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Testimony before the Legislative Commission's Subcommittee on the Review of
Regulations

December 29, 2011

My name's Barry Lovgren and I'm a private citizen here with the hope that the Subcommittee will exercise its authority under NRS 233B.067 to return regulations that don't carry out legislative intent or that exceed statutory authority. These regulations have both problems.

The revision doesn't carry out the intent of SB 300 to protect the health and safety of detoxification clients. Prior to SB 300, the only qualifications for persons monitoring clients going through withdrawal during detoxification was a Health Division facility licensure requirement that the person have six hours of training. SB 300 tried to fix that by requiring certification and continuing education. But all these regulations do is adopt that old facility licensure requirement as criteria for certification and continuing education. The Detoxification Technician provisions are so miniscule that the Digest for Revised Adopted Regulation doesn't even mention them.

This revision also ~~don't~~ ^{doesn't} meet the requirement of NRS 233B.100 to provide for petition to change the regulations, requiring that "Each agency shall prescribe by regulation the form for such petitions and the procedure for their submission, consideration, and disposition." These regulations have no such provisions.

SB 300 revised NRS 458.025 to require the Division of Mental Health and Developmental Services (MHDS) to adopt regulations for the certification and continuing education of Detoxification Technicians, but these regulations are purely nominal and do nothing to protect client health and safety. Before SB 300, there was no State requirement that would prohibit a recently-paroled rapist who dropped out of grammar-school from monitoring clients going through withdrawal so long as he got 6 hours of training. There still isn't: Under these regulations that person instead is actually certified by the State, with no provisions to deny certification and no provisions to revoke it no matter what he does. Approve these regulations only if you think the State should certify such a person to keep an eye on a friend's 18 year-old daughter during the night shift while she's going through withdrawal.

And the Detoxification Technician provision of NRS 458.025 is the full extent of the MHDS Commission's authority to revise NAC 458. During the 2007 and subsequent legislative sessions, MHDS failed to get the statutes aligned with the Substance Abuse Prevention and Treatment Agency (SAPTA) being moved to the Health Division by AB

from

2. NRS 433 *still* doesn't authorize the MHDS Commission adopt regulations for the care and treatment of those with substance use disorders, and that's what NAC 458 is.

I explained these problems in a letter to each member of the Legislative Commission in September, and I'm providing a copy of that letter to be attached to the minutes of this meeting.

Failure to get statutes aligned creates another problem. In Section 12 of the Revised Adopted Regulation, "Evaluation Center" is defined as a program certified by MHDS, but this exceeds MHDS's statutory authority. NRS 484C.310 still requires Evaluation Centers to be certified according to standards established by the Board of Health, not by MHDS.

I think that actually should be Section 11. For some reason, page 2 of the Revised Adopted Regulation is text from a regulation I don't recognize, page 3 begins with Section 2 without there having been a Section 1, and the last part of Section 27 and the first part of Section 28 are missing.

The Informational Statement doesn't provide a summary of public comment and of why proposed changes weren't made, as required by NRS 233B.066.

At the first public hearing I proposed a number of changes, none of which were made. Yet the Informational Statement in section 4 says that all were made, without saying what they were. At the Subcommittee meeting I testified on two things I'd brought up at that first public hearing: That the regulations had no provisions for Detoxification Technicians and they called for appeal of MHDS actions to the Health Division. The regulations then were returned.

Some of the changes I'd recommended now have been made, but while there now are provisions for Detoxification Technicians they don't protect client health and safety. At the second public hearing I testified about that, about how the regulations don't have the required petition process, and about the need for the regulations to address the billing and collection procedures of funded programs. The Informational Statement says nothing about this, and there's no summary of why those changes weren't adopted.

The Informational Statement isn't the only example of SAPTA being dismissive of public comment. The Workshop held after the Subcommittee meeting at which these regulations were returned lasted fifteen minutes, and as the minutes state, "Since the time was limited to three minutes, Mr. Lovgren was not able to go into detail..." I don't think the Legislature intended workshops held pursuant to NRS 233B.061 to limit public comment to three minutes in a 15-minute Workshop with no discussion of the issues brought up.

The Informational Statement points out another problem. They say that the revision doesn't establish a new fee. Yet SAPTA's rule of practice to implement it establishes a fee of \$25 to apply for Detoxification Technician certification.

Finally, this revision adopts published ASAM criteria by reference in Section 7. NRS 233B.040 allows adoption of a publication by reference only if a copy of it is filed with State Library and Archives and with the Secretary of State. This hasn't been done.

But the main reasons why these regulations should be returned are because they don't carry out the legislative intent of SB 300 to protect client health and safety, they don't have the process required by NRS 233B.100 for petition to change them, and until NRS 433 is aligned with SAPTA's move to MHDS, the MHDS Commission that adopted them has no statutory authority to adopt regulations for the care and treatment of persons with substance use disorders.

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September 29, 2011

Dear Legislative Commission Member:

I know this letter is very long – but public health and safety is at stake here, and possibly liability of the State for failure to exercise due diligence. Neither should suffer because of my inability to be brief.

On September 16, 2011, the Commission on Mental Health and Developmental Services (MHDS Commission) adopted revision of NAC 458. *That Commission does not have statutory authority to adopt these regulations.* Even if there were statutory authority for their adoption by the Commission, the regulations fail to carry out legislative intent in two regards:

1. They fail to protect the health and safety of social model detoxification clients through certification and continuing education of Detoxification Technicians (Detox Techs); and
2. They fail to provide for a person to be able to petition to change them.

The Legislative Commission and its Subcommittee to Review Regulations are authorized by NRS 233B.067 to return regulations when statutory authority is exceeded and when regulations don't carry out legislative intent. I'm asking that the revision of NAC 458 be returned.

I'm sending this letter to each member of the Commission because I don't know whether approval of the proposed revision of NAC 458 will be on the agenda for the October meeting of the Commission, or whether such approval will instead be on the agenda of a Subcommittee meeting that has yet to be scheduled.

