

**SECOND REVISED PROPOSED REGULATION OF THE
ADMINISTRATOR OF THE AGING AND DISABILITY
SERVICES DIVISION OF THE DEPARTMENT OF
HEALTH AND HUMAN SERVICES**

LCB File No. R145-16

February 8, 2018

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

AUTHORITY: §§1-46, NRS 435.220, as amended by section 43 of Assembly Bill No. 224, chapter 421, Statutes of Nevada 2017, at page 2821.

A REGULATION relating to services for persons with certain disabilities; replacing the term “related conditions” with the term “developmental disability” for certain purposes; prohibiting a provider of jobs and day training services from employing or entering into a contract with certain persons; requiring a provider of jobs and day training services to keep certain records; establishing procedures concerning quality assurance reviews of a provider of jobs and day training services; setting forth the requirements concerning an application for and renewal of a provisional certificate and a certificate authorizing the provision of jobs and day training services; requiring a provider of jobs and day training services to comply with certain requirements concerning the provision of jobs and day training services; establishing the procedure for the imposition of sanctions and the revocation of a provisional certificate or a certificate; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

The Nevada Legislature repealed the provisions of chapter 435 of NRS which previously governed the regulation of community-based training centers for the care and training of persons with intellectual disabilities and instead authorized the certification and regulation of jobs and day training services for that purpose. (Senate Bill No. 78, chapter 403, Statutes of Nevada 2009, at page 2234) Accordingly, existing law now requires the Administrator of the Aging and Disability Services Division of the Department of Health and Human Services to adopt regulations governing the provision of jobs and day training services. (NRS 435.220, as amended by section 43 of Assembly Bill No. 224, chapter 421, Statutes of Nevada 2017, at page 2821) Assembly Bill No. 224 of the 79th Legislative Session generally replaced references to the term “related conditions” with the term “developmental disability” in various provisions of law which govern the care and services provided to persons with intellectual disabilities and related conditions.

This regulation: (1) repeals existing regulations that provide for the regulation of such community-based training centers (NAC 435.200-435.350) and instead sets forth the requirements governing the provision of jobs and day training services; and (2) replaces the term “related conditions” with the term “developmental disability” in certain existing regulations which govern the care and services provided to persons with intellectual disabilities and related conditions.

Section 17 of this regulation requires a provider of jobs and day training services to have a provisional certificate or a certificate to be eligible to receive payment from the Division for the provision of jobs and day training services.

Existing law authorizes the Division to conduct an investigation into the qualifications of the personnel of an applicant for a certificate to provide jobs and day training services. (NRS 435.235) **Section 18** of this regulation requires a provider of jobs and day training services to obtain: (1) certain information concerning the prospective employees and independent contractors; and (2) a criminal background check concerning the employees and independent contractors of the provider. **Section 19** of this regulation requires a provider of jobs and day training services to terminate an employee or independent contractor who has committed certain crimes or has been excluded from participation in federal health care programs after allowing a period for the employee or independent contractor to correct the information.

Section 20 of this regulation sets forth the requirements for an application for a provisional certificate. **Sections 22 and 24** of this regulation provide that a provisional certificate is issued to a new provider of jobs and day training services pending the issuance of a certificate pursuant to the successful completion of the initial quality assurance review. Specifically, the Division may issue a certificate to a provider of jobs and day training services that has a provisional certificate after conducting a quality assurance review of the provider.

Section 23 of this regulation sets forth the grounds for denial of an application for a provisional certificate. **Section 24** provides that a holder of a provisional certificate who wishes to obtain a certificate must comply with: (1) certain laws and regulations; (2) the written provider contract between the provider of jobs and day training services and the Division; and (3) the written service authorizations received from the applicable regional center. **Section 24** authorizes the Division to issue a certificate for any period not to exceed 3 years and provides that the Division is required to base the length of the period of validity of the certificate on the best interests of the public. **Section 25** of this regulation authorizes the Division to renew a certificate for a period not to exceed 3 years if the provider of jobs and day training services complies with certain laws and regulations, the written provider contract between the provider of jobs and day training services and the Division, and the written service authorizations received from the applicable regional center. **Section 25** also provides that the Division is required to base the length of the period of validity of the renewal on the best interests of the public.

Section 26 of this regulation sets forth a list of standards for the provision of quality care concerning jobs and day training services with which a provider of jobs and day training services is required to comply. **Section 29** of this regulation provides that the Division or a regional center: (1) shall conduct a quality assurance review to determine whether the holder of a provisional certificate or a certificate complies with certain requirements; (2) may take certain

actions in conducting a quality assurance review; and (3) is authorized to conduct a quality assurance review at any time. **Section 30** of this regulation requires the policies of a provider of jobs and day training services that is an organization to meet certain requirements. **Section 32** of this regulation requires a provider of jobs and day training services to: (1) ensure adequate development and implementation of individual support plans, training of the provider and coordination and monitoring of jobs and day training services; and (2) obtain oversight services and any other services necessary to assist in program development and planning, carrying out and monitoring the provision of jobs and day training services. **Section 35** of this regulation sets forth certain requirements that must be met by a provider of jobs and day training services before or soon after the commencement of the provision of jobs and day training services.

Sections 33, 37 and 38 of this regulation require a provider of jobs and day training services to maintain certain records.

Section 36 of this regulation generally prohibits a provider of jobs and day training services who is a natural person or an employee or independent contractor of a provider from administering medication to any person who is receiving jobs and day training services from the provider. **Section 36** further provides that the prohibition against administering medication does not apply to an employee, independent contractor or subcontractor of a provider who is authorized to administer medication pursuant to the employee's, independent contractor's or subcontractor's licensure or certification as a health care professional.

