

STEVE SISOLAK
Governor

TERRY REYNOLDS
Director

STATE OF NEVADA



VICTORIA CARREÓN
Administrator

PERRY FAIGIN
Deputy Administrator

**DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS**

**NOTICE OF INTENT TO ACT
ON PROPOSED REGULATIONS**

**Notice of Hearing for the Adoption of Regulations
of the Division of Industrial Relations,
Department of Business and Industry
August 25, 2021 at 10:00 a.m.
LCB File No. R044-20**

You are hereby given notice that the Division of Industrial Relations of the Department of Business and Industry, State of Nevada (Division) will conduct a public hearing on proposed permanent regulations amending Chapter 618 of the Nevada Administrative Code (NAC).

The public hearing on these proposed regulations will be conducted by Webex on Wednesday, August 25, 2021 at 10:00 a.m. Members of the public may attend this meeting at the following location:

Nevada Business Center
Division of Industrial Relations
Employee Training Room
3360 W. Sahara Avenue, Suite 175
Las Vegas, Nevada 89102

Webex Access

Meeting number (access code): 177 435 7606 Meeting password: JMsuWDah447

Tap to join from a mobile device (attendees only):
+1-415-655-0001, 1774357606## US toll

Join by phone:
+1-415-655-0001 US Toll

Join from a video system or application:
Dial 1774357606@nvbusinessandindustry.webex.com You can also dial 173.243.2.68 and enter your meeting number

Need help? Go to <https://help.webex.com/>

CARSON CITY
400 West King Street
Suite 400
Carson City, NV 89703
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LAS VEGAS
3360 West Sahara Avenue
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Las Vegas, NV 89102
(702) 486-9080

Pursuant to NRS 233B.608 and 233B.609, the Division is providing the following statements pertaining to the public hearing on proposed changes to Chapter 618 of NAC.

The need and purpose of the proposed revisions to regulations: *The Division of Industrial Relations, Occupational Safety and Health Administration (“OSHA”) may adopt regulations to implement NRS 618.7301 through 618.7318 (enacted in Assembly Bill 348, chapter 571, Statutes of Nevada 2019, at page 3670) on workplace violence at medical facilities.*

The estimated economic effect of the proposed regulations on (a) regulated businesses and (b) the public, including, stated separately: (i) adverse and beneficial effects; and (ii) immediate and long-term effects:

(a) Regulated businesses:

(i) Adverse and beneficial effects:

The Division anticipates no adverse effects, either direct or indirect, on regulated businesses as the result of these regulations implementing NRS 618.7301 through 618.7318 (enacted in Assembly Bill 348, chapter 571, Statutes of Nevada 2019, at page 3670) on workplace violence at medical facilities. The adverse effects, if any, are difficult to determine at this time. There will be no direct or indirect cost to regulated businesses.

The Division believes that there will be no beneficial effects, either direct or indirect, on regulated businesses as the result of these regulations.

(ii) Immediate and long-term effects:

The Division does not anticipate any immediate effects, either adverse or beneficial, on regulated and small businesses as a result of these regulations implementing NRS 618.7301 through 618.7318 (enacted in Assembly Bill 348, chapter 571, Statutes of Nevada 2019, at page 3670) on workplace violence at medical facilities. There will be no direct or indirect costs to regulated businesses.

The Division does not anticipate any long-term effects, either adverse or beneficial, on regulated businesses as a result of these regulations. There will be no direct or indirect costs to regulated or small businesses.

(b) The public:

(i) Adverse and beneficial effects:

The Division anticipates no adverse effects, either direct or indirect, on the public as the result of these regulations implementing NRS 618.7301 through 618.7318 (enacted in Assembly Bill 348, chapter 571, Statutes of Nevada 2019, at page 3670) on workplace violence at medical facilities. There will be no direct or indirect cost to the public.

The Division believes that there will be no beneficial effects, either direct or indirect, on the public as the result of these regulations.

(ii) Immediate and long-term effects:

The Division does not anticipate any immediate effects, either adverse or beneficial, on the public as a result of these regulations implementing NRS 618.7301 through 618.7318 (enacted in Assembly Bill 348, chapter 571, Statutes of Nevada 2019, at page 3670) on workplace violence at medical facilities. There will be no direct or indirect costs to the public.

The Division does not anticipate any long-term effects, either adverse or beneficial, on the public as a result of these regulations. There will be no direct or indirect costs to the public.

