

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

LCB File No. R090-16

Effective July 1, 2017

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

AUTHORITY: §§1, 2, 4-10, 18, 21-23 and 25-34, NRS 433.324 and section 6 of Assembly Bill No. 46, chapter 269, Statutes of Nevada 2017, at page ____; §§3 and 11-15, NRS 433.324 and sections 5 and 6 of Assembly Bill No. 46, chapter 269, Statutes of Nevada 2017, at page ____; §§16 and 17, NRS 433.324 and sections 5, 6 and 8 of Assembly Bill No. 46, chapter 269, Statutes of Nevada 2017, at page ____; §§19 and 20, NRS 433.324 and sections 6 and 8 of Assembly Bill No. 46, chapter 269, Statutes of Nevada 2017, at page ____; §24, NRS 433.324 and sections 6 and 12.5 of Assembly Bill No. 46, chapter 269, Statutes of Nevada 2017, at page ____.

A REGULATION relating to mental health; requiring a person or governmental entity to have a provisional certificate or certificate issued by the Division of Public and Behavioral Health of the Department of Health and Human Services to be eligible to provide community-based living arrangement services; prescribing procedures to apply for a provisional certificate and obtain a certificate; prescribing procedures by which the Division may review the provision of services, impose sanctions and issue, renew, deny or revoke a provisional certificate or certificate; imposing certain requirements governing the operation of a provider of services; providing a recipient of services with certain rights; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the State Board of Health to adopt regulations governing the care and treatment of persons with mental illness. (NRS 433.324) Assembly Bill No. 46 of the 2017 legislative session, effective on July 1, 2017, requires the Board to adopt regulations governing community-based living arrangement services, which are defined as flexible, individualized services that are: (1) provided in the home, for compensation, to a person with a mental illness who is served by the Division of Public and Behavioral Health of the Department of Health and Human Services or any other entity; and (2) designed and coordinated to assist the person in maximizing the person’s independence. (Sections 4 and 6 of Assembly Bill No. 46, chapter 269, Statutes of Nevada 2017, at page ____) This regulation establishes a regulatory scheme for the provision of such services.

Section 11 of this regulation requires a person or governmental entity to hold a provisional certificate or certificate issued by the Division to provide community-based living

arrangement services or receive payment from the Division for the provision of such services. **Section 12** of this regulation prescribes the required contents of an application for a provisional certificate. **Sections 13 and 14** of this regulation prescribe the required procedures for the review of such an application and the issuance of a provisional certificate. **Section 15** of this regulation lists grounds for the denial of an application for a provisional certificate.

Section 16 of this regulation: (1) prescribes the process, including a mandatory quality assurance review, through which a holder of a provisional certificate is required to obtain a certificate; and (2) requires the Division to revoke the provisional certificate of a provider who has not obtained a certificate within 1 year after the issuance of the provisional certificate. **Section 17** of this regulation authorizes the Division to renew a certificate for a period not to exceed 2 years if the Division conducts a quality assurance review and determines that the holder of the certificate is in compliance with the requirements of this regulation concerning the provision of services. **Section 19** of this regulation: (1) authorizes the Division to conduct a quality assurance review for certain purposes; and (2) prescribes the actions that the Division may take when conducting such a review. **Section 20** of this regulation prescribes the sanctions the Division may impose if it determines pursuant to a quality assurance review that there are certain deficiencies in the provision of services.

Sections 18 and 21-26 of this regulation set forth certain standards with which a provider of community-based living arrangement services must comply. **Sections 22, 23, 27 and 28** of this regulation require a provider of services to maintain certain records. **Section 24** of this regulation requires the Division to: (1) conduct or approve an assessment of a person's need for services before a provider may provide such services; and (2) establish an individualized plan detailing the services that will be provided to the person. **Section 29** of this regulation: (1) provides certain rights to a recipient of services; and (2) authorizes any person to file a complaint with the Division against a provider of services.

Section 30 of this regulation prescribes grounds for revocation of a provisional certificate or certificate. **Section 31** of this regulation requires the Division to give written notice of any intended action to revoke a provisional certificate or certificate. **Section 32** of this regulation authorizes the Division to terminate the provision of services immediately if it determines that a person is at imminent or probable risk of harm. **Section 33** of this regulation authorizes a provider of services who is aggrieved by a sanction imposed by the Division or a decision concerning the denial, suspension or revocation of a provisional certificate or certificate to appeal the sanction or other action to the Administrator of the Division.

