

**DIVISION OF PUBLIC & BEHAVIORAL HEALTH
BUREAU OF HEALTH CARE QUALITY AND COMPLIANCE
LCB File No. R004-24**

Informational Statement per NRS 233B.066

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

The regulation modifications found in LCB File R004-24, are necessary to revise current regulations regarding cultural competency training (CCT) found in LCB File R016-20 in order to align requirements with changes made by Assembly Bill 267 of the 2023 Legislative Session.

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.

Below is a summary of how public comment was solicited and a summary of the public's response. For full details on revisions made or not made to the proposed regulations based on input received below, please refer to item number 5.

Small business impact questionnaire

Pursuant to NRS 233B.0608(2)(a), the Division of Public and Behavioral Health (DPBH) requested input from health care facilities licensed pursuant to NRS Chapter 449 and from the public and other interested parties, including CCT course providers and other State agencies. On 8/28/2023, information was publicly posted and an email notice with a link to the small business impact questionnaire and proposed regulations was sent to those with an email address on file with DPBH, which included all affected facilities and course providers. This information explained how small businesses could provide input on the proposed regulations and how to access a small business impact questionnaire and the proposed regulations through a link on the Division's webpage.

The results of the small business impact study are summarized in the (attached) Small Business Impact Statement.

Public workshop

On 10/30/23, a Notice of Public Workshop was publicly posted and sent to request input from health care facilities licensed pursuant to NRS Chapter 449 and from other interested parties, including CCT course providers and other State agencies.

A Public Workshop was held on November 14, 2023 to receive recommendations regarding the proposed regulations. A recording of the Public Workshop testimony and transcript can be accessed via the link below:

https://dphh.nv.gov/Reg/HealthFacilities/State_of_Nevada_Health_Facility_Regulation_Public_Workshops/

In addition to the workshops, the agency accepted written comments and received several recommendations during the final development of the of the initial agency draft. All comments received prior to submission of the of the initial agency draft to LCB were reviewed and considered. Even after submission of the initial agency draft additional comments were received and resulted in the agency requesting a correction to the proposed LCB draft that was accomplished in the (attached) Revised Proposed LCB Draft. Finally, comments received after the LCB Draft was generated, resulted in the two (attached) errata that were adopted during the Board of Health adoption hearing that was held September 6, 2024.

Adoption hearing

On 7/22/2024 a notice of the public hearing for adoption of LCB File R004-24 was publicly posted, sent to industry representatives, licensees, and course providers. An adoption hearing was conducted during the regular meeting of the Nevada State Board of Health on September 6, 2024.

Several individuals representing different organizations and the public provided both written and/or oral testimony at the public hearing. While there was a generous amount of support for adoption of the regulations, there were some opposed and others who wished to assure continued approval of currently approved CCT programs for initial training. The latter resulted in the Board of Health approving suggested errata from a health care provider organization, to adjust the minimum time of an initial course in CCT.

How other interested persons may obtain a copy of the summary

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Paul Shubert, Chief, at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health
Bureau of Health Care Quality and Compliance
4220 S. Maryland Pkwy, Bldg. A, Ste. 100
Las Vegas, NV 89119
Paul Shubert
Phone: 702-668-3270
Email: pshubert@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

During the Public Workshop held 11/14/23, 65 virtual participants (on-line) + 4 non-Division participants in-person

During the Public Hearing held 9/6/24, Although there were 67 virtual participants (on-line), and 11 participants in-person at the Southern Nevada Health District location and 14 participants in-person at the Division of Public and Behavioral Health location at 4150 Technology Way in Carson City, some of these individuals may have been attending to hear other agenda items and may have attended to hear LCB File R004-24. Thus the exact number of individuals attending to hear LCB File R004-24, is unknown.

Several individuals that testified during the public adoption hearing also provided written testimony as follows:

Jessie Wadhams, Nevada Hospital Association
Allison Genco, Dignity Health
A representative, High Sierra Area Health Education Center (AHEC)
A representative, Health Care Services Group, Inc.
Jay Cafferata, ASL Training, LLC

Several others testified during the public hearing, but did not supply written testimony.

