

Steve Sisolak
Governor

Richard Whitley, MS
Director



DEPARTMENT OF
HEALTH AND HUMAN SERVICES
Division of Public and Behavioral Health
Helping people. It's who we are and what we do.



Lisa Sherych
Administrator

Ihsan Azzam, Ph.D., M.D.
Chief Medical Officer

NOTICE OF PUBLIC HEARING

Intent to Adopt Regulations
LCB File No. R071-20

NOTICE IS HEREBY GIVEN that the Division of Public and Behavioral Health will hold a public hearing to consider amendments to Chapter 228 of Nevada Administrative Code (NAC), Domestic Violence. This public hearing is to be held on June 1, 2021.

The public hearing will be conducted virtually beginning at 2:00 PM on June 1, 2021.

In accordance with Governor Sisolak's Declaration of Emergency Directive 006, Subsection 1, the requirement contained in NRS 241.023 (1) (b) that there be a physical location designated for meetings of public bodies where members of the public are permitted to attend and participate is suspended.

To participate in the virtual public hearing please join on your computer or via phone using the information provided below.

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105936574@teams.bjn.vc

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The proposed changes to NAC Chapter 228 bring the domestic violence treatment program regulations into compliance with NRS 439.258 which was amended during the 2019 legislative session. In addition, provisions have been added to help increase efficiencies in the certification process and to make the application process to become a provider or supervisor of treatment transparent. It also makes it easier for program participants in rural communities to attend a certified domestic violence treatment program by removing the distance limitation in order to be able to attend program counseling sessions via electronic means. This also may increase the availability of programs available to participants throughout the state helping them find a program that best fits their needs.

The proposed regulations provide provisions for the following:

- Requires a supervisor of treatment or provider of treatment to be approved by the Division to work in their respective position.
- Establishes the application procedure for a person to obtain approval to work as a supervisor of treatment or provider of treatment when that person otherwise meets all of the standard qualifications required in the proposed regulations and revises the qualification process to require such a person to additionally submit the application described in the proposed regulations for approval to work as a supervisor of treatment.
- Excludes a person who is employed, or retained as an independent contractor, by a program in the position of supervisor of treatment or provider of treatment on the effective date of this regulation, from the requirement for approval to work in that position.
- Requires a person who has obtained approval to work as a supervisor of treatment or provider of treatment to renew the approval not later than 3 years after the effective date of the initial approval by the Division; and every 3 years thereafter.
- Establishes the application procedure for obtaining the renewal of the approval to work as a supervisor of treatment or provider of treatment.
- Requires a supervisor of treatment or provider of treatment to maintain proof of the content and completion of the required continuing education for at least 6 years after the completion of the 15 hours of continuing education. Authorizes the Division to audit a supervisor of treatment or provider of treatment to verify compliance with the requirements for continuing education and authorizes the Division to revoke the approval to work of a supervisor of treatment or provider of treatment who is found to not be in compliance with the continuing education requirements; and a supervisor of treatment or provider of treatment to reapply for an approval to work in that position if their approval as a supervisor of treatment or provider of treatment has been revoked by the Division due to their noncompliance with the requirements for continuing education.
- Removes the 70-mile limitation and instead authorizes an offender to attend counseling sessions or other meetings electronically if the program has implemented a mechanism to ensure that the person attending electronically is actually the offender; and the provider of treatment verifies the identity of the offender at each meeting by utilizing the mechanism.
- In addition to meeting the existing standards of treatment, requires a program to be based on evidence-based best practices and furthermore requires each written plan of treatment for an offender to be based on the assessment of the offender by a supervisor of treatment or provider of treatment.
- In addition to including the existing topics, requires the curriculum and instructional materials of a program to include a module specific to victim safety.

1. Anticipated effects on the businesses which NAC Chapter 228 regulates:

A. *Adverse effects:* No significant direct adverse economic effects are anticipated. The following addresses the concerns noted in the comments section of the summary of responses:

- Currently there is no prohibition for an out-of-state program to offer its services online so long as it meets the requirements set forth in NAC 228.104, certification of program located in another state, renewal. As the proposed regulations do not make any changes to NAC 228.104, the proposed regulations would not make it easier for out of state applicants to provide services in Nevada just because in-state providers can provide the services electronically.
- The proposed regulations only allows a program to offer counseling sessions by electronic means if it has a mechanism in place to ensure the offender attending the session is the offender that is supposed to be attending the session; therefore, a program that does not implement such a means does not have to offer electronic sessions and can continue to provide only in person counseling sessions. This removes any requirement that would force a program to purchase computer hardware and associated items needed to provide sessions electronically.
- The proposed regulations outline the application process for a provider or supervisor of treatment to obtain approval to become a provider or supervisor of treatment but does not reduce the qualification criteria, such as any educational or professional licensing requirements needed; therefore, it does not make it any easier for someone to become a provider or supervisor of treatment in terms of who would be qualified to provide these services.
- Although the proposed regulations outline the application process to become a provider or supervisor of treatment, this application is not enough to open a certified program for the treatment of domestic violence. An applicant would still have to apply and meet all the requirements to become a certified program for the treatment of domestic violence. In addition, NAC 228.100 continues to require that an applicant provide the address of the program. Although it is true that there would not be a prohibition for a program to offer all of their sessions electronically, the program would still have to meet all of the regulatory requirements to become a program and provide an address which the Division could go onsite to perform a complaint investigation, as an example, if needed. In addition, a program address would be made available to the public through our online licensing system's public facing facility locator feature.

