

**DIVISION OF PUBLIC & BEHAVIORAL HEALTH
BUREAU OF HEALTH CARE QUALITY AND COMPLIANCE
LCB File No. R073-24**

Informational Statement per NRS 233B.066

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

The main purpose of the need for the adopted regulations is to clarify the applicability of current regulations, address incomplete applications, repeal obsolete provisions of current regulations, and to reduce the regulatory burden on industry.

LCB File No. R073-24 seeks to amend NAC Chapter 228 to:

1. Clarify that only persons that provide domestic violence treatment services to persons ordered by a court must be certified by the Division of Public and Behavioral Health (DPBH) to provide such services. Others, such as licensed counselors, that provide domestic violence counseling to individuals not ordered by the court to receive such services, may provide such counseling without being certified, but have the option to receive such certification if all regulatory and statutory requirements are met.
2. Require proof that the program has the permission to utilize its curriculum and instructional materials for the duration of its operations.
3. Require a person who has submitted an incomplete application to submit missing information within 90 days after the date on which the applicant is notified. If the Division does not receive the additional information within the 90 days, the Division will deny the application.
4. Remove the prohibition to issue a provisional certificate due to not receiving a written recommendation of the Committee on Domestic Violence.
5. Remove the requirement that the form used to conduct a random sample of at least 10 percent of records of offenders receiving treatment and the group counseling session observations be on a form approved by DPBH.
6. Add an alcohol and drug counselor or a clinical alcohol and drug counselor pursuant to Chapter 641C of NRS and an advanced practice registered nurse who practices psychiatry as one of the licensee types that would qualify as a supervisor of treatment.
7. Eliminate certain exceptions to the qualifications to be a person who was employed, or retained as an independent contractor in the position of a supervisor of treatment or provider of treatment on the effective date of LCB File No. R071-20 (July 28, 2021).
8. Remove the requirement that the director of a program attest in writing that a person meets the requirements to be a supervisor or provider of treatment upon hire or for the purpose of retaining such persons.
9. Define the term “field of clinical human services” for the purposes of being employed, or retained as an independent contractor, in the position of a supervisor of treatment.
10. Remove the requirement that certain documents be included with the renewal application.
11. Removes individual counseling as a sole source of counseling that can be included in the written plan of treatment. Note: NAC 228.165 (1) (2) (c) addresses offenders in which a supervisor of treatment determines an offender cannot be treated in group counseling sessions.
12. Provides additional provisions which allows the Division to approve a course of continuing education or formal training in domestic violence without the requirement to submit an application for approval pursuant to subsection 1 of NAC 228.215.
13. Repeal NAC 228.101 – Application: Provision to Committee, meeting of Committee to consider; transmittal of Committee’s recommendation to DPBH.

2. A 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.

Below is a summary of how public comment was solicited and a summary of the public’s response. For full details on revisions made or not made to the proposed regulations based on input received below, please refer to number 5.

Public comment was solicited by:

- 1) Sending a small business impact questionnaire to certified domestic violence treatment programs
- 2) Conducting two public workshops
- 3) Conducting a public hearing
- 4) Posting the public workshop and public hearing agendas in areas that may be visited by the public such as the Nevada State Library and Archives, on the Division’s website and other locations specified on each agenda

The questions on the small business impact 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 Received

(1 response was received out of 25 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- 0	Yes – 0	Yes – 0	Yes – 0
No - 0	No - 0	No – 0	No - 0
Comments:	Comments:	Comments:	Comments:

One response to the questionnaire was received via email asking if the removal of the provision *“Remove the requirement that the director of a program attest in writing that a person meets the requirements to be a supervisor or provider of treatment upon hire or for the purpose of retaining such persons”* would eliminate the experience requirements in regulations for a supervisor. A response was provided noting that the attestation statement being removed does not eliminate any requirements to become a supervisor, it only notes that upon hire you no longer have to attest that they meet all the requirements. A new supervisor or provider would need to apply and obtain approval by DPBH before they can work as a supervisor or provider; therefore, eliminating the need for the attestation.

April 2, 2024 – Public Workshop

There were five (5) non-Division of Public and Behavioral Health participants who attended the public workshop virtually. Only Division of Public and Behavioral Health staff attended in-person. Two (2) of the five (5) participants provided public comment. The feedback received during the public workshop

was related to LCB File No. R121-24 regarding the establishment of fees for domestic violence treatment programs. These comments are not provided in this informational statement. For public comments related to information in LCB File No. R121-24, please refer to the LCB File No. R121-24 informational statement. Below is a summary of the testimony provided related to the proposed draft regulations (not fee related):

One individual noted she was seeking information related to program's being able to use one facilitator instead of two facilitators when conducting group counseling sessions. It was explained that this topic is not addressed in the proposed regulations but was noted for future consideration.

