

Joe Lombardo
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.



Stacie Weeks,
JD MPH
Administrator

NOTICE OF ADOPTION OF REGULATION

Division of Health Care Financing and Policy, on behalf of the Department of Health and Human Services, adopted regulations assigned LCB File No. R104-23, which pertain to chapter 439B of the Nevada Administrative Code (NAC) on October 1, 2024. A copy of the regulations as adopted is attached hereto.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS INFORMATIONAL STATEMENT AS REQUIRED BY NRS 233B.066

LCB FILE NO. R104-23

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 439B:

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

The adoption of the amendments to Nevada Administrative Code (NAC) Chapter 439B is essential to establish an All-Payer Claims Database (APCD) in Nevada. The APCD will enable the collection, analysis, and dissemination of healthcare claims data from a variety of sources including private insurers, Medicare, and Medicaid. This is necessary to improve transparency, enhance the quality of healthcare services, and support policy decisions that address healthcare costs. By centralizing claims data, the APCD will provide stakeholders including policymakers, healthcare providers, and researchers with actionable insights to promote better outcomes, cost-effectiveness, and equitable access to healthcare across the state.

2. 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.

Copies of the proposed regulations, notices of workshops, and notices of intent to act upon regulations were posted at various locations. These notices were placed on file at the State Library and Archives, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted were made available at all DHCFP locations and in all counties at the main public library, for inspection and copying by members of the public during business hours. These notices and the text of the proposed regulation were made available at the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at <http://www.leg.state.nv.us>. In addition, copies of these notices and the regulation were mailed to members of the public upon request.

This notice of hearing has been posted at the following locations:

<http://www.leg.state.nv.us/>
<https://dhcfp.nv.gov/Public/AdminSupport/PublicNotices/>

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

Division of Health Care Financing and Policy
4070 Silver Sage Drive
Carson City, NV 89701

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

Division of Health Care Financing and Policy
1210 S. Valley View Blvd.
Las Vegas, NV 89102

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

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

Grant Sawyer Building
555 E. Washington Avenue
Las Vegas, NV 89101

Public comment was solicited through multiple avenues, including public workshops, public notices, postings on the Nevada Division of Health Care Financing and Policy (DHCFP) website, and distribution via email through Listserv. Additionally, a formal public hearing was held on October 1, 2024, to provide stakeholders with an opportunity to voice their opinions and concerns regarding the proposed regulation. Persons wishing to comment upon the proposed action of the regulation were advised of their right to appear at the scheduled public hearing and their right to address comments, data, views or arguments, and the opportunity to submit in writing to DHCFP on or before October 1, 2024.

A Public Workshop was noticed on January 5, 2022, and held on February 22, 2022, virtually. This was a tele-conference workshop to gather further input, which was considered in assessing the impact of these regulations on our data submitters. Publication was posted here:

https://dhcfp.nv.gov/Public/AdminSupport/MeetingArchive/Workshops/2022/Workshops_2022/

An additional Public Workshop was noticed on August 10, 2023, and held on August 30, 2023, virtually. This was a tele-conference workshop to gather further input, which was considered in assessing the impact of these regulations on our data submitters. Publication was posted here:

https://dhcfp.nv.gov/Public/AdminSupport/MeetingArchive/Workshops/2023/Workshops_2023/

A Notice of Intent to Act upon the Regulations was noticed on August 28, 2024, and a revised agenda posted on September 24, 2024. A public hearing was held on October 1, 2024, at DHCFP 4070 Silver Sage Drive, Main Conference Room in Carson City. Publication was posted here: [NAC Archives 2024 \(nv.gov\)](#)

Recordings of the Public Workshop(s) and Notice of Intent to Act upon the Regulations is on file with the Division of Health Care Financing and Policy 1100 E. William Street, Carson City, Nevada 89703. To obtain access to the recordings, please email documentcontrol@dncfp.nv.gov.

The public response can be summarized as individuals who testified at the workshop or public hearing, and few written statements were provided at both the public workshop (8/30/23) and the public hearing (10/01/24) regarding this regulatory change. A copy of the minutes of the public workshop and/or hearing can be obtained accessing the links above.

3. The Number of Persons Who:

Public Workshop February 2, 2022:

- a) Attended Workshop: 62
- b) Testified at Workshop: 3
- c) Submitted Written Statements: 0

Public Workshop August 30, 2023:

- a) Attended Workshop: 77
- b) Testified at Workshop: 4
- c) Submitted Written Statements: 2 – which was also presented at the workshop by the submitters.

