Division of Public and Behavioral Health at:

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A public hearing was held on June 2, 2023. The attendance was sixty-six (66) with twenty (20) in person and 46 online. There was one caller who provided public comment stating their concern for

the training requirements for medication management revised in these regulations. As there were several agenda items, not all attendees may have been in attendance for the hearing on these proposed regulations. No one submitted written statements to be considered at the public hearing regarding the proposed regulations.

- (1) Gretchen Batis, Gretchen Batis CMIS, Q.D.C.S
 Center for Quality Eldercare Services CQES
 3660 N. Rancho Dr. #101
 Las Vegas, NV 89130
 702 489-5822

For a summary of the June 2, 2023 public hearing, you may visit:

[https://dpbh.nv.gov/Boards/BOH/Meetings/2023/2023 Nevada State Board of Health/](https://dpbh.nv.gov/Boards/BOH/Meetings/2023/2023_Nevada_State_Board_of_Health/)

or by emailing StateBOH@health.nv.gov.

- 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 Health requested input from licensed medical and non-medical facilities. On July 15, 2022, an email notice with a link to the small business impact questionnaire and proposed regulations was provided to those with an email address. The proposed regulations were also posted on DPBH’s website.

SUMMARY OF RESPONSE

Will a specific regulation have an adverse economic effect upon your business?	Will the regulation(s) have any beneficial effect upon your business?	Do you anticipate any indirect adverse effects upon your business?	Do you anticipate any indirect beneficial effects upon your business?
Yes – 66 No – 2 No Answer - 2	Yes – 3 No – 67	Yes – 67 No – 3	Yes – 3 No – 67
Comments – Meeting Tier 2 training requirements will likely cost an additional \$100-200 per course annually for every caregiver, adding to an already overly burdensome list of training expenses. It is extremely difficult to find caregivers, and this will make it even more difficult. It will likely lead to more small facilities, which offer better care to dementia patients, shutting their doors. This reduction	Comments – It will help with admitting more residents with a DX of ALZ/Dementia There will be no beneficial economic effect and no cost savings in adopting this proposed	Comments – If I have to pay for my staff to have even more training, I'll have to increase my rates for my residents. If I have to increase my rates, it will be increasingly difficult to find residents who can afford my group home. Group homes are	Comments – Having an endorsement on the license will be beneficial as previously mentioned, 80% to 95% of residents are diagnosed with Alzheimer's or other forms of Dementia (Early or advanced

<p>in care options will only result in higher costs of care for residents.</p> <p>Regarding requiring mandatory endorsement for accepting residents with Alzheimer's disease or related dementia, and specific training requirements for staff: group homes are non- skilled, and therefore hire non- skilled staff. There is already a tremendous amount of training and education required for staff who are not licensed healthcare workers. They would rather leave and work somewhere that doesn't require them to have all of this additional training. Hiring competent staff is already a struggle, but to require all this training that will not get them an increase in pay, they would rather change fields of employment. If there is staff willing to do the training, it will be at the expense of the group home. The staff will not do the training if they have to pay for it. The estimated cost to me would depend on the cost of the training and endorsement, but with no additional income for me. Any time there is staff turnover, would be that much more cost to me. I think if the resident's doctor feels they are appropriate for a non-skilled group home, we should be able to accept them without getting an endorsement or additional training. If their doctor doesn't think the resident is appropriate for a non-skilled group home, the resident may need a skilled facility or higher level of care. All of this additional training and other requirements that the state keeps putting on these small businesses makes it very difficult to stay in business.</p> <p>Strict implementation of this regulation to home care or residential facilities for groups has an</p>	<p>regulation in business. This will cause small group homeowners to close their doors instead due to financial effect of the new proposed regulations.</p> <p>It's not gonna be beneficial because we will be limited in the kind of clients we take.</p>	<p>supposed to be a more affordable option for families who don't need skilled care. We have been in business for 11 years without this extra training and endorsement, why make us do it now?</p> <p>It is extremely difficult to find caregivers, and this will make it even more difficult. It will likely lead to more small facilities, which offer better care to dementia patients, shutting their doors. This reduction in care options will only result in higher costs of care for residents.</p> <p>NAC 449.2754 Section 34 is adopted and implemented, the first casualties are the 80% to 95% of the present resident population diagnosed with Alzheimer's disease or other forms of dementia who are now living in home care or residential facilities for groups without an endorsement on its license. These residents/patients are covered with the signed Physician Placement Determination. If this Physician Placement Determination will not be honored, these residents will be</p>	<p>stage). If financial help will be offered for the expenses to get endorsement. I'll take it.</p> <p>No direct or indirect beneficial effects to our business. The proposed regulations will only bring burden to business that caters to the elder population.</p>
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adverse impact for the following reasons:

1. 80% to 95% of the present residents population are diagnosed with Alzheimer's disease or other forms of dementia who are living in home care or residential facilities for groups without an endorsement on its license. Before admission of these kind of residents, their physical and mental conditions are being reviewed by their primary physician if they are suitable and safe to be in a Non-Alzheimer's facility despite of their age, related dementia, not wandering and there is no risk of wandering out of the facility. These residents/patients are covered with the signed Physician Placement Determination. If this Physician Placement Determination will not be honored, these residents will be DISPLACED. Where will they live? If they will be at Skilled Nursing Facility in which they cannot afford to pay approximately \$ 5,000 to \$ 9,000 a month, the government (state or federal) needs to shoulder these costs but if the Division of Health will honor the Physician Placement Determination, the government will save millions of dollars.
2. A residential facility without an endorsement on its license will lose 80% to 90% of its present census. A facility licensed for 7 beds for example will lose 4 residents. (e.g. 4 residents times \$ 2,500 monthly rate = \$ 10,000 times 12 months = \$ 120,000 income loses annually.
3. If the Division of Health will DISHONOR the signed Physician Placement Determination and the facility opted to obtain an endorsement on its license to provide care to persons with Alzheimer's disease or other forms of dementia, the following additional

DISPLACED. Where will they go?

<p>operational costs to providers are the following:</p> <p>a) “ At least one member of the staff is awake and on duty at the facility at all times” - 12 hours (6 pm to 6 am) times 7 days=84 hours times \$15 rate per hour = \$ 1,260 times 4 weeks = \$ 5,040 an additional monthly salary expenses.</p> <p>b) The premium for the General Liability Insurance of a facility with an endorsement on its license to provide care to persons with Alzheimer’s disease or other forms of dementia will become twice higher compared to a residential facility without an endorsement. (A facility licensed for 7 beds without endorsement is paying at present approximately \$ 10,000 and will become around \$ 20,000)</p> <p>c) In order for a facility to obtain an endorsement on its license to provide care to persons with Alzheimer’s disease or other forms of dementia, a provider needs to renovate the facility and the costs will be around \$ 50,000.</p>			
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Any persons interested may obtain a copy of the small business impact statement may e-mail, call, or mail in a request to Tina Leopard, Health Facilities Inspection Manager at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health
 Bureau of Health Care Quality and Compliance
 4220 South Maryland Parkway, Building A, Suite 100
 Las Vegas, NV 89119
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 Email: tleopard@health.nv.gov

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.

Development of an Errata based on public feedback to update language as recommended and modify training requirements to ensure consistency with current requirements. The errata modifies the following sections of the proposed regulations.

Section 6 – Verbiage “suffering from” was replaced with “with”.

Section 7 – Language was modified to include that training used by facilities that is listed on the Division’s website would be approved to meet requirements.

Section 13 - Removed “Medication Label, following instructions on a medication label” in the list and did not any additional language regarding medication change orders so it is not overly specific. Other parts of the regulation already address administering medications as prescribed, which would include if an order was changed by the physician. Modified the language to “If there is a necessity of an ultimate user agreement...” to acknowledge that it may not be necessary in all cases and include consistent verbiage (ultimate user as used in NRS).

Section 20 - Updated to reflect 60 days which is consistent with the previous requirement when this training was noted in repealed text in 449.2758 noted at the end of the document. Verbiage was modified to clarify if training was from one listed on our website, no syllabus would be needed.

Section 22 - Modified to include scheduled and unscheduled verbiage.

Section 23 - Left language that had been previously removed which indicates the facility will provide at least 10 hours of facility wide activities. This covers the individually developed activities which can be scheduled or unscheduled to participate in an individual’s leisure as well as ensuring at least 10 hours of organized activities are provided to the facility as a whole.

Other commentors and two Board members had a question about existing language and the interpretation of the Division. The Division is developing a technical bulletin to clarify the language for providers.

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

Adverse Economic Effects – It is anticipated that the following section may or will result in a minor adverse economic effect on small businesses. Section 7 which requires Tier 2 training to be provided by nationally recognized organizations focused on dementia or accredited colleges/universities. Obtaining Tier 2 training that meets the regulatory criteria outlined may result in an adverse economic effect on some facilities if they are unable to find free or low-cost options to currently accepted dementia related training. Comments included: “If there is staff willing to do the training, it will be at the expense of the group home. The staff will not do the training if they have to pay for it. The estimated cost to me would depend on the cost of the training and endorsement, but with no additional income for me. Any time there is staff turnover, would be that much more cost to me.”; “Meeting Tier 2 training requirements will likely cost an additional \$100-200 per course annually for every caregiver, adding to an already overly burdensome list of training expenses.”