July 31, 2024 – Public Workshop

There were five (5) non-Division of Public and Behavioral Health participants who attended the public workshop virtually. Only Division of Public and Behavioral Health staff attended in-person. Five (5) of the five (5) participants provided public comment during the public workshop which included a workshop on LCB File No. R121-24 and LCB File No. R073-24; both are related to programs for the treatment of domestic violence offenders.

The following is a summary of the testimony provided specifically as it relates to LCB File No. R073-24 (R121-24 related comments are not included):

An individual testified during the July 31, 2024, public workshop that she was in support of adding an advanced practice registered nurse who practices psychiatry as one of the license types that would qualify to become a supervisor of treatment. She noted that this may be beneficial to clients with mental health issues.

An individual wanted clarification on the qualification requirements for supervisors and providers of treatment. It was explained that the proposed regulations:

- Added alcohol and drug counselors and advanced practice registered nurses to the list of licensure types that would qualify an individual to become a supervisor of treatment if they held such a license in good standing.
- Provide a definition of "field of clinical human services" which would remove ambiguity as it relates to the provision that requires a supervisor of treatment to possess a master's or doctorate degree in a field of clinical human services.

An individual wanted clarification on how the proposed regulations would impact the actual domestic violence treatment programs for offenders. It was explained that the following changes were made in the proposed regulations:

- A requirement for a program to provide proof that a program has permission to use the curriculum and instructional materials for the entire period during which the certificate will be valid.
- If the Division receives an incomplete application, the Division will notify the applicant of the additional information and if we don't receive it within 90 days, then we would deny the application.

An individual noted the difficulties in obtaining continuing education credits for courses taken that have not yet been approved.

An individual requested information on any updates related to the requirements to become a facilitator (provider of treatment). It was noted, aside from the incomplete application component of the proposed regulations, there are no changes related to this matter in the proposed regulations. The individual went on to explain the importance of having qualified providers that have familiarity with mental health issues.

Individuals had a discussion on previous regulatory changes related to requirements to qualify as a supervisor or provider of treatment, for example, the elimination of the requirement to have 60 hours of observing group counseling sessions and removing the requirement that one provider be a male and one provider be a female when giving group counseling sessions. There was further discussion related to mental health issues including the importance of providers having a mental health background. It was explained that providers are still required to have 60 hours of formal training. It was also noted that there is nothing in regulations that would prohibit a program from requiring the 60 hours of observing group counseling sessions as part of their new provider onboarding process.

The following written comments were received via email on July 12, 2024, addressing the proposed regulations.

****To Whom It May Concern, ***

My name is Andre Brown, founder and president of Truths Of The Hearts, a 501(c)(3) nonprofit organization dedicated to standing against violence through education. I am writing to address the significant changes being proposed to the state of Nevada regarding the qualification and development of mental health institutions or facilities that connect with the judicial system.

Currently, there is a pressing issue in Nevada where individuals convicted or sentenced for domestic violence are not adequately served due to the monopolization of existing facilities. This monopolization arises from stringent requirements and a lack of qualified professionals in the field, which hinders the development of new facilities and their inclusion on the court-approved list.

Once professionals are affiliated with one facility, they are often unwilling to collaborate with other organizations to develop additional facilities. This reluctance significantly impacts the ability to get new facilities approved by local municipal courts, thereby limiting the options available for court-sanctioned domestic violence treatment.

To address this issue, I propose the following resolutions:

*1. **Easing the Requirements for Facility Development:** Simplify the requirements for establishing new mental health facilities to encourage more organizations to participate in this crucial field. This includes reducing bureaucratic hurdles and providing support for new applicants.*

*2. **Promoting Collaboration Among Professionals:** Encourage and incentivize professionals to collaborate with multiple organizations. This can be achieved through policy changes that promote shared resources and expertise, ensuring a broader network of qualified facilities.*

By implementing these changes, we can ensure that individuals convicted of domestic violence receive the necessary support and treatment. This will not only improve their rehabilitation but also enhance public safety and reduce recidivism.

Thank you for considering these important changes. Truths Of The Hearts stands ready to support and advocate for these improvements to better serve our community."