The estimated cost to the Division for enforcement of the proposed regulations: *The Division does not anticipate incurring any additional cost for these proposed permanent regulations necessary to implement NRS 618.7301 through 618.7318 (enacted in Assembly Bill 348, chapter 571, Statutes of Nevada 2019, at page 3670) on workplace violence at medical facilities.*

The Division believes that the proposed regulation does not overlap or duplicate any existing regulation. *The proposed regulation is not required by federal law and there is no equivalent federal law.*

The proposed regulation does not establish a new fee or increase an existing fee. *The proposed regulation does not provide for a new fee or increase an existing fee payable to the Division.*

The Division invites representatives of regulated businesses and the public to attend the public hearing and/or prepare written and/or oral comments concerning the proposed regulations. A copy of the proposed language for LCB File No. R044-20, may be downloaded at the Nevada Occupational Safety and Health Administration website: <http://dir.nv.gov/OSHA/Home>. Before the Public Hearing, persons may submit written comments to Donald C. Smith, Esq., Senior Division Counsel, Division of Industrial Relations, 3360 W. Sahara Avenue, #250, Las Vegas, Nevada 89102 or by email to donaldcsmith@dir.nv.gov. If no person who is directly affected by the proposed regulation appears to make oral comments, the Division may proceed immediately to act upon any written submissions.

Persons with disabilities who require special accommodations or assistance at the public hearing must notify Kim Toledo, at the Occupational Safety and Health Administration, 3360 W. Sahara Ave., #200, Las Vegas, Nevada 89102, or by calling (702) 486-9168 at least three (3) working days prior to the scheduled hearing date.

A copy of this notice and the proposed regulations are available at the Division's web page (<http://www.dir.nv.gov/Meetings/Meetings/>). This notice and the text of the proposed regulations are also in 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>. Copies of this notice and the proposed regulations will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Notice required by NRS 233B.064: Upon adoption of any regulation, the agency (the Division), if requested to do so by an interested person, either before adoption or thirty days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

The requirements set forth in NRS 241.020(4)(a) for the posting of agendas for public meetings was suspended in Governor Sisolak's March 22, 2020 Declaration of Emergency Directive 006. This notice has been posted on Nevada's notice website: <http://leg.state.nv.us/App/Notice/A/>; and the Division's website: <http://dir.nv.gov/Meetings/Meetings>, as set forth in NRS 241.020(4)(b) and (4)(c).

**SECOND REVISED PROPOSED REGULATION OF THE
DIVISION OF INDUSTRIAL RELATIONS OF THE
DEPARTMENT OF BUSINESS AND INDUSTRY**

LCB File No. R044-20

July 16, 2021

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

AUTHORITY: § 1, NRS 618.295; §§ 2-5, NRS 618.295 and 618.7317; § 6, NRS 618.295, 618.7316 and 618.7317.

A REGULATION relating to occupational safety; establishing time periods in which a medical facility is required to report certain incidents of workplace violence to the Division of Industrial Relations of the Department of Business and Industry; establishing certain requirements for procedures in a medical facility’s plan for the prevention of and response to workplace violence; establishing certain requirements for certain measures to prevent or mitigate risks of workplace violence; requiring a medical facility to maintain, record and review a log of certain information relating to incidents of workplace violence; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires certain medical facilities to develop and carry out a plan for the prevention of and response to workplace violence and to report incidents of workplace violence to the Division of Industrial Relations of the Department of Business and Industry. (NRS 618.7312-618.7318)

Existing law requires each medical facility plan for the prevention of and response to workplace violence to be specific for each unit, area and location maintained by the medical facility. (NRS 618.7312) Under existing law, the Division is required to define by regulation the term “unit” for the purposes of the plan. (NRS 618.7317) **Section 2** of this regulation defines the term “unit” for the purposes of the requirement that the plan be specific to each unit, area and location maintained by the medical facility.

Section 3 of this regulation establishes time periods within which a medical facility must report to the Division certain incidents relating to workplace violence.

Section 4 of this regulation sets forth certain requirements for procedures which a medical facility must include in its plan for the prevention of and response to workplace violence.

Section 5 of this regulation requires certain controls and measures implemented by a medical facility to prevent or mitigate the risk of workplace violence identified in the facility's assessment of its workplace to effectively address the hazardous conditions which constitute the risk.

Section 6 of this regulation requires a medical facility to: (1) maintain and record in a log certain information relating to incidents of workplace violence; and (2) review that log annually.

Section 1. Chapter 618 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this regulation.

Sec. 2. *For the purposes of NRS 618.7301 to 618.7318, inclusive, the Division interprets the term "unit" to mean a component of a medical facility, including, without limitation, a group, department, section or wing, that is used for providing patient care or support services.*

Sec. 3. *A medical facility shall report to the nearest office of the Division:*

1. Any fatality, inpatient hospitalization, amputation or loss of an eye of an employee resulting from workplace violence in which physical force, a firearm or other dangerous weapon is used, not later than 8 hours after the time that the fatality, hospitalization, amputation or loss is reported to any agent or employee of the facility.

