

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

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.

The workshop will be conducted in-person, video conference, and telephone beginning at 10:00 am to 11:00 am on May 26, 2022, at the following locations:

Division of Health Care Financing and Policy
1100 E. William St.
2nd Floor Conference Room
Carson City, NV 89701

Microsoft TEAMS

[Click here to join the meeting](#)

Audio Only: (775) 321-6111
Conference ID: 341 553 286#

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

AGENDA

1. Introduction of workshop process
2. Presentation and public comments on proposed amendments to NAC 439A
3. Public comment regarding any other issue
4. Adjournment

Overview of Proposed Changes

The proposed regulation will revise Chapter 439A of the NAC and are being proposed in accordance with Senate Bill (SB) 379 of the 2021 81st 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 nvpc@health.nv.gov or at the following address no later than May 26, 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
 Reno District Office
 745 W. Moana Lane, Suite 200
 Reno, NV 89509

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

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

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

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

A copy of the proposed regulation and small business impact statement can be found on the Division of Health Care Financing and Policy web page: <https://dhcfp.nv.gov/Public/Home/>.

A copy of the public workshop notice can also be found at Nevada Legislature’s web page: <https://www.leg.state.nv.us/App/Notice/A/>.

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. 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).

PROPOSED REGULATION
OF THE DEPARTMENT OF HEALTH
AND HUMAN SERVICES
LCB File No.
2022

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

AUTHORITY: §1, NRS 439A.081 as amended by section 5 of Senate Bill No. 379

A REGULATION relating to the Department of Health and Human Services; setting forth various requirements related to establishing and maintaining a database of information collected from applicants for the renewal of a license, certificate or registration as a provider of health care. The information collected may include the following items, which may be estimated: percentage of patients with Medicaid coverage; percentage of patients using the sliding fee scale; percentage of patients who are Homeless, American Indian, Migrant FW, or Seasonal MFW; if physician is accepting new patients; average number of patients seen in a week; average number of outpatient visits per year; average wait time (days) for routine/non-urgent appointment; average wait time (minutes) once patients arrive in the office; if physician status includes National Health Service Corp; J-1 Visa Waiver Holder; H-1B Visa Holder; Locum Tenens, Hospitalist, Resident/Intern, Federal Provider, State Loan Repayment, Restricted License, or Instructor.

Section 1. Chapter 439A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to #, inclusive, of this regulation.

Sec. 2. *For the purposes of section 5 of Senate Bill No. 379, chapter 439A, Statutes of Nevada 2021, at page #### (NRS 439A.####), an applicant for renewal of license, certificate or registration as a provider of health care may report the following:*

- 1. percentage of patients with Medicaid coverage;*
- 2. percentage of patients using the sliding fee scale;*
- 3. percentage of patients who are Homeless, American Indian, Migrant Farm Worker (defined as a migratory agricultural worker, generally defined as an individual whose principal employment is in agriculture on a seasonal basis, who has been so employed within the last twenty-four months, who establishes for the purposes of such employment a temporary adobe.), or Seasonal Migrant Farm Worker;*
- 4. whether physician is accepting new patients;*
- 5. average number of patients seen in a week;*

6. *average number of outpatient visits per year;*
7. *average wait time (days) for routine/non-urgent appointment;*
8. *average wait time (minutes) once patients arrive in the office;*
9. *whether physician status includes National Health Service Corp; J-1 Visa Waiver Holder; H-1B Visa Holder; Locum Tenens, Hospitalist, Resident/Intern, Federal Provider, State Loan Repayment, Restricted License, or Instructor.*
10. *if the applicant is renewing a license for the practice of dentistry pursuant to Nevada Revised Statutes Chapter 631, the number of Auxiliaries the provider has (Common dental auxiliaries include receptionist, dental assistant, dental hygienist, and dental lab technician.);*
11. *Whether the provider's status or location will change, within the next year and the reason for the change, indicating as follows:*
 - a. *Retiring;*
 - b. *Decreasing Hours;*
 - c. *Increasing Hours;*
 - d. *Moving to different practice;*
 - e. *Moving out of state; or*
 - f. *Other*

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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 81st 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 81st 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

Summary Of Comments Received (69 responses were received out of unknown* 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 - 27 No - 36 Unknown - 6	Yes - 0 No - 60 Unknown - 9	Yes - 24 No - 38 Unknown - 7	Yes - 3 No - 58 Unknown - 8

Number of Respondents out of Unknown*	Adverse economic effect?	Beneficial effect?	Indirect adverse effects?	Indirect beneficial effects?
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

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: _____

**Questions and Answers
For Proposed Regulations under Senate Bill 379
and Small Business Impact**

[Senate Bill 379](#) of the 2021 81st Nevada state legislative session requires the Nevada Department of Health and Human Services (DHHS) to establish and maintain a database concerning healthcare providers and to develop a data request and provide a link to certain licensing boards. These licensing boards are required to make this link available to licensees upon application for renewal. Sections 9, 12-20, 22-30, 32, 33 35 and 36 of this bill provide that ***an applicant from whom data is requested is not required to complete the request.***

The proposed regulation will add questions to assist the state with Health Professional Shortage Area (HPSA) designations, under the federal Health Resources Services Administration. These designations leverage resources for recruitment and retention of health care professionals to Nevada.

Below are questions and answers to help provide clarification of this regulation.

Q: The deadline for the Small Business Impact Questionnaire did not seem reasonable and appears designed to minimize response.

A: The Small Business Impact Questionnaire was published and distributed to stakeholders, including licensing boards and associations, on May 4, 2022 with a deadline of May 9, 2022. We regret that some providers did not receive the SBIQ until a few days later, as secondary recipients. Additional input will be considered at the May 26, 2022 Public Workshop.

Q: The data required by the additional questions will create an administrative burden requiring additional staff time and data system updates to track the information accurately.

A: Senate Bill 379 requires the DHHS to establish and maintain a database, and also requires certain health care professional licensing boards to post a link to this database. However, licensees applying for renewal are **not** required to complete the request. In addition, the federal authority for HPSA designation allows estimated data in response to these questions.

Q: Why does the state or government need to gather all this information?

A: This information is used by the federal Health Resources Services Administration (HRSA) to provide various resources to states, including loan repayment and scholarships to health professionals willing to serve in a Health Professional Shortage Area (HPSA). The questions in this proposed regulation support the designation process.

Q: If the survey is optional, then you have to wonder how representative the results will be.

A: The state is required to collect data reflecting this information from at least **66% of providers.**

Q: Data coming from various providers can be interpreted differently and could include inaccurate data. Requesting data could also negatively impact re-credentialing. Providers may not re-credential due to the cost and time burden. This in turn would negatively impact the Nevada community.

A: The federal Health Resources Services Administration has determined to allow for estimates in response to these questions, but requires a significant number of responses (**66% of providers**) to support designation of Health Professional Shortage Areas. The state must also provide demographic data to support designations. Consequently, the average of the combined responses together with the demographic data will generally provide an accurate picture.

Q: This will force me to make public some of my proprietary business practices.

A: Data is only reported in aggregate. No data identifying individual businesses or persons will be published in any form. All data provided will be secured.

Q: I would like to testify on this bill.

A: Senate Bill 379 was passed in the 2021 81st Legislative Session. This proposed regulation will add questions to those required under Senate Bill 379. However, no businesses or providers are required to respond to either the questions specified in Senate Bill 379 or the additional questions proposed in this regulation.