Indirect adverse effects: Programs that are not based on evidence-based practice would need to update their program to meet this requirement or action may be taken on their certificate, for failure to meet regulatory requirements. The actions taken may result in a negative financial impact to a business and may result in closure if action to revoke a certificate is taken against the program's certificate. As it is a statutory requirement for the regulations to require a program be evidence-based, this requirement could not be removed from the proposed regulations and still be in compliance with NRS 439.258.

- B. *Beneficial:* No direct beneficial financial effects are anticipated. There are several indirect beneficial anticipated financial effects including:
- Increased participation by offenders; therefore, greater potential that payment for services will be received.
 - Increased accessibility to certified programs by offenders that live in rural areas, offenders with disabilities and those without a means for transportation. This would also result in increased accessibility to programs located in less densely populated areas; therefore, potentially increasing business.
 - Increased transparency in supervisor and provider of treatment application process with the goal of reducing the time and effort in submitting current applications; therefore, saving time (staff costs) that could be directed to conduct other work.
 - Potential for improved outcomes as programs will be required to be evidence-based; therefore, a potential for reducing costs associated with repeated offenses.

- C. *Immediate*: There are no immediate direct beneficial financial effects anticipated.
- D. *Long-term*: There are no definitive direct beneficial financial effects anticipated but the proposed regulations may reduce transportation costs for those who attend counseling sessions virtually and increased efficiencies in application processing may save staff time.

2. Anticipated effects on the public:

- A. *Adverse*: No adverse effects on the public are anticipated.
- B. *Beneficial*: There are several potential beneficial impacts to the public including increased participation by offenders in domestic violence treatment programs potentially reducing their recidivism, a more transparent application process for supervisors and providers of treatment, and potentially increased application efficiencies.
- C. *Immediate*: As soon as the proposed regulations become effective it would allow for virtual counseling sessions regardless of the distance between a program and an offender potentially benefitting individuals that live in rural areas, offenders with disabilities or those without a means for transportation. The proposed regulations may also benefit applicants as supervisors and providers of treatments by making the application process transparent in regulations and by helping to increase efficiencies in the application process, for example, such as use of an audit process as proof of continuing education requirements.
- D. *Long-term*: It is anticipated that in the long-term the beneficial impacts may include improved domestic violence treatment program outcomes and increased domestic violence treatment program application efficiencies.

3. The estimated cost to the Division of Public and Behavioral Health for enforcement of the proposed regulations. The estimated cost to the Division for the enforcement of the proposed regulations is anticipated to be \$0.

The proposed regulations do not provide for a new fee or increase any existing fee to certify programs for the treatment of domestic violence.

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

Members of the public may make oral comments at this meeting. Persons wishing to submit written testimony or documentary evidence in excess of two typed, 8-1/2" x 11" pages must submit the material to the Administrator of the Division, Lisa Sherych, to be received no later than May 17, 2021, at the following address:

Division Administrator
Division of Public and Behavioral Health
4150 Technology Way, Suite 300
Carson City, NV 89706

Written comments, testimony, or documentary evidence in excess of two typed pages will not be accepted at the time of the hearing. The purpose of this requirement is to allow Board members adequate time to review the documents.

A copy of the notice and proposed regulations are on file for inspection and/or may be copied at the following locations during normal business hours:

Nevada Division of Public and Behavioral Health
4150 Technology Way, Suite# 300
Carson City, NV 89706

Nevada Division of Public and Behavioral Health
4220 S. Maryland Parkway, Suite 100, Building A
Las Vegas, NV 89119

Nevada Division of Public and Behavioral Health
727 Fairview Drive, Suite E
Carson City, NV 89701

A copy of the regulations and small business impact statement can be found on-line by going to:
http://dpbh.nv.gov/Reg/HealthFacilities/State_of_Nevada_Health_Facility_Regulation_Public_Workshops/

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

Copies may be obtained in person, by mail, or by calling the Division of Public and Behavioral Health at (775) 684-1030 in Carson City or (702) 486-6515 in Las Vegas.

Copies may also be obtained from any of the public libraries that are open to the public listed below:

Carson City Library
900 North Roop Street
Carson City, NV 89702

Churchill County Library
553 South Main Street
Fallon, NV 89406

White Pine County Library
950 Campton Street
Ely, NV 89301-1965

Clark County District Library
1401 East Flamingo Road
Las Vegas, NV 89119

Douglas County Library
1625 Library Lane
Minden, NV 89423

Elko County Library
720 Court Street
Elko, NV 89801

Esmeralda County Library
Corner of Crook and 4th Street
Goldfield, NV 89013-0484

Eureka Branch Library
80 South Monroe Street
Eureka, NV 89316-0283

Henderson District Public Library
280 South Green Valley Parkway
Henderson, NV 89012

Humboldt County Library
85 East 5th Street
Winnemucca, NV 89445-3095

Lander County Library
625 South Broad Street
Battle Mountain, NV 89820-0141

Lincoln County Library
93 Maine Street
Pioche, NV 89043-0330

Lyon County Library
20 Nevin Way
Yerington, NV 89447-2399

Mineral County Library
110 1st Street

Pahrump Library District
701 East Street

Hawthorne, NV 89415-1390

Pahrump, NV 89041-0578

Pershing County Library
1125 Central Avenue
Lovelock, NV 89419-0781

Storey County Library
95 South R Street
Virginia City, NV 89440-0014

Tonopah Public Library
167 Central Street
Tonopah, NV 89049-0449

Washoe County Library
301 South Center Street
Reno, NV 89505-2151

Per NRS 233B.064(2), upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 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.