2. Any incident of workplace violence in which physical force, a firearm or other dangerous weapon is used but no fatality or injury results, not later than 24 hours after the incident occurs.

3. Any realistic possibility of workplace violence, not later than 30 days after the medical facility learns of the possibility. The information reported pursuant to this subsection must include, without limitation:

(a) Any and all measures taken or to be taken to address the threat;

(b) The names of the persons who took measures or are responsible for initiating the measures; and

(c) The date by which the facility completed or anticipates completing the measures.

Sec. 4. 1. Every plan for the prevention of and response to workplace violence which is developed pursuant to NRS 618.7312 must include:

(a) Procedures for the assessment of potential workplace hazards which are designed to identify and evaluate patient-specific risk factors and assess visitors and other persons who are not employees. Patient-specific risk factors include, without limitation:

(1) A patient's mental status and conditions which may cause the patient to be nonresponsive to instruction or behave unpredictably, disruptively, uncooperatively or aggressively;

(2) A patient's treatment and medication status, including type and dosage, if known;

*(3) A patient's history of violence, as it is known to the medical facility and employees;
and*

(4) Any disruptive or threatening behavior displayed by a patient.

(b) Assessment tools, decision trees, algorithms or other effective means to:

*(1) Identify situations in which workplace violence involving a patient is likely to occur;
and*

(2) Assess visitors and other persons who display disruptive behavior or otherwise demonstrate a risk of committing workplace violence.

(c) Procedures for communication among law enforcement, paramedic and other emergency medical transportation services and facilities receiving patients to identify risk factors associated with patients who are being transported to the receiving facility.

2. A medical facility must develop procedures to respond to a hazard relating to workplace violence not later than 30 days after the medical facility recognizes the specific hazard. The procedures must take into account, without limitation:

(a) Engineering controls and work practice controls to eliminate or minimize, to the extent possible, the exposure of employees to the hazard.

(b) Measures to immediately protect employees from imminent danger.

(c) Measures to protect employees from a serious hazard not later than 7 days after the serious hazard is identified, except as otherwise provided in paragraph (d). A serious hazard is a hazard from which there is a realistic possibility that death or serious physical harm could result.

(d) Interim measures to abate an identified serious hazard until permanent control measures can be implemented if the permanent control measures cannot be implemented within 7 days.

Sec. 5. *Any engineering control, work practice control or other appropriate measure which a medical facility implements to prevent or mitigate the risk of workplace violence as identified in an assessment of the workplace pursuant to section 4 of this regulation must, at a minimum, effectively address the hazardous conditions which constitute the risk.*

Sec. 6. 1. *A medical facility shall maintain a log of workplace violence incidents and record in the log information about every incident, post-incident response and investigation regarding an injury resulting from workplace violence.*

2. Information which is recorded in the log about each incident must be based on information solicited from the employees who witnessed or experienced the workplace

violence. Except as otherwise provided in subsection 3, the information recorded in the log must include:

(a) The date, time and specific location of the incident, including the department of the medical facility in which the incident took place.

(b) A detailed description of the incident.

(c) A classification of the person who committed the violent act, including whether the perpetrator was:

(1) A patient, employee or provider of health care of the medical facility;

(2) A vendor or supplier of or to the medical facility;

(3) A family member or friend of a patient, employee, provider of health care, vendor or supplier;

(4) A coworker, supervisor or manager employed by the medical facility;

(5) A partner, spouse, parent or other relative of an employee of the medical facility;

(6) A stranger with criminal intent; or

(7) Any other person.

(d) A classification of surrounding circumstances at the time of the incident, including, without limitation, whether the employee was:

(1) Performing his or her usual job duties;

(2) Working in a poorly lit area;

(3) Required to work in an abnormally hurried manner;

(4) Working during a period of low staffing levels;

(5) In an area where crime rates are higher than in surrounding areas;

(6) Isolated or alone;

(7) Unable to get help or assistance;

(8) Working in a community setting; or

(9) Working in an unfamiliar or new location.

(e) A classification of the location where the incident occurred, including, without limitation, whether it occurred in:

(1) The room of a patient;

(2) An emergency room or urgent care center;

(3) A hallway;

(4) A waiting room;

(5) A restroom or bathroom;

(6) A break room;

(7) A cafeteria of the medical facility;

(8) A parking lot or other area which is controlled by the medical facility and used by employees, staff, visitors of patients, vendors or suppliers;

(9) A personal residence; or

(10) Any other location.

