

**ADOPTED REGULATION OF THE
STATE BOARD OF HEALTH**

LCB File No. R104-14

Effective October 27, 2015

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

AUTHORITY: §§1-49, NRS 439.200 and 458.025, as amended by section 2 of Senate Bill No. 31, chapter 76, Statutes of Nevada 2015, at page 305.

A REGULATION relating to the abuse of alcohol and drugs; setting forth the procedure and requirements for the certification of detoxification technicians by the Division of Public and Behavioral Health of the Department of Health and Human Services; establishing certain fees relating to such certification; adopting by reference certain publications; revising requirements for the certification by the Division of programs which address substance-related disorders; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires: (1) the Division of Public and Behavioral Health of the Department of Health and Human Services to certify or deny certification of detoxification technicians; and (2) the State Board of Health to adopt regulations which prescribe the standards for certification and requirements for continuing education for persons certified as detoxification technicians. (NRS 458.025, as amended by section 2 of Senate Bill No. 31, chapter 76, Statutes of Nevada 2015, at page 305)

Sections 4-12 of this regulation establish the requirements for the certification of detoxification technicians and the renewal of such certification. Specifically, **section 9** establishes the requirements for continuing education for persons certified as detoxification technicians. **Section 12** requires a detoxification technician to submit documentation to the Division evidencing completion of that continuing education as a prerequisite to renewal of his or her certification.

Existing law authorizes the State Board to prescribe the fees for the certification of detoxification technicians. (NRS 458.025, as amended by section 2 of Senate Bill No. 31, chapter 76, Statutes of Nevada 2015, at page 305) **Sections 5, 7 and 12** provide that the fee for: (1) certification as a detoxification technician and renewal of such certification is \$25; and (2) retaking an examination for such certification by an applicant who fails the examination is equal to the amount established by the Division to recover the cost for materials necessary to test the applicant, except that the fee may not be more than \$25.

Section 13 of this regulation establishes the grounds for disciplinary action by the Division against a detoxification technician. **Section 14** of this regulation prohibits certain conduct by a detoxification technician. **Section 15** of this regulation provides the methods of discipline the Division is authorized to use against a detoxification technician.

Sections 20-44 of this regulation revise requirements for certification by the Division of programs which address substance-related disorders.

Sections 45-47 of this regulation expand the applicability of existing provisions concerning the acceptance of complaints by the Division, the duties of the Division relating to investigations of those complaints and public disclosure of information gathered during the course of such investigations so that those provisions govern detoxification technicians.

Section 48 of this regulation expands the applicability of the procedures for the review of actions taken by the Division and appeals of any actions taken by the Division to include actions taken by the Division with regard to the denial of initial certification or recertification of, and the suspension or revocation of the certificate of, a detoxification technician.

Section 1. Chapter 458 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 15, inclusive, of this regulation.

Sec. 2. 1. *The provision of services by the staff of a program at a satellite office will not be considered a change in geographic location for the purposes of subsection 4 of NAC 458.128.*

2. The physical records of a program may be available, but must not be permanently kept, at a satellite office.

3. As used in this section, "satellite office" means an office of a program that is located in a facility which is not owned or leased by the program but is used by the program only to provide services. The term includes, without limitation, an office of the Division of Child and Family Services of the Department of Health and Human Services and in a county or city jail.

Sec. 3. 1. *A treatment program which provides services for co-occurring substance-related and mental health disorders must, at a minimum, meet the guidelines for treatment set forth in the criteria of the Division for a program described as a co-occurring capable program or a co-occurring enhanced program.*

2. *As used in this section:*

(a) *“Co-occurring capable program” means a program:*

(1) *That addresses co-occurring substance-related and mental health disorders in its policies and procedures, assessments, treatment planning, program content and discharge planning; and*

(2) *In which the staff is able to address the interaction between substance-related and mental health disorders.*

(b) *“Co-occurring enhanced program” means a program that:*

(1) *Has a higher level of integration of services for co-occurring substance-related and mental health disorders than a co-occurring capable program; and*

(2) *Is able to provide unified treatment of the symptoms of substance-related and mental health disorders in addition to addressing the interaction between substance-related and mental health disorders.*

Sec. 4. *To be eligible for certification by the Division as a detoxification technician, an applicant must:*

1. *Have:*

(a) *A high school diploma; or*

(b) *A general equivalency diploma or equivalent document;*

2. *Be certified in the techniques of administering cardiopulmonary resuscitation;*

3. *Have completed 6 hours of training approved by the Division, including, without limitation, training in:*

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

(b) The requirements for the confidentiality of client information set forth in the provisions of 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164;

(c) The control of infections and communicable diseases;

(d) Measuring and monitoring vital signs of clients; and

(e) The ethical requirements and standards of practice for detoxification technicians; and

4. Pass an examination for certification as a detoxification technician as required by section 7 of this regulation.

Sec. 5. An applicant for certification as a detoxification technician must submit to the Division a completed application. To be considered complete, an application must:

1. Be accompanied by a nonrefundable fee in the amount of \$25; and

2. Include:

(a) Documentation verifying that the applicant meets the qualifications set forth in section 4 of this regulation;

(b) A statement signed by the applicant indicating whether the applicant has been convicted of a felony and, if so, when and where the conviction occurred and a description of the offense;

(c) Written verification of the applicant's current employment, if any;

(d) Completed forms, approved by the Division, verifying the applicant's employment experience;

(e) A complete set of fingerprints and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report and the amount of the fees

charged by the Central Repository and the Federal Bureau of Investigation for the handling of the fingerprint cards and issuance of the reports of criminal histories; and

(f) Any other information required pursuant to this chapter or chapter 458 of NRS.

Sec. 6. 1. Upon receiving an application for certification as a detoxification technician, the staff of the Division will review the application to determine whether the application is complete and the applicant satisfies all the requirements for certification as a detoxification technician.

2. The Division will, not later than 45 days after the date on which it receives an application for certification as a detoxification technician, notify the applicant of its determination to approve or reject the application.

3. The Division may reject an application for certification as a detoxification technician if the applicant:

(a) Fails to submit a completed application as required by section 5 of this regulation;

(b) Does not meet the minimum requirements for certification as a detoxification technician set forth in section 4 of this regulation;

(c) Has provided false information on the application;

(d) Has previously had his or her certification as a detoxification technician revoked by the Division;

(e) Fails to submit verification of his or her current and prior employment experience that is approved by the Division; or

(f) Has been convicted of a felony.

4. The Division will retain a rejected application for certification as a detoxification technician for 6 months after the date on which it received the application.

Sec. 7. 1. *The Division must approve an application for certification as a detoxification technician pursuant to section 6 of this regulation before the applicant is eligible to take the examination for certification as a detoxification technician.*

2. An applicant for certification as a detoxification technician must pass the examination with an average score of at least 70 percent.

3. The examination for certification as a detoxification technician will be administered at least twice each year on dates selected by the Division.

4. Within 30 days after the date on which the examination is given, the Division will mail the results of the examination taken by an applicant for certification as a detoxification technician to the applicant at his or her last known address.

5. An applicant for certification as a detoxification technician who fails the examination may retake the examination when it is next offered if the applicant submits a nonrefundable fee to the Division in an amount which is equal to the amount established by the Division to recover the cost for the materials necessary to test the applicant, except that the fee may not be more than \$25.

6. An applicant for certification as a detoxification technician who fails an examination and who does not retake the examination when it is next offered must submit a new application for certification as a detoxification technician pursuant to section 5 of this regulation if the applicant wishes to take the examination again.

7. An applicant for certification as a detoxification technician who fails the examination two times must wait 1 year after the date of his or her last examination before reapplying for certification as a detoxification technician pursuant to section 5 of this regulation.

Sec. 8. *A person who is certified by the Division as a detoxification technician may:*

1. Provide screening for the safe withdrawal from alcohol and other drugs in accordance with the criteria of the Division;

2. Obtain and monitor vital signs of clients; and

3. Represent himself or herself to the public as a detoxification technician.

Sec. 9. *1. To maintain and renew his or her certification as a detoxification technician, a detoxification technician must:*

(a) Comply with the applicable requirements set forth in this chapter and chapter 458 of NRS;

(b) Maintain current certification in the techniques of administering cardiopulmonary resuscitation; and

(c) Attend at least 6 hours of continuing education during the 2-year period of certification.

2. The courses of continuing education required by subsection 1 must be approved by the Division and must include, without limitation, courses that pertain to:

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

(b) The requirements for the confidentiality of client information set forth in the provisions of 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164;

(c) The control of infections and communicable diseases;

(d) Monitoring vital signs of clients; and

(e) The ethical requirements and standards of practice for detoxification technicians.