A phone call conversation with the individual that provided the above feedback clarified that the individual's main concern with the current regulations is that he is unable to find a qualified supervisor of treatment in accordance with regulatory requirements in order to become a certified domestic violence treatment program. He proposed that the regulations be changed to allow someone who recently graduated with a master's degree to serve as a supervisor without any experience.

Public Hearing – December 6, 2024

No members of the public provided public comments during the public hearing.

How other interested persons may obtain a copy of the summary

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Leticia Metherell, RN, CPM, HPM III at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health
Bureau of Health Care Quality and Compliance
727 Fairview Drive, Suite E
Carson City, NV 89701
Leticia Metherell
Phone: 775-684-1045
Email: lmetherell@health.nv.gov

3. A statement indicating the number of persons who attended each hearing, testified at each hearing, and submitted written statements regarding the proposed regulation. This statement should include for each person identified pursuant to this section that testified and/or provided written statements at each hearing regarding the proposed regulation, 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

April 2, 2024 – Public Workshop

There were five (5) non-Division of Public and Behavioral Health participants who attended the public workshop virtually. Only Division of Public and Behavioral Health staff attended in-person. Two (2) of the five (5) participants provided public comment.

The following names and information were provided by those providing testimony:

- Shawnnycy – P.A.R.C. at Sankofa, LLC.
- Karla @ ABC Therapy (comments via chat) – Fee related

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There were five (5) non-Division of Public and Behavioral Health participants who attended the public workshop virtually. Only Division of Public and Behavioral Health staff attended in-person. Five (5) of the five (5) participants provided public comment during the public workshop which included a

workshop on LCB File No. R121-24 and LCB File No. R073-24; both are related to programs for the treatment of domestic violence offenders.

The following names and information were provided by those providing testimony:

- Karla
- Dereck Hibbler
- Islena M. Giron
- Jacquie Norman
Email: jnorman@LasVegasNevada.GOV
- Craig Merrill, Sierra Counseling Center
Email: craig@sierracounseling.com

Written Comments

Two individuals submitted written comments

- Andre Brown, Founder and President, Truths Of The Hearts
Email: truths2017@gmail.com
- Craig Merrill, Sierra Counseling Center
Email: craig@sierracounseling.com

Public Hearing – December 6, 2024

There was one (1) non-Division of Public and Behavioral Health participant who attended the public hearing virtually. Only Division of Public and Behavioral Health staff attended in-person.

No members of the public provided public comments during the public hearing.

4. A description of how comment was solicited (i.e., notices) from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Pursuant to NRS 233B.0608 (2)(a), the Division of Public and Behavioral Health (DPBH) has requested input from small businesses that may be affected by the proposed regulations. Notice was sent to all certified domestic violence treatment program providers, certified at the time of the notice distribution, and to one individual that had expressed interest in receiving this notice, requesting that all interested individuals complete the small business impact questionnaire. An email notice with a link to the small business impact questionnaire and proposed regulations was sent to those with an email address on file with DPBH and to the individual that expressed interest in receiving this information on January 30, 2024. The proposed regulations were also posted on DPBH's website.

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?
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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- 0	Yes – 0	Yes – 0	Yes – 0
No - 0	No - 0	No – 0	No - 0
Comments:	Comments:	Comments:	Comments:

One response to the questionnaire was received via email asking if the removal of the provision *“Remove the requirement that the director of a program attest in writing that a person meets the requirements to be a supervisor or provider of treatment upon hire or for the purpose of retaining such persons”* would eliminate the experience requirements in regulations for a supervisor. A response was provided noting that the attestation statement being removed does not eliminate any requirements to become a supervisor, it only notes that upon hire you no longer have to attest that they meet all the requirements. A new supervisor or provider would need to apply and obtain approval by DPBH before they can work as a supervisor or provider; therefore, eliminating the need for the attestation.

April 2, 2024 – Public Workshop

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The feedback received during the public workshop included feedback to proposed regulations related to the establishment of fees for domestic violence treatment programs for offenders, found in LCB File No. R121-24. These comments are not provided in this informational statement. For public comments related to the information in LCB File No. R121-24, please refer to the LCB File No. R121-24 informational statement. Below is a summary of the testimony provided related to the proposed regulations LCB File No. R073-24 (not fee related):

One individual noted she was seeking information related to program’s being able to use one facilitator instead of two facilitators when conducting group counseling sessions. It was explained that this topic is not addressed in the proposed regulations but was noted for future consideration.