Public Hearing October 1, 2024:

- a) Attended Hearing: 105
- b) Testified at Hearing: 1
- c) Submitted Written Statements: 2 – 1 of which was presented during the public hearing

4. For each person identified in paragraphs (b) and (c) of number 3 above, 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.

Public Workshop February 2, 2022:

Comments can be reviewed within the minutes located here: [Department of Health and Human Services: Division of Health Care Financing and Policy All Payer Claims Database and Procurement Plan Listening Session Minutes 02_02_2022 \(nv.gov\)](#)

Participants:

- Helen Foley, Legislative Advocate, Nevada Association of Health Plans (NAHP), 702-234-6500, Helen@foleypublicaffairs.com - Added public comment.
- Lea Case, <title and affiliation not provided>, lc@belzcase.com - Added public comment.
- Kelli Williams, Regional VP with Maximus, <contact information not provided> - Added public comment.

Public Workshop August 30, 2023:

Comments can be reviewed within the minutes located here: [PW Minutes 08-30-23 \(nv.gov\)](#)

Participants:

- Helen Foley, Legislative Advocate, Nevada Association of Health Plans (NAHP), 702-234-6500, Helen@foleypublicaffairs.com – Testified at Public Workshop and submitted a written statement on 8/30/23.
- Jesse Wadhams, Attorney, Black and Wadhams Attorney at Law, Nevada Hospital Association (NHA) Representative, 702-869-8801, jessewadhams@blackwadhams.law – Testified at the Public Workshop and submitted a written statement on 8/29/23.
- Jack H. Kim, United Healthcare, <contact information not provided> - Added public comment.
- Katie Ryan, Dignity Health Saint Rose Dominican of Southern Nevada, <contact information not provided> - Added public comment.

Public Hearing October 1, 2024:

Comments can be reviewed within the minutes located here: [Public Workshop Minutes 10-01-24 \(nv.gov\)](#)

Participants:

- Shelly Capurro, Partner, Tom Clark Solutions, Nevada Association of Health Plans, shelly@tomclarksolutions.com - Testified at Public Hearing and submitted a written statement on 10/01/24.
- Linda Green, Senior Advisor, Freedman HealthCare, LLC, lgreen@freedmanhealthcare.com – Submitted written statement only.

Two written statements were received by October 1, 2024, along with one formal comment collected during the public hearing, which reiterated one of the submitted written statements. Each of these responses was formally reviewed and considered. At this time, the proposed regulations meet the standards required by NRS 439B.800 – 439B.875. The Division believes the current regulation structure satisfies the necessary requirements.

Below is a summary of the two statements provided and the Department’s response:

Shelly Capurro, Partner, Tom Clark Solutions, Nevada Association of Health Plans, shelly@tomclarksolutions.com - Testified at Public Hearing and submitted a written statement on 10/01/24.

Nevada Association of Health Plans (NvAHP) provided comment to request that definitions of third-party administrators were clarified, that a standardized formatting tool be adopted through the regulations, and that residents of states other than Nevada could participate as members of the advisory committee created by the proposed regulations. After careful consideration, DHCFP on behalf of DHHS found that definitions already contained in NRS 439B sufficiently clarified the terms NvAHP had suggested clarifying, that Section 15 of the proposed regulation sufficiently mandated a specific format readily available to submitters, and that the proposed makeup of the advisory committee sufficiently complied with NRS 439B and represented Nevadans. No changes were made or necessary in response to NvAHP's requests.

Linda Green, Senior Advisor, Freedman HealthCare, LLC, lgreen@freedmanhealthcare.com – Submitted written statement only.

Freedman HealthCare, LLC. recommended that a supplemental advisory group be formed consisting of healthcare researchers, economists, and public health experts, to provide guidance on data analytics, access, and reporting. They also requested waivers for data submitters, annual registration, clarification on detailed claims collection, the inclusion of encounters and non-claims data, and that direct patient identifiers be removed before data submission. After careful consideration, DHCFP on behalf of DHHS confirmed that NRS 439B.835(3)(b) allows for the creation of additional advisory groups, but that Section 12 of the proposed regulations sufficiently creates the mandatory advisory group. Further, Sections 16 and 22 of the proposed