Section 39 of this regulation provides that a person may file a complaint against a provider of jobs and day training services with the regional center from the region in which the services are provided. **Section 40** of this regulation authorizes the Division to impose sanctions against a provider of jobs and day training services for certain acts. **Section 41** of this regulation sets forth a list of acts or omissions that constitute a ground for the revocation of a provisional certificate or a certificate. **Sections 42 and 43** of this regulation: (1) require the Division to give written notice of its intent to revoke a provisional certificate or a certificate; and (2) authorize the Division, under certain circumstances, to terminate the provision of jobs and day training services by a provider whose revocation of a provisional certificate or certificate is pending. **Section 44** of this regulation sets forth the procedure for appealing the revocation of a provisional certificate or a certificate.

Section 1. Chapter 435 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 44, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 44, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 15, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Certificate” has the meaning ascribed to it in NRS 435.172.*

Sec. 4. *“Developmental disability” has the meaning ascribed to it in NRS 435.007, as amended by section 17 of Assembly Bill No. 224, chapter 421, Statutes of Nevada 2017, at page 2810.*

Sec. 5. *“Guardian” means a person who has qualified as the guardian of a person with an intellectual disability or a person with a developmental disability pursuant to testamentary or judicial appointment.*

Sec. 6. *“Intellectual disability” has the meaning ascribed to it in NRS 435.007.*

Sec. 7. *“Jobs and day training services” has the meaning ascribed to it in NRS 435.176.*

Sec. 8. *“Nonprofit organization” has the meaning ascribed to it in NRS 435.179.*

Sec. 9. *“Parent” means the natural or adoptive parent of a person with an intellectual disability or a person with a developmental disability who is less than 18 years of age.*

Sec. 10. *“Person” has the meaning ascribed to it in NRS 435.007.*

Sec. 11. *“Provider of jobs and day training services” means a natural person who, or a partnership, firm, corporation, association, including, without limitation, a nonprofit organization, or a state or local government or agency thereof that, has been issued a provisional certificate or a certificate.*

Sec. 12. *“Provisional certificate” means a temporary certificate issued by the Division to a new provider of jobs and day training services pending the issuance of a certificate pursuant to the successful completion of an initial quality assurance review performed pursuant to section 24 of this regulation.*

Sec. 13. *“Quality assurance review” means a review of the provision of jobs and day training services by the holder of a provisional certificate or a provider of jobs and day training services pursuant to section 29 of this regulation.*

Sec. 14. *“Regional center” means a facility of the Division which provides services for persons with intellectual disabilities and persons with developmental disabilities for a designated geographic location in the State and includes any of the following:*

- 1. The Desert Regional Center;*
- 2. The Sierra Regional Center; and*
- 3. The Rural Regional Center.*

Sec. 15. *“Written service authorization” means a document issued by a regional center authorizing a provider of jobs and day training services to provide jobs and day training services pursuant to an individual support plan.*

Sec. 16. 1. *It is the policy of the Administrator to establish standards for jobs and day training services provided to persons with intellectual disabilities or persons with developmental disabilities within the community which will ensure that their basic and specialized needs are fulfilled.*

2. Sections 2 to 44, inclusive, of this regulation reflect the desire of the Administrator to ensure that jobs and day training services are provided in accordance with the best practices for care, protection, supervision, guidance and training.

3. Sections 2 to 44, inclusive, of this regulation do not preclude any person who is seeking jobs and day training services, or any person or agency which is making referrals or will be paying for such services, from requiring higher standards or additional services not in conflict with sections 2 to 44, inclusive, of this regulation as a condition of the provision of jobs and day training services, referral or payment of a specified rate.

Sec. 17. *A provider of jobs and day training services must have a provisional certificate or a certificate to be eligible to receive payment from the Division for the provision of jobs and day training services.*

Sec. 18. 1. *Before hiring a prospective employee or entering into a contract with an independent contractor, a provider of jobs and day training services must:*

(a) Obtain a written statement from the prospective employee or independent contractor stating whether he or she has been convicted of any crime listed in section 23 of this regulation;

(b) Obtain proof that the prospective employee or independent contractor holds any required registration, license, permit or certificate; and

(c) Determine whether the prospective employee or independent contractor has been excluded from participation in Medicare, Medicaid and other federal health care programs pursuant to 42 U.S.C. §§ 1320a-7 et seq., or any regulations adopted pursuant thereto.

2. *Within 10 days after hiring an employee or entering into a contract with an independent contractor, and at least once every 5 years thereafter, a provider of jobs and day training services must:*

(a) Obtain from the employee or independent contractor one set of fingerprints and a written authorization 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

(b) Submit to the Central Repository for Nevada Records of Criminal History the fingerprints obtained pursuant to paragraph (a) to obtain information on the background and personal history of each employee or independent contractor to determine whether the person has been convicted of any crime listed in section 23 of this regulation.

Sec. 19. 1. *Upon receiving information from the Central Repository for Nevada Records of Criminal History pursuant to section 18 of this regulation, or evidence from any other source, that an employee or independent contractor has been convicted of a crime listed in section 23 of this regulation or has been excluded from participation in Medicare, Medicaid and other federal health care programs pursuant to 42 U.S.C. §§ 1320a-7 et seq., or any regulations adopted pursuant thereto, the provider of jobs and day training services shall terminate the employment or contract of the employee or independent contractor, as applicable, after allowing the employee or independent contractor time to correct the information as required pursuant to subsection 2.*

2. If an employee or independent contractor believes that the information is incorrect, the employee or independent contractor may immediately inform the provider of jobs and day training services. A provider that is so informed shall give the employee or independent contractor a reasonable amount of time of not less than 30 days to correct the information before terminating the employment or contract of the employee or independent contractor, as applicable, pursuant to subsection 1.