July 31, 2024 – Public Workshop

There were five (5) non-Division of Public and Behavioral Health participants who attended the public workshop virtually. Only Division of Public and Behavioral Health staff attended in-person. Five (5) of the five (5) participants provided public comment during the public workshop which included a workshop on LCB File No. R121-24 and LCB File No. R073-24; both are related to programs for the treatment of domestic violence offenders.

The following is a summary of the testimony provided specifically as it relates to LCB File No. R073-24 (R121-24 related comments are not included):

An individual testified during the July 31, 2024, public workshop that she was in support of adding an advanced practice registered nurse who practices psychiatry as one of the license types that would

qualify to become a supervisor of treatment. She noted that this may be beneficial to clients with mental health issues.

An individual wanted clarification on the qualification requirements for supervisors and providers of treatment. It was explained that the proposed regulations:

- Added alcohol and drug counselors and advanced practice registered nurses to the list of licensure types that would qualify an individual to become a supervisor of treatment if they held such a license in good standing.
- Provide a definition of “field of clinical human services” which would remove ambiguity as it relates to the provision that requires a supervisor of treatment to possess a master’s or doctorate degree in a field of clinical human services.

An individual wanted clarification on how the proposed regulations would impact the actual domestic violence treatment programs for offenders. It was explained that the following changes were made in the proposed regulations:

- A requirement for a program to provide proof that a program has permission to use the curriculum and instructional materials for the entire period during which the certificate will be valid.
- If the Division receives an incomplete application, the Division will notify the applicant of the additional information and if we don't receive it within 90 days, then we would deny the application.

An individual noted the difficulties in obtaining continuing education credits for courses taken that have not yet been approved.

An individual requested information on any updates related to the requirements to become a facilitator (provider of treatment). It was noted, aside from the incomplete application component of the proposed regulations, there are no changes related to this matter in the proposed regulations. The individual went on to explain the importance of having qualified providers that have familiarity with mental health issues.

Individuals had a discussion on previous regulatory changes related to requirements to qualify as a supervisor or provider of treatment, for example, the elimination of the requirement to have 60 hours of observing group counseling sessions and removing the requirement that one provider be a male and one provider be a female when giving group counseling sessions. There was further discussion related to mental health issues including the importance of providers having a mental health background. It was explained that providers are still required to have 60 hours of formal training. It was also noted that there is nothing in regulations that would prohibit a program from requiring the 60 hours of observing group counseling sessions as part of their new provider onboarding process.

Written Comments from affected businesses

In addition to the written comments noted in #2, a Nevada approved supervisor of treatment, representing a certified domestic violence treatment program for offenders, provided the following feedback:

"I have concerns DV clients seeing individual therapists unless there are specific reasons they are unable to attend groups. I have been facilitating groups for over 20 years and the most significant impact in changing belief systems are provided by other participants that are able to challenge negative relational attitudes and behavior patterns. Individual therapy typically lacks this process and does not provide an environment that activates those negative societal beliefs and attitudes. Clients usually express these views in groups to impress peers through attempts to collude and recruit others into their victim mentality."

"I was hoping that the process to get CEU's approved could be discussed. Often after taking a course that hasn't been approved requires a tremendous amount of paperwork be provided that is only necessary for those providing training. It makes it difficult when just seeking approval as a participant. Is this something that could be addressed during the workshop or does it need a special hearing?"

Public Hearing – December 6, 2024

No members of the public or affected businesses provided public comments during the public hearing.

How other interested persons may obtain a copy of the summary

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Leticia Metherell, RN, CPM, HPM III at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health
Bureau of Health Care Quality and Compliance
727 Fairview Drive, Suite E
Carson City, NV 89701
Leticia Metherell
Phone: 775-684-1045
Email: lmetherell@health.nv.gov

5. If, after consideration of public comment, the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change. The statement should also explain the reasons for making any changes to the regulation as proposed.

After consideration of feedback from a Nevada approved supervisor of treatment and review of literature on the topic, individual counseling was removed as a sole source of counseling that can be provided to domestic violence offenders. Group counseling or a combination of individual and group counseling continue to be allowed forms of counseling. NAC 228.165 continues to address situations in which a supervisor of treatment determines that an offender cannot be treated in a group counseling session.

Literature reviewed included the following:

The Battered Women's Justice Project, Current Research on Batterer Intervention Programs and Implications for Policy (<https://www.bwjp.org/assets/batterer-intervention-paper-final-2018.pdf>) noted: *"Their preliminary conclusions support the benefits of group CBT and contradict calls for more tailored, individualized treatment (e.g., Dutton and Curvo 2007). Murphy et al. hypothesized that therapist difficulties in developing a case formulation plan, motivating engagement and completion*

of the plan, and delivering the intervention was more challenging in the individualized treatment (p. 17)."