Section 1. Chapter 433 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 33, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 33, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 10, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Certificate” has the meaning ascribed to it in section 3 of Assembly Bill No. 46, chapter 269, Statutes of Nevada 2017, at page ____.*

Sec. 4. *“Community-based living arrangement services” or “services” has the meaning ascribed to it in section 4 of Assembly Bill No. 46, chapter 269, Statutes of Nevada 2017, at page ____.*

Sec. 5. *“Individual support team” means a team of persons, other than a provider, who provide health care and perform other duties for the benefit of a person with a mental illness.*

Sec. 6. *“Individualized plan” means a plan prescribing the services that will be provided to a person with mental illness, the frequency with which the services will be provided and the manner in which those services will be provided.*

Sec. 7. *“Mental illness” has the meaning ascribed to it in NRS 433.164.*

Sec. 8. *“Provider” means a natural person or a partnership, firm, corporation, association, state or local government or agency thereof that is issued a provisional certificate or certificate.*

Sec. 9. *“Provisional certificate” means a temporary certificate to provide services that is issued pursuant to section 14 of this regulation.*

Sec. 10. *“Quality assurance review” means a review of the provision of services conducted by the Division pursuant to section 19 of this regulation.*

Sec. 11. *Except as otherwise provided in section 5 of Assembly Bill No. 46, chapter 269, Statutes of Nevada 2017, at page ____, a person or governmental entity must hold a provisional certificate or certificate to provide services or receive payment from the Division for services.*

Sec. 12. *An application for a provisional certificate must be submitted to the Division on a form furnished by the Division and must include:*

1. For an applicant who is a natural person:

(a) Three or more letters of professional reference;

(b) A certification, signed by the applicant, that the applicant will maintain the confidentiality of information relating to any person who receives services;

(c) Proof that the applicant has successfully completed a course in cardiopulmonary resuscitation according to the guidelines of the American Red Cross or American Heart Association;

(d) Proof that the applicant is currently certified in standard first aid through a course from the American Red Cross or American Heart Association or, if the applicant submits proof that the course meets or exceeds the requirements of the American Red Cross or the American Heart Association, an equivalent course in standard first aid;

(e) Written verification, on a form prescribed by the Division, that the fingerprints of the applicant were taken and forwarded electronically or by another means directly to the Central Repository for Nevada Records of Criminal History and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Division deems necessary for reports on the applicant's background to the Division and the applicant;

(f) A copy of the social security card of the applicant;

(g) Proof that the applicant has sufficient working capital to provide services for at least 3 months without compensation;

(h) If applicable, a copy of the applicant's state business license and a copy of the current business license issued for the applicant's business by the county, city or town in which the

applicant's business is located or written verification that the applicant is exempt from any requirement to obtain a business license; and

(i) Any other information required by the Division.

2. For an applicant other than a natural person:

(a) If applicable, a copy of the state business license of the organization and a copy of the current business license issued for the applicant's business by the county, city or town in which the applicant's business is located or written verification that the applicant is exempt from any requirement to obtain a business license;

(b) The federal tax identification number of the organization;

(c) A copy of the bylaws, articles of incorporation, articles of association, articles of organization, partnership agreement, constitution and any other substantially equivalent documents of the applicant, and any amendments thereto;

(d) A list of the members of the governing body of the applicant;

(e) If the applicant is an association or a corporation:

(1) The name, title and principal business address of each officer and member of its governing body;

(2) The signature of the chief executive officer or an authorized representative; and

(3) If the applicant is a corporation, the name and address of each person holding more than 10 percent of its stock;

(f) For each member of the governing body:

(1) Three or more letters of professional reference; and

(2) Written verification, on a form prescribed by the Division, that the fingerprints of the member of the governing body were taken and forwarded electronically or by another

means directly to the Central Repository for Nevada Records of Criminal History and that the member of the governing body has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Division deems necessary for reports on the member's background to the Division and the applicant;

(g) Proof that the applicant has sufficient working capital to provide services for at least 3 months without compensation;

(h) Copies of any policies and procedures of the applicant relating to the provision of services; and

(i) Such other information as may be required by the Division.

Sec. 13. 1. The Division shall review each application for a provisional certificate to determine whether the application is complete.

2. If the Division determines that an application for a provisional certificate is incomplete, the Division shall notify the applicant that the application is incomplete and authorize the applicant to submit any required information or documentation to complete the application. The applicant must submit any additional information or documentation not later than 30 calendar days after receipt of the notice. The Division may deny the application if the applicant does not submit any required information or documentation in accordance with this subsection. If the application is denied pursuant to this subsection, the applicant may not resubmit an application for a provisional certificate for at least 12 months after receipt of the notice of the denial given pursuant to section 15 of this regulation.

Sec. 14. 1. *If the Division determines that an application for a provisional certificate is complete, the Division shall establish a screening panel composed of employees of the Division to interview the applicant and determine whether the applicant is qualified to participate in the training required by subsection 2.*

2. Except as otherwise provided in this subsection, if the screening panel determines that an applicant is qualified to obtain a provisional certificate, the applicant must complete 16 hours of training provided by the Division concerning the provision of services. The training must be completed not later than 3 months after the date on which the screening panel makes its determination. If the applicant is not a natural person, each officer or employee of the applicant who will oversee the provision of services by the applicant must complete the training required by this subsection.

3. Upon successful completion of the training required by subsection 2, the Division shall issue a provisional certificate to the applicant.