Sec. 10. *1. A detoxification technician shall notify the Division in writing if he or she is convicted of, or enters into a plea of nolo contendere to, a felony.*

2. A detoxification technician shall submit the notification required by subsection 1 within 10 business days after the conviction and when submitting an application to renew his or her certification pursuant to section 12 of this regulation.

Sec. 11. A detoxification technician shall post a copy of the certificate issued to the detoxification technician by the Division in a conspicuous place where it may be easily viewed by clients.

Sec. 12. 1. Certification as a detoxification technician expires 2 years after the date on which the Division issues the certification.

2. To renew his or her certification as a detoxification technician, a detoxification technician must submit to the Division:

- (a) A completed application for the renewal of the certification;*
- (b) Payment of a nonrefundable renewal fee in the amount of \$25;*
- (c) Documentation evidencing completion of the hours of continuing education required by section 9 of this regulation;*
- (d) Documentation of current certification in the techniques of administering cardiopulmonary resuscitation;*
- (e) The notification required by section 10 of this regulation, if applicable; and*
- (f) Any other information required pursuant to this chapter or chapter 458 of NRS.*

3. The application, fee and other information required by subsection 2 must be postmarked or received by the Division before 5 p.m. on the date of expiration of the certification to be considered by the Division for renewal.

4. If a person does not renew his or her certification as a detoxification technician on or before the expiration date as described in subsection 3, the Division may reissue the

certification if the person applies for certification in the manner set forth in section 5 of this regulation.

Sec. 13. *The grounds for disciplinary action by the Division against a detoxification technician include, without limitation:*

- 1. Conviction of, or a plea of nolo contendere to, a felony;*
- 2. Committing fraud, misrepresentation or deception:*
 - (a) To obtain certification as a detoxification technician;*
 - (b) To pass an examination required for certification as a detoxification technician; or*
 - (c) In providing services as a detoxification technician;*
- 3. A violation of this chapter or chapter 458 of NRS relating to certification as a detoxification technician or the standards of practice of a detoxification technician as set forth in section 14 of this regulation;*
- 4. Incompetence in performing an act for which certification as a detoxification technician is required pursuant to this chapter or chapter 458 of NRS;*
- 5. Performing an act for which certification as a detoxification technician is required pursuant to this chapter or chapter 458 of NRS while impaired by alcohol or drugs; and*
- 6. Performing an act which is outside the scope of activities authorized by certification as a detoxification technician pursuant to section 8 of this regulation while employed as a detoxification technician, unless the detoxification technician is acting within the scope of another certificate or license held by the detoxification technician, including, without limitation, a certificate or license issued by the State Board of Nursing or the Board of Examiners for Alcohol, Drug and Gambling Counselors.*

Sec. 14. *A detoxification technician:*

1. *Shall not misrepresent his or her education, training, type of certification, qualifications, competence or service.*
2. *Shall not perform duties as a detoxification technician while he or she is impaired by:*
 - (a) *Alcohol, drugs or any other chemical; or*
 - (b) *A mental or physical condition that prevents him or her from safely performing his or her duties as a detoxification technician.*
3. *Shall not use his or her relationship with a client to further his or her own personal interests.*
4. *Shall base his or her practice upon the recognized knowledge relevant to the duties of a detoxification technician.*
5. *Shall not practice, condone, facilitate or collaborate with any form of discrimination on the basis of a person's race, color, sex, sexual orientation, gender identity or expression, age, religion, national origin, ancestry, social or economic status, diagnosis or disability.*
6. *Throughout the period of treatment of a client and for the 2 years immediately following the termination of the professional relationship between the client and the detoxification technician, shall not:*
 - (a) *Enter into a close personal relationship with the client, including, without limitation, sponsorship of the client in a group, or a romantic or sexual relationship; or*
 - (b) *Enter into a financial relationship with the client.*

Sec. 15. *If the Division determines that a detoxification technician has committed any of the acts set forth in section 13 of this regulation, the Division may discipline the detoxification technician by any one or more of the following methods:*

1. *Administering a written reprimand;*

2. *Suspending the certification of the detoxification technician for a period determined by the Division;*

3. *Revoking the certification of the detoxification technician; and*

4. *Placing conditions on the certification of the detoxification technician.*

Sec. 16. NAC 458.028 is hereby amended to read as follows:

458.028 “Criteria of the ~~Health~~ Division” means the criteria adopted by the ~~Health~~ Division in the *Administrative Manual* of the ~~Bureau~~ *Division* for the prevention or treatment of a substance-related disorder, including, without limitation:

1. The policies and procedures established by the ~~Health~~ Division in the *Administrative Manual* to monitor compliance of programs with certification requirements; ~~and~~

2. *The criteria outlined in the ASAM Criteria: Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions, which is adopted by reference pursuant to NAC 458.095; and*

3. The criteria outlined in the ~~current version of the~~ *Diagnostic and Statistical Manual of Mental Disorders*, which is adopted by reference pursuant to NAC 458.095.

Sec. 17. NAC 458.034 is hereby amended to read as follows:

458.034 “Evaluation center program” means a program which evaluates a person pursuant to NRS 484C.350 in a facility certified by the ~~Health~~ Division to determine whether the person is an abuser of alcohol or another drug through evaluations conducted by:

1. An alcohol and drug abuse counselor who is licensed or certified, *or a clinical alcohol and drug abuse counselor who is licensed*, pursuant to chapter 641C of NRS to conduct such evaluations; or

2. A physician who is certified to conduct such evaluations by the Board of Medical Examiners.

Sec. 18. NAC 458.079 is hereby amended to read as follows:

458.079 “Treatment program” means a program that provides services for the treatment of a substance-related disorder in the manner set forth in the criteria of the ~~Health~~ Division, including, without limitation:

1. Comprehensive evaluations;
2. Early intervention services;
3. Outpatient counseling;
4. Intensive outpatient counseling;
5. Residential treatment;
6. Transitional housing;
7. Residential detoxification;
8. Civil protective custody; and
9. Opioid ~~maintenance therapy.~~ *treatment services.*

Sec. 19. NAC 458.095 is hereby amended to read as follows:

458.095 *1.* The ~~Health~~ Division hereby adopts by reference the :

(a) Diagnostic and Statistical Manual of Mental Disorders, ~~in the form most recently~~ 5th Edition, published by the American Psychiatric Association. A copy of the manual may be obtained from ~~the~~ American Psychiatric ~~Association~~ *Publishing* at 1000 Wilson Boulevard, Suite 1825, Arlington, Virginia 22209-3901, at the Internet address ~~http://www.psych.org~~ *http://www.appi.org* or by telephone at (800) 368-5777, for the price of ~~[\$64, plus \$9.95 for shipping and handling.] \$119.20 for members and \$149.00 for nonmembers.~~

(b) ASAM Criteria: Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions, published by the American Society of Addiction Medicine. A copy of the publication may be obtained from the Change Companies at 5221 Sigstrom Drive, Carson City, Nevada 89706, at the Internet address <http://www.changecompanies.net> or by telephone at (888) 889-8866, for the price of \$85 for members and \$95 for nonmembers.

2. The Division will periodically review the publications adopted by reference pursuant to subsection 1 and determine within 30 days after the review whether any change made to that publication is appropriate for application in this State. If the Division does not disapprove a change to the adopted publication within 30 days after the review, the change is deemed to be approved by the Division.

Sec. 20. NAC 458.108 is hereby amended to read as follows:

458.108 1. An operator may apply for the initial certification of a program by submitting to the ~~Health~~ Division:

(a) A completed application for initial certification on a form provided by the ~~Health~~ Division;

(b) Documentation evidencing that the applicant is in compliance with all applicable local, state and federal laws, regulations and ordinances;

(c) All names used by the applicant in its operation of the program or practice of business;

(d) A copy of the manual containing the policies and procedures of the program;

(e) A nonrefundable fee in the amount set forth in NAC 458.138; and

(f) A copy of the policy of insurance evidencing the insurance coverage required pursuant to NAC 458.173.

2. An operator may apply for recertification of the program by submitting to the ~~Health~~ Division, within ~~90~~ 60 days before the expiration of the initial certification or any previous recertification:

- (a) A completed application for recertification on a form provided by the ~~Health~~ Division;
- (b) Documentation evidencing that the applicant is in compliance with all applicable local, state and federal laws, regulations and ordinances;
- (c) All names used by the applicant in the operation of the program or practice of business;
- (d) ~~A~~ *If any changes were made to the manual which was submitted with the initial application for certification pursuant to paragraph (d) of subsection 1 or any previous application for recertification, a* copy of the manual containing the policies and procedures of the program, including, without limitation, documentation that:

(1) Describes ~~any~~ *the* changes to the manual which was submitted with the initial application for certification or any previous application for recertification and which were approved by the ~~Health~~ Division; and

(2) Specifies in writing whether the changes were:

(I) ~~Made as a result of findings of the Health Division, including, without limitation, findings made before the expiration of the certification and findings made in any notice of revocation of certification by the Health Division;~~

~~(II)~~ Made as a result of findings of an agency or organization, other than an agency or organization owned or operated by the operator; or

~~(III)~~ (II) Initiated by the operator;

(e) A nonrefundable fee in the amount set forth in NAC 458.138; and

(f) A copy of the policy of insurance evidencing the insurance coverage required pursuant to NAC 458.173.