Sec. 20. *A completed application for a provisional certificate must be submitted to the Division, on a form furnished by the Division, and must include, without limitation:*

- 1. For a provider of jobs and day training services who is a natural person:*
 - (a) Proof that the applicant is 18 years of age or older;*
 - (b) Three or more letters of professional reference;*
 - (c) Proof that the applicant has successfully completed a classroom 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:

(1) A course from the American Red Cross;

(2) A course from the American Heart Association; or

(3) An equivalent course in standard first aid, if the applicant submits proof that such course meets or exceeds the requirements of the American Red Cross or American Heart Association;

(e) Written verification, on a form prescribed by the Division, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means 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 for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary;

(f) Proof that the applicant has sufficient working capital to ensure that the applicant is financially capable of providing jobs and day training services for a period of at least 3 months without compensation;

(g) Proof that the applicant satisfies the same or similar criteria of a qualified intellectual disability professional set forth in 42 C.F.R. § 483.430 or has obtained a waiver of the criteria from the applicable regional center;

(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;

(i) Proof of industrial insurance in compliance with chapters 616A to 616D, inclusive, of NRS or an affidavit stating that the applicant has elected not to be included within the terms, conditions and provisions of chapters 616A to 616D, inclusive, of NRS pursuant to NRS 616B.659; and

(j) Any other information required by the Division.

2. For a provider of jobs and day training services that is an organization consisting of a partnership, firm, corporation or association, including, without limitation, a nonprofit organization, or a state or local government or agency thereof:

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

(d) A list of the members of the governing body of the organization which includes the terms of office of those members;

(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; and

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

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

(g) Proof that at least one supervisor, administrator or manager of the provider satisfies the same or similar criteria of a qualified intellectual disability professional set forth in 42 C.F.R. § 483.430 or has obtained a waiver of the criteria from the applicable regional center;

(h) For each officer or other person who oversees the provision of jobs and day training services:

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

(2) Written verification, on a form prescribed by the Division, stating that the fingerprints of the officer or other person were taken and directly forwarded electronically or by another means to the Central Repository for Nevada Records of Criminal History and that the officer or other person 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 for a report on the background of the officer or other person and to such other law enforcement agencies as the Division deems necessary;

(i) Proof that the applicant has sufficient working capital to ensure that the provider is financially capable of providing jobs and day training services for a period of at least 3 months without compensation;

(j) Copies of any policies and procedures of the organization relating to the provision of jobs and day training services;

(k) If the applicant will provide jobs and day training services in a facility-based setting, proof that the appropriate local or state fire officials or other qualified persons have conducted

an annual inspection of each physical site at which the applicant will provide jobs and day training services;

(l) If applicable, proof that the organization has a certificate authorizing special minimum wages as provided for in the Fair Labor Standards Act of 1938, 29 U.S.C. § 214, and the regulations adopted pursuant thereto, 29 C.F.R. Part 525;

(m) Proof of industrial insurance in compliance with chapters 616A to 616D, inclusive, of NRS; and

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

Sec. 21. 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 must notify the applicant that the application is incomplete and authorize the applicant to submit any required information or documentation to complete the application. An applicant shall submit any additional information or documentation not later than 30 calendar days after receipt of the notification provided by the Division. 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 the receipt of notification of the denial of the application required pursuant to section 23 of this regulation.

Sec. 22. 1. *After the Division has determined 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.*

2. Upon successful completion of the interview, the Division shall:

(a) If the applicant has secured a physical site, schedule an inspection of the physical site at which the applicant will provide jobs and day training services; or

(b) If the Division does not schedule the inspection described in paragraph (a), schedule the applicant for training concerning the provision of jobs and day training services.

3. If the Division conducts an inspection of the physical site pursuant to subsection 2, the Division must, upon approval of the physical site, schedule the applicant for training concerning the provision of jobs and day training services.

4. The Division shall issue a provisional certificate to the applicant upon:

(a) Successful completion of the training described in subsection 2 or 3;

(b) Receipt of all reports on the background of an applicant, officer or other person required pursuant to section 20 of this regulation;

(c) If applicable, approval of the physical site at which the applicant will provide jobs and day training services; and

(d) The provider of jobs and day training services:

(1) Entering into a written provider contract with the Division which sets forth specific requirements concerning the provision of jobs and day training services; and

(2) Receiving a written service authorization from the applicable regional center for each person who will receive jobs and day training services from the provider. The written service authorization must conform with any individual support plan developed with and agreed to by the person who will receive jobs and day training services or his or her parent or guardian.