4. A provisional certificate is valid until the Division completes the initial quality assurance review required by section 16 of this regulation.

Sec. 15. 1. *Each of the following constitutes a ground for denial of an application for a provisional certificate:*

(a) Failure by the applicant to submit a complete application for a provisional certificate within the time required by section 13 of this regulation.

(b) Inability of the applicant to provide proper care for the number and types of intended recipients of services.

(c) Misrepresentation or failure by the applicant to disclose any material fact in the application submitted to the Division or in any financial record or other document requested by the Division.

(d) Conviction of the applicant, an officer or employee of the applicant or an independent contractor of the applicant who oversees the provision of services of a crime relevant to any aspect of the provision of services, including, without limitation:

- (1) Murder, voluntary manslaughter or mayhem;*
- (2) Assault or battery with intent to kill or to commit sexual assault or mayhem;*
- (3) Sexual assault, statutory sexual seduction, incest or lewdness or indecent exposure that is punished as a felony, or any other sexually related felony;*
- (4) A felony involving domestic violence;*
- (5) A misdemeanor involving domestic violence, within the immediately preceding 7 years;*
- (6) A misdemeanor involving assault or battery, within the immediately preceding 7 years;*
- (7) Abuse or neglect of a child or contributory delinquency;*
- (8) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS, within the immediately preceding 7 years;*
- (9) Abuse, neglect, exploitation, isolation or abandonment of an older person or vulnerable person, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;*

(10) A violation of any law relating to the State Plan for Medicaid or a law of any other jurisdiction that prohibits the same or similar conduct, within the immediately preceding 7 years;

(11) A violation of any provision of NRS 422.450 to 422.590, inclusive;

(12) A criminal offense under the laws governing Medicaid or Medicare, within the immediately preceding 7 years;

(13) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property, within the immediately preceding 7 years;

(14) Any felony involving the use or threatened use of force or violence against the victim or the use of a firearm or other deadly weapon; or

(15) An attempt or conspiracy to commit any of the offenses listed in this paragraph, within the immediately preceding 7 years.

(e) Exclusion of the applicant, an officer or employee of the applicant or an independent contractor of the applicant who oversees the provision of services from participation in Medicare, Medicaid or any other federal health care program pursuant to federal law.

(f) The existence of any major deficiency in the proposed services to be provided by the applicant which would preclude compliance with sections 2 to 33, inclusive, of this regulation.

2. If an application is denied, the Division shall give the applicant a written notice of the denial in the manner provided by NAC 439.345.

Sec. 16. 1. Within 6 months after the issuance of a provisional certificate, the holder of the provisional certificate shall request the Division to conduct a quality assurance review as provided in section 19 of this regulation. If no timely request is made or the Division determines as the result of the quality assurance review that the holder of the provisional

certificate is not in full compliance with the standards for the provision of services set forth in sections 2 to 33, inclusive, of this regulation, the Division may revoke or extend the term of the provisional certificate. The Division may extend the term of the provisional certificate for any period not to exceed 6 months.

2. If the Division extends the term of a provisional certificate pursuant to subsection 1, the holder of the provisional certificate shall, before the expiration of the extended term, request the Division to conduct another quality assurance review. If no timely request is made or the Division determines as the result of the quality assurance review that the holder of the provisional certificate is not in full compliance with the standards described in subsection 1, the Division shall revoke the provisional certificate.

3. If the Division determines as the result of a quality assurance review conducted pursuant to subsection 1 or 2 that the holder of a provisional certificate is in full compliance with the standards described in subsection 1, the Division shall issue a certificate to the holder of the provisional certificate. The Division may issue a certificate to a provider for any period not to exceed 2 years.

Sec. 17. *Upon the expiration of a certificate, the Division may renew the certificate of the provider for any period not to exceed 2 years if the Division conducts a quality assurance review as provided in section 19 of this regulation and determines that the provider is in compliance with the standards for the provision of services set forth in sections 2 to 33, inclusive, of this regulation.*

Sec. 18. *A provider shall:*

1. Comply with any state or federal statute or regulation as required for the Division to receive state or federal money for the provision of services, including, without limitation, any standard of care set forth in:

(a) The State Plan for Medicaid; and

(b) The Medicaid Services Manual established by the Division of Health Care Financing and Policy of the Department of Health and Human Services.

2. Comply with all applicable state or federal requirements concerning fiscal management, reporting and employment.

3. Comply with the individualized plan prepared pursuant to section 24 of this regulation for each person who receives services.

4. Assure the health and welfare of persons receiving services. Any assessment by the Division of a provider's compliance with the requirements of this subsection must be based upon the self-reporting of persons receiving services from the provider, the observations of members of the staff of the Division and any other information available to the Division.