3. If the certification of a program expires without recertification in accordance with the requirements set forth in subsection 2 and the operator wishes to certify the program, the operator must apply for initial certification of the program in the manner set forth in subsection 1.

Sec. 21. NAC 458.113 is hereby amended to read as follows:

458.113 1. Upon receipt of a completed application for initial certification or recertification of a program, the ~~{Health}~~ Division *or its designee* shall:

- (a) Review the application;
- (b) Schedule and perform an inspection of the program;
- (c) Review the services listed in the application to ensure compliance with the criteria of the ~~{Health}~~ Division; and
- (d) Provide a written report of the findings of the inspection to the applicant.

2. ~~{The Health Division shall return any incomplete application to the applicant.}~~

~~—3.—~~ If the ~~{Health}~~ Division finds that the program is in compliance with the requirements set forth in this chapter, the ~~{Health}~~ Division must issue a written initial certification or recertification of the program.

~~{4.}~~ 3. The ~~{Health}~~ Division may issue an initial certification or recertification of a program for a period not to exceed 2 years. The ~~{Health}~~ Division shall determine the period of each initial certification or recertification based upon the criteria for the length of certification set forth in the criteria of the ~~{Health}~~ Division.

Sec. 22. NAC 458.118 is hereby amended to read as follows:

458.118 1. Except as otherwise provided in subsection 5, the ~~Health~~ Division may only certify and provide funding for programs that provide services in accordance with the criteria of the ~~Health~~ Division.

2. The ~~Health~~ Division may amend the criteria of the ~~Health~~ Division if:

(a) The staff of the ~~Bureau~~ *Division* submits a written proposed amendment to the ~~Health~~ Division to change the criteria of the ~~Health~~ Division based upon:

(1) A review by the staff of the ~~Bureau~~ *Division* of any changes made to:

(I) Any nationally recognized criteria for the prevention or treatment of substance-related disorders; and

(II) The requirements for federal funding of programs; or

(2) A request by the Advisory Board or any member of a provider group or the public for a change to the criteria of the ~~Health~~ Division;

(b) The proposed amendment is placed on the agenda for the next scheduled meeting of the Advisory Board and heard in accordance with the requirements for meetings of state and local agencies set forth in chapter 241 of NRS;

(c) The Advisory Board approves the amendment proposed by the staff of the ~~Bureau~~ *Division* and recommends to the Administrator that he or she amend the criteria of the ~~Health~~ Division; and

(d) The Administrator approves the amendment recommended by the Advisory Board.

3. The staff of the ~~Bureau~~ *Division* shall send notice of a meeting of the Advisory Board to hear an amendment to the criteria of the ~~Health~~ Division to each known alcohol and drug abuse program which operates in this State for the prevention or treatment of substance-related disorders and to each person or organization requesting such notification.

4. If the Administrator of the ~~Health~~ Division approves any changes to the criteria of the ~~Health~~ Division, the changes must be:

- (a) Published in the *Administrative Manual* of the ~~Bureau;~~ *Division;*
- (b) Posted on the Internet at ~~http://health2k.state.nv.us/BADA/;~~ [http://dpbh.nv.gov/;](http://dpbh.nv.gov/) and
- (c) Mailed to each certified alcohol and drug abuse program which operates in this State for the prevention or treatment of substance-related disorders.

5. If the ~~Health~~ Division amends the criteria of the ~~Health~~ Division in accordance with this section before an operator is required to recertify a program, the ~~Health~~ Division shall not require the operator to recertify the program to comply with the amended criteria of the ~~Health~~ Division before the date required for recertification of the program. The ~~Health~~ Division may require the operator to:

- (a) Revise the policies and procedures of the program to comply with the amended criteria of the ~~Health~~ Division before the operator is required to recertify the program; and
- (b) Submit to the ~~Health~~ Division a copy of the manual containing the revised policies and procedures.

6. As used in this section, “Advisory Board” means the board created by the Administrator to advise the ~~Bureau;~~ *Division concerning services for the treatment and prevention of substance abuse.*

Sec. 23. NAC 458.123 is hereby amended to read as follows:

458.123 An operator shall notify the ~~Health~~ Division of any anticipated change which will affect the certification of the program not later than ~~90~~ *60* days before the change will occur or as soon as the operator is aware of the change if the operator is not aware of the change at least ~~90~~ *60* days before the change will occur. The ~~Health~~ Division shall notify the operator of any

actions the operator must take to maintain the certification of the program or whether the operator will be required to apply for a new certification as a result of the change.

Sec. 24. NAC 458.128 is hereby amended to read as follows:

458.128 1. If, during the period of certification of a program, the operator wishes to provide a service that was not listed in the application for initial certification or recertification, the operator must submit to the ~~Health~~ Division:

- (a) A completed application for the addition of a new service on a form provided by the ~~Health~~ Division;
- (b) A copy of the manual containing the policies and procedures of the program, including, without limitation, a description of the operations of each new service and the procedures relating to each new service; and
- (c) A nonrefundable fee in the amount set forth in NAC 458.138 for each new service at each geographic location at which the service will be provided.

2. The ~~Health~~ Division may revise the certificate of the program to include the new service for a period not to exceed the time remaining in the period of certification established by the ~~Health~~ Division pursuant to subsection ~~4~~ 3 of NAC 458.113.

3. If the operator wishes to continue the certification of the program with the new service after the period of certification, the operator must submit an application for recertification in accordance with the requirements set forth in subsection 2 of NAC 458.108 to maintain certification of the program with the new service. The ~~Health~~ Division shall determine the period of the recertification based upon the criteria for the length of certification set forth in the criteria of the ~~Health~~ Division.

4. Except as otherwise provided in section 2 of this regulation, if, during the period of certification of a program or after the period of certification, the operator wishes to operate a program from a facility at a geographic location that differs from the geographic location of the facility that was listed in the application for initial certification or recertification, the operator must submit an application for recertification in accordance with the requirements set forth in subsection 2 of NAC 458.108 to maintain certification of the program at the new geographic location.

Sec. 25. NAC 458.138 is hereby amended to read as follows:

458.138 *1.* The ~~Health~~ Division shall charge and collect nonrefundable fees for the initial certification and recertification of programs and services in accordance with the following schedule:

For each administrative program.....	\$100
For each coalition program	100
For each drug court program at each geographic location at which the drug court program will be provided	100
For each evaluation center program	100
For each prevention program	100
For each service provided by a treatment program at each geographic location at which the service will be provided.....	100
For each service to be added to a program at each geographic location at which the service will be provided	100

2. In addition to the fees listed in subsection 1, the Division shall charge and collect a nonrefundable fee in the amount of \$50 for each program that treats co-occurring substance-related and mental health disorders.

Sec. 26. NAC 458.153 is hereby amended to read as follows:

458.153 1. A program must have a specified operator who is responsible for the program. The operator may designate another responsible party to implement and supervise the responsibilities of the operator pursuant to this chapter. The operator remains responsible for any actions of his or her designee.

2. If the program is operated by a corporation, the governing body of the corporation must be the operator. The governing body shall:

(a) Adopt written bylaws or policies that define any reimbursement to be provided to its members and the powers and duties of the governing body and its committees;

(b) Meet at least quarterly and keep written minutes that indicate:

(1) The date of the meeting;

(2) The names of the persons present at the meeting;

(3) Any decisions made by the governing body at the meeting; ~~and~~

(4) Any other actions taken by the governing body at the meeting; and

(5) The review and approval of budgets by the governing body; and

(c) Make available for review by the ~~Health~~ Division the minutes of meetings, the articles of incorporation and the bylaws of the governing body.