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 (DPBH) requested input from health care facilities licensed pursuant to NRS Chapter 449 and from the public and other interested parties, including CCT course providers and other State agencies. Notice was sent to all licensed health care facilities effected by the regulations at the time of the notice distribution. we had e-mail addresses ne individual that has expressed interest in receiving this notice, to request participation in a small business questionnaire. An email notice with a link to the small business impact questionnaire and proposed regulations was sent to those with an email address on file with DPBH on 8/28/23. The proposed regulations were also posted on DPBH's website.

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

Summary of Comments Received (75 response was received out of 1834 small business impact questionnaires distributed)			
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- 56 No – 15 Left Blank - 4	Yes - 11 No- 59 Left Blank - 5	Yes - 35 No – 35 Left Blank - 5	Yes - 16 No – 54 Left Blank - 5
In summary: Most respondents indicated there would be an adverse economic effect, but did not relate this specifically to the new agency draft of CCT regulations; rather the respondents related the adverse effect to the necessity for CCT in general and based related costs on the current regulations in LCB File R016-20. None of the respondents who indicated there would not be an adverse economic effect provided comments to explain their response.	In summary: Most respondents indicated there would be no beneficial effect, but referenced current costs associated with CCT. Some responded that a free course developed by the Department would have a beneficial effect. Some commented that that there would be a beneficial effect associated with the reduced hours of instruction.	In summary: An equal number of respondents indicated there would be an indirect adverse effect as opposed to those who indicated there would be no indirect adverse effect. Responses were varied and some expressed concern regarding CCT that employees have already attended. None of the respondents who indicated “No” indirect adverse effect provided comments to explain their response.	In summary: Most respondents indicated there would be no indirect beneficial effect. Some of the respondents that indicated there would be indirect beneficial effects related the potential for more positive interaction with patients and better person centered care.

To obtain a copy of the summary please see: “How other interested persons may obtain a copy of the summary”, under item 2 above.

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.

After consideration of public workshop comments, the regulations were modified and then during the adoption hearing, the regulations were again further modified. Modifications after the public workshop were made to accommodate facilities in the methods of maintaining proof that staff had been trained, also to ensure clarity of information about training program submission for approval as well as disapproval results and also timing of the training. Modifications pursuant to the adoption hearing were established in two errata; 1) an errata from the Division ensuring training programs contain information regarding all of the populations described in NRS 449.103(1)(a-f) and 2) an errata from Dignity Health, St. Rose Dominican, removing the 2 hour time requirement for initial training programs.

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.

(a) Anticipated adverse effects on the regulated businesses:

- A. *Adverse immediate effects*: There are no anticipated immediate adverse economic effects.
- B. *Averse long-term effects*: There are no anticipated long-term adverse economic effects.
- C. *Beneficial immediate effects*: There are some anticipated immediate beneficial economic effects, since facilities will only need to revisit training every two years, instead of annually.
- D. *Beneficial long-term effects*: There some additional anticipated long-term beneficial effects, as more facilities may decide to develop and submit for approval their own programs, thus eventually eliminating the necessity for these same facilities to pay for third party training.

(b) Anticipated effects on the public:

- A. *Adverse immediate effects*: There are no anticipated immediate adverse effects.
- B. *Adverse long-term effects*: There are no anticipated long-term adverse effects.
- C. *Beneficial immediate effects*: There are no anticipated immediate beneficial effects.
- D. *Beneficial long-term effects*: There are some anticipated long-term beneficial effects, based on eventual approval of more facility specific training programs that have the

potential to better address specific populations within facilities, rather than caregivers attending generic third party programs, that don't focus on the population served.

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

The estimated cost to the agency for the enforcement of the proposed regulations is nominal. Agency staff will evaluate training programs for approval using a checklist and the agency will determine compliance during regular inspection processes.

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.

The proposed regulations do not overlap or duplicate any federal or Nevada state regulations.

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 federal regulations addressing the same activity.

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.

These regulations do not address any fees.

Dignity Health - St. Rose Dominican

Proposed Changes to R004-24RP1

EXPLANATION:

- Plain black text is existing regulation not proposed to be modified.
- ***Blue bold italic text*** is new language proposed by the RP1 draft, but not proposed to be modified by this request.
- ~~[Bracketed red strikethrough text]~~ is existing regulation proposed to be deleted by the RP1 draft of this regulation, but not proposed to be modified by this request.
- ~~[Bracketed purple double strikethrough text]~~ is new language originally proposed to be added by the RP1 draft, which is proposed to be deleted by this request.
- **Green bold underlined text** is new language proposed to be added by this request.