Statutory Authority

During discussion at the Commission's public hearing on this revision, Harold Cook, Ph.D., Division of Mental Health and Developmental Services (MHDS) Administrator, stated that the Commission does not have statutory authority to approve SAPTA policies. This statement was confirmed by the Deputy Attorney General present. The implications of this specific to Detox Techs will be addressed in that section of this letter.

This seemed odd to me, so I researched the matter. I not only found that Dr. Cook is correct, but found that the MHDS Commission also isn't authorized to adopt SAPTA regulations – i.e. these revisions to NAC 458.

During the 2005 Special Legislative Session, AB 2 reorganized a number of State agencies and created the Department of Health and Human Services. Part of that reorganization was moving SAPTA from the Health Division to MHDS. AB 2 contained provisions aligning a number of statutes with the reorganization, but it didn't align the MHDS Commission statutes, NRS 433.314 and following, with it.

As a consequence, the MHDS Commission, which was authorized by NRS 433.314 and NRS 433.324 to adopt policies and regulations for services to persons with mental illness (defined in a manner that excludes substance-use disorders) and mental retardation, wasn't also authorized to adopt policies and regulations for services to persons with substance-use disorders. In subsequent Legislative Sessions, statutory authority was given to the Commission to adopt policies and regulations for services to persons with related conditions (which don't include substance-use disorders) and to persons with co-occurring disorders (mental illness conjoined with one or more substance-use disorders). But the Commission still has not been given statutory authority to adopt policies and regulations for services to persons with substance-use disorders. NAC 458 is regulations for services to persons with substance-use disorders.

NRS 433.324(1)(c) does authorize the Commission to adopt regulations "Necessary for the proper and efficient operation of the facilities of the Division." But NAC 458 doesn't address the operations of MHDS facilities. It instead addresses certification of programs conducted in privately owned and operated facilities (e.g. WestCare treatment programs) and programs operated by governmental agencies other than MHDS in facilities other than MHDS facilities (e.g. Washoe County Sheriff's Office Civil Protective Custody program)..

A copy of the statutes for the MHDS Commission is enclosed.

There have been three Legislative Sessions since SAPTA was moved to MHDS by AB 2 in 2005. I do not know why MHDS hasn't sought legislation to align NRS 433 with AB 2 by expanding the policy- and regulation-making authority of the MHDS Commission to include services for persons with substance-use disorders.

But the fact remains that the revision of NAC 458 was adopted by a Commission that does not have statutory authority to adopt regulations for services to persons with substance-use disorders. Accordingly NAC 458 should be returned.

Legislative Intent: Detoxification Technicians

The previous revision of NAC 458 that had been returned by the Subcommittee to Review of Regulations had no provisions for Detox Techs. That revision ignored legislative intent. This revision insults it.

The purpose of these regulations is to make it as easy as possible for a very reluctant SAPTA to certify Detox Techs and to establish their continuing education requirements. It should be to carry out legislative intent to protect client health and safety. You're being asked to approve regulations that address with a wink and a nod legislative intent to establish safeguards for social model detox clients.

NRS 458.025 requires these regulations to have provisions for certification and continuing education of Detox Techs. Detox Techs are paraprofessional staff of social model (i.e. non-medical) facilities for substance-abusers to safely go through withdrawal from alcohol and other drugs. Detox Techs monitor clients while they are in withdrawal, taking the client's vital signs periodically.

The requirement to adopt regulations for certification and continuing education of Detox Techs was put into law ten years ago by SB 300. Before SB 300 the only thing addressing the qualifications of Detox Techs was a Health Division licensing regulation for social model detoxification facilities that requires that staff have six hours of training every two years in acute withdrawal symptoms and in first aid for seizures and that one staff member in the facility has CPR certification. No training in monitoring vital signs which is the core of what a Detox Tech does, and none in ethical standards. There *weren't* any ethical standards for Detox Techs. Training in confidentiality and communicable diseases was limited to new-employee orientation to facility policies required by program certification, with no continuing education requirement for either. No education or background requirements, no competency examination. No way to ensure that social model detoxification clients in withdrawal aren't monitored by incompetent, unethical, or impaired staff.

Under these regulations, none of this changes. The Legislature could just as well not have gone through all the trouble of passing SB 300.

In Section 4, the regulations define "Detoxification Technician" as "a person who is certified by the Division to provide screening for safe withdrawal from alcohol and other drugs."

In Section 27, the regulations require that the personnel files of staff of a SAPTA-certified program must include "without limitation, copies of certificates which certify that each member of the staff who is a detoxification technician has completed the requirements for continuing education prescribed by NAC 449.1214." That's the Health Division licensing regulation that requires staff of a social model detoxification facility to have six hours of training every two years in acute withdrawal symptoms and first aid for seizures. Documentation of all staff training is already required by NAC 458 to be maintained in personnel files.

Section 4 implies that SAPTA somehow certifies individuals who provide screening during withdrawal as "Detoxification Technicians". Section 27 is completely superfluous

except to call the training required by the Health Division every two years “continuing education”.

That’s all these regulations have to say about certification and continuing education of Detox Techs. Nothing is done to establish safeguards for the health and safety of social model detoxification clients.

I said that Section 4 implies that “SAPTA somehow certifies individuals” because the regulations have no provisions for standards or procedures by which SAPTA is to certify Detox Techs or any other individuals – they only provide for SAPTA to certify programs.

SAPTA fleshes out how it will certify Detox Techs in two rules of practice: SAPTA Detox Tech policies and procedures and an application form. These rules of practice establish only three requirements for Detox Tech certification:

1. That the person isn’t debarred from certification for nonpayment of child support;
2. That the person provides a social security number; and
3. That the person has had Center for the Application of Substance Abuse Technologies (CASAT) training in “Principles of Detoxification Enhanced”.

These two rules of practice are enclosed.

The CASAT training meets the Health Division requirement for those six hours of training in acute withdrawal symptoms and first aid for seizures. The CASAT training is available on DVD and does address how to monitor vital signs, but it says nothing about communicable diseases, confidentiality, or ethics. There’s no continuing education requirement for communicable diseases or confidentiality, and no ethical standards for Detox Techs on which training could be provided.

