

**PROPOSED REGULATION OF THE
PERSONNEL COMMISSION**

LCB File No. R138-12

Section 1. NAC 284.884 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Division of Risk Management, will raise the maximum allowable concentration of alcohol in the blood or breath of an employee. This will bring the State's standard into alignment with the federal standard established by the United States Department of Transportation, Federal Motor Carrier Safety Administration, preventing confusion of the State's contracted vendors that can lead to violations of the confirmatory provision in subsection 2.

NAC 284.884 Maximum allowable concentrations of alcohol in blood or breath of employee; confirmation of positive result on screening test of breath. (NRS 284.065, 284.155, 284.407)

1. An employee must not have a concentration of alcohol in his or her blood or breath greater than ~~0.1~~.02 gram by weight of alcohol per 100 milliliters of his or her blood or per 210 liters of his or her breath while on duty. Disciplinary action may be taken by the appointing authority in accordance with the provisions of NAC 284.638 to 284.6563, inclusive, if a screening test indicates that the concentration of alcohol in the blood or breath of the employee is greater than ~~0.1~~.02 gram by weight of alcohol per 100 milliliters of his or her blood or per 210 liters of his or her breath while on duty.

2. A positive result on a screening test of a person's breath must be confirmed by a second screening test. The second screening test must be conducted immediately after receipt of the positive result of the first screening test.

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A by R058-01, 9-6-2001)

Sec. 2. NAC 284.893 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, will clarify that the requirements outlined in the regulation must be met prior to an employee's return to work.

NAC 284.893 Return to work of employee who tests positive for alcohol or controlled substance while on duty. (NRS 284.065, 284.155, 284.407)

1. The appointing authority of an employee who tests positive for the presence of alcohol or a controlled substance while on duty and who, as a result, is subject to disciplinary action pursuant to NAC 284.646 or 284.650 but is not terminated shall require, *before the employee returns to work*, the employee to:

(a) Provide to the appointing authority documentation from a counselor who is licensed or certified pursuant to chapter 641C of NRS or another health care provider who has training or

experience in substance abuse counseling, which verifies that the employee is able to return to duty and perform the essential functions of his or her job;

(b) Submit to a screening test.

2. The employee is responsible for the cost of any:

(a) Counseling services the employee receives to verify that the employee is able to return to duty and perform the essential functions of his or her job and any documentation of those services; and

(b) Screening test,

required pursuant to subsection 1.

3. An employee who fails or refuses to submit to a screening test required pursuant to subsection 1 is subject to disciplinary action, including, without limitation, termination, at the discretion of the employee's appointing authority.

(Added to NAC by Dep't of Personnel, eff. 10-27-2009; R195-09, 4-20-2010)