3. An operator shall:

(a) Develop and maintain a manual containing the policies and procedures of the program which meets the requirements set forth in NAC 458.158;

(b) Review ~~and approve~~ any changes to the manual containing the policies and procedures of the program ~~;~~ *and have those changes approved by the Division as required pursuant to NAC 458.108;*

(c) Comply with the provisions of the manual containing the policies and procedures of the program in operating the program;

(d) Make a copy of the manual containing the policies and procedures of the program available for review to any person who requests to review it;

(e) Notify the ~~Health~~ Division within 24 hours after the occurrence of an incident that may cause imminent danger to the health or safety of the clients, participants or staff of the program, or a visitor to the program;

(f) ~~Submit for review and approval by the Health Division~~ *Establish* a plan for ~~improving~~ :

(1) Improving the quality of the services provided by the program *which addresses, without limitation, operational services, human resources, fiscal services and clinical outcome measures;* and ~~for ensuring~~

(2) Ensuring that the integrity of the program will be maintained;

(g) ~~After the Health Division approves~~ *Make a copy of* the plan ~~submitted~~ *established* pursuant to paragraph (f) ~~;~~ *implement the plan;* *available to the Division at the time of an inspection by the Division of the premises where the program is providing services;*

(h) Maintain all licensure and certifications required by the ~~Health~~ Division and comply with all local, state and federal laws, regulations and ordinances;

(i) Document that paid staff are on the premises where the program is providing services at all times when a client or participant is present on the premises; *and*

~~(j) Post a plan for evacuation of the premises where a program is providing services in a place where the plan can be easily viewed by clients, participants and staff; and~~

~~(k)~~ If the operator receives a report from a governmental agency or certifying agency relating to the program, the physical plant on the premises where the program is providing services or the operations of the program, provide a copy of the report to the **{Health}** Division :

(1) At the time of an inspection by the Division of the premises where the program is providing services; or

(2) If the report requires the operator to take corrective action, not more than 30 days after the operator receives the report.

4. The **{Health}** Division shall report any known violation of any local, state or federal law, regulation or ordinance by an operator to the appropriate regulatory agencies which govern the licensure or certification of the program and to the appropriate agencies responsible for investigating the violation.

Sec. 27. NAC 458.158 is hereby amended to read as follows:

458.158 An operator shall maintain a manual containing the policies and procedures of the program and the services to be provided by the program, including, without limitation, the policies and procedures:

1. To be followed in the event of a medical emergency.
2. For the registration and disposition of complaints by clients, participants and staff and the right to appeal without threat of reprisal.
3. For the staff, including, without limitation, an accurate job description , *signed by the applicable employee*, for each position held by an employee of the program that describes:
 - (a) The title of the position;

(b) The duties and responsibilities of the position; and

(c) The qualifications for the position.

4. To be used by the operator to:

(a) Claim funds or bill for services;

(b) Receive and record funds;

(c) Record expenditures;

(d) Prepare financial reports;

(e) Maintain information for the support of claims for funds or to bill for services; and

(f) Implement internal controls and audits, as necessary.

5. To be used to maintain financial records of clients or participants when a client or participant is billed for services. The policies and procedures must include, without limitation, requirements that an operator shall:

(a) Inform prospective clients and participants of financial arrangements concerning a service before providing the service;

(b) Maintain accurate records of:

(1) Any fees charged to a client or participant; and

(2) Any payments made by a client or participant; and

(c) Make the records required pursuant to paragraph (b) available to the client or participant for review upon request.

6. To be followed to meet the requirements set forth in this section and NAC 458.163 to 458.177, inclusive.

Sec. 28. NAC 458.168 is hereby amended to read as follows:

458.168 1. An operator must establish a system for maintaining the records of the members of the staff which:

(a) Maintains the confidentiality and safekeeping of the records.

(b) Contains the application or resume of each member of the staff, any employment contract signed by a member of the staff and the operator or a designee thereof, and any document containing the job performance standards which is signed by a member of the staff and the operator or the designee.

(c) Includes, for each member of the staff who serves clients who are under 16 years of age, documentation of the results of an inquiry made pursuant to NRS 179A.180 to 179A.240, inclusive.

(d) Includes a copy of the certification, registration or license of each member of the staff who provides treatment or another service requiring certification, registration or licensure of the member of the staff.

(e) ~~Includes copies of documentation of any disciplinary action taken against a member of the staff.~~

~~(f)~~ (f) Includes a verification signed by each member of the staff indicating that the member of the staff has participated in a course of orientation regarding the policies and procedures which govern the service that the member of the staff provides.

~~(g) Includes copies of certificates of any training completed by each member of the staff.~~

~~(h)~~ (h) Includes, for each member of the staff who is not a citizen of the United States, a copy of Form I-9, Employment Eligibility Verification, of the United States Citizenship and Immigration Services of the Department of Homeland Security, which verifies that the member of the staff is lawfully entitled to remain and work in the United States.

~~[(H)]~~ (g) Includes a copy of any report of criminal history that is obtained pursuant to NRS 641C.260 or 641C.530 , *as amended by section 13 of Assembly Bill No. 85, chapter 402, Statutes of Nevada 2015, at page 2276*, for each member of the staff working with any person who is less than 18 years of age.

2. If a record of a member of the staff includes an employment contract or a document containing job performance standards, the contract or standards must clearly specify the nature and amount of the service to be provided by the member of the staff.

3. A record of a member of the staff must be made available only to the member of the staff upon submission of a request to review the records and to persons who are:

- (a) Authorized by the policies and procedures of the program;
- (b) Inspecting the program; and
- (c) Authorized by the member of the staff.

Sec. 29. NAC 458.173 is hereby amended to read as follows:

458.173 An operator shall ensure that the program is insured:

1. For liability in an amount sufficient to protect the clients, participants and staff of the program, and the visitors to the program. *The policy of insurance must, at a minimum, provide coverage for professional liability and, if the operator receives state or federal money for an alcohol or drug abuse program and is the governing body of a corporation or of a nonprofit organization, the policy of insurance must include liability insurance for directors and officers.* The operator shall submit a copy of the policy of insurance to the ~~[(Health)]~~ Division with any application for initial certification or recertification. The policy of insurance must provide that notice be given to the ~~[(Health)]~~ Division not later than 30 days after cancellation of

the policy or after an operator does not renew the policy. Upon request, an operator shall make a copy of the policy of insurance available to the ~~Health~~ Division for review.

2. For all liabilities arising out of the acts or omissions of a consultant while providing a service for the program. The *policy of* insurance may be provided by the program or the consultant. If the *policy of* insurance is provided by the consultant, the operator must obtain a copy of the policy and place the copy in the personnel file of the consultant.

Sec. 30. NAC 458.183 is hereby amended to read as follows:

458.183 An operator and the staff shall:

1. Upon the request of a client or participant, assist the client or participant in reporting any violation of any licensure or certification standard or requirement, or any violation of any law or regulation to the appropriate board or agency.

2. Act in the best interest of a client or participant.

3. Terminate the provision of a service to a client or participant if it is reasonably clear that the client or participant is not benefiting from the service.

4. Not give or receive any commission or any other form of remuneration for the referral of a client or participant from the entity to which the client or participant is referred.

5. Not use his or her relationship with a client or participant to promote his or her personal gain or profit.

6. Not enter into, or attempt to enter into, a financial relationship that is unrelated to services performed by the program with a current client or participant or a former client or participant, as required by the licensure or certification board of the operator or the member of the staff and for unlicensed or uncertified operators or staff, for at least 2 years after the client or participant is discharged from the program.

~~{7. Enable all persons, regardless of ability to pay, especially persons with low or no income, to have access to necessary resources and services related to the prevention or treatment of a substance-related disorder.}~~

Sec. 31. NAC 458.203 is hereby amended to read as follows:

458.203 The operator of a coalition program shall:

1. Ensure that the governing body of the nonprofit organization which operates the coalition program meets at least quarterly, keeps minutes of the meetings and makes copies of the minutes available for review by the **{Health}** Division upon request.

2. ~~{Ensure that the nonprofit organization which operates the coalition program is comprised of individuals, organizations and agencies which broadly represent the community to be served by the coalition program.}~~

~~—3.—At the request of the Health Division, develop a written comprehensive plan for the prevention of substance-related disorders in the community based upon:~~

~~—(a) An assessment of the risk factors and protective factors in the community;~~

~~—(b) An assessment of the resources available in the community to address the need for the prevention of substance-related disorders;~~

~~—(c) Research concerning the prevention of substance-related disorders; and~~

~~—(d) Any evidence-based programs which target risk factors and protective factors of substance-related disorders.~~

~~—4.—Make a good faith effort to include all providers of services relating to the prevention of substance-related disorders in:~~

~~—(a) Conducting the assessment of the risk factors, protective factors and resources available in the community; and~~

~~—(b) Developing and writing the comprehensive plan for the prevention of substance-related disorders in the community.~~

~~—5. Submit all reports to the Health Division as may be required by the Health Division.~~

~~—6.† Meet the applicable requirements of NAC 458.103 to 458.183, inclusive, and section 2 of this regulation.~~

3. Ensure that all records of the coalition program are kept for at least 4 years, including, without limitation, fiscal records, information reported to the ~~{Health}~~ Division, records which substantiate any information reported to the ~~{Health}~~ Division and records which substantiate any claims for funds from the ~~{Health}~~ Division.