Sec. 11. Section 14 of LCB File No. R016-20 is hereby amended to read as follows:

1. ~~[Pursuant to subsection 1 of]~~ ***Except as otherwise provided in*** NRS 449.103, ~~[within 30 business days after the course or program is assigned a course number by the Division pursuant to section 18 of LCB File No. R016-20 or within 30 business]~~ ***as amended by section 1 of Assembly Bill No. 267, chapter 202, Statutes of Nevada 2023, at page 1176, a facility shall provide*** ~~[at least 2 hours of]~~ ***cultural competency training through an approved course or program to an agent or employee described in subsection 2 of NRS 449.103, as amended by section 1 of Assembly Bill No. 267, chapter 202, Statutes of Nevada 2023, at page 1176:***
 - (a) ***Within 90*** days ~~[of any]~~ ***after contracting with or hiring the*** agent or employee ; ~~[being contracted or hired , whichever is later,]~~ and ~~[at]~~
 - (b) ***At least 2 hours*** ~~[once each year]~~ ***biennially*** thereafter . ~~[, a facility shall conduct training relating specifically to cultural competency for any agent or employee of the facility who provides care to a patient or resident of the facility so that the agent or employee may:~~
 - ~~—(a) More effectively treat patients or care for residents, as applicable; and~~
 - ~~—(b) Better understand patients or residents who have different cultural backgrounds, including, without limitation, patients or residents who fall within one or more of the categories in paragraphs (a) to (f), inclusive, of subsection 1 of NRS 449.103.]~~

Errata – LCB File No. R004-24

Blue italic bold = Proposed new language found in LCB File No. R004-24

[Red italic in brackets] = Proposed omitted material found in LCB File No. R004-24

Green italic = New language proposed as Errata

[Purple italic in brackets strike through bold] = New stricken language proposed as Errata

Sec. 13. Section 16 of LCB File No. R016-20 is hereby amended to read as follows:

1. A course or program ***[subject to the requirements of subsection 4 of section 15 of LCB File No. R016-20] on cultural competency training*** must include, without limitation, the following course materials:

- (a) ***[An overview of cultural competency;***
 - (b) ***An overview of] Instruction on*** implicit bias , ***[and]*** indirect discrimination ***];***
 - (c) ***The common assumptions and myths concerning stereotypes and examples of such assumptions and myths;***
 - (d) ***An overview of social determinants of health;***
 - (e) ***An overview of best practices when interacting with] and the prevention of***
- discriminatory practices and language;***
- (b) ***Instruction that uses the voice, perspective or experience of*** persons who fall within one or more of the categories in paragraphs (a) to (f), inclusive, of subsection 1 of NRS 449.103 ***];***
 - (f) ***An overview of gender, race and ethnicity;***
 - (g) ***An overview of religion;***
 - (h) ***An overview of sexual orientation and gender identities or expressions;***
 - (i) ***An overview of mental and physical disabilities;***
 - (j) ***Examples of barriers to providing care;***
 - (k) ***Examples of language and behaviors that are discriminatory; and***
 - (l) ***Examples of a welcoming and safe environment.] ; and***

(c) Instruction on preferred approaches to providing care for people who fall within ~~one or more of~~ the categories in paragraphs (a) to (f), inclusive, of subsection 1 of NRS 449.103.

2. The course materials included in a course or program, including, without limitation, the course materials required by subsection 1, must include, without limitation:

- (a) Evidence-based, peer-reviewed sources;
 - (b) Source materials that are used in universities or colleges that are accredited in the District of Columbia or any state or territory of the United States;
 - (c) Source materials that are from nationally recognized organizations, as determined by the Director of the Department;
 - (d) Source materials that are published or used by federal, state or local government agencies;
- or
- (e) Other source materials that are deemed appropriate by the Department.

3. The Department ***[must:] shall:***

- (a) Publish a copy of the requirements set forth in subsections 1 and 2 on its Internet website; and
- (b) Provide a copy of the requirements set forth in subsections 1 and 2 to ***[a facility] an applicant requesting approval of a course or program on cultural competency training pursuant to section 15 of LCB File No. R016-20*** upon request by the ***[facility.] applicant.***