5. *After the provider of jobs and day training services enters into the written provider contract and receives the written service authorization, the provider must provide each person receiving jobs and day training services with the level of supervision required pursuant to his or her written service authorization to ensure the health and welfare needs of the person are met.*

6. *A provisional certificate is valid until the Division or applicable regional center completes the initial quality assurance review.*

Sec. 23. 1. *Each of the following acts and omissions constitutes a ground for denial of an application for a provisional certificate:*

(a) The applicant has failed to submit a complete application for a provisional certificate within the time required pursuant to section 21 of this regulation;

(b) The applicant has misrepresented or failed to disclose any material fact in the application submitted to the Division or in any financial record or other document requested by the Division;

(c) The applicant, or an officer or employee of the applicant or an independent contractor of the applicant who oversees the provision of jobs and day training services has been convicted of a crime relevant to any aspect of the provision of jobs and day training 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) A crime involving assault or battery that is punished as a misdemeanor, within the immediately preceding 7 years;

(4) Sexual assault, statutory sexual seduction, incest, lewdness or indecent exposure, or any other sexually related crime that is punished as a felony;

(5) Prostitution, solicitation, lewdness or indecent exposure, or any other sexually related crime that is punished as a misdemeanor, within the immediately preceding 7 years;

(6) A crime involving domestic violence that is punished as a felony;

(7) A crime involving domestic violence that is punished as a misdemeanor, within the immediately preceding 7 years;

(8) Abuse or neglect of a child or contributory delinquency;

(9) 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;

(10) Abuse, neglect, exploitation, isolation or abandonment of older persons or vulnerable persons, 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;

(11) A violation of any provision of 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;

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

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

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

(15) Any other 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

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

(d) The physical site at which the applicant will provide jobs and day training services, if applicable, was not approved by the Division pursuant to section 22 of this regulation;

(e) The proposed jobs and day training services to be provided by the applicant have any major deficiency which would preclude compliance with sections 2 to 44, inclusive, of this regulation; or

(f) The applicant, or an officer or employee of the applicant or an independent contractor of the applicant who oversees the provision of jobs and day training services has been excluded from participation in Medicare, Medicaid and other federal health care programs pursuant to 42 U.S.C. §§ 1320a-7 et seq., or any regulations adopted pursuant thereto.

2. If an application is denied:

(a) The Division must give the applicant written notice of the denial; and

(b) The applicant may not reapply for a provisional certificate for 12 months after the receipt of the written notice.

Sec. 24. 1. If the holder of a provisional certificate wishes to obtain a certificate, the holder must comply with the requirements of:

(a) Chapter 435 of NRS concerning the provision of jobs and day training services;

(b) Sections 2 to 44, inclusive, of this regulation; and

(c) The written provider contract entered into and the written service authorizations received pursuant to section 22 of this regulation.

2. The Division shall determine whether the holder of a provisional certificate has complied with the requirements described in subsection 1 after conducting a quality assurance review. If the Division determines that the holder of a provisional certificate has complied with those requirements for the provision of jobs and day training services:

(a) The Division must issue a certificate to the holder of the provisional certificate; and

(b) The written provider contract entered into and the written service authorizations received pursuant to section 22 of this regulation will continue in effect in accordance with the terms of the contract and authorizations.

3. Except as otherwise provided in subsection 3 of section 25 of this regulation, the Division may issue a certificate to a provider of jobs and day training services for any period not to exceed 3 years. The Division shall base the length of the period of validity of the certificate on the best interests of the public.

Sec. 25. *1. Upon the expiration of a certificate, the Division may renew the certificate of the provider of jobs and day training services for any period not to exceed 3 years if the Division conducts a quality assurance review and determines that the provider is in compliance with the requirements of:*

(a) Chapter 435 of NRS concerning the provision of jobs and day training services;

(b) Sections 2 to 44, inclusive, of this regulation; and

(c) The written provider contract entered into and the written service authorizations received pursuant to section 22 of this regulation.

2. The Division shall base the length of the period of validity of the renewal on the best interests of the public.

3. The certificate remains in effect pending the completion of the renewal process, including, without limitation, the quality assurance review and determination of compliance with the requirements described in subsection 1.

Sec. 26. *A provider of jobs and day training services must comply with the following standards for the provision of quality care concerning jobs and day training services:*

1. Compliance with any state or federal statute or regulation required for the Division to receive state or federal funding concerning the provision of jobs and day training services, including, without limitation, any standards of care set forth in:

(a) The State Plan for Medicaid;

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

(c) The home and community-based services waiver granted pursuant to 42 U.S.C. § 1396n by the Secretary of the United States Department of Health and Human Services;

2. Compliance with any state or federal requirements concerning fiscal management, reporting and employment law;

3. Conformance to the delivery of services required pursuant to any individual support plan developed with and agreed to by a person who is receiving jobs and day training services or his or her parent or guardian;

4. Assurance of the health and welfare of persons receiving jobs and day training services;

5. Establishment of procedures for internal quality assurance;

6. Compliance with the requirements of:

(a) Chapter 435 of NRS concerning the provision of jobs and day training services;

(b) Sections 2 to 44, inclusive, of this regulation; and

(c) The written provider contract entered into and the written service authorizations received pursuant to section 22 of this regulation;

7. Prompt reporting of any change in the officers or ownership of the provider of jobs and day training services to the applicable regional center;

8. Cooperation with any investigation by the Division or a regional center; and

9. Obtaining the approval of the Division:

(a) For any additional physical sites at which jobs and day training services will be provided before providing such services at those physical sites; and

(b) Before remodeling or expanding any existing physical sites at which jobs and day training services are provided.

Sec. 27. 1. A provider of jobs and day training services must report to the Division the source of any gift, bequest, grant or income other than funding by the Division and the Federal Government and payment on behalf of a person who is receiving jobs and day training services.

2. A provider of jobs and day training services may use such income to augment the stipend paid by the Division in order to provide supplemental services to persons receiving jobs and day training services.