5. Establish internal procedures for quality assurance.

6. Promptly report to the Division any change in the officers or ownership of the provider.

7. Cooperate with any investigation by the Division.

Sec. 19. 1. The Division:

(a) Shall conduct a quality assurance review upon a request made pursuant to section 16 of this regulation and before renewing a certificate pursuant to section 17 of this regulation; and

(b) May conduct a quality assurance review at any time during the certification of a provider if there is a complaint of abuse, neglect or exploitation or a concern related to the health or welfare of a person who receives services from the provider.

2. In conducting a quality assurance review, the Division may:

(a) Obtain any information or otherwise review any aspect of the provider's system of delivery of services, including, without limitation, any:

(1) Policies and procedures of the provider;

(2) Personnel or clinical records maintained by the provider;

(3) Documentation regarding any administrative or personnel matter directly related to the health and welfare of any person who is receiving services;

(4) Financial information concerning the provider or any person receiving services; and

(5) Information concerning the quality of care provided to any person receiving services;

(b) Interview or otherwise solicit information from any person receiving services, any employee or independent contractor of any provider or any other agency with knowledge of any person receiving services, and any member of the family or any guardian, friend or advocate of any person receiving services; and

(c) Observe the services provided to any person receiving services.

Sec. 20. 1. *If the Division determines pursuant to a quality assurance review that there are any deficiencies in the provision of services by a provider related to the health or welfare of a person receiving such services, the Division may:*

(a) Deny, suspend or revoke the provisional certificate or certificate of the provider;

(b) Require the provider to prepare and submit to the Division a written plan of correction, which must be approved by the Division; or

(c) Require changes concerning the provision of services by the provider before the Division issues, renews or reinstates a provisional certificate or certificate.

2. The Division may impose any sanction described in subsection 3 upon a provider for:

(a) Any aspect of the provision of services by the provider which poses a probable risk of harm to the health or welfare of a person receiving services;

(b) Any refusal by the provider to participate in any aspect of a quality assurance review; or

(c) The failure or refusal of the provider to implement or maintain any action required by the Division to correct a deficiency identified during a quality assurance review.

3. As a sanction imposed pursuant to subsection 2, the Division may, without limitation:

(a) Require the provider to:

(1) Participate in training concerning the provision of services;

(2) Comply with additional measures of accountability concerning the provision of services;

(3) Comply with additional measures of review by the Division; or

(4) Comply with additional performance requirements concerning the provision of services;

(b) Terminate or amend any contract that the Division has with the provider; or

(c) Suspend or reduce any payment otherwise owed by the Division to the provider.

Sec. 21. If a provider is a governmental entity or an organization, it shall, in conformance with sections 2 to 33, inclusive, of this regulation, establish policies and procedures for the provision of services and the welfare of the persons it serves.

Sec. 22. 1. A provider shall make arrangements for obtaining services from persons professionally qualified in the field of psychiatric mental health or other specially trained persons, as needed, to assist in planning, carrying out and reviewing the provision of services. Evidence of any use of such services must be on file with the provider.

2. The need for such services must be determined initially by the individual support team established pursuant to section 24 of this regulation for the person receiving services and be reviewed by the team on a regular basis, at least annually.

3. As used in this section, “person professionally qualified in the field of psychiatric mental health” has the meaning ascribed to it in NRS 433.209.

Sec. 23. A provider shall:

1. Develop and maintain a financial plan which ensures that there are sufficient resources to meet the costs for care of the persons receiving services from the provider;

2. Maintain financial records adequate to determine whether the provider meets all the requirements of sections 2 to 33, inclusive, of this regulation related to finances; and

3. Submit to the Division any financial report:

(a) Which the Division requests in writing; and

(b) The need for which is explained by the Division.

Sec. 24. 1. Except as otherwise provided in subsection 4, a provider may not provide services to a person until there has been an assessment of the need for services for the person.

2. *The assessment must be performed or approved by the Division. As part of the assessment, the Division or other entity that performs the assessment must establish an interim individualized plan.*

3. *Following the assessment, if the person is accepted by the provider:*

(a) *The findings of the assessment must be maintained by the Division and entered into the person's record kept and maintained by the provider as provided in section 27 of this regulation; and*

(b) *The Division shall establish an individual support team for the person and, in collaboration with the individual support team, establish a permanent individualized plan.*

4. *In an urgent situation and with the approval of the Division, a provider may accept a person for the provision of services for a period of not more than 5 working days before an assessment is performed.*

Sec. 25. *A provider shall enter into a written contract for the provision of services with each person who will receive services or his or her parent or guardian, if applicable, and the Division. The contract must prescribe the services that will be provided to the person and the payment that the provider will receive from the Division for those services.*

Sec. 26. 1. *Each member of the direct support staff of a provider must successfully complete a program, approved by the Division, concerning the administration of medication.*

2. *A person who is receiving services may have his or her medication administered by:*

(a) *A provider of health care; or*

(b) *A member of the direct support staff of the provider if:*

(1) *The member of the direct support staff is a personal assistant who is authorized to administer medication by a provider of health care pursuant to NRS 629.091;*

(2) The person or his or her parent or guardian, as applicable, provides written authorization to receive medication from a member of the direct support staff of the provider in accordance with NRS 453.375 and 454.213; and

(3) The person submits to a physical examination by his or her provider of health care on an annual basis and the provider of health care determines that the person is medically cleared to receive medication from the member of the direct support staff.

