

Public Health Authority

Portions of NRS 441a, dealing with public health authority were identified to be addressed through the SB 275 legislation in the 2021 Nevada legislative session. Engagement between state and local health authorities, community members, community advocates, and the sponsoring legislator took place in ongoing meetings. Many meetings included representation from first responders including Clark County government liaison, Clark County Emergency Medical Services, and Professional Fire Fighters of Nevada. The Williams Institute on Sexual Orientation and Gender Identity at UCLA Law and the Center for HIV Law and Policy also provided input. In addition, the topics were discussed exhaustively during meetings of the 2019 Task Force.

NRS 441a.160 and NRS 441a.180 were identified in the 2020 Report to the Governor and the Director of the Legislative Counsel Bureau as recommended to be amended. The existing statute allowed a health authority to investigate suspected and confirmed cases of communicable disease to immediately investigate and take measures for the prevention, suppression and control of the disease as required by regulation of the state board of health or a district board of health. This statute also allows the health authority to enter private property at reasonable hours to investigate cases or suspected cases of a communicable disease. Within this statute, the health authority has the ability to require a suspected case of a communicable disease for testing and to take action to prevent the spread of the communicable disease through treatment, isolation, and/or quarantine.

Concern was raised on the ability of a health authority to order such actions and an overstep into individual privacy rights and interference with the Americans with Disabilities Act. Language in the statute that could allow for overreach included allowance for the health authority to act under suspicion or belief of the presence of a communicable disease.

Public health representatives offered education to the group on disease reporting and investigation processes, noting that common practice was to make contact and provide testing and treatment direction in the least restrictive manner possible, while protecting a person's confidentiality. Examples of intervention and investigation of other communicable disease, beyond sexually transmitted diseases and HIV, also covered by NRS441a, were provided to highlight the need for the authority to exist.

After much deliberation, the following points were agreed to, an amendment was accepted by the bill sponsor, and the changes were passed into new legislation. These generalized points were:

- Changing softer and more subjective language of “suspect” and “believe” to having a “reasonable factual and medical basis to suspect” as more objective and directive language that supports the need for proof of public health action and authority.
- Language that directs public health to intervene at the least restrictive level possible, based on medical knowledge and to not risk the life of an individual because of a public health order.
- Establish the requirement of public health to state the reasons of actions. In addition, any person being ordered to engage in the public health action must be provided information on their rights, including the right to appeal the order.
- Updating language and the related action to follow common epidemiological definitions of isolation and quarantine.

- Providing that there needs to be evidence of a person's communicable disease infectious state or the probability, based on medical evidence, that the disease can progress to an infectious state.
- Allowing public health to conduct business and exercise authority to determine if a suspect case or report is in an infectious state or the risk of developing into a progressed state that endangers the health of the person with the communicable disease.

Through the ongoing commitment to protecting individual rights and the need for public health to have the authority to investigate communicable disease, the group was able to bring forth meaningful changes that met the objectives of all parties.