regulations do outline registration and submission procedures for data submitters that would allow submitters to inform DHHS of any waiver/extension eligibility. Additionally, Section 19 of the proposed regulations accurately describes how the Department will implement a standard hashing mechanism that submitters will use to de-identify any data. Ultimately, DHCFP on behalf of DHHS found that while the proposed regulation currently sufficiently informs data submitters of their obligations and meets all statutory requirements, some of Freedman HealthCare LLC's suggestions would be appropriate to discuss among the advisory group upon its formation. Specifically, Freedman's suggestion to form a supplemental advisory group and require additional types of data for submitters to provide to DHHS were issues that are more appropriate to discuss and potentially implement at such time the APCD is functional. Because the proposed regulation addresses all mandatory requirements in its current form, no changes were made based on Freedman HealthCare LLC's comment.

5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

As part of DHCFP's due diligence, a small business impact survey was distributed on 5/17/23, 6/12/23, and a final reminder on 7/12/23. The survey sent to 223 subscribers via the DHCFP Listserv, garnered only five responses. It was also posted on the DHCFP website and shared with the Division of Insurance and the Department of Business and Industry for broader distribution to small businesses. The purpose was to assess whether any small businesses might be impacted by the APCD, focusing on factors such as employee count (150 or fewer), financial impacts, and potential direct or indirect adverse effects or benefits.

Businesses and entities were also invited to provide public comments during a workshop held on 8/30/2024 and a public hearing on 10/01/2024. Among the five responses we received, two came from small businesses, though neither provided feedback on whether the installation of the APCD would affect their operations. The other three responses were from entities with more than 151 employees, which do not meet the criteria for small businesses. One respondent raised concerns about standardized formatting, an issue already addressed in the regulation. Another highlighted potential difficulties with payment details and rates among various providers, suggesting this could complicate contract rate negotiations. The final concern was that insurers might refuse to pay rates higher than those in larger urban areas with bigger populations. While we value this feedback, none of the comments impact the definition of a small business.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The regulation was adopted with thoughtful consideration on the public feedback received from Freedman HealthCare LLC., and Nevada Association of Health Plans. The feedback provided by the public was considered, but the proposed regulation already included measures to mitigate concerns, such as data security provisions and phased implementation to ease the burden on reporting entities. The necessity of moving forward with the regulation in its current form was clear to ensure timely implementation of the APCD and its anticipated benefits for the Nevada healthcare system.

7. The estimated economic effect of the regulation on the business which it is to regulate and on the public:

Estimated Economic Effects on Businesses:

- a. Adverse: Potential Initial costs for businesses to comply with data submission requirements.
- b. Beneficial: Improved data access and analytics can lead to better business decision-making and potential cost savings.
- c. Immediate: Potential costs and immediate participation required with setting up data submission processes.
- d. Long-Term: Potential for cost savings and improved business strategies due to better data insights.

Estimated Economic Effects on the Public:

- a. Adverse: No adverse/negative public effects identified.
- b. Beneficial: Enhanced healthcare transparency, improved healthcare outcomes, and potential reduction in healthcare costs.
- c. Immediate: Improved access to healthcare data.
- d. Long-Term: Overall improvement in healthcare quality and reduced costs.

8. The estimated cost to the agency for enforcement of the adopted regulation.

The estimated cost to the agency for enforcement of the proposed regulation includes administrative costs, costs for data management infrastructure, and costs for ongoing monitoring and compliance activities, which are expected to be managed within the current budget of the Department. This includes costs associated with contracting a vendor to maintain the APCD throughout its lifecycle. The actual cost of the vendor contract for implementation and maintenance was signed on 1/4/24 for \$8,999,120.04. The Centers for Medicare and Medicaid Services (CMS) is assisting with the funding of the APCD, providing 90/10 funds toward implementation. Once the project enters the maintenance and operations phase, funding will shift to a 50/50 federal-state split. However, CMS has indicated that enhanced funding at a 75/25 federal-state rate can be approved through the Advanced Planning Document (APD) process, provided the agency meets the outcomes and metrics proposed in the APD. Penalties from non-compliance could also contribute to funding APCD efforts.

9. A description of any regulations of other state or government agencies that 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, the name of the regulating federal agency.

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

10. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

This is not required by Federal Law. This is a state-driven regulation stemming from the NRS legislation, which supports Senate Bill 40, passed during the 81st (2021) Session of the Nevada Legislature and signed into law on June 7, 2021.

Therefore, there are no stringent rules known at the time of this posting.

11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The regulation does not establish a new fee or increase an existing fee.