Sec. 28. At least 10 days before entering into a contract pursuant to NRS 435.310, as amended by section 45 of Assembly Bill No. 224, chapter 421, Statutes of Nevada 2017, at page 2822, a provider of jobs and day training services must provide the Division with a statement of its intent to enter into the contract.

Sec. 29. 1. *The Division or a regional center shall conduct a quality assurance review to determine whether the holder of a provisional certificate or a certificate is in compliance with the requirements of:*

(a) Chapter 435 of NRS concerning the provision of jobs and day training services;

(b) Sections 2 to 44, inclusive, of this regulation; and

(c) The written provider contract entered into and the written service authorizations received pursuant to section 22 of this regulation.

2. *In conducting a quality assurance review, the Division or a regional center may:*

(a) Obtain any information or otherwise review any aspect of the system of delivery of jobs and day training services, including, without limitation:

(1) Any policies and procedures of the provider of jobs and day training services;

(2) Any personnel or clinical records maintained by the provider of jobs and day training services;

(3) Any documentation regarding any administrative or personnel matter directly related to the health and welfare of any person who is receiving jobs and day training services;

(4) Any financial information concerning the provider of jobs and day training services or persons receiving jobs and day training services;

(5) Any information concerning the quality of support provided to persons receiving jobs and day training services;

(6) All records of payroll for persons receiving jobs and day training services, including, without limitation, computations for determining the rate of pay; and

(7) Verification that the person who is receiving jobs and day training services or his or her parent or guardian has been informed verbally and in writing of the person's rights and the policies of the provider of jobs and day training services;

(b) Conduct interviews with or solicit feedback from:

(1) Persons receiving jobs and day training services;

(2) Employees and independent contractors of any providers of jobs and day training services or other agencies that provide services to persons receiving jobs and day training services; and

(3) Members of the family, guardians, friends or advocates of persons receiving jobs and day training services; and

(c) Observe the services provided to persons receiving jobs and day training services.

3. The Division or a regional center may conduct a quality assurance review at any time.

Sec. 30. *If the provider of jobs and day training services is an organization, it must, in conformance with sections 2 to 44, inclusive, of this regulation, establish policies concerning the provision of jobs and day training services and the welfare of the persons it serves that satisfy the requirements of:*

1. Chapter 435 of NRS concerning the provision of jobs and day training services;

2. Sections 2 to 44, inclusive, of this regulation; and

3. The written provider contract entered into and the written service authorizations received pursuant to section 22 of this regulation.

Sec. 31. *1. A provider of jobs and day training services is eligible to receive payment from the Division for the provision of jobs and day training services to each person who is*

receiving jobs and day training services for the period when the person is present for jobs and day training services.

2. A provider of jobs and day training services that is reimbursed at a daily rate must be available to provide those services for at least 6 hours per day, including lunch and a period for rest.

3. A provider of jobs and day training services that is a nonprofit organization is eligible to receive payment from the Division for 5 days per year for programs for the development of the employees and independent contractors of the provider.

4. A provider of jobs and day training services is not eligible to receive payment from the Division for providing jobs and day training services to persons with intellectual disabilities and persons with developmental disabilities who would otherwise qualify for care or training programs offered by the public schools or by county welfare programs.

Sec. 32. 1. *A provider of jobs and day training services shall ensure adequate:*

(a) Development and implementation of individual support plans for persons receiving jobs and day training services;

(b) Training of the provider, if the provider is a natural person, and the employees and independent contractors of the provider;

(c) Coordination of the provision of jobs and day training services between multiple providers of jobs and day training services to the same person who is receiving jobs and day training services and between providers of jobs and day training services and the persons described in paragraph (b) of subsection 2; and

(d) Monitoring of the provision of jobs and day training services.

2. A provider of jobs and day training services shall make arrangements for obtaining services from:

(a) Qualified persons, with sufficient experience as determined by the Division, to provide oversight to the provider to ensure that the provider is complying with the requirements of subsection 1; and

(b) Professionally qualified or other specially trained persons, including, without limitation, employment specialists, nurses and behavior specialists, as needed to assist in program development and planning, carrying out and monitoring the provision of jobs and day training services.

3. The need for the services described in subsection 2 must be determined initially by an individual support team and be reviewed by the team on a regular basis, but not less frequently than annually.

Sec. 33. 1. A provider of jobs and day training services shall maintain:

(a) Evidence of the use of the services described in subsection 2 of section 32 of this regulation;

(b) If applicable, evidence of compliance with chapters 616A to 616D, inclusive, of NRS; and

(c) A separate personnel file for each employee and independent contractor of the provider. The personnel file must include, without limitation:

(1) Evidence that the employee or independent contractor has obtained any license, certificate or registration, and possesses the experience and qualifications, required for the position held by that person;

(2) Evidence that the provider has complied with sections 18 and 19 of this regulation with regard to the employee or independent contractor, including, without limitation:

(I) A copy of the fingerprints that were submitted to the Central Repository for Nevada Records of Criminal History or proof of electronic fingerprint submission and a copy of the written authorization that was provided by the employee or independent contractor;

(II) Proof that the fingerprints of the employee or independent contractor were submitted to the Central Repository for Nevada Records of Criminal History; and

(III) Any other documentation of the information collected or received pursuant to section 18 of this regulation; and

(3) An acknowledgment that has been signed by the employee or independent contractor indicating that he or she has:

(I) Received and understands the policies and procedures of the provider; and

(II) Received the training required pursuant to section 32 of this regulation.

2. The records maintained pursuant to subsection 1 must be made available for inspection by the Division at any reasonable time, and copies thereof must be furnished to the Division upon request.