Indirect Adverse Economic Effects – Feedback on Section 7 received from the small business impact questionnaire included concerns that requiring Tier 2 training may reduce staff/resident retention and result in rate increases. Comments included: “If I have to pay for my staff to have even more training, I’ll have to increase my rates for my residents. If I have to increase my rates, it will be increasingly difficult to find residents who can afford my group home.” “It is extremely difficult to find caregivers, and this will make it even more difficult.”

Although Adverse economic effects were anticipated regarding the requirements of Tier 2 training topics for staff in Section 7, total training hours have not increased, only specific topics have been outlined to be inclusive of Alzheimer's disease and other forms of dementia. The Division is developing a website with links to free and low-cost training that will meet these topic specific requirements.

Beneficial Effects – Section 34 removes the sole criteria for facilities being required to obtain an endorsement to provide care to residents with Alzheimer's Disease and related forms of dementia and revises the requirement of the endorsement for facilities with residents who meet the criteria prescribed in paragraph (a) of subsection 2 of NRS 449.1845 which indicates if the provider of health care determines that the resident suffers from dementia to an extent that the resident may be a danger to himself or herself or others if the resident is not placed in a secure unit or a facility that assigns not less than one staff member for every six residents and if the health care provider assessment indicates the resident does not suffer from dementia as described in paragraph (a), the resident may be placed in any residential facility for groups.

This may encourage the growth of small businesses in these facility types, as it reduces the threshold for facilities who would require endorsement.

Indirect Beneficial Effects – Section 34 - Lowering the threshold for requiring facilities to obtain an endorsement to provide care to residents with Alzheimer's Disease and related forms of dementia could lead to indirect beneficial effects of more options open to consumers for facility choice and offering residents a less restrictive environment with respect to the varying levels and progression of dementia related conditions. Allowing residential facilities for groups to admit and retain residents with mild dementia in the absence of an endorsement for Alzheimer's disease, allows for provision of this level of care without the cost of regulatory compliance with the requirements necessary to obtain the endorsement. Section 7 – Adding topic specific and requiring nationally recognized organizations focused on dementia and accredited colleges to provide Tier 2 dementia training could increase training quality and caregiver knowledge which could in turn, positively affect care provided to residents.

(b) Both immediate and long-term effects.

The proposed regulation may have a minor immediate adverse fiscal impact on some small businesses that do not use the free or low-cost training options, while having a beneficial immediate and long-term financial impact on other small businesses in the industry and may encourage the formation of small businesses. As soon as the proposed regulations become effective, it would allow for increased opportunities facilities to accept residents diagnosed with Alzheimer's disease or dementia. Section 34 removes the sole criteria for facilities being required to obtain an endorsement to provide care to residents with Alzheimer's Disease and related forms of dementia and revises the requirement of the endorsement for facilities with residents who meet the criteria prescribed in paragraph (a) of subsection 2 of NRS 449.1845 which indicates if the provider of health care determines that the resident suffers from dementia to an extent that the resident may be a danger to himself or herself or others if the resident is not placed in a secure unit or a facility that assigns not less than one staff member for every six residents and if the health care provider assessment indicates the resident does not suffer from dementia as described in paragraph (a), the resident may be placed in any residential facility for groups. This may encourage the growth of small businesses in these facility types, as it reduces the threshold for facilities who would require endorsement. Lowering the threshold for requiring facilities to obtain an endorsement to provide care to residents with Alzheimer's Disease and related forms of dementia could lead to indirect beneficial effects of more options open to consumers for facility choice and offering residents a less restrictive environment with respect to the varying levels and progression of dementia

related conditions. Allowing residential facilities for groups to admit and retain residents with mild dementia in the absence of an endorsement for Alzheimer's disease, allows for provision of this level of care without the cost of regulatory compliance with the requirements necessary to obtain the endorsement. Adding topic specific and requiring nationally recognized organizations focused on dementia and accredited colleges to provide Tier 2 dementia training could have immediate and long-term beneficial effects by increase training quality and caregiver knowledge which could in turn, positively affect care provided to residents.

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

There is no direct 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.

LCB File No. R043-22 is not duplicative of existing regulations of other state, federal or other governmental agencies.

9. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions; and

The proposed regulations are not more stringent than 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.

The adopted regulations do not establish a new fee or increase any existing fees.