In any event, the regulations have nothing in them that authorizes SAPTA to adopt these rules of practice. The regulations only define a Detox Tech as “a person who is certified by the Division to provide screening for safe withdrawal from alcohol and other drugs.” and establish a superfluous requirement that documentation of training required by the Health Division is maintained in the Detox Tech’s personnel file.

Even if reliance upon rules of practice to establish standards and procedures for certification of Detox Techs were authorized by the regulations, I’d strongly recommend against it. We’ve seen how inadequate those rules of practice are. The standards and procedures should be specified in regulation.

I’d thought that the inadequacy of SAPTA policies – its rules of practice - could be remedied by their being subject to MHDS Commission approval. But at the hearings on these regulations, Dr. Cook, MHDS Administrator, pointed out that there’s no statutory authority for SAPTA policies to be subject to Commission approval. After the hearings I researched the statutes and found that Dr. Cook is correct: The MHDS Commission not only lacks authority to approve SAPTA policies, it also lacks authority to adopt these regulations. Please see the “Statutory Authority” section of this letter.

Under these regulations, a recently paroled drug trafficking pimp who dropped out of grade school and who was discharged that morning from detox himself qualifies for SAPTA certification as a Detox Tech - after completing six hours of training in acute withdrawal symptoms and first aid for seizures. With no standards of ethical practice with which he must abide. A person who has at least seen a DVD on how to monitor vital signs, isn't debarred for non-payment of child support, and who has a social security number - if SAPTA can enforce rules of practice without regulatory authority. There are no provisions for SAPTA to deny or revoke that person's certification no matter what he does. Certification can be suspended only for nonpayment of child support - and that only if SAPTA can enforce rules of practice without regulatory authority.

If your daughter went into a social model detoxification facility, wouldn't you want some assurance in the regulations that she wouldn't be monitored by that person while she's going through withdrawal? And that if that Detox Tech gave her drugs and raped her that he'd at least have his certification revoked? What qualifications would you want for the person monitoring someone you care about while she's going through withdrawal? If you care about social model detoxification clients, you'll insist that the regulatory standards be raised towards that level.

Under these regulations, it's no exaggeration to say that Charles Manson can be certified as a Detox Tech after sending away for the CASAT DVD. These regulations fall absurdly short of any standard for due diligence.

Most tellingly, there's nothing in the regulations that requires that clients in social model detoxification programs must be monitored by certified Detox Techs. There's no need to because that certification is so meaningless.

These regulations are nothing but lip service to the statutory requirement that they provide for the certification and continuing education of Detox Techs. Under these regulations, SAPTA meets that mandate by just certifying as Detox Techs social model detox staff who have the minimal training already required by facility licensure, and by calling that minimal training "continuing education". If SAPTA can enforce rules of practice without regulatory authority, certification also means that the Detox Tech met the facility licensure requirement by at least watching a CASAT DVD. This isn't what the legislature intended when it passed SB 300; the legislature intended to give better protection for client health and safety than was - and is - provided by facility licensure requirements for staff training and program certification requirements for personnel file contents.

SAPTA's reluctance to certify Detox Techs has trumped legislative intent. SAPTA even documented this in its January, 2009, position paper, "Social Model Detoxification and Detoxification Technicians". That paper states that SAPTA "has not had requests from individuals to be certified as detoxification technicians" despite the CASAT training DVD showing attendees asking about such certification, makes the false statement that taking a client's vital signs requires Board of Nursing licensure or certification, and

reaches the conclusion that “detoxification certification is viewed as inappropriate”. The Legislature didn’t view Detox Tech certification as “inappropriate” when it passed SB 300. A copy of the position paper is enclosed.

That reluctance is also reflected in SAPTA’s statement in one of the enclosed Detox Tech rules of practice, Appendix C15a, that, “Several years ago, regulations for the certification of Detoxification Technicians were to be adopted by the Board of Examiners for Alcohol, Drug, and Gambling Counselors, as referenced in NRS 458.025. The Board of Examiners has not yet adopted these regulations. Therefore the Substance Abuse Prevention and Treatment Agency (SAPTA) is responsible...”

That Board has never been responsible for adoption of regulations for certification of Detox Techs. That Board is simply authorized to take over responsibility from SAPTA if it chooses to do so. SAPTA has held responsibility for ten years, and for ten years hasn’t met it while waiting with the forlorn hope that the Board will relieve SAPTA of responsibility.

It may not be possible for regulations to force an agency to do its job, but there’s no reason to approve regulations that make it easy for SAPTA to *not* do its job.

Last year I wrote SAPTA a letter with proposed language for regulations that provide for SAPTA to certify individuals and not just programs, and that meet the legislative intent of SB 300. I didn’t expect what I proposed to be completely adopted, but neither did I expect the issues it raised to be completely ignored. A copy of that letter is enclosed.

Since then I’ve found that NRS 641C.500 gives a good list of things that must be addressed in regulations for certification of Detox Techs, although it doesn’t cover everything. For example, it doesn’t cover ethical standards. That statute lists what the Board of Alcohol, Drug, and Gambling Counselors must address in regulation if it chooses to take over responsibility for certification of Detox Techs. I covered many of these items in my enclosed letter to SAPTA, but not all. These regulations cover none of them.

NRS 641C.500

1. The Board may, by regulation, provide for the certification of a person as a detoxification technician.
2. Any regulation adopted pursuant to subsection 1 must be consistent with the provisions of chapter 622A of NRS and must include, without limitation, provisions relating to:
 - (a) The requirements for submitting an application for a certificate, including, without limitation, the submission of a complete set of fingerprints pursuant to NRS 641C.260;
 - (b) The scope of practice for a person who is issued a certificate;
 - (c) The conduct of any investigation or hearing relating to an application for a certificate;
 - (d) The examination of an applicant for a certificate or a waiver of examination for an applicant;
 - (e) The requirements for issuing a certificate or provisional certificate;
 - (f) The duration, expiration, renewal, restoration, suspension, revocation and reinstatement of a certificate;

- (g) The grounds for refusing the issuance, renewal, restoration or reinstatement of a certificate;
- (h) The conduct of any disciplinary or other administrative proceeding relating to a person who is issued a certificate;
- (i) The filing of a complaint against a person who is issued a certificate;
- (j) The issuance of a subpoena for the attendance of witnesses and the production of books, papers and records;
- (k) The payment of fees for:
 - (1) Witnesses, mileage and attendance at a hearing or deposition; and
 - (2) The issuance, renewal, restoration or reinstatement of a certificate;
- (l) The imposition of a penalty for a violation of any provision of the regulations; and
- (m) The confidentiality of any record or other information maintained by the Board relating to an applicant or the holder of a certificate.