Sec. 34. *A provider of jobs and day training services shall:*

1. Have a financial plan which ensures that there will be sufficient resources to meet the costs for training and support for persons receiving jobs and day training services from the provider;

2. Maintain adequate financial records, including, without limitation, financial records which demonstrate compliance with the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq.; 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. 35. 1. *A provider of jobs and day training services may not provide jobs and day training services to a person until the individual support team has evaluated the capacity of the provider to meet the needs of the person for support, except as otherwise provided in subsection 4.*

2. *The evaluation must include an interim plan for habilitation to support the needs of the person relating to health and welfare.*

3. *Not later than 30 days after a provider of jobs and day training services begins providing jobs and day training services to a person, the provider shall complete an assessment for the purpose of developing an individualized plan for habilitation for the person. The assessment must describe the interests and skills of the person who is receiving jobs and day training services and recommend a level of supervision for the person.*

4. *In an urgent situation, a provider of jobs and day training services may accept a person for the provision of jobs and day training services for a period of not more than 5 working days before completing the evaluation, if the Division approves the acceptance of the person under such urgent circumstances.*

Sec. 36. 1. *Except as otherwise provided in subsection 2, a provider of jobs and day training services who is a natural person or an employee or independent contractor of a provider of jobs and day training services shall not administer medication to any person who is receiving jobs and day training services from the provider pursuant to a written service authorization received pursuant to section 22 of this regulation.*

2. The provisions of subsection 1 do not apply to an employee, independent contractor or subcontractor of a provider of jobs and day training services who is authorized to administer medication pursuant to the employee's, independent contractor's or subcontractor's licensure or certification as a health care professional.

3. As used in this section, "health care professional" means any person who engages in acts related to the treatment of human ailments or conditions and who is subject to licensure, certification or regulation by any provision of title 54 of NRS.

Sec. 37. A provider of jobs and day training services shall keep a separate record regarding each person for whom the provider provides jobs and day training services. Each such record must include the information needed for providing jobs and day training services, for substantiating billing, for planning and for periodic reevaluation of the needs of the person who is receiving jobs and day training services. The record must be available for review by the person who is receiving jobs and day training services and the Division or a regional center.

Sec. 38. 1. A provider of jobs and day training services must retain:

(a) The original records of each person who receives jobs and day training services from the provider pursuant to section 37 of this regulation, or photographic reproductions of such records, for at least 6 years after termination of the provision of the jobs and day training services to the person; and

(b) Administrative and fiscal records as provided in the written provider contract entered into and the written service authorizations received pursuant to section 22 of this regulation.

2. The administrative and fiscal records of the provider of jobs and day training services must include, without limitation:

- (a) Records of the attendance of persons receiving jobs and day training services;*
 - (b) If the provider provides jobs and day training services in a facility-based setting, proof that the appropriate local or state fire officials or other qualified persons have conducted an annual inspection of each physical site at which the provider provides jobs and day training services;*
 - (c) Records of evaluations or studies used in determining the rate of pay for persons receiving jobs and day training services;*
 - (d) Computations for determining the rate of pay for persons receiving jobs and day training services; and*
 - (e) If applicable, proof that the organization has a certificate authorizing special minimum wages as provided for in the Fair Labor Standards Act of 1938, 29 U.S.C. § 214, and the regulations adopted pursuant thereto, 29 C.F.R. Part 525.*
- 3. All such records must be complete, current and readily available for review by representatives of the Division.*

Sec. 39. 1. A person has the right to file a complaint against a provider of jobs and day training services with the regional center from the region in which the services are provided.

2. If the regional center is unable to resolve the complaint to the satisfaction of the complainant, the complainant may forward the complaint to the Administrator or a designee thereof. The Administrator or a designee thereof will review the complaint and render a decision concerning the complaint within 30 calendar days after receipt of the complaint.

3. The decision of the Administrator or a designee thereof rendered pursuant to this section is a final decision.

Sec. 40. 1. If the Division or a regional center determines pursuant to a quality assurance review that there are any deficiencies in the provision of jobs and day training services relating to the health or welfare of persons receiving such services, the Division may suspend or deny the issuance of a certificate and request a written plan of improvement from the provider of jobs and day training services or recommend or require changes concerning the provision of jobs and day training services after providing a statement of deficiencies to the provider and before issuing, renewing or reinstating a certificate. The provider shall develop a plan of improvement for each deficiency and submit the plan to the Division for approval within 15 days after receipt of the statement of deficiencies.

2. The Division may impose sanctions upon a provider of jobs and day training services for:

(a) Any deficiency concerning the provision of jobs and day training services that may cause imminent risk of harm or which poses a probable risk of harm to the health or welfare of persons receiving jobs and day training services;

(b) A lack of personnel who are sufficient in number or qualifications to provide adequate support and services for persons receiving jobs and day training services;

(c) Any refusal to participate in any aspect of a quality assurance review or any other review or investigation by the Division or a regional center; or

(d) The failure or refusal of the provider to implement or maintain any actions required by the Division or a regional center to correct a deficiency identified during a quality assurance review or any other review or investigation by the Division or a regional center.

3. For any sanction imposed pursuant to subsection 2, the Division may, without limitation:

(a) Place the provider of jobs and day training services on probation for a specified time with conditions that the Division considers appropriate;

(b) Require the provider to:

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

(2) Comply with additional measures of accountability concerning the provision of jobs and day training services;

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

(4) Comply with additional performance requirements concerning the provision of jobs and day training services;

(c) Terminate, prohibit or limit any contracts that the Division or a regional center has with the provider; or

(d) Suspend or reduce a contractual payment owed to the provider.

