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# DEPARTMENT OF HEALTH AND HUMAN SERVICES



NEVADA DIVISION of PUBLIC  
and BEHAVIORAL HEALTH



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## OFFICE OF STATE EPIDEMIOLOGY (OSE) Legislative Counsel Bureau (LCB) FILE NO. R148-22

### INFORMATIONAL STATEMENT PER NRS 233B.066 (Revised)

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

The proposed regulations stem from the passage of Senate Bill (SB) 275 and Assembly Bill (AB) 192, which were both introduced during the 2021 Nevada 81st Legislative Session and signed by Governor Steve Sisolak on June 4, 2021. SB 275 revises provisions relating to communicable diseases including isolation and quarantine of a case or suspected case of a communicable diseases and removal of duplicative references to HIV and/or AIDS. AB 192 revises provisions governing the testing of pregnant women for certain sexually transmitted infections.

Current regulations do not require reporters to indicate if a woman who tests positive for syphilis is pregnant or require treatment information. The proposed regulation will update and require that a report of a pregnant woman who has or is suspected of having syphilis must include, without limitation, the fact that the case occurred in a pregnant woman and if treatment was provided, the type of treatment that was provided; or if the pregnant woman refused treatment, the fact that the pregnant woman refused treatment. Additionally, the Centers for Disease Control (CDC) recommends all pregnant women in the U.S. should be screened for syphilis during their pregnancy. Women who test positive should be treated using the most current sexually transmitted infection (STI) treatment recommendations.

Lastly, the bill revises or proposes revision as follows:

- The procedures followed by a county or city board of health or a health authority when isolating, quarantining, or treating certain persons.
- Provisions governing the investigation of a case or suspected case of a communicable disease and an order for a person with a communicable disease to submit to examination and treatment.
- Provisions concerning certain offenses relating to communicable diseases.
- Revising provisions concerning court-ordered testing for a communicable disease.
- Provisions prohibiting the disclosure of information about certain persons investigated by the health authority.
- Provisions requiring the alleged victim of a crime involving sexual penetration to be provided with information concerning sexually transmitted diseases.
- Revising certain terminology used to refer to the human immunodeficiency virus and related matters.
- Reestablishing the Advisory Task Force on HIV Exposure Modernization; and setting forth the duties of the Task Force.
- Abolishing certain crimes relating to the human immunodeficiency virus.
- Repealing certain additional provisions relating to communicable diseases.

- Providing a penalty, and;
- Providing other matters properly relating thereto.

In addition to the changes brought forth in SB 275 and AB 192, LCB File No. R148-22 will update NAC 441A in the following way:

- The addition of the following conditions as reportable communicable diseases to align with CDC's nationally notifiable conditions:
  - Babesiosis
  - Cyclosporiasis (parasite)
  - Candida Auris
  - Coronavirus disease 2019 (COVID-19)
  - Mpox
- Update reporting requirements for:
  - Haemophilus influenza invasive disease removes the requirement for only Type B to be reported.
  - Hepatitis B - specify acute and chronic
  - Hepatitis C - specify perinatal, acute, and chronic
  - influenza - removed the reference to persons under 18 years of age.
- There is an addition for electronic case reporting requirements.
- Addition of a reporting requirement for medical laboratories to report negative results for Hepatitis C and HIV.
- Addition of a requirement for healthcare providers to provide negative results or proof of treatment for a specific person if requested by the health authority.
- The update will require schools to inform parents or guardians of children who might have been exposed to a communicable disease, and for schools to provide information to parents so they can monitor children for sign and symptoms of the communicable disease to which they were exposed.
- Update reporting requirements for tuberculosis testing and treatment
- Update investigation requirements for Chlamydia and Gonorrhea to specify that the health authority may investigate a case rather than shall investigate each case
- Update treatment language for sexually transmitted infections to specify that a person shall be offered treatment, rather than receives treatment
- Update investigation criteria for Lyme Disease to better align with CDC guidance
- Additional exclusion criteria from school for individuals who test positive for measles

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 (DPBH), Office of Public Health Investigation and Epidemiology (OPHIE) held a virtual Public Workshop on January 12, 2023, to consider proposed regulations LCB File No. R148-22. Public comment was made by Ms. Jennifer Howell with Washoe County Health District. Ms. Howell stated that her and her agency support the changes. Ms. Howell asked clarification on the reference to AIDS being eliminated from the draft regulation, she thought that the intention was to eliminate the term AIDS or Acquired Immune Deficiency Syndrome from the draft regulation. Ms. Lindsey Kinsinger thanked Ms. Howell for her comment. Ms. Kinsinger stated the term AIDS has been removed from draft regulation. No additional public comments were received.