~~{7. Meet all requirements as specified by the Health Division in the notice of subgrant award.†}~~

Sec. 32. NAC 458.213 is hereby amended to read as follows:

458.213 1. The operator of an administrative program shall:

(a) Submit a request for funding to the ~~{Health}~~ Division to provide a service in the support of the prevention or treatment of a substance-related disorder.

(b) Meet all the requirements as specified by the ~~{Health}~~ Division in the notice of subgrant award.

(c) Keep all records required by the ~~{Health}~~ Division, and any documents to support those records, for at least 6 years after the end of the year in which a grant was awarded to the administrative program.

(d) Meet the applicable requirements of NAC 458.103 to 458.183, inclusive, and section 2 of this regulation.

2. The ~~Health~~ Division shall group the requests for funding received pursuant to subsection 1 based on the services to be provided and determine which administrative program will be awarded money based on a competitive bidding process.

Sec. 33. NAC 458.228 is hereby amended to read as follows:

458.228 The operator of a prevention program shall:

1. Submit to the ~~Health~~ Division a written statement signed by the operator of the prevention program assuring the ~~Health~~ Division that the prevention program promotes the message to minors not to use alcohol, tobacco or other drugs.

~~2. To satisfy federal requirements for the evaluation of a prevention program, include a requirement in the manual containing the policies and procedures of the prevention program that a minor and the parent or guardian of the minor wishing to participate in the prevention program must comply with the criteria of the Health Division regarding consent to participate in a prevention program.~~

~~3. If the prevention program includes an evaluation of the prevention program by the participants, maintain documentation that the operator made a good faith effort to obtain the consent required pursuant to subsection 2.~~

~~4. Maintain documentation of the consent required pursuant to subsection 2 and make the documentation available to the staff of the Health Division upon request.~~

~~5. If the prevention program is directed at a specific community:~~

~~(a) Participate with any coalition program in that community which is funded by the Health Division to develop a comprehensive plan for the prevention of substance-related disorders in that community.~~

~~(b) Submit quarterly reports to the Health Division which outline:~~

- ~~— (1) Specific activities of the prevention program with the coalition program; and~~
- ~~— (2) How the services of the prevention program:
 - ~~— (I) Adhere to the goals and objectives of the comprehensive plan for the prevention of substance-related disorders;~~
 - ~~— (II) Maintain fidelity to the appropriate evidence-based practices; and~~
 - ~~— (III) Satisfy the goals of federal and state alcohol and drug abuse programs for the prevention or treatment of substance-related disorders.~~~~
- ~~— 6. Include in the manual containing the policies and procedures of the prevention program procedures for the staff to follow concerning the physical and computer records of a participant, including, without limitation, policies and procedures for:
 - ~~— (a) Preventing the release of information concerning the participant without a signed consent form from the participant for the release of the information;~~
 - ~~— (b) The conditions for release of information that would occur pursuant to 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164;~~
 - ~~— (c) Maintaining the records at the place of business of the operator or at a site designated by the operator working with an agency which has contracted with the Health Division to maintain the records; and~~
 - ~~— (d) Maintaining physical records in a locked facility and computer records in a system which allows access to only those persons authorized by the operator.~~~~
- ~~— 7. Ensure that all records of the prevention program are kept for at least 4 years, including, without limitation, staff records, participant records, fiscal records, information reported to the Health Division, records which substantiate any information reported to the Health Division and records which substantiate any claims for funds from the Health Division.~~

~~—8.— If the operator is providing a service directed at specific participants, prepare records of the service, including, without limitation, records of attendance which include the date the service was provided, the name of each participant, the name and signature of the person who conducted the service and the location at which the service was provided.~~

~~—9.— Ensure that the staff are aware and knowledgeable of the theories, goals and methodologies used to successfully carry out the prevention program and the services of the program.~~

~~—10.— Meet the applicable requirements of NAC 458.103 to 458.183, inclusive, and section 2 of this regulation.~~

3. In accordance with the criteria of the **[Health]** Division, include in the manual containing the policies and procedures of the prevention program a written process for evaluating the outcomes of the program and for participating in an evaluation of the program.

Sec. 34. NAC 458.246 is hereby amended to read as follows:

458.246 The operator of a treatment program shall:

1. Perform an assessment of each client *using a method approved by the Division that addresses both substance-related and mental health disorders* or obtain the most recent assessment of the client which is found to be sufficient to:

(a) Make a complete identification of any problems concerning the substance-related disorder of the client; and

(b) Determine the appropriate level of service for the client pursuant to the criteria of the **[Health]** Division.

2. Identify the staff which provide the services set forth in subsection 1 and require such staff to develop a plan of treatment, not including detoxification, on or before the third contact of

the client with the program or on or before the third day on which the client receives services from the program, whichever occurs first. For the purposes of this subsection, any contact that a client has with the program for the sole purpose of receiving medication does not constitute contact or receiving services. The plan of treatment must specify:

(a) ~~{Behavioral objectives}~~ *Time-specific behavioral goals and action steps within the six dimensions set forth in the ASAM Criteria: Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions, which is adopted by reference pursuant to NAC 458.095, as specified in the criteria of the Division* to be achieved by the client in response to the problems identified by the treatment assessment;

(b) The services to be provided by the staff to facilitate the client in attaining the ~~{objectives}~~ *goals* of the plan; and

(c) The member of the staff who is responsible for ensuring that the services specified pursuant to paragraph (b) are provided and that the client attains the ~~{objectives}~~ *goals* of the plan.

3. Review and, *as applicable*, revise the plan of treatment of a client ~~†~~:

~~(a) If the client is receiving outpatient treatment services, whenever the condition of the client changes over the course of treatment or every 30 days, whichever occurs first; and~~

~~—(b) If the client is receiving residential treatment services, whenever the condition of the client changes over the course of treatment or every 14 days, whichever occurs first.~~

based on the criteria of the Division for continuing the provision of services to and transferring a client.

4. Provide the appropriate level of services determined pursuant to paragraph (b) of subsection 1 or refer the client to services which are the appropriate level and are otherwise available in the community.

5. Provide, when appropriate, a referral to, and coordination of care with, ~~{an employee assistance program or}~~ any other provider of a service related to the treatment of a substance-related *or mental health* disorder to address any identified problems of a client which cannot be resolved by a service provided by the treatment program.

6. If the treatment program provides residential detoxification services, ensure that a detoxification technician or qualified practitioner monitors each client who receives residential detoxification services from the treatment program during the provision of those services. As used in this subsection, “qualified practitioner” includes, without limitation, a licensed physician, a physician assistant licensed pursuant to chapter 630 or 633 of NRS, an advanced practice registered nurse, a registered nurse and a licensed practical nurse.

Sec. 35. NAC 458.257 is hereby amended to read as follows:

458.257 A treatment program which provides opioid ~~{maintenance therapy}~~ *treatment* services must be certified to provide services for outpatients and ambulatory detoxification services. The facility at which the treatment program provides opioid ~~{maintenance therapy}~~ *treatment* services must be licensed by the ~~{Health}~~ Division as a facility for treatment with narcotics pursuant to NAC 449.154 to 449.15485, inclusive.

Sec. 36. NAC 458.267 is hereby amended to read as follows:

458.267 *1.* The operator of a treatment program which offers services using ~~{a system of telecommunications}~~ *telehealth* shall submit the policies , ~~{and}~~ procedures *and protocols* for ~~{the operation of the system}~~ *telehealth* to the ~~{Health}~~ Division for approval. The policies , ~~{and}~~ procedures *and protocols* must provide for:

~~{1.}~~ *(a)* The confidentiality of the setting for clients and information concerning clients ~~{;~~

~~2.1~~ which satisfies the requirements set forth in 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164;

(b) *Protocols for verifying:*

(1) *The location of a client;*

(2) *The identity of a client and the professional at the time the service using telehealth is provided;*

(3) *Whether telehealth is appropriate for a client; and*

(4) *The informed consent of a client concerning telehealth;*

(c) *Actions the program will take in case of an emergency involving a client ~~1.5~~ and ~~3.1~~, including, without limitation, verifying the safety of the client and emergency services available to the client;*

(d) *Compliance with ethical standards relating to any applicable professional licensure and certification specific to telehealth;*

(e) *Compliance with other policies of the Division required in the Administrative Manual of the Division;*

(f) *Compliance with the applicable documentation requirements of NAC 458.103 to 458.193, inclusive, and section 2 of this regulation and 458.241 to 458.272, inclusive, and section 3 of this regulation as if the services were provided to a client in person; and*

(g) *The manner in which the dignity of clients will be maintained.*

2. *As used in this section, “telehealth” means the use of telecommunications and information technology to provide access to health assessments, diagnoses, interventions, consultations, supervision and information across distance.*

Sec. 37. NAC 458.272 is hereby amended to read as follows:

458.272 The operator of a treatment program shall:

1. Ensure that a record is maintained for each client. The record must include:

(a) The name, age, gender, race, ethnicity and permanent address of the client.