3. As used in this section, “provider of health care” has the meaning ascribed to it in NRS 629.031.

Sec. 27. A provider shall keep a separate record regarding each person for whom services are provided. Each such record must include the information needed for providing services, to substantiate billing and for the planning and periodic reevaluation of the needs of the person who is receiving services. The record must be available for review by the person who is receiving services or his or her guardian, if applicable, and the Division.

Sec. 28. 1. A provider shall retain the original records of each person who receives services from the provider as provided in section 27 of this regulation, or photographic reproductions of such records, for at least 3 years after the provider ceases to provide services to the person.

2. All such records must be complete, current and readily available for review by representatives of the Department.

Sec. 29. 1. Any person who receives services has the same rights that are afforded to a consumer by chapter 433 of NRS and any regulations adopted pursuant thereto.

2. A person has the right to file a complaint with the Division against a provider.

Sec. 30. *Each of the following acts and omissions is a ground for revocation of a provisional certificate or certificate:*

1. Any misrepresentation of or failure to disclose any material fact in the application for the provisional certificate or in any financial record or other document requested by the Division.

2. A lack of personnel in sufficient numbers or qualifications to provide proper care and support for the persons receiving services.

3. Conviction of the provider or any employee or independent contractor of the provider of a crime relevant to any aspect of the provision of services.

4. Any deficiency of the provider relating to the provision of services that poses an imminent or probable risk of harm to the health or welfare of any person receiving services.

5. Any violation of any requirement set forth in sections 2 to 33, inclusive, of this regulation.

6. Any accumulation or pattern of minor violations of the provisions of sections 2 to 33, inclusive, of this regulation, if the violations taken as a whole endanger the health or welfare of any person who is receiving services.

7. Any fraudulent activity by the provider or an employee or independent contractor of the provider, including, without limitation, any fraudulent billing, falsification of records or misuse or misappropriation of the property of a person who is receiving services.

8. Failure to comply with any obligation set forth in the contract entered into pursuant to section 25 of this regulation.

9. Any refusal to participate in any aspect of a quality assurance review or any other review or investigation by the Division.

10. The failure or refusal of the provider to implement or maintain any action required by the Division to correct a deficiency identified during a quality assurance review or any other review or investigation by the Division.

11. Abuse, neglect, exploitation or coercion of a person who is receiving services.

12. Harassing, coercive, intimidating, insulting, abusive or disruptive language or behavior directed at an employee of the Division, an employee or independent contractor of the provider, another provider or a person or entity providing services other than community-based living arrangement services, a person who is receiving services or a family member or guardian of such a person.

13. Exclusion of the provider, an officer or employee of the provider or an independent contractor of the provider who oversees the provision of services from participation in Medicare, Medicaid or any other federal health care program pursuant to federal law.

Sec. 31. The Division shall give a provider written notice of any intended action to revoke the provisional certificate or certificate of the provider as prescribed by NAC 439.345.

Sec. 32. If a revocation of the provisional certificate or the certificate of a provider is pending and the Division determines that the grounds for the revocation place any person at an imminent or probable risk of harm, the Division may immediately terminate the provision of services by the provider.

Sec. 33. 1. If a provider is aggrieved by any sanction imposed pursuant to section 20 of this regulation or any decision concerning the denial, suspension or revocation of a provisional certificate or certificate, the provider may submit a request for an appeal to the Administrator of the Division pursuant to the procedures set forth in NAC 439.300 to 439.395, inclusive.

2. Except in the case of an immediate termination of the provision of services pursuant to section 32 of this regulation, the effective date of a revocation is stayed upon receipt of a request for appeal until the hearing officer renders a decision regarding the appeal.

Sec. 34. This regulation becomes effective on July 1, 2017.

**REGULATION ADOPTED BY THE
NEVADA STATE BOARD OF HEALTH
LCB File No. R090-16**

INFORMATIONAL STATEMENT

Pursuant to the provisions of NRS 233B.066, the following informational statement is submitted:

**DESCRIPTION OF HOW PUBLIC COMMENT WAS SOLICITED
SUMMARY OF THE PUBLIC RESPONSE
EXPLANATION OF HOW OTHER INTERESTED PERSONS MAY OBTAIN A COPY
OF THE SUMMARY**

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

The proposed regulations provide provisions for the following:

- This will establish regulatory provisions of community based living arrangement services (CBLA), which are individualized services and designed to maximize a person's independence. These services are provided in a home setting, and in the natural community setting. Services are for compensation for individuals served by the Division of Public and Behavioral Health.
- Requires for a person or governmental entity to hold a provisional certificate or certificate by the Division to provide CBLA services or receive payment of these services. Prescribes the process of application, acceptance, denial and training requirements. Places timeframes of how long the certifications are good for; 1 year for a provisional with no renewal, and every 2 years for certifications.
- Authorizes the Division to conduct quality assurance reviews, and to take action as needed. Sets forth the standards in which a provider must comply, including maintaining certain records.
- Maintains certain rights to the recipients of services and authorizes any person to file a complaint with the Division against a provider of services.
- Prescribes the grounds in which the Division may revoke a provisional certificate or certificate. In addition, it authorizes the Division to terminate a provider immediately if it is determined that a person is in imminent or probable risk of harm.

