

**ADOPTED REGULATION OF THE
AGING AND DISABILITY SERVICES DIVISION OF THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

LCB File No. R019-12

Effective September 14, 2012

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

AUTHORITY: §§1-8 and 10-15, NRS 427A.860; §9, NRS 427A.810 and 427A.860.

A REGULATION relating to traumatic brain injuries; establishing the Program for Persons With Traumatic Brain Injuries; establishing procedures for the provision of services to persons with traumatic brain injuries through the Program; allowing the Aging and Disability Services Division of the Department of Health and Human Services to contract for services under the Program; establishing procedures for the reporting of certain information relating to persons with traumatic brain injuries; and providing other matters properly relating thereto.

Section 1. Chapter 427A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 15, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 15, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Applicant” means a person who applies for services through the Program.*

Sec. 4. *“Contractor” means any person or governmental entity with which the Division enters into a contract to provide services for the Program.*

Sec. 5. *“Program” means the Program for Persons With Traumatic Brain Injuries established pursuant to section 7 of this regulation.*

Sec. 6. *“Recipient” means a person who receives services for a traumatic brain injury through the Program.*

Sec. 7. 1. *The Program for Persons With Traumatic Brain Injuries is hereby established.*

2. The Division will provide services for traumatic brain injuries through the Program either directly or through one or more contractors.

Sec. 8. 1. *The Division will conduct a review of the Program on an annual basis.*

2. When conducting a review pursuant to subsection 1, the Division will evaluate:

(a) The facility of each contractor to determine whether the facility is accessible to persons with disabilities;

(b) A sample of the case files of recipients to determine whether the case files are maintained in compliance with all applicable policies and procedures of the Division;

(c) The satisfaction of a sample of the recipients with the services received;

(d) The impact of the Program on the independence of recipients;

(e) The effectiveness of the Program; and

(f) The delivery of services to recipients by each contractor to determine whether services were delivered in compliance with all applicable policies and procedures of the Division and the contract with the Division.

Sec. 9. *The chief administrative officer of each hospital in this State shall ensure that the hospital submits to the Health Division of the Department the quarterly reports required pursuant to NAC 450B.768. Submission of the quarterly reports satisfies the requirements of NRS 427A.820.*

Sec. 10. *A person who wishes to participate in the Program must submit an application on a form prescribed by the Division to the Division or to a contractor designated by the Division. The application must require an applicant to demonstrate that the applicant:*

- 1. Is a resident of this State;*
- 2. Has been diagnosed with a traumatic brain injury;*
- 3. Requires assistance in one or more of the areas described in NRS 427A.850;*
- 4. Has exhausted all other resources available to pay for the services offered through the Program, including, without limitation, public and private health insurance; and*
- 5. Meets any other requirements of the Division to establish that the applicant is suitable to be a recipient.*

Sec. 11. *The Division or the contractor will maintain a list of applicants who have been approved to participate in the Program in the order in which their applications are approved. The Division or the contractor will provide services to each such applicant in the order in which the name of the applicant appears on the list. If an applicant is not prepared to accept services when offered, the services will be offered to the next applicant on the list. In such a case, the applicant who does not accept services may elect whether to retain his or her position on the list or be removed from the list.*

Sec. 12. *1. Any contract entered into between the Division and a contractor will contain provisions that require the contractor to:*

- (a) If the contractor provides rehabilitation services under the Program, establish and maintain accreditation with CARF International or its successor organization;*

(b) Maintain employees who have personal or professional knowledge of traumatic brain injuries and an understanding of the services required by a person with a traumatic brain injury; and

(c) Determine whether an applicant is eligible for services pursuant to section 10 of this regulation.

2. The contractor shall:

(a) Provide services in accordance with the contract entered into with the Division and within the scope of NRS 427A.850; and

(b) Provide referrals to recipients as necessary for other services that are not provided by the contractor.