Batterer Intervention: Program Approaches and Criminal Justice Strategies, by the US Department of Justice, Office of Justice Programs, National Institute of Justice (<https://www.ojp.gov/pdffiles/168638.pdf>) noted *"group work is considered important in helping abusers to overcome their denial by hearing other men acknowledge and deal with their behavior, and to break the isolation that is considered part of the syndrome of abuse."*

After consideration of feedback from a Nevada approved supervisor of treatment noting the difficulties in obtaining continuing education credits for courses taken that have not yet been approved, the proposed regulations were modified to reduce the burden on supervisors and providers of treatment obtaining continuing education or formal training in accordance with Nevada Administrative Code (NAC) Chapter 228. The modifications clarify that the Division is authorized to review for approval a course of continuing education or formal training without an application if it is approved or accepted as continuing education or formal training by the occupational licensing boards listed in Section 8, subsection 5 or if it is approved by a nationally recognized organization pursuant to NAC 228.215, subsection 4.

After consideration of feedback from a member of the public to reduce the qualifications of a supervisor of treatment to only requiring graduation with a master's degree without any experience, such as a new graduate, it was determined that because this position serves in a supervisory role that experience should continue to be a requirement; therefore, the adopted regulations were not amended to remove the experience requirement.

6. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include:
 - (a) Both adverse and beneficial effects; and
 - (b) Both immediate and long-term effects.

Anticipated effects on the business which NAC 228 regulates:

- A. *Adverse effects:* An adverse effect may occur if an applicant for a certificate for a program submits an incomplete application and does not submit the additional information requested by the Division within 90 days of the request as this would result in the denial of the application. This would result in the potential for an applicant having to reapply for an initial certificate for a program and pay the associated fee of \$598.
- B. *Beneficial:* Indirect beneficial effects may include being able to continue to operate with their division approved curriculum and instructional materials if the "author" of the curriculum decides to leave the program. Under the current regulations, if the "author" of the curriculum leaves the program and does not allow the program to continue its use, it may result in disruption to the program and possible loss of revenue. Adding additional types of licensed personnel that can serve as a supervisor of treatment may allow programs more flexibility in staffing their programs. Increased efficiencies with the renewal application process may lead to a beneficial effect by reducing the amount of staff time required to submit a program renewal application. Allowing additional avenues for approvals of continuing education and formal training without having to submit all of the

application contents noted in NAC 228.215 (1) thus reducing the burden for those looking to have courses approved or providers or supervisors of treatment taking courses that have not been approved. This may result in an indirect beneficial financial effect as courses may be approved quicker which would allow those providing courses to begin giving them sooner and potentially prevent providers or supervisors of treatment from taking and paying for an additional course because of an inability to meet all of the criteria in NAC 228.215 (1) to get a course which they have taken approved.

- C. *Immediate*: There are no immediate beneficial or adverse effects anticipated. An applicant can avoid any potential negative impacts related to an incomplete application submission by ensuring any missing information is submitted within 90 days of being requested.
- D. *Long-term*: There are no long-term beneficial or adverse effects anticipated.

Anticipated effects on the public:

- A. *Adverse*: There are no anticipated adverse effects on the public.
- B. *Beneficial*: One individual testified during the July 31, 2024, public workshop that she was in support of adding an advanced practice registered nurse who practices psychiatry as one of the license types that would qualify to become a supervisor of treatment. She noted that this may be beneficial to clients with mental health issues.
- C. *Immediate*: There are no anticipated immediate effects on the public.
- D. *Long-term*: There are no anticipated long-term effects on the public.

Note: The small business impact statement for proposed amendments to Nevada Administrative Code (NAC) 228 reflect the impact due to the establishment of fees pursuant to LCB File No. R121-24 and the policy changes addressed in LCB File No. R073-24. The anticipated effects on business, noted above, are specific to LCB File No. R073-24 and not the establishment of fees on programs for the treatment of domestic violence for offenders found in R121-24 which passed the Legislative Commission on November 15, 2024.

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

There should be no additional costs to the agency to enforce the proposed regulations.

- 8. A description of any regulations of other state or government agencies which 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, name the regulating federal agency.

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

- 9. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

There are no other state or federal regulations addressing the same activity.

- 10. If the regulation establishes a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used.

The proposed regulations do not establish a new fee. Comments related to fees in the small business impact statement are related to LCB File. No R 121-24 which passed the Legislative Commission on 11/15/2024.