Any persons interested may obtain a copy of the meeting summary from the Public Workshop by visiting the Office of Public Health Investigations and Epidemiology website, [https://dpbh.nv.gov/Programs/OPHIE/dta/Statutes/Public\\_Health\\_Informatics\\_and\\_Epidemiology\\_\(OPHIE\)\\_-\\_Statutes/](https://dpbh.nv.gov/Programs/OPHIE/dta/Statutes/Public_Health_Informatics_and_Epidemiology_(OPHIE)_-_Statutes/) or by emailing [mpeekbullock@health.nv.gov](mailto:mpeekbullock@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 public workshop was held on January 12, 2023 and there were 23 attendees, including the two (2) presenters. There was one public comment made by Ms. Jennifer Howell with Washoe County Health District. Ms. Howell stated that her and her agency support the changes. Ms. Howell asked clarification on the reference to AIDS being eliminated from the draft regulation, she thought that the intention was to eliminate the term AIDS or Acquired Immune Deficiency Syndrome from the draft regulation. Ms. Lindsey Kinsinger thanked Ms. Howell for her comment. Ms. Kinsinger stated the term AIDS has been removed from draft regulation. No additional public comments were received. There were no written statements that were submitted for the public workshop held on January 12, 2023. For a summary of the January 9, 2023 public workshop you may visit, [https://dpbh.nv.gov/Programs/OPHIE/dta/Statutes/Public\\_Health\\_Informatics\\_and\\_Epidemiology\\_\(OPHIE\)\\_-Statutes/](https://dpbh.nv.gov/Programs/OPHIE/dta/Statutes/Public_Health_Informatics_and_Epidemiology_(OPHIE)_-Statutes/) mpeekbullock@health.nv.gov or by emailing.

A public hearing was held on June 2, 2023. There was one person who provided public comment stating their support of these regulations, and two Board members that also stated support of these regulations. 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/) StateBOH@health.nv.gov or by emailing.

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.

The Division of Public and Behavioral Health prepared an online survey which was posted to websites for the [Office of HIV Public Health Investigations and Epidemiology](#) and the Office of (OPHIE) on October 31, 2022.

Individuals had the option to complete the survey online or mail, fax, or email their completed form on or prior to Tuesday, November 16, 2022, to:

Tory Johnson, HIV Section Manager  
Community Health Services  
1840 East Sahara Avenue, Suite 110-111  
Las Vegas, NV 89104  
Phone Number: (702) 486-0767  
Email Address: tojohnson@health.nv.gov FAX: (702) 486-8101

Pursuant to NRS 233B.0608 (2)(a), the Division of Public and Behavioral Health (DPBH) requested input from all Nevada-licensed health facilities. DPBH also requested input from all county health officers, county epidemiologists, and the Ryan White Part B Listserv, and listserv subscribers interested in information related to health facilities from Health Care Quality Compliance regulators. A Small Business Impact Questionnaire along with a copy of the proposed regulation changes were emailed to 48 county health officers and county epidemiologists and 74 Ryan Part B partners on November 1, 2022. A Small Business Impact Questionnaire along with a copy of the proposed regulation changes were emailed to 2,625 recipients which included all Nevada licensed health facilities and listserv subscribers interested in information related to health facilities from Health Care Quality Compliance regulators, on November 9, 2022. The survey was originally scheduled to close on November 15, 2022 but was extended to November 16, 2022 at 5pm.

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 RESPONSE**

Out of the 2,747 small-business impact questionnaires sent out, five (5) responses were received.

<b>Summary Of Comments Received</b>			
(5 responses were received out of 2,747 small business impact questionnaires distributed)			
<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: 3	Yes: 1	Yes: 1	Yes: 1
No: 2	No: 4	No: 4	No: 4
No Response: 0	No Response: 0	No Response: 0	No Response: 0

- 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.