Approving these regulations would be endorsing an insult to the intent of the legislature to establish safeguards for the health and safety of social model detoxification clients. These regulations should be returned.

Legislative Intent: Petition to Change Regulations

This will be mercifully brief.

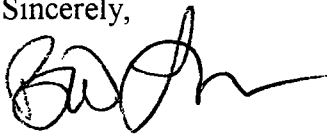
NRS 233B.100 requires that "Any interested person may petition an agency requesting the adoption, filing, amendment or repeal of any regulation..." and that, "Each agency shall prescribe by regulation the form for such petitions and the procedure for their submission, consideration, and disposition." There's no such provision in these regulations, even though I brought this up at the workshop on them.

Some time ago I asked the Public Information Officer for the Department of Health and Human Services how to petition for revision of NAC 458. Because NAC 458 lacks this required provision, I was referred to Health Division regulations, which do have a petition process. Petitioning the Health Division and the Board of Health to revise MHDS regulations would have served only to annoy them and embarrass SAPTA.

Legislative intent that regulations must have provisions for petition to change them seems very clear, and it's equally clear that these regulations ignore it. These regulations should be returned.

Thank you for taking these matters into consideration, and special thanks for reading this tediously lengthy letter..

Sincerely,



Barry W. Lovgren

Commission on Mental Health and Developmental Services

NRS 433.314 Duties. The Commission shall:

1. Establish policies to ensure adequate development and administration of services for persons with mental illness, mental retardation or co-occurring disorders and persons with related conditions, including services to prevent mental illness, mental retardation and co-occurring disorders and related conditions, and services provided without admission to a facility or institution;
2. Set policies for the care and treatment of persons with mental illness, mental retardation or co-occurring disorders and persons with related conditions provided by all state agencies;
3. Review the programs and finances of the Division; and
4. Report at the beginning of each year to the Governor and at the beginning of each odd-numbered year to the Legislature on the quality of the care and treatment provided for persons with mental illness, mental retardation or co-occurring disorders and persons with related conditions in this State and on any progress made toward improving the quality of that care and treatment.

(Added to NRS by 1975, 1593; A 1985, 2265; 1999, 2591; 2009, 662)

NRS 433.316 Powers. The Commission may:

1. Collect and disseminate information pertaining to mental health, mental retardation and co-occurring disorders and related conditions.
2. Request legislation pertaining to mental health, mental retardation and co-occurring disorders and related conditions.
3. Investigate complaints about the care of any person in a public facility for the treatment of persons with mental illness, mental retardation or co-occurring disorders and persons with related conditions.
4. Accept, as authorized by the Legislature, gifts and grants of money and property.
5. Take appropriate steps to increase the availability of and to enhance the quality of the care and treatment of persons with mental illness, mental retardation or co-occurring disorders and persons with related conditions provided through state agencies, hospitals and clinics.
6. Promote programs for the treatment of persons with mental illness, mental retardation or co-occurring disorders and persons with related conditions and participate in and promote the development of facilities for training persons to provide services for persons with mental illness, mental retardation or co-occurring disorders and persons with related conditions.
7. Create a plan to coordinate the services for the treatment of persons with mental illness, mental retardation or co-occurring disorders and persons with related conditions provided in this State and to provide continuity in the care and treatment provided.
8. Establish and maintain an appropriate program which provides information to the general public concerning mental illness, mental retardation and co-occurring disorders and related conditions and consider ways to involve the general public in the decisions concerning the policy on mental illness, mental retardation and co-occurring disorders and related conditions.
9. Compile statistics on mental illness and study the cause, pathology and prevention of that illness.
10. Establish programs to prevent or postpone the commitment of residents of this State to facilities for the treatment of persons with mental illness, mental retardation or co-occurring disorders and persons with related conditions.
11. Evaluate the future needs of this State concerning the treatment of mental illness, mental retardation and co-occurring disorders and related conditions and develop ways to improve the treatment already provided.
12. Take any other action necessary to promote mental health in this State.

(Added to NRS by 1985, 2263; A 1999, 2592; 2009, 663)

NRS 433.317 Appointment of subcommittee on the mental health of children; duties; compensation to extent of available funding.

1. The Commission shall appoint a subcommittee on the mental health of children to review the findings and recommendations of each mental health consortium submitted pursuant to NRS 433B.335 and to create a statewide plan for the provision of mental health services to children.

2. The members of the subcommittee appointed pursuant to this section serve at the pleasure of the Commission. The members serve without compensation, except that each member is entitled, while engaged in the business of the subcommittee, to the per diem allowance and travel expenses provided for state officers and employees generally if funding is available for this purpose.

(Added to NRS by 2009, 662)

NRS 433.318 Appointment of subcommittee or advisory committee; member qualifications; duties; compensation to extent of available funding.

1. The Commission may appoint a subcommittee or an advisory committee composed of members who have experience and knowledge of matters relating to persons with mental illness, mental retardation or co-occurring disorders and related conditions and who, to the extent practicable, represent the ethnic and geographic diversity of this State.

2. A subcommittee or advisory committee appointed pursuant to this section shall consider specific issues and advise the Commission on matters related to the duties of the Commission.

3. The members of a subcommittee or advisory committee appointed pursuant to this section serve at the pleasure of the Commission. The members serve without compensation, except that each member is entitled, while engaged in the business of the subcommittee or advisory committee, to the per diem allowance and travel expenses provided for state officers and employees generally if funding is available for this purpose.