4. The Division may suspend or reduce a contractual payment owed to a provider of jobs and day training services pursuant to subsection 3 or require a provider to reimburse the Division, in whole or in part, for a contractual payment paid to the provider if the provider:

(a) Fails to provide or keep records of jobs and day training services;

(b) Falsifies documents; or

(c) Is negligent and the Division pays for the provision of jobs and day training services or support to a person who is receiving jobs and day training services due to the negligence of the provider.

5. A provider of jobs and day training services may appeal any sanction imposed pursuant to this section by submitting to the Division a written request of appeal within 15 calendar days after the date of receipt of the notification of any sanction imposed by the Division. The

Administrator or a designee thereof will review the findings and submit a written decision within 30 calendar days after the written request of appeal is submitted to the Division. The decision of the Administrator or a designee thereof on the appeal is a final decision.

Sec. 41. *Each of the following acts and omissions constitutes a ground for the revocation of a provisional certificate or a certificate:*

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

2. A lack of personnel in sufficient number or qualifications to provide proper training and support for persons receiving jobs and day training services.

3. A provider of jobs and day training services has any deficiency concerning the provision of jobs and day training services that may cause imminent risk of harm or which poses a probable risk of harm to the health or welfare of persons receiving jobs and day training services.

4. A violation of any requirement set forth in sections 2 to 44, inclusive, of this regulation.

5. An accumulation or pattern of minor violations of the provisions of sections 2 to 44, inclusive, of this regulation, if the violations taken as a whole endanger the health or welfare of any person who is receiving jobs and day training services.

6. Any fraudulent activity by a provider of jobs and day training services or an employee or independent contractor of the provider, including, without limitation, any fraudulent billing, a violation of any law pertaining to wage and hour standards, falsification of records or misuse of the funds of a person who is receiving jobs and day training services.

7. *Failure to comply with any obligations or with the policies and procedures of the Division set forth in the written provider contract entered into and the written service authorizations received pursuant to section 22 of this regulation.*
8. *Any refusal to participate in any aspect of a quality assurance review or any other review or investigation by the Division or a regional center.*
9. *The failure or refusal of the provider of jobs and day training services to implement or maintain any actions required by the Division or a regional center to correct a deficiency identified during a quality assurance review or any other review or investigation by the Division or a regional center.*
10. *The failure or refusal of a provider of jobs and day training services to return an adequate plan of improvement within 15 days after receiving a statement of deficiencies as required pursuant to section 40 of this regulation.*
11. *Misappropriation of the property of a person who is receiving jobs and day training services.*
12. *Abuse, neglect, exploitation or coercion of a person who is receiving jobs and day training services.*
13. *Harassing, coercive, intimidating, insulting, abusive or disruptive language or behavior directed at:*
 - (a) *An employee of a regional center;*
 - (b) *An employee or independent contractor of a provider of jobs and day training services;*
 - (c) *Another provider of jobs and day training services or other services; or*
 - (d) *A person who is receiving jobs and day training services or a family member or guardian of such a person.*

14. The provider of jobs and day training services, an officer or employee of the provider or an independent contractor of the provider who oversees the provision of jobs and day training services is excluded from participation in Medicare, Medicaid and other federal health care programs pursuant to 42 U.S.C. §§ 1320a-7 et seq., or any regulations adopted pursuant thereto.

Sec. 42. The Division shall give a provider of jobs and day training services written notice of any intended action to revoke the provisional certificate or the certificate of the provider. The notice must be sent by certified mail to the address of the provider on file with the Division at least 30 calendar days before the action is taken.

Sec. 43. If a revocation of the provisional certificate or the certificate of a provider of jobs and day training services 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 jobs and day training services by the provider.

Sec. 44. 1. To be afforded a hearing on an intended revocation of a provisional certificate or a certificate, the provider of jobs and day training services must, within 15 calendar days after receiving notice of the intent to revoke, file with the Division a written request for a hearing.

2. When a decision to revoke a provisional certificate or a certificate is rendered by the Division, the provider of jobs and day training services may appeal that decision to the Administrator or a designee thereof if the provider files with the Division a written notice of appeal within 15 calendar days after receiving notice of the decision of the Division.

3. The Administrator or a designee thereof will consider an appeal and render his or her decision on the appeal within 30 calendar days after a notice of the appeal is filed with the Division.

4. The decision of the Administrator or a designee thereof concerning an appeal filed pursuant to this section is a final decision for the purposes of judicial review.

Sec. 45. NAC 435.010 is hereby amended to read as follows:

435.010 As used in this chapter, unless the context otherwise requires:

1. “Administrator” means the Administrator of the Division.
2. “Division” means the *Aging and Disability Services* Division ~~of Mental Health and Developmental Services~~ of the Department of Health and Human Services.

Sec. 46. NAC 435.200, 435.205, 435.210, 435.215, 435.220, 435.225, 435.230, 435.235, 435.240, 435.245, 435.250, 435.255, 435.260, 435.265, 435.270, 435.275, 435.280, 435.285, 435.290, 435.295, 435.305, 435.310, 435.315, 435.320, 435.335, 435.340, 435.345 and 435.350 are hereby repealed.

TEXT OF REPEALED SECTIONS

435.200 Original application. (NRS 435.220, 435.230)

1. An original application is an application from a center which was not funded from the Community Training Center Account during the preceding state fiscal year.

2. Original applications for community training centers must be submitted on or before April 1 to be considered for aid during the next state fiscal year.