While there were no changes to the regulations post public workshop and public hearing and No concerns were expressed during the public workshop or public hearing. There were two (2) concerns brought up at the August 21, 2023, Legislative Commission, as follows:

1. Proposed language was added to Nevada Administrative Code (NAC) 441A related to occupation exclusion exemptions for infectious diseases under the Americans with Disabilities Act (ADA). The specific language is as follows: “the employer of the person would be prohibited from preventing the person from engaging in that occupation by the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., or Nevada Revised Statute (NRS) 613.330.” DPBH did not include this language related to ADA and occupational exclusions when LCB File No. R148-22 was submitted to LCB in July 2022. LCB added this language to the proposed regulations which were returned to DPBH in September 2022 to reflect language in the passage of Senate Bill 275 (2021). To rectify this issue DPBH would like to remove the ADA language from the proposed regulations as it already exists in statute, and further would not apply to when there is laboratory confirmation of an infectious disease.

2. Per approved Senate Bill 275 (2021), the following statutes were repealed: NRS 201.205, 201.356, 201.358, 441A.300 and 441A.320, along with NAC 441A.450, section #3. The repeal of NRS 441A.320 specifically removes the requirement for a person that is charged with a sexual offense to be tested for the human immunodeficiency virus (HIV), which aligns with the decriminalization of HIV and the intentions of the Governor’s Advisory Task Force on HIV Modernization. Since the person being charged with a sexual offense will no longer be tested for HIV, the language within NAC 441A.450, section 3 no longer applies. In SB 275, Section 14.5, proposed language was added to NRS 178A.270, which requires that the Office of the Attorney General adopt and revise the Sexual Assault Survivors’ Bill of Rights to include information concerning testing for the human immunodeficiency virus and other common sexually transmitted diseases.

Additionally, DPBH will work with the Attorney General to propose that victims also receive information related to post-exposure prophylaxis (PEP), pre-exposure prophylaxis (PrEP) and sexual contraceptives

for overall sexual health and wellbeing, and request this information be included in the Sexual Assault Survivors' Bill of Rights. Once the Attorney General has revised the Sexual Assault Survivors' Bill of Rights, DPBH will issue a technical bulletin in support of the bill of rights that will be geared towards medical providers, law enforcement officials and prosecutors.

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

Three out of five (60%) of respondents believe the regulations will have an adverse economic impact on their business. Two respondents provided feedback:

- One respondent described their concerns as a small business owner and their employees being impacted by COVID-19 masking. They stated that when masks became required, they lost employees and struggled to continue staffing their business. However, masking is not a component of the proposed regulations. Their other concerns were about other agencies during COVID-19 outside DPBH and do not directly relate to these regulations.
- The second respondent described their concern that the regulations impact all people with arbitrary health measures and expressed their concern that if they as an owner/sole employee of the business is unable to work as a result of regulations, then their business would shut down.
- Both these respondents stated that regulations require small businesses to spend additional money, oftentimes when they are already in a precarious financial situation. While this is a valid concern for business owners, it appears this concern is related to a higher-level concern from these individuals about the government's utilization of regulations and statutes for disease mitigation and does not directly relate to these proposed regulation updates.

One of the five (20%) of the respondents shared positive feedback stating that these regulation updates will improve opportunities to prevent infections such as HIV and advance access to HIV prevention strategies, pregnancy prevention, and STI prevention. They noted that these efforts will prevent long-term complications associated with illness.

Adverse effects: The Division of Public and Behavioral Health does not anticipate any adverse/negative impacts to businesses or the general public in the State of Nevada.

Beneficial: Birth defects can occur in infants born to women who are infected with syphilis prior to or during pregnancy, this is known as congenital syphilis. Congenital syphilis can cause developmental delays and have negative neurologic manifestations. The positive/beneficial effects of AB 192 for the public would be fewer cases of untreated syphilis and lower rates of congenital syphilis. This could result in less overall medical costs to medical systems and lower costs to support children through K12 education as well as lessen support services costs that an individual who is born with congenital syphilis could require to support in adulthood.

(b) Both immediate and long-term effects.

Immediate: As soon as the proposed regulations become effective, it would improve the reporting information reported to public health for women who test positive for syphilis during pregnancy. This information will allow disease investigators to provide better investigations and confirm that women are adequately treated in pregnancy to prevent congenital syphilis.

Long-term: The long-term positive/beneficial impacts of AB 192 to the public in the State of Nevada is that it will reduce the future cost of medical care and cost of support services for those born with congenital syphilis.

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. R148-22 are 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 the current 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 proposed regulations do not establish a new fee or increase to any existing fees.