(Added to NRS by 2009, 662)

NRS 433.324 Regulations.

1. The Commission shall adopt regulations:

- (a) For the care and treatment of persons with mental illness, mental retardation or co-occurring disorders and persons with related conditions by all state agencies and facilities, and their referral to private facilities;
- (b) To ensure continuity in the care and treatment provided to persons with mental illness, mental retardation or co-occurring disorders and persons with related conditions in this State; and
- (c) Necessary for the proper and efficient operation of the facilities of the Division.

2. The Commission may adopt regulations to promote programs relating to mental health, mental retardation and co-occurring disorders and related conditions.

(Added to NRS by 1975, 1594; A 1985, 368, 2265; 1999, 2592; 2009, 664)

NRS 433.325 Inspection of facility. The Commission or its designated agent may inspect any state facility providing services for persons with mental illness, mental retardation or co-occurring disorders and persons with related conditions to determine if the facility is in compliance with the provisions of this title and any regulations adopted pursuant to those provisions.

(Added to NRS by 1985, 2263; A 1993, 2715; 1999, 2593; 2009, 664)

NRS 433.327 Right of certain employees of Department to submit information or requests to Commission or appear before Commission. Every employee of the Division, and every person employed by the Division of Child and Family Services of the Department pursuant to chapter 433B of NRS is entitled to submit written information or requests directly to the Commission or its individual members, or appear before it with its permission, but the Commission shall not interfere with the procedures for resolving the grievances of employees in the classified service of the State.

(Added to NRS by 1985, 2263; A 1993, 2716)

APPENDIX C15

Detoxification Technician Standards Policy and Procedures December 2010

“Detoxification technician” defined. (NRS 458.025) “Detoxification technician” means a person who is certified by the Division to provide screening for safe withdrawal from alcohol and other drugs.

Qualifications for certification as detoxification technician. (NRS 458.025) The qualifications for certification as a detoxification technician are:

1. Submission to the Division of a completed application for certification as a detoxification technician; Application to include social security number. Submit a fee of \$25.00.
2. Certification in cardiopulmonary resuscitation, if applicable as described below.
3. Submission of a Detoxification Training Certification
Such six (6) hour educational training must include as required per NAC 449.1214 (2), but is not limited to the following:
 - acute withdrawal symptoms from alcohol and drug abuse
 - knowledge of severity of vital signs indicating a need for higher level of care
 - first aide procedures for clients and seizures, there must one staff person in the facility who is certified to provide cardiopulmonary resuscitation at all times
 - staff members shall have evidence that they have received training on the use of first-aid supplies and universal precautions.
4. Certification is valid for two (2) years and must be renewed to continue service with fee of \$25.00.
5. An applicant for the issuance or renewal of his or her certification as a detoxification technician must submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

Detoxification Technicians may work within the following programs and requirements.

NAC 449.1214 General requirements. (NRS 449.037)

1. A facility that offers a social model detoxification program:
 - (a) Must have a physician, nurse practitioner, registered nurse or physician assistant conduct a physical assessment and a review of the general medical and drug history of a client within 24 hours after the client is admitted to the facility to ensure that a social model detoxification program is appropriate for the client.
 - (b) Must not provide detoxification services for clients who exhibit life-threatening symptoms of withdrawal from alcohol and drug abuse.
 - (c) Must develop and implement policies and procedures that protect the safety and health of clients. The facility must have these policies and procedures reviewed annually by a licensed physician who is familiar with the symptoms of withdrawal from alcohol and drug abuse.

(d) Must ensure that the observation of a client during his treatment in the social model detoxification program is reflected in the records of the client as deemed necessary by the policies and procedures of that facility.

2. The staff of a facility that offers a social model detoxification program must complete at least 6 hours of additional education in the detoxification of alcohol and drug abusers, as approved by the program of ongoing quality improvement pursuant to NAC 449.1218, every 2 years. Such education must include instruction in:

- (a) Acute withdrawal symptoms from alcohol and drug abuse; and
- (b) First-aid procedures for clients with seizures.

(Added to NAC by Bd. of Health by R077-01, eff. 10-18-2001)

Requirements for service for civil protective custody. (NRS 458.025) The operator of a program which provides a service for civil protective custody that has been approved by the State or a designee of the operator shall:

- 1. Ensure that the program is approved by the State as a residential detoxification service;
- 2. Make a good faith effort to refer a client to treatment; and
- 3. Maintain a record for each client, including, without limitation:
 - (a) The date and time of admission;
 - (b) The vital signs of the client, taken every 2 hours while the client is awake;
 - (c) Written observations of the client;
 - (d) Relevant findings regarding the behavior of the client;
 - (e) Documentation of the efforts made to refer a client to treatment pursuant to subsection 2;
 - (f) The date and time that the client was discharged.

Requirements for residential detoxification service. (NRS 458.025) The operator of a program which provides a residential detoxification service that has been approved by the State or a designee of the operator shall:

- 1. Ensure that there is on the premises of the program at all times at least one licensed or certified medical professional or certified detoxification technician; and
- 2. Maintain a record for each patient, including, without limitation, case notes entered not less frequently than every 8 hours detailing:
 - (a) Observation of the patient;
 - (b) Relevant findings regarding the behavior of the patient; and
 - (c) The vital signs of the patient taken at least every 4 hours while the patient is awake.

General considerations for social model detoxification (III.2-D):

A clinically managed residential detoxification that may be delivered by appropriately trained staff, who provide 24 hour supervision, observation and support for patients who are intoxicated or experiencing withdrawal. Clinically managed detoxification is characterized by its emphasis on peer and social support. Intoxication and withdrawal signs and symptoms are sufficiently severe enough to require 24 hour structure and support but not severe enough to warrant the resources of a Level III.7-D medically monitored inpatient detoxification.

- a) A facility must have on duty, all hours of each day, members of the staff sufficient in number and qualifications to carry out policies responsibilities and program continuity.
- b) Verification of training, experience, and, if applicable, counselor certification.