(b) If services are funded by the ~~Health~~ Division, an evaluation of the financial status of the client sufficient to determine eligibility for such services.

(c) A statement from the client, signed within 24 hours after intake or upon enrollment in the treatment program, explaining that he or she is seeking service, unless the client is being provided a service related to civil protective custody.

(d) A consent form for treatment services signed by the client or the parent or guardian of the client within 24 hours after intake or upon enrollment in the treatment program, unless the client is being provided a service related to civil protective custody.

(e) Any consent to release information which satisfies the requirements set forth in 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164.

(f) The source of any referral to the treatment program.

(g) Documentation of the treatment assessment performed by the operator or obtained by the operator pursuant to subsection 1 of NAC 458.246.

(h) ~~The history of treatment of the client.~~

~~(i) Any sources of psychosocial stress affecting the client.~~

~~(j)~~ The original plan of care for the client and all revisions to the plan of care.

~~(k)~~ (i) Any additional information that should be taken into consideration during the planning of treatment, determination of appropriate referrals and determination of any need for coordination of care.

~~[(l)] Documentation of and justification for any referral to appropriate services pursuant to the criteria of the Health Division and any resulting coordination of care.~~

~~[(m)]~~ (j) Documentation of any discussion with the client concerning the results of the treatment assessment, appropriate referrals and any barriers to treatment.

~~[(n)]~~ (k) The date, type and duration of any contact with the client, and any services provided to the client.

~~[(o)]~~ (l) Documentation of any:

(1) Incident that may cause imminent danger to the health and safety of the client, other clients or staff, or persons outside the treatment program;

(2) Problem involving the client;

(3) Infraction of the rules of the treatment program by the client; and

(4) Sign or symptom of illness or injury of the client.

~~[(p)]~~ (m) Documentation in support of services that the treatment program provides to the client, including, without limitation, any:

(1) Correspondence concerning the client; and

(2) Results of a test conducted on the client, including, without limitation, any test conducted by a laboratory.

~~[(q)] If the treatment program administers or dispenses medication to the client or makes medication available to the client to administer to himself or herself, documentation of all actions taken to comply with the requirements set forth in NAC 449.144.~~

~~[(r)]~~ (n) If the client is transferred to a different location or provided a different service, including a service provided by the same operator, a copy of the case note made at the time of transfer which includes, without limitation:

- (1) Diagnosis of the client at the time of admission or intake;
- (2) The response of the client to treatment;
- (3) Diagnosis of the client at the time of transfer; and
- (4) Recommendations for persons who will be providing treatment to the client.

~~(s)~~ (o) After the client is discharged from the treatment program:

(1) Documentation that a copy of the plan for continuing care of the client, including, without limitation, any referrals given to the client, was provided to the client before discharge, if possible; and

(2) Documentation that, not more than 5 business days after the client was discharged from the treatment program, a summary was completed which meets the criteria of the ~~Health~~ Division for the discharge of a client.

~~(t)~~ (p) A copy of the notification, which is in the form approved by the ~~Health~~ Division and which was signed by the client, indicating:

(1) The procedure for the client to register a complaint and to appeal a decision by the treatment program concerning a complaint;

(2) The requirements for the confidentiality of client information set forth in 42 C.F.R. Part 2, 45 C.F.R. Parts 160, 162 and 164 and any other applicable federal or state laws governing the confidentiality of client information for the service provided; and

(3) Any other rights of the client that are specified by the ~~Health~~ Division.

~~(u)~~ (q) Documentation to support any claims for services or data reported to the ~~Health~~ Division.

2. Ensure that each client receives a copy of the notification required pursuant to paragraph ~~(v)~~ (p) of subsection 1.

3. Ensure that the client records adhere to procedures for medical records.
4. Ensure that the case notes for each client accurately reflect the treatment and services needed by the client, as identified in the assessment and plan of treatment required pursuant to NAC 458.246.
5. Ensure that the staff readily has access to the client records to the extent authorized pursuant to 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164.
6. Maintain a system for the maintenance and protection of client information which satisfies the requirements set forth in 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164, including, without limitation, requirements for:
 - (a) Adequate provisions to prevent unauthorized access or theft of any form of a record of a client;
 - (b) The locked storage of paper records;
 - (c) Adequate provisions for a system of backup of records maintained in a computer system in case of a failure of the primary system;
 - (d) Retention of the records of each client for not less than 6 years after the client is discharged from the treatment program, to be made available as required pursuant to 45 C.F.R. Parts 160, 162 and 164; and
 - (e) Appropriate methods to destroy records of clients as required by federal regulation.
7. Ensure that each client has access to their records as required pursuant to 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164.

Sec. 38. NAC 458.291 is hereby amended to read as follows:

458.291 The operator of a drug court program shall maintain a manual containing the policies and procedures of the drug court program which includes, without limitation, the

policies and procedures required pursuant to NAC 458.158 . ~~f, and~~ *The* policies and procedures
~~f~~

~~—1. Concerning the control of infections, including, without limitation, communicable diseases, and concerning universal precautions against bloodborne pathogens.~~

~~—2. Describing the manner in which the drug court program will satisfy the requirements set forth in NAC 458.296 and 458.306.~~

~~—3. For releasing information about a client which satisfies the requirements set forth in 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164 and which reveals:~~

~~—(a) That the client has abused or neglected a child or an elderly person;~~

~~—(b) That the client presents a danger to other people;~~

~~—(c) That the client has a communicable disease; or~~

~~—(d) The identity of the client and his or her human immunodeficiency virus seropositive status.~~

~~—4. Describing the criteria which the drug court program will use to satisfy and comply with the criteria of the Health Division for admission, continued stay and discharge.] of the drug court program must include, without limitation, evidence of implementation of:~~

1. A restorative justice model of treatment for criminal justice clients;

2. Incentives and sanctions;

3. Motivation enhancement approaches;

4. Activities that encourage behavior that is designed to benefit other persons;

5. Phasing of programs; and

6. Modeling of behavior by staff.

Sec. 39. NAC 458.296 is hereby amended to read as follows:

458.296 The operator of a drug court program shall perform an assessment of each client or obtain the most recent assessment ~~[which is found to be sufficient to:~~

~~—1. Make a complete identification of any problems related to the substance-related disorder of the client; and~~

~~—2. Determine the appropriate level of service for the client pursuant to the criteria of the Health Division.] in the manner set forth in NAC 458.252.~~

Sec. 40. NAC 458.301 is hereby amended to read as follows:

458.301 If a drug court program provides counseling for groups, the operator shall ensure that ~~[any session for counseling for a group includes not more than 15 clients.]~~ *the limitation on the number of clients set forth in NAC 458.262 is met.*

Sec. 41. NAC 458.306 is hereby amended to read as follows:

458.306 The operator of a drug court program shall:

1. *Meet the requirements of NAC 458.272; and*

2. Ensure that a record is maintained for each client. The record must include ~~†~~

~~(a) The name, age, gender, race, ethnicity and permanent address of the client.~~

~~—(b) If services are funded by the Health Division, an evaluation of the financial status of the client sufficient to determine eligibility for such services.~~

~~—(c) A] the information required by NAC 458.272, except that the statement from the client ~~†~~ signed upon intake or enrollment in the drug court program,]~~ explaining that he or she is seeking

service, unless the client is being provided a service related to civil protective custody ~~†~~

~~—(d) A consent form for treatment services signed by the client or the parent or guardian of the client upon intake or enrollment in the drug court program, unless the client is being provided a service related to civil protective custody.~~

- ~~—(e) Any consent to release information which satisfies the requirements set forth in 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164.~~
- ~~—(f) The source of any referral to the drug court which referred the client to the drug court program.~~
- ~~—(g) Documentation of the assessment performed by the operator or obtained by the operator pursuant to NAC 458.296.~~
- ~~—(h) The history of treatment of the client.~~
- ~~—(i) Any sources of psychosocial stress affecting the client.~~
- ~~—(j) Any additional information that should be taken into consideration during the planning of treatment, determination of appropriate referrals and determination of any need for coordination of care.~~
- ~~—(k) Documentation of and justification for any referral to appropriate services pursuant to the criteria of the Health Division and any resulting coordination of care.~~
- ~~—(l) Documentation of any discussion with the client concerning the results of the treatment assessment, appropriate referrals and any barriers to treatment.~~
- ~~—(m) The date, type and duration of any contact with the client, and any services provided to the client.~~
- ~~—(n) Documentation of any:
 - ~~—(1) Incident that may cause imminent danger to the health and safety of the client, other clients or staff, or persons outside the drug court program;~~
 - ~~—(2) Problem involving the client; and~~
 - ~~—(3) Sign or symptom of illness or injury of the client.~~~~