435.205 Contents of application. (NRS 435.220, 435.230)

1. To qualify for funding, a center must file an application with the Division annually on or before April 1 at the office of the Coordinator of the Community Training Centers. The following information must be provided on the forms indicated, which will be furnished by the Division:

- (a) The name and address of the center on form CTC-1.
- (b) The names, addresses and qualifications of administrative personnel on form CTC-2.
- (c) An outline of the educational and vocational training or habilitation program to be offered, on forms CTC-3 and CTC-4.
- (d) The number of enrollees expected for the coming state fiscal year on form CTC-1.
- (e) A complete and detailed financial statement for the operations for the coming state fiscal year, including salaries, operations, transportation, equipment and other sources of income and expenses, on form CTC-5.

2. An applicant also must provide the following information:

- (a) An affidavit that the center is nonsectarian and a nonprofit organization under the Internal Revenue Code of 1954, as amended, 26 U.S.C. § 501(c)(3), on form CTC-1.
- (b) Proof of insurance coverage. Except as otherwise provided in this paragraph, the insurance must provide coverage for a minimum liability of \$1,000,000 per occurrence of bodily injury or equivalent coverage. The insurance must be current and the center shall, each year, verify this coverage to the Division on form CTC-1. A center may request, and the Division may

grant, a reduction in the minimum insurance coverage required pursuant to this paragraph on the basis of financial hardship.

(c) Proof of employer's liability coverage under the State Industrial Insurance System or other similar coverage on form CTC-1.

(d) An authorized signature of the applicant on form CTC-1b.

(e) The name of the sponsoring organization on form CTC-1.

(f) An affidavit stating that the ratio of the staff to the enrollees does not exceed:

(1) One to 8 for regular programs for adults;

(2) One to 5 for prework habilitation programs for adults; or

(3) The ratio to be established for each enrollee for intensive training programs for adults,

↪ unless a smaller proportion of enrollees is required by the Division. The ratio must be based on the programmatic needs of the enrollees and be approved by the Division.

(g) A signed subcontract for the provision of services pursuant to 42 U.S.C. §§ 1397 to 1397f, inclusive.

(h) The total number of members of the staff, persons enrolled and days of care and training that the center provided during the previous state fiscal year, on form CTC-1.

(i) The total number of enrollees at the center who have been certified by the Division as eligible for funding, and the days of care and training that the center provided during the previous state fiscal year to such enrollees, on form CTC-1.

(j) A financial statement showing all income received by the center during the previous state fiscal year, and the sources of that income, on form CTC-6.

435.210 Proof of compliance with local fire regulations. (NRS 435.220, 435.230) Each center shall provide annually, in the form of a letter and on form CTC-1, proof that it has met the

requirements imposed under the local fire regulations for community training centers in its locality.

435.210 Proof of compliance with local fire regulations. (NRS 435.220, 435.230) Each center shall provide annually, in the form of a letter and on form CTC-1, proof that it has met the requirements imposed under the local fire regulations for community training centers in its locality.

435.215 Fees. (NRS 435.220, 435.230)

1. Each center that receives money and charges fees for its program shall charge on a sliding scale which indicates a potential payment of zero per month.
2. The scale must be based on the ability of the enrollee to pay.
3. On all applications, the center must file with the Division the fee being charged on form CTC-4.

435.220 Certificate authorizing special minimum wages. (NRS 435.220, 435.230)

1. Each center which provides programs for adults and is engaged in interstate commerce must have a certificate authorizing special minimum wages for handicapped workers, as provided for in the Fair Labor Standards Act, 29 U.S.C. § 214, and regulations adopted pursuant thereto, 29 C.F.R. Part 525. Each other center that provides programs for adults must have a subminimum wage certificate issued by the Rehabilitation Division of the Department of Employment, Training and Rehabilitation.
2. A copy of the application for the certificate made pursuant to subsection 1 or a copy of the certificate must be attached to form CTC-1 of the original application and to each application for renewal.

435.225 Application for renewal. (NRS 435.220, 435.230)

1. An application for renewal is an application received from a center which was funded from the Community Training Center Account during the preceding state fiscal year.

Applications for renewal for community training centers must be submitted on or before April 1 of each year.

2. To qualify for renewal of funding, a center must file an application for renewal with the Division at the office of the Coordinator of the Community Training Centers which includes the information required for an original application filed pursuant to NAC 435.205.

435.230 Rejection of applications. (NRS 435.220, 435.240) If an application is rejected by the Administrator, he or she will, within 10 days after the date of filing, give the applicant written notice of the rejection.

435.235 Posting of certificate. (NRS 435.220, 435.230) Each center which receives a certification of qualification shall post the certificate conspicuously on the premises of the center.

435.240 Counting of enrollees. (NRS 435.220, 435.290)

1. Except as otherwise provided in NRS 435.300, an enrollee who has been attending a program of a school during the school year and intends to return to that program is not eligible to be counted for aid to a community training center.

2. An enrollee who has been in a program of a school and has been terminated from it and is above the age of 17 is eligible to be counted as any other enrollee.

435.245 Eligibility based on attendance and provision of services. (NRS 435.220, 435.290)

1. Any certified enrollee who participates in a program sponsored by the community training center may be counted for each day attended for funding from the Community Training Center Account, within the limits of legislative appropriations.

2. A center is entitled to receive money, within the limits of legislative appropriations, for a certified enrollee who attends the program only part-time because of the programmatic needs of the enrollee for the hours of service provided him or her