Training: The staff of a facility that offers social model detoxification must complete at least 6 hours of SAPTA/BHCQC approved education in the detoxification of alcohol and drug users every two years. Such education must include but is not limited to the following:

- acute withdrawal symptoms from alcohol and drug abuse
- knowledge of severity of vital signs indicating a need for a higher level of care
- first aide procedures for clients and seizures, there must be one staff person in the facility who is certified to provide cardiopulmonary resuscitation at all times
- staff members shall have evidence that they have received training on the use of first-aid supplies and universal precautions.

NRS 458.025 Operation of state plan; certification of detoxification technicians, facilities and programs. [Effective until the date the regulation adopted by the Board of Examiners for Alcohol, Drug and Gambling Counselors for the certification of a person as a detoxification technician pursuant to NRS 641C.500 becomes effective, unless a later date is otherwise specified in the regulation.] The Division:

1. Shall formulate and operate a comprehensive state plan for alcohol and drug abuse programs which must include:

(a) A survey of the need for prevention and treatment of alcohol and drug abuse, including a survey of the facilities needed to provide services and a plan for the development and distribution of services and programs throughout this State.

(b) A plan for programs to educate the public in the problems of the abuse of alcohol and other drugs.

(c) A survey of the need for persons who have professional training in fields of health and other persons involved in the prevention of alcohol and drug abuse and in the treatment and recovery of alcohol and drug abusers, and a plan to provide the necessary treatment.

➤ In developing and revising the state plan, the Division shall consider, without limitation, the amount of money available from the Federal Government for alcohol and drug abuse programs and the conditions attached to the acceptance of that money, and the limitations of legislative appropriations for alcohol and drug abuse programs.

2. Shall coordinate the efforts to carry out the state plan and coordinate all state and federal financial support of alcohol and drug abuse programs in this State.

3. Must be consulted in the planning of projects and advised of all applications for grants from within this State which are concerned with alcohol and drug abuse programs, and shall review the applications and advise the applicants concerning the applications.

4. Shall certify or deny certification of detoxification technicians or any facilities or programs on the basis of the standards established by the Division pursuant to this section, and publish a list of certified detoxification technicians, facilities and programs. Any detoxification technicians, facilities or programs which are not certified are ineligible to receive state and federal money for alcohol and drug abuse programs. The Division shall adopt regulations. The regulations:

(a) Must prescribe the requirements for continuing education for persons certified as detoxification technicians; and

(b) May prescribe the fees for the certification of detoxification technicians, facilities or programs. A fee prescribed pursuant to this paragraph must be calculated to produce the revenue estimated to cover the costs related to the certifications, but in no case may a fee for a certificate exceed the actual cost to the Division of issuing the certificate.

5. Upon request from a facility which is self-supported, may certify the facility, its programs and detoxification technicians and add them to the list described in subsection 4.

(Added to NRS by 1973, 1397; A 1975, 228; 1981, 1901; 1987, 526; 1999, 1267, 1875, 3066; 2001, 419, 441, 1910, 2519; 2005, 22nd Special Session, 57)

NRS 458.025 Operation of state plan; certification of facilities and programs. [Effective on the date the regulation adopted by the Board of Examiners for Alcohol, Drug and Gambling Counselors for the certification of a person as a detoxification technician pursuant to NRS 641C.500 becomes effective, unless a later date is otherwise specified in the regulation.] The Division:

1. Shall formulate and operate a comprehensive state plan for alcohol and drug abuse programs which must include:

(a) A survey of the need for prevention and treatment of alcohol and drug abuse, including a survey of the facilities needed to provide services and a plan for the development and distribution of services and programs throughout this State.

(b) A plan for programs to educate the public in the problems of the abuse of alcohol and other drugs.

(c) A survey of the need for persons who have professional training in fields of health and other persons involved in the prevention of alcohol and drug abuse and in the treatment and recovery of alcohol and drug abusers, and a plan to provide the necessary treatment.

➤ In developing and revising the state plan, the Division shall consider, without limitation, the amount of money available from the Federal Government for alcohol and drug abuse programs and the conditions attached to the acceptance of that money, and the limitations of legislative appropriations for alcohol and drug abuse programs.

2. Shall coordinate the efforts to carry out the state plan and coordinate all state and federal financial support of alcohol and drug abuse programs in this State.

3. Must be consulted in the planning of projects and advised of all applications for grants from within this State which are concerned with alcohol and drug abuse programs, and shall review the applications and advise the applicants concerning the applications.

4. Shall certify or deny certification of any facilities or programs on the basis of the standards established by the Division pursuant to this section, and publish a list of certified facilities and programs. Any facilities or programs which are not certified are ineligible to receive state and federal money for alcohol and drug abuse programs. The Division shall adopt regulations which may prescribe the fees for the certification of facilities or programs. A fee prescribed pursuant to this subsection must be calculated to produce the revenue estimated to cover the costs related to the certifications, but in no case may a fee for a certificate exceed the actual cost to the Division of issuing the certificate.

5. Upon request from a facility which is self-supported, may certify the facility and its programs and add them to the list described in subsection 4.

(Added to NRS by 1973, 1397; A 1975, 228; 1981, 1901; 1987, 526; 1999, 1267, 1875, 3066; 2001, 419, 441, 1910, 2519; 2003, 1168; 2005, 22nd Special Session, 57, 58, effective on the date the regulation adopted by the Board of Examiners for Alcohol, Drug and Gambling Counselors for the certification of a person as a detoxification technician pursuant to NRS 641C.500 becomes effective, unless a later date is otherwise specified in the regulation)

NRS 458.026 Certification of detoxification technician: Statement by applicant concerning payment of child support; grounds for denial of certification; duty of Administrator. [Expires by limitation on the date the regulation adopted by the Board of Examiners for Alcohol, Drug and Gambling Counselors, for the certification of a person as a detoxification technician pursuant to NRS 641C.500 becomes effective, unless a later date is otherwise specified in the regulation, or on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings, whichever occurs first.]