- ~~—(o) Documentation in support of services that the drug court program provides to the client, including, without limitation, any:
 - ~~—(1) Correspondence concerning the client; and~~
 - ~~—(2) Results of a test conducted on the client, including, without limitation, any test conducted by a laboratory.~~~~
- ~~—(p) A copy of the notification, which is in the form approved by the Health Division and which was signed by the client, indicating:
 - ~~—(1) The procedure for the client to register a complaint and to appeal a decision by the drug court program concerning a complaint;~~
 - ~~—(2) The requirements for the confidentiality of client information set forth in 42 C.F.R. Part 2, 45 C.F.R. Parts 160, 162 and 164 and any other applicable federal or state laws governing the confidentiality of client information for the service provided; and~~
 - ~~—(3) Any other rights of the client that are specified by the Health Division.~~~~
- ~~—(q) Documentation to support any claims for services or data reported to the Health Division.~~
- ~~—2. Ensure that each client receives a copy of the notification required pursuant to paragraph (p) of subsection 1.~~
- ~~—3. Ensure that the client records adhere to procedures for medical records.~~
- ~~—4. Ensure that the case notes for each client accurately reflect the treatment and services needed by the client, as identified in the assessment required pursuant to NAC 458.296.~~
- ~~—5. Ensure that the staff readily has access to the client records to the extent authorized pursuant to 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164.~~

~~—6.— Maintain a system for the maintenance and protection of client information which satisfies the requirements set forth in 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164, including, without limitation, requirements for:~~

~~—(a) Adequate provisions to prevent unauthorized access or theft of any form of a record of a client;~~

~~—(b) The locked storage of paper records;~~

~~—(c) Adequate provisions for a system of backup of records maintained in a computer system in case of a failure of the primary system;~~

~~—(d) Retention of the records of each client for not less than 6 years after the client is discharged from the drug court program, to be made available as required pursuant to 45 C.F.R. Parts 160, 162 and 164; and~~

~~—(e) Appropriate methods to destroy records of clients as required by federal regulation.~~

~~—7.— Ensure that each client has access to their records as required pursuant to 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164.] , ***must be signed upon intake or enrollment in the drug court program.***~~

Sec. 42. NAC 458.321 is hereby amended to read as follows:

458.321 The operator of an evaluation center program shall maintain a manual containing the policies and procedures of the evaluation center program which includes, without limitation, the policies and procedures required pursuant to NAC 458.158, and policies and procedures ~~†~~

~~—1.— Concerning the control of infections, including, without limitation, communicable diseases, and concerning universal precautions against bloodborne pathogens.~~

~~—2.— Describing† ***describing*** the manner in which the evaluation center program will satisfy the requirements set forth in NAC 458.326 and 458.331.~~

~~{3. For releasing information about a client which satisfies the requirements set forth in 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164 and which reveals:~~

~~—(a) That the client has abused or neglected a child or an elderly person;~~

~~—(b) That the client presents a danger to other people;~~

~~—(c) That the client has a communicable disease; or~~

~~—(d) The identity of the client and his or her human immunodeficiency virus seropositive status.~~

~~—4. Describing the criteria which the evaluation center program will use to satisfy and comply with the criteria of the Health Division for admission, continued stay and discharge.}~~

Sec. 43. NAC 458.326 is hereby amended to read as follows:

458.326 The operator of an evaluation center program shall perform an assessment of each client or obtain the most recent assessment ~~{which is found to be sufficient to:~~

~~—1. Make a complete identification of any problems related to the substance-related disorder of the client; and~~

~~—2. Determine the appropriate level of service for the client pursuant to the criteria of the Health Division.} *in the manner set forth in NAC 458.252.*~~

Sec. 44. NAC 458.331 is hereby amended to read as follows:

458.331 The operator of an evaluation center program shall:

1. *Meet the requirements of NAC 458.272; and*

2. Ensure that a record is maintained for each client. The record must include ~~†~~

~~—(a) The name, age, gender, race, ethnicity and permanent address of the client.~~

~~—(b) If services are funded by the Health Division, an evaluation of the financial status of the client sufficient to determine eligibility for such services.~~

- ~~—(c) A] *the information required by NAC 458.272, except that the* statement from the client ~~‡ signed upon intake or enrollment in the evaluation center program,‡~~ explaining that he or she is seeking service, unless the client is being provided a service related to civil protective custody ‡~~
- ~~—(d) A consent form for treatment services signed by the client or the parent or guardian of the client upon intake or enrollment in the evaluation center program, unless the client is being provided a service related to civil protective custody.~~
- ~~—(e) Any consent to release information which satisfies the requirements set forth in 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164.~~
- ~~—(f) The source of any referral to the evaluation center program.~~
- ~~—(g) Documentation of the assessment performed by the operator or obtained by the operator pursuant to NAC 458.326.~~
- ~~—(h) The history of treatment of the client.~~
- ~~—(i) Any sources of psychosocial stress affecting the client.~~
- ~~—(j) Any additional information that should be taken into consideration during the planning of treatment, determination of appropriate referrals and determination of any need for coordination of care.~~
- ~~—(k) Documentation of and justification for any referral to appropriate services pursuant to the criteria of the Health Division and any resulting coordination of care.~~
- ~~—(l) Documentation of any discussion with the client concerning the results of the treatment assessment, appropriate referrals and any barriers to treatment.~~
- ~~—(m) The date, type and duration of any contact with the client, and any services provided to the client.~~
- ~~—(n) Documentation of any:~~

- ~~— (1) Incident that may cause imminent danger to the health and safety of the client, other clients or staff, or persons outside the evaluation center program;~~
- ~~— (2) Problem involving the client; and~~
- ~~— (3) Sign or symptom of illness or injury of the client.~~
- ~~— (o) Documentation in support of services that the evaluation center program provides to the client, including, without limitation, any:~~
 - ~~— (1) Correspondence concerning the client; and~~
 - ~~— (2) Results of a test conducted on the client, including, without limitation, any test conducted by a laboratory.~~
- ~~— (p) A copy of the notification, which is in the form approved by the Health Division and which was signed by the client, indicating:~~
 - ~~— (1) The procedure for the client to register a complaint and to appeal a decision by the evaluation center program concerning a complaint;~~
 - ~~— (2) The requirements for the confidentiality of client information set forth in 42 C.F.R. Part 2, 45 C.F.R. Parts 160, 162 and 164 and any other applicable federal or state laws governing the confidentiality of client information for the service provided; and~~
 - ~~— (3) Any other rights of the client that are specified by the Health Division.~~
- ~~— (q) Documentation to support any claims for services or data reported to the Health Division.~~
- ~~— 2. Ensure that each client receives a copy of the notification required pursuant to paragraph (p) of subsection 1.~~
- ~~— 3. Ensure that the client records adhere to procedures for medical records.~~
- ~~— 4. Ensure that the case notes for each client accurately reflect the treatment and services needed by the client, as identified in the assessment required pursuant to NAC 458.326.~~

- ~~—5.— Ensure that the staff readily has access to the client records to the extent authorized pursuant to 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164.~~
- ~~—6.— Maintain a system for the maintenance and protection of client information which satisfies the requirements set forth in 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164, including, without limitation, requirements for:~~
- ~~—(a) Adequate provisions to prevent unauthorized access or theft of any form of a record of a client;~~
- ~~—(b) The locked storage of paper records;~~
- ~~—(c) Adequate provisions for a system of backup of records maintained in a computer system in case of a failure of the primary system;~~
- ~~—(d) Retention of the records of each client for not less than 6 years after the client is discharged from the evaluation center program, to be made available as required pursuant to 45 C.F.R. Parts 160, 162 and 164; and~~
- ~~—(e) Appropriate methods to destroy records of clients as required by federal regulation.~~
- ~~—7.— Ensure that each client has access to their records as required pursuant to 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164.], *must be signed upon intake or enrollment in the evaluation center program.*~~

Sec. 45. NAC 458.361 is hereby amended to read as follows:

458.361 The ~~[Health]~~ Division shall accept complaints against programs *and detoxification technicians* in person, in writing, over the phone or by electronic means. The ~~[Health]~~ Division may enter the premises of a program and inspect the premises *of a program* or request additional information from ~~[the]~~ *a detoxification technician or* program at any time.

Sec. 46. NAC 458.366 is hereby amended to read as follows:

458.366 When investigating a complaint regarding a program ~~{H}~~ *or detoxification technician*, the ~~{Health}~~ Division shall:

1. Request that the person registering the complaint state in writing the substance of the complaint and the name of the *detoxification technician, other* person or program alleged to have violated a requirement of this chapter. An investigation will proceed whether or not the allegations are put in writing.