Sec. 13. 1. *The Division will monitor the management and financial records of each contractor and will evaluate the effectiveness of each contractor in carrying out its duties established in its contract with the Division.*

2. Each contractor shall submit to the Division:

(a) Reports summarizing the services provided through the Program to persons with traumatic brain injuries at the times and on the forms specified by the Division; and

(b) Any other reports requested by the Division.

Sec. 14. 1. *An applicant or recipient who disagrees with a decision of a contractor relating to eligibility for services or the services provided through the Program may, within 15 working days after the applicant or recipient receives notice of the decision, file an appeal with the contractor.*

2. The contractor:

(a) May require the applicant or recipient to submit, in writing, evidence to support the appeal; and

(b) Shall render a decision in writing within 30 days after it receives the appeal.

3. An applicant or recipient may appeal the decision of a contractor pursuant to subsection 2 to the Administrator by filing a notice of appeal within 15 working days after the applicant or recipient receives notice of the decision.

4. The Administrator:

(a) Will review the decision in an informal proceeding;

(b) May require the applicant, recipient or contractor to submit, in writing, additional evidence to support the appeal or the decision, as applicable; and

(c) Will render his or her decision in writing within 30 days after receiving the notice of the appeal.

5. The decision of the Administrator is a final decision for the purposes of judicial review.

Sec. 15. *Services provided to a recipient may be terminated if the recipient:*

1. Fails to provide any documents needed to evaluate his or her eligibility for services through the Program or in the recipient's plan of care;

2. Willfully defrauds the Program;

3. Fails to comply with any provision of sections 2 to 15, inclusive, of this regulation; or

4. Voluntarily withdraws from the Program.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R019-12

The Aging and Disability Services Division of the Department of Health and Human Services adopted regulations assigned LCB File No. R019-12 which pertain to chapter 427A of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

- 1. Statement of need for and purpose of the proposed regulation.**
NRS 427A.820 requires the Aging and Disability Services Division to establish regulations for a program for persons with traumatic brain injuries. These regulations provide that the Division will provide for services and conduct annual reviews of the effectiveness of the programs. Information is required to be submitted to the Health Division and will satisfy the reporting requirements of NRS 427A.820. A prioritized waitlist will be established. Criteria are established for contractors providing the services, and provide for monitoring and evaluation of the contractors. They provide an appeal process for the recipients who disagree with the evaluation of the contractor. The regulations also provide reasons that care of a recipient may be terminated.
- 2. A description of how public comment was solicited, a summary of public response, and explanation how other interested persons may obtain a copy of the summary.**
Notice of public workshop was posted on February 28, 2012 and the workshop was held on March 20, 2012. Notice of public hearing was posted on May 4, 2012 and the public hearing was held on June 5, 2012. Posting included e-mailing notices to public libraries in all counties in which Aging and Disability Services Division does not have an office, to all Division offices, to a list of other public places where interested parties would see the notice. The notice was also posted on the Division website. Summaries of public response may be obtained at the Aging and Disability Services Division.
- 3. The number of persons who: (a) attended each hearing; (b) testified at each hearing; and (c) submitted to the agency written statements.**
Attending the public workshop were 20 people in Carson City, five people in Las Vegas, and two people in Elko. One person testified at the public workshop, and no written comments were received. Attending the public hearing were 14 people in Carson City, four people in Las Vegas, and three people in Elko. There were no public comments at the public hearing and no written comments were received.
- 4. A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.**
There will be no affect on businesses.
- 5. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

No changes were made as no suggestions for changes were made. The proposed regulation was discussed with stakeholders prior to submission.

- 6. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**

- a. Both adverse and beneficial effects;**
- b. Both immediate and long-term effects;**

There will be no anticipated economic effects on businesses or the public as a result of adopting these regulations.

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

None

- 8. A description of any regulation 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, the name of the regulating federal agency.**

None

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

Not applicable

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

Not applicable