1. An applicant for the issuance or renewal of his or her certification as a detoxification technician must submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the certification; or

(b) A separate form prescribed by the Division.

3. The certification of a person as a detoxification technician may not be issued or renewed by the Division if the applicant:

(a) Fails to complete or submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Administrator shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

(Added to NRS by 1997, 2059; A 1999, 1268, 3067; 2001, 132, 133, 420, 442, 1910, 2520; R 2003, 1169; A 2005, 22nd Special Session, 59)

NRS 458.027 Certification of detoxification technician: Suspension of certification for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of certification. [Expires by limitation on the date the regulation adopted by the Board of Examiners for Alcohol, Drug and Gambling Counselors, for the certification of a person as a detoxification technician pursuant to NRS 641C.500 becomes effective, unless a later date is otherwise specified in the regulation, or on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings, whichever occurs first.]

1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who has been certified as a detoxification technician, the Division shall deem the certification to be suspended at the end of the 30th day after the date on which the court order was issued unless the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person who has been certified stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Division shall reinstate the certification of a person as a detoxification technician that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certification was suspended stating that the person whose certification was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

(Added to NRS by 1997, 2060; A 1999, 1268, 3068; 2001, 421, 443, 1911, 2521; R 2003, 1169; A 2005, 22nd Special Session, 59)

NRS 458.028 Certification of detoxification technician: Application to include social security number. [Expires by limitation on the date the regulation adopted by the Board of Examiners for Alcohol, Drug and Gambling Counselors, for the certification of a person as a detoxification technician pursuant to NRS 641C.500 becomes effective, unless a later date is otherwise specified in the regulation, or on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings, whichever occurs first.] An application for the certification of a detoxification technician must include the social security number of the applicant.

(Added to NRS by 1997, 2060; A 1999, 1269, 3068; 2001, 1911, 2521; R 2003, 1169)

APPENDIX C15a

Detoxification Technicians

Several years ago, regulations for the certification of Detoxification Technicians were to be adopted by the Board of Examiner's for Alcohol, Drug, and Gambling Counselors, as referenced in NRS 458.025. The Board of Examiners has not yet adopted these regulations. Therefore, the Substance Abuse Prevention and Treatment Agency (SAPTA) is responsible for individuals applying for these positions, maintaining a data base, and establishing the requirements for continued education for persons certified as Detoxification Technicians.

Every Detoxification Technician is required to send a copy to the SAPTA office of their current training certification for the *Principles of Detoxification Enhanced* with a completed and signed application. New hires or individual's whose training was completed two years ago, must submit new training certifications with a \$25.00 application fee. Upon receipt of the requested information a certification as a Detoxification Technician based on the training completion date will be sent to the individual for their personnel file.

The following pages provide the application for certification as a Detoxification Technician.

BRIAN SANDOVAL
Governor

MICHAEL J. WILLDEN
Director

STATE OF NEVADA



HAROLD COOK, Ph.D.
Administrator

JANE GRUNER
Deputy Administrator

DEPARTMENT OF HEALTH AND HUMAN SERVICES
MENTAL HEALTH & DEVELOPMENTAL SERVICES
SUBSTANCE ABUSE PREVENTION & TREATMENT AGENCY
4126 Technology Way, 2nd Floor
Carson City, NV 89706
(775) 684-4190 • FAX (775) 684-4185

Date: _____

Dear: **Applicant or Renewal for Detoxification Tech**

Your Detoxification Tech certificate expires on _____.

To apply or renew your certificate, return this completed document and a copy of your completion certificate of *Principles of Detoxification Enhanced* coursework or approved training under NAC 449.1214, with the appropriate fee of **\$25.00**.

Submit copy of CPR card, if applicable per your facility policy.

The completed new or renewal application and check made out to the Substance Abuse Prevention and Treatment Agency (SAPTA) should be sent to the address listed above before your expiration date. **Your certification is valid for two years.**

Please complete the information requested below:

Name: _____ Social Security#: _____
Phone Number: _____
Mailing Address: _____
City: _____
State: _____ Zip: _____
E-mail Address: _____

Please provide SAPTA with the following:

Employer Name: _____ Phone: _____
Employer Address: _____
City: _____
State: _____ Zip: _____
Employer Fax: _____

Note: Failure to return the completed form, training certificate and fees **by the due date** will result in a **late fee of \$25.00** and your certification will be void.

In order to provide child support information, FEDERAL LAW REQUIRES YOU TO CHECK ONE OF THE FOLLOWING:

_____ I am not subject to a court order for the support of a child.

_____ I am subject to a court order for the support of one or more children and am in compliance with the order or am in compliance with a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

_____ I am subject to a court order for the support of one or more children and am not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

I certify under penalty of perjury that all information on this form is true and correct.

SIGNATURE: _____

DATE: _____

Note: It is the responsibility of each individual to notify SAPTA in writing of a change of address, employment, or name within 10 days after the change.

Department of Health and Human Services
Division of Mental Health and Developmental Services (MHDS)
Substance Abuse Prevention and Treatment Agency (SAPTA)¹
Social Model Detoxification and Detoxification Technicians
January 2009

Social model alcohol and other drug abuse treatment programs concentrate on providing psychosocial services. Social workers and other clinicians provide services such as individual and family counseling and coordination of care. Patients who need a physician's care may be referred to a nearby emergency department, which is not a cost-effective source of detoxification services.

Social model programs use a variety of approaches to detoxification, but the emphasis is most often on nonpharmacological management of withdrawal. Counselors do not have prescribing privileges and cannot legally administer medications from stock bottles to patients. In some programs, counselors can assist patients in taking maintenance medications as prescribed under NAC 449.144. The patient's medication supply must be in a container that is labeled with the patient's name and that includes instructions for taking the medication. Trained staff observes the patient take the medication, and they maintain a log. Trained staff must monitor patients' symptoms and follow agency protocols if patients become ill.

Social model programs should not provide detoxification for people who have severe dependence on alcohol or other sedative-hypnotics, as withdrawal can be life threatening in these cases. Patients must be properly medically evaluated before they enter a social model program. NAC 449.1214 requires a physical assessment by an MD, PA, NP, or RN within 24 hours to ensure that a social model detoxification program is appropriate for the client.