2. Conduct ~~{announced or unannounced inspections and any other investigation}~~ *such investigations as are* necessary to determine the validity of the complaint ~~{H}~~ *and may conduct announced or unannounced inspections.*

3. If the investigation is conducted on the premises where a program is providing services, inform the operator or a designee thereof of the presence of staff from the ~~{Health}~~ Division on the premises upon arrival.

4. Inform the ~~{operator}~~ :

(a) *Operator* or the designee of the nature of the complaint ~~{H}~~, *if the complaint is against a program; and*

(b) *Detoxification technician of the nature of the complaint, if the complaint is against a detoxification technician.*

5. Except as otherwise provided in this subsection, keep all information gathered during the course of the investigation confidential while the investigation is proceeding. This subsection does not prohibit the ~~{Health}~~ Division from:

(a) Communicating or cooperating with any agency or board that:

(1) Is investigating *the detoxification technician or* a member of the staff ~~{who}~~ *of the program that* is under investigation;

(2) Is investigating the same *detoxification technician or* program as the ~~Health~~ Division; or

(3) Regulates or has jurisdiction over the violations alleged in a complaint or found during the course of the investigation.

(b) Communicating with the operator or the designee when a complaint against a person who is a member of the staff alleges a condition posing a significant hazard to the health or safety of the clients, participants or staff of the program, or a visitor to the program.

Sec. 47. NAC 458.371 is hereby amended to read as follows:

458.371 Except as otherwise provided in this section, if the ~~Health~~ Division imposes any disciplinary action against an operator, *a program or a detoxification technician*, the information gathered during the course of an investigation conducted pursuant to NAC 458.361 or 458.366 and the records of the investigation become public after the ~~Health~~ Division completes the investigation. Any information required to be kept confidential pursuant to 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164 may not be made public.

Sec. 48. NAC 458.401 is hereby amended to read as follows:

458.401 1. A person who has reason to believe that an action taken by the ~~Health~~ Division pursuant to this chapter or chapter 458 of NRS is incorrect or based upon inadequate knowledge may, within 10 business days after receiving notice of the action, request an informal discussion with the employee of the ~~Health~~ Division responsible for the action and the immediate supervisor of the employee.

2. If the informal discussion does not resolve the problem, the aggrieved person may, within 10 business days after the date scheduled for the informal discussion, submit a written request to the ~~Bureau~~ *Division* for an informal conference. The informal conference must be scheduled

for a date, time and place mutually agreed upon by the aggrieved person and the ~~{Bureau,}~~ *Division*, except that the informal conference must be held not later than 60 days after the date on which the ~~{Bureau,}~~ *Division* received the written request for the conference.

3. Except as otherwise provided in subsection 4, the determination of the ~~{Bureau,}~~ *Division* resulting from the informal conference cannot be appealed and is the final remedy available to the aggrieved person.

4. An applicant for or holder of a certificate issued pursuant to this chapter or chapter 458 of NRS who is aggrieved by an action of the ~~{Health}~~ Division relating to the denial of initial certification or recertification of a program ~~{}~~ *or a detoxification technician*, the denial of certification of additional services to a program ~~{or}~~ *, the suspension or revocation of a certificate of a program or a detoxification technician or* the suspension of funding for services of a program may appeal that action in accordance with NAC 439.300 to 439.395, inclusive, after exhausting the informal procedures set forth in this section, except that the ~~{Bureau,}~~ *Division* may waive the informal procedures, or any portion thereof, by giving written notice to the aggrieved person.

Sec. 49. NAC 458.017 is hereby repealed.

TEXT OF REPEALED SECTION

458.017 “Bureau” defined. (NRS 458.025) “Bureau” means the Bureau of Alcohol and Drug Abuse of the Health Division, or its successor.

**Division of Public and Behavioral Health
Substance Abuse Prevention and Treatment Agency (SAPTA)
LCB File No. R104-14**

Information Statement per NRS 233B.066

1. 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.

Public comment was solicited in accordance with NRS 241.020. The Notice of Public Workshop, Proposed Amendments to NAC 458, and Small Business Impact Statement were posted at nine physical locations throughout the State. In addition, these documents were posted on the Division of Public and Behavioral Health, Nevada Public Notices, and Legislative Counsel Bureau (LCB) websites.

In accordance with NRS 233B.066, subsection 1, paragraph (a), the need for the Adopted Regulation is to comply with NRS 458.025. In addition, the Adopted Regulation clarifies the role of SAPTA in the certification process of detoxification technicians and provides specific information pertaining to required training for detoxification technicians. This will result in a stronger and better skilled workforce in the State's detoxification programs.

On March 24, 2015, a Small Business Impact Questionnaire was distributed via the United States Postal Service (USPS) to 118 entities and via the SAPTA LISTSERV to 19 subscribers. Of the questionnaires distributed, 9 responses were received and 13 questionnaires were returned for various reasons by the USPS. In addition, the questionnaire was posted on the SAPTA website at: http://mh.nv.gov/Meetings/SAPTA_Program_Page/
A summary of public response to the Small Business Impact Questionnaire is as follows:

1. How many employees are currently employed by your business?
Summary: Of the 9 responses received, the number of employees reported ranged from 0 to greater than 150. Note that the respondent with greater than 150 employees did not respond to any further questions on the questionnaire.
2. Will a specific regulation have an adverse economic effect upon your business?
Summary: Of the 9 responses received, all indicated there would be no adverse economic effect upon their business.
3. Will the regulation(s) have any beneficial effect upon your business?
Summary: Of the 9 responses received, all indicated there would be no beneficial effect upon their business. One respondent stated, "We receive very few referrals from the State of Nevada for outpatient services and no referrals for teenagers [sic] residential services."

4. Do you anticipate any indirect adverse effects upon your business?

Summary: Of the 9 responses received, 7 indicated they did not anticipate indirect adverse effects on their business; 2 indicated they did anticipate indirect adverse effects and respondents stated, “Change is sometimes uncomfortable,” and “If or when our organization looks at detoxification, sec 6 #3f [sic] could be a problem.”

5. Do you anticipate any indirect beneficial effects upon your business?

Summary: Of the 9 responses received, 8 indicated they did not anticipate indirect beneficial effects on their business; 1 indicated they did anticipate indirect beneficial effects on their business and this respondent stated, “To further identify clients [with] co-occurring substance-related and mental health disorders.”

On April 28, 2015, the Small Business Impact Statement including the summary of responses was made available to the public by posting it on the SAPTA website.

On May 13, 2015, SAPTA held its second Public Workshop.

2. The number of persons who:
 - (a) Attended the hearing;
 - (b) Testified at each hearing; and
 - (c) Submitted to the agency written statements.

There was one attendee of the May 13, 2015, Public Workshop. No attendees testified. No attendees submitted written statements to SAPTA.

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

On March 24, 2015, a Small Business Impact Questionnaire was distributed via the United States Postal Service (USPS) to 118 entities and via the SAPTA LISTSERV to 19 subscribers. Of the questionnaires distributed, 9 responses were received and 13 questionnaires were returned for various reasons by the USPS. In addition, the questionnaire was posted on the SAPTA website at: http://mh.nv.gov/Meetings/SAPTA_Program_Page/

4. If 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.

An erratum to make technical revisions and the Proposed Amendments were submitted to the LCB on June 26, 2015. The LCB revised the Proposed Amendments and posted the revision, LCB File No. R104-14RP1, on the Nevada Register, August 4, 2015. In addition, during the September 11, 2015, State Board of Health Public Hearing, a member of the public advised the Board that the website cited in the Proposed Amendments was incorrect. SAPTA staff relayed this information via email to the LCB for correction. This change will result in no impact on small businesses.

5. 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.

The proposed regulation will have no direct or indirect economic effects, nor any adverse or beneficial effects on small businesses as evidenced by the Small Business Impact Statement. There will be no immediate and/or long-term effects.

SAPTA has conducted detoxification technician certifications for years. This regulation is essentially an administrative change that moves provisions pertaining to detoxification technician certifications from NAC 641C to NAC 458.

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

There are costs associated with the Division conducting detoxification technician certifications; however, those costs are defrayed by existing non-refundable fees charged and collected by the Division for initial certification and recertification services. There is no increase or decrease of existing fees for services in the proposed regulations.

7. 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 regulation does not overlap or duplicate other regulations.

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

Not applicable.

9. 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.

There are costs associated with the Division conducting detoxification technician certifications; however, those costs are defrayed by existing non-refundable fees charged and collected by the Division for initial certification and recertification services. There is no increase or decrease of existing fees for services in the proposed regulations.

10. If the proposed regulation is likely to impose a direct and significant economic burden upon a small business or directly restrict the formulation, operation or expansion of a small business. What methods did the agency use in determining the impact of the regulation on a small business?

Please see paragraph 3 of the Small Business Impact Statement.