(f) The type of incident, including whether it involved:

(1) A physical attack, including, without limitation, biting, choking, grabbing, hair-pulling, kicking, punching, slapping, pushing, pulling, scratching or spitting;

(2) An attack with a weapon or object, including, without limitation, a gun, knife or other object;

(3) The threat of physical force or use of a weapon or other object; or

(4) A sexual assault or threat of sexual assault, including, without limitation, rape or attempted rape, physical display or unwanted verbal or physical sexual conduct.

(g) The consequences of the incident, including:

(1) Whether medical treatment was provided to the employee;

(2) Who, if anyone, provided assistance necessary to conclude the incident;

(3) Whether security staff for the medical facility was contacted;

(4) Whether law enforcement was contacted;

(5) The amount of time, in hours, lost from work, if any; and

(6) Actions taken to protect employees from a continuing threat, if any.

(h) Information about the person recording the information in the log, including the name, job title, phone number and electronic mail address of the person, and the date each entry to the log was made.

3. The employer shall omit from the log any element of personally identifiable information which is sufficient to allow identification of any person involved in a workplace violence incident, including, without limitation, any:

(a) Person's name;

(b) Person's address;

(c) Person's electronic mail address;

(d) Person's telephone number;

(e) Person's social security number; or

(f) Other information that, alone or in combination with other publicly available information, reveals the identity of any person.

4. Each medical facility shall review the log which that facility maintains pursuant to this section at the time the facility conducts its annual assessment of the effectiveness of its plan for the prevention of and response to workplace violence pursuant to the procedures included in the plan as required by paragraph (g) of subsection 2 of NRS 618.7312.

STEVE SISOLAK
Governor

STATE OF NEVADA

VICTORIA CARREÓN
Administrator

TERRY REYNOLDS
Director



PERRY FAIGIN
Interim Deputy Administrator

**DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS**

SMALL BUSINESS IMPACT STATEMENT
AS REQUIRED BY NRS 233B.0608 AND 233B.0609
LCB FILE NO. R044-20
February 18, 2021

Note: Small Business is defined as “a business conducted for profit which employs fewer than 150 full-time or part-time employees.” (NRS 233B.0382).

1. Describe 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.

ANSWER: To determine whether the proposed regulations required by Nevada Revised Statutes (NRS) 618.7301 through 618.7318 (enacted in Assembly Bill 348, chapter 571, Statutes of Nevada 2019, at page 3670) on workplace violence at medical facilities would affect small businesses, the Division considered the purpose and scope of the proposed regulations. Based on this review, the Division determined that this regulation will have no direct effect on small businesses, either adverse or beneficial, and will also have no indirect effect on small businesses, either adverse or beneficial. This proposed regulation provides a framework to implement and enforce the provisions of NRS 618.7301 through 618.7318 (enacted in Assembly Bill 348, chapter 571, Statutes of Nevada 2019, at page 3670) on workplace violence at medical facilities.

2. The manner in which the analysis was conducted.

ANSWER: As noted in Answer 1, above, there will be no direct or indirect financial effect on small businesses, either adverse or beneficial.

3. The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:

- (a) Both adverse and beneficial effects; and**
- (b) Both direct and indirect effects.**

ANSWER: The Division anticipates no adverse or beneficial effects, either direct or indirect, on small businesses as the result of the adoption of this regulation.

4. Describe 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.

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ANSWER: Because there will be no impact on small businesses, there are no methods available to reduce the impact the Division could have considered.

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

ANSWER: There is no additional cost to the agency for enforcement of this regulation.

6. If the proposed 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.

ANSWER: The proposed regulation does not provide for a new fee or increase an existing fee payable to the Division.

7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

ANSWER: The proposed regulation does not include any provisions which duplicate or are more stringent than existing federal, state, or local standards.

8. The reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.

ANSWER: The Division complied with NRS 233B.0608 by considering the purpose and scope of the proposed amendments. This proposed regulation provides a framework to implement and enforce the provisions of NRS 618.7301 through 618.7318 (enacted in Assembly Bill 348, chapter 571, Statutes of Nevada 2019, at page 3670) on workplace violence at medical facilities. The Division made a concerted effort to determine whether the proposed regulations impose a direct or significant economic burden upon small businesses, or directly restricts the formation, operation, or expansion of a small business. The Division determined that these regulations will have no effect on small businesses and will not restrict the formation, operation or expansion of small businesses.

I, VICTORIA CARREON, Administrator of the Division of Industrial Relations, certify that, 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 that the information contained in the statement was prepared properly and is accurate.

DATED this 18th day of February, 2021.


VICTORIA CARREON, Administrator