Social setting detoxification is referred to as Level III.2-D: Clinically-managed residential detoxification and is an organized service that may be delivered by appropriately trained staff, which provides 24-hour supervision, observation, and support for patients who are intoxicated or experiencing withdrawal. Clinically-managed residential detoxification is characterized by its emphasis on peer and social support.

Added to Nevada Administrative Code by the Bureau of Alcohol and Drug Abuse (BADA), effective 4-27-94; and amended by R100-98 in 11-3-98 is the following description and qualifications for detoxification technicians.

¹ The Division of Mental Health and Developmental Services (MHDS), Substance Abuse Prevention and Treatment Agency (SAPTA), was previously known as the Health Division, Bureau of Alcohol and Drug Abuse (BADA).

NAC 458.035 “Detoxification technician” defined. (NRS 458.028) “Detoxification technician” means a person who is certified by the bureau (BADA) to provide screening for safe withdrawal from alcohol and other drugs.

NAC 458.144 Qualifications for certification as detoxification technician. (NRS 458.025) The qualifications for certifications as a detoxification technician are:

1. Submission to the bureau (BADA) of a completed application for certification as a detoxification technician;
2. Education consisting of a minimum of a high school diploma or a certificate of general educational development;
3. Certification in cardiopulmonary resuscitation; and
4. A passing score on an examination for certification as a detoxification technician.

The Bureau of Licensure and Certification (BLC) under the Health Division licensed facilities to provide detoxifications models. A Facility for Treatment of Abuse of Alcohol or Drugs is listed as facilities under “facilities for the dependent” under NRS 449.0045.

NRS 449.0045 Facility for Treatment of Abuse of Alcohol and Drugs is defined as *any public or private establishment which provides residential treatment, including mental and physical restoration, of abusers of alcohol or drugs and which is certified by the Health Division, pursuant to subsection 3 of NRS 458.025. It does not include a medical facility or services offered by volunteers or voluntary organizations.*

NAC 449.072 “Social model detoxification program” defined. (NRS 449.037) “Social model detoxification program” means a treatment program that concentrates on providing psychosocial services and nonmedical detoxification.

(Added to NAC by Bd. of Health by R077-01, eff. 10-18-2001)

NAC 449.121 Certain facilities authorized to offer program. (NRS 449.037) A social model detoxification program may be offered to clients in:

1. Residential programs that offer detoxification services;
2. A licensed facility for modified medical detoxification pursuant to NAC 449.15311 to 449.15369, inclusive; or
3. A medically managed intensive detoxification program.

(Added to NAC by Bd. of Health by R077-01, eff. 10-18-2001)

NAC 449.1214 General requirements. (NRS 449.037)

1. A facility that offers a social model detoxification program:
 - (a) Must have a physician, nurse practitioner, registered nurse or physician assistant conduct a physical assessment and a review of the general medical and drug history of a client within 24 hours after the client is admitted to the facility to ensure that a social model detoxification program is appropriate for the client.

(b) Must not provide detoxification services for clients who exhibit life-threatening symptoms of withdrawal from alcohol and drug abuse.

(c) Must develop and implement policies and procedures that protect the safety and health of clients. The facility must have these policies and procedures reviewed annually by a licensed physician who is familiar with the symptoms of withdrawal from alcohol and drug abuse.

(d) Must ensure that the observation of a client during his treatment in the social model detoxification program is reflected in the records of the client as deemed necessary by the policies and procedures of that facility.

2. The staff of a facility that offers a social model detoxification program must complete at least 6 hours of additional education in the detoxification of alcohol and drug abusers, as approved by the program of ongoing quality improvement pursuant to NAC 449.1218, every 2 years. Such education must include instruction in:

(a) Acute withdrawal symptoms from alcohol and drug abuse; and

(b) First-aid procedures for clients with seizures.

(Added to NAC by Bd. of Health by R077-01, eff. 10-18-2001)

NAC 449.1218 Program of ongoing quality improvement. (NRS 449.037)

1. A social model detoxification program must have a program of ongoing quality improvement designed to:

(a) Monitor and evaluate, objectively and systematically, the quality and appropriateness of client care;

(b) Pursue opportunities to improve client care; and

(c) Resolve identified problems.

2. The program of ongoing quality improvement must:

(a) Establish written policies and procedures to describe and document the monitoring and evaluation activities of the program of ongoing quality improvement.

(b) Include the participation of a medical professional who is not required to be a member of the staff. For the purposes of this paragraph, "medical professional" means a licensed physician, nurse practitioner, physician assistant or registered nurse who is familiar with clients suffering from acute withdrawal symptoms from alcohol and drug abuse.

(c) In addition to the participation of a medical professional pursuant to paragraph (b), include the participation of the administrator and two staff members of the social model detoxification program.

(d) Approve the 6 hours of additional education required pursuant to NAC 449.1214 to ensure that the additional education is appropriate.

3. The findings of the program of ongoing quality improvement, including any conclusions, recommendations, actions taken and the results of the actions taken must be documented. All documentation must be reported to the governing body and must be reflected in the minutes annually.

(Added to NAC by Bd. of Health by R077-01, eff. 10-18-2001)

The Substance Abuse Prevention and Treatment Agency (SAPTA), formerly BADA works in collaboration with the Bureau of Licensure and Certification (BLC) and requires SAPTA certified program staff to adhere to BLC regulations, including staff training.

Staff training has been provided through the SAPTA training contract with the Center for the Application of Substance Abuse Technologies (CASAT) in Reno, Nevada and will be available on-line. As SAPTA is no longer housed in the Health Division, has not had requests from individuals to be certified as detoxification technicians and certifies detoxification programs in conjunction with BLC regulations, detoxification technician certification is viewed as inappropriate. Previously, the detoxification technicians' duties included the checking of vital signs. These duties are no longer allowed unless the technician also has appropriate certification or licensure under the State Board of Nursing.