How public comment was solicited:

The Division of Public and Behavioral Health a Notice of Public Workshop with the intent of soliciting comments not only from the affected business but also from the general public on proposed changes to the regulation. A hearing with the intent to adopt regulations was held on December 9, 2016 at the following locations:

- Division of Public and Behavioral Health, 4150 Technology Way, Room 303, Carson City, NV

- Southern Nevada Health District, 280 S. Decatur, Red Rock Conference Room, Las Vegas, NV
- Division of Aging and Disability Services, EI Services, 1020 Ruby Vista Dr., Elko, NV

In the notice the public was notified that a copy of the proposed regulation was on file and available to reproduction at the following locations:

- Division of Public and Behavioral Health, 727 Fairview Drive, Suite E, Carson City, NV
- Division of Public and Behavioral Health, 4220 S. Maryland Parkway, Suite 810, Building D, Las Vegas, NV
- Nevada State Library and Archives, 100 Stewart Street, Carson City, NV

And on the internet at

http://dpbh.nv.gov/Reg/MedicalLabs/Notice_of_Public_Workshops_and_Proposed_Regulations/ and <https://www.leg.state.nv.us/App/Notice/A/> as well as posted at the following locations:

Division of Public and Behavioral Health, 4150 Technology Way, First Floor Lobby, Carson City

Nevada State Library and Archives, 100 Stewart Street, Carson City

Legislative Building, 401 S. Carson Street, Carson City

Grant Sawyer Building, 555 E. Washington Avenue, Las Vegas

Washoe County District Health Department, 9TH and Wells, Reno

Division of Public and Behavioral Health's web page: <http://health.nv.gov/>

Carson City Library, Carson City, NV

Churchill County Library, Fallon, NV

Clark County District Library, Las Vegas, NV

Douglas County Library, Minden, NV

Elko County Library, Elko, NV

Esmeralda County Library, Goldfield, NV

Eureka Branch Library, Eureka, NV

Henderson District Public Library, Henderson, NV

Humboldt County Library, Winnemucca, NV

Lander County Library, Battle Mountain, NV

Lincoln County Library, Pioche, NV

Lyon County Library, Yerington, NV

Mineral County Library, Hawthorne, NV

Pahrump Library District, Pahrump, NV

Pershing County Library, Lovelock, NV

Storey County Library, Virginia City, NV

Tonopah Public Library, Tonopah, NV

Washoe County Library, Reno, NV

White Pine County Library, Ely, NV

Summary of the public response:

No general public comments or written statements were received following the posting of this notice.

How other interested persons may obtain a copy of the public response to the regulations:

No general public comments or written statements were received following the posting of this notice.

Persons who attended the workshop and hearing:

Workshop: *Members of the public* - Tas Cofer II, Tas Cofer III, and Kelly Cofer (A Caring Place), Lori Walton (Mojave Mental Health), Evangeline Cruz (Loving Grace LLC), Lizette Angat-Ulan (MIJN Corp), Roselyn Javier (St. Benedict LLC), Tina Angat (MIJN Corp), Maricon Angat (MIJN Corp), Maria Cagnicla (MIJN Corp), John Badiola (JABA LLC, FDB Enterprises Inc), Dolora Badiola (FDB Enterprises), Therma Balingit (Joren LLC), Marieta Narciso (MIJN Corp), Ernie Dizon (MIJN Corp), Michael Narago (MIJN Corp). *Staff* - Mamdoe Dyamwalle (Southern Nevada Adult Mental Health Services), Aqueelah Wert (Southern Nevada Adult Mental Health Services), Ellen Richardson-Adams (Southern Nevada Adult Mental Health Services), Anabel Ballard (Southern Nevada Adult Mental Health Services), Susanne Sliwa (Senior Deputy Attorney General).

Hearing: *Members of the public* - Linda Anderson (DAG), Julie Slabaugh (DAG), Nadia Navarro (Amber Skies CS), Susi Traniday (Minkaboo LLC), Mario Traniday (Minkaboo LLC), Fred Olmstead (Board of Nursing), Kimberly Hodges (Rising Star), Adrian Sykes (Rising Star), Diane Rolfs (REMSA/Care Flight), Fergus Laughridge (HGH EMS), Larry Parrott (MVFPD), Angela Barosso (CCHHS), JW Hodge (REMSA/Care Flight), Ron Walter (Care Flight), Kevin Romero (REMSA/Committee on EMS), Jenna Burton (EMS), Jason Lewis (OV2), Rebecca Vernon Ritter (DHCFP), Temple Fletcher (Care Flight), Lea Cartwright (NPA), Darryl Cleveland (TMCC & NNFCA), Vicki McVeigh (Pride House LLC), Dario Lopez (Pride House LLC), Dennis Nolan (Reno Fire Dept), Marissa Brown (NHA), John Mohler (John Mohler & Co), Scott Huntley (North Lyon Co. Fire), Sheri Eggleston (DHCFP), Blayne Osborn (NRHP), Chris Bosse (Renown), Joanna Jacob (Ferrari Public Affairs), Christina Conti (WCHD), Evangeline Cruz (Loving Grace LLC), Thelma Balingit (Joven LLC), Edit Farmer (CCL), Lori Walter (Mojave), Josefina Adams (S Adams Corp), Carl Bottorf (Lifeguard Intl), Tas Cofer (A Caring Place), Kelly Cofer (A Caring Place Residence), Tas Cofer III (A Caring Place Residence), Jason Schwartz (UNRSOM/Mojave Clinic), Vicky Green-Jobe (PPG), Laura Palmer (SNHD), Daniel Kipnis (CPR Society), John Badiola (FDB Enterprises), Maricon Angat (MIJN Corp), Bernadette Angat (MIJN Corp), Diane McGinnis (DNP), Donna Miller (Lifeguard Intl), Michael Marcino (MIJN Corp). *DPBH staff* - Cody Phinney (DPBH Administrator), Barrett Evans (EHS), Lindsey Doolittle (EHS), Erin Lynch (PHP), Malinda Southard (PHP), Joe Pollock (Dept Administrator, Regulatory and Planning Services), John DiMuro (Chief Medical Officer),

Leon Ravin (Statewide Psychiatric Medical Director), Beckie Pinkston (NNAMHS), Brian Burris (NNAMHS), Edith Farmer (Child Care Licensing), Latisha Brown (Child Care Licensing), Paul Shubert (HCQC), Ellen Richardson-Adams (SNAMHS), Anabel Ballard (SNAMHS), Mamdoe Dyamwalle (SNAMHS).

Persons who testified at the workshop of public hearing:

Workshop: - Tas Cofer II, Tas Cofer III, and Kelly Cofer (A Caring Place), Lori Walton (Mojave Mental Health), Evangeline Cruz (Loving Grace LLC), Lizette Angat-Ulan (MIJN Corp), Roselyn Javier (St. Benedict LLC), Tina Angat (MIJN Corp), Maricon Angat (MIJN Corp), Maria Cagnicla (MIJN Corp), John Badiola (JABA LLC, FDB Enterprises Inc), Dolora Badiola (FDB Enterprises), Therma Balingit (Joren LLC), Marieta Narciso (MIJN Corp), Ernie Dizon (MIJN Corp), Michael Narago (MIJN Corp).

Hearing: Ellen Richardson-Adams (SNAMHS).

Persons who submitted written statements:

No written statements were received.

HOW COMMENT WAS SOLICITED FROM AFFECTED BUSINESS, A SUMMARY OF THEIR RESPONSE, AND HOW INTERESTED PERSONS MAY OBTAIN A COPY OF THE SUMMARY

The Division of Public and Behavioral Health published and disseminated 102 Small Business Impact Questionnaires along with a Notice of Public Workshop to DPBH's contracted providers, Board of Nursing, Nevada State Housing Division, and HUD. The Small Business Impact Questionnaire was comprised of the following 5 questions:

1. How many employees are currently employed by your business? If more than 150, you will not need to answer the rest of the questions. Please mail or fax questionnaire to the above address. If less than 150, please continue with the remaining questions.
2. Will a specific regulation have an adverse economic effect upon your business? If so, please indicate the estimated dollar amount(s) you believe the adopted regulations will cost you over one calendar year with a brief explanation as to how the dollar amount was calculated.
3. Will the regulation(s) have any beneficial effect upon your business? If so, please include any cost savings you believe the adopted regulations will save you over one calendar year with an estimated dollar amount if applicable.
4. Do you anticipate any indirect adverse effects upon your business?
5. Do you anticipate any indirect beneficial effects upon your business?

In the notice the public was notified that a copy of the proposed regulation was on file and available to reproduction at the following locations:

- Division of Public and Behavioral Health, 727 Fairview Drive, Suite E, Carson City, NV
- Division of Public and Behavioral Health, 4220 S. Maryland Parkway, Suite 810, Building D, Las Vegas, NV
- Nevada State Library and Archives, 100 Stewart Street, Carson City, NV

And on the internet at

http://dpbh.nv.gov/Reg/MedicalLabs/Notice_of_Public_Workshops_and_Proposed_Regulations/ and <https://www.leg.state.nv.us/App/Notice/A/> as well as posted at the following locations:

Division of Public and Behavioral Health, 4150 Technology Way, First Floor Lobby, Carson City

Nevada State Library and Archives, 100 Stewart Street, Carson City

Legislative Building, 401 S. Carson Street, Carson City

Grant Sawyer Building, 555 E. Washington Avenue, Las Vegas

Washoe County District Health Department, 9TH and Wells, Reno

Division of Public and Behavioral Health's web page: <http://health.nv.gov/>

Carson City Library, Carson City, NV

Churchill County Library, Fallon, NV

Clark County District Library, Las Vegas, NV

Douglas County Library, Minden, NV

Elko County Library, Elko, NV

Esmeralda County Library, Goldfield, NV

Eureka Branch Library, Eureka, NV

Henderson District Public Library, Henderson, NV

Humboldt County Library, Winnemucca, NV

Lander County Library, Battle Mountain, NV

Lincoln County Library, Pioche, NV

Lyon County Library, Yerington, NV

Mineral County Library, Hawthorne, NV

Pahrump Library District, Pahrump, NV

Pershing County Library, Lovelock, NV

Storey County Library, Virginia City, NV

Tonopah Public Library, Tonopah, NV

Washoe County Library, Reno, NV

White Pine County Library, Ely, NV

A hearing with the intent to adopt regulations was held on December 9, 2016 at the following locations:

- Division of Public and Behavioral Health, 4150 Technology Way, Room 303, Carson City, NV
- Southern Nevada Health District, 280 S. Decatur, Red Rock Conference Room, Las Vegas, NV
- Division of Aging and Disability Services, EI Services, 1020 Ruby Vista Dr., Elko, NV

Summary of the affected business' response:

Out of the 102 questionnaires that were disseminated for input only 7 responses were received.

- **Question 2:** Will a specific regulation have an adverse economic effect upon your business? If so, please indicate the estimated dollar amount(s) you believe the adopted regulations will cost you over one calendar year with a brief explanation as to how the dollar amount was calculated
No = 5, Yes = 2, No Response/Unknown = 0
- **Question 3:** Will the regulation(s) have any beneficial effect upon your business? If so, please include any cost savings you believe the adopted regulations will save you over one calendar year with an estimated dollar amount if applicable.
No = 7, Yes = 0, No Response/Unknown = 0
- **Question 4:** Do you anticipate any indirect adverse effects upon your business?
No = 3, Yes = 4, No Response/Unknown = 0
- **Question 5:** Do you anticipate any indirect beneficial effects upon your business?
No = 2, Yes = 5, No Response/Unknown = 0

During the workshop, the LLCs expressed financial concerns of not knowing what the impact will be to their business. The businesses expressed that they believe the training opportunities that will be provided by the Division are a positive. In addition, the specific background disqualifications make it easier for the businesses to “weed out” individuals that they believe will not be a good fit. Lastly, there was positive public comment that there was not a licensing fee through the Division.

How other interested persons may obtain a copy of the public response to the regulations:

Public interested in obtaining a copy of the summary were notified in the notice to email, call, or mail in a request to the contact person below:

Division of Public and Behavioral Health
Southern Nevada Adult Mental Health Services
Anabel Ballard
6161 W. Charleston Blvd.
Las Vegas, NV 89146

THE REGULATION WAS ADOPTED IN ENCLOSED FORM.

THE ESTIMATED ECONOMIC EFFECT OF THE REGULATION ON THE BUSINESS WHICH THE BOARD REGULATES AND ON THE PUBLIC

The economic effect of the regulation on the contracted providers:

The economic effect is unknown at this time on the contracted providers. The feedback from the providers is that there is no additional cost. The Board of Health has the authority to charge fees. At this time there are no fees involved.

The economic effect of the regulation on the general public.

There will be no economic effect to the general public by adoption of this regulation.

THE ESTIMATED COST TO THE DIVISION OF PUBLIC AND BEHAVIORAL HEALTH TO ENFORCE THE PROPOSED REGULATION

The Division of Public and Behavioral Health estimates that there will be no additional cost to itself to enforce the proposed regulation. It is known that there will be an increased workload for mandatory trainings, quality assurance field oversights, certification processes, business office auditing, and potential growth of new provider applicants. This is in addition to the current workloads of the department, but the Division/Agencies are proactively working towards the future system to close the gap smoothly for both the staff and the providers systematically.

THE REGULATION OF THE DIVISION OF PUBLIC AND BEHAVIORAL HEALTH DOES NOT OVERLAP OR DUPLICATE ANY REGULATIONS OF ANY OTHER STATE OF GOVERNMENTAL AGENCIES, INCLUDING THE FEDERAL GOVERNMENT.

THE REGULATION OF THE DIVISION OF PUBLIC AND BEHAVIORAL HEALTH DOES NOT INCLUDE PROVISIONS WHICH ARE MORE STRINGENT THAN A FEDERAL REGULATION WHICH REGULATES THE SAME ACTIVITY.

THE NEW REGULATION DOES NOT PROVIDE OR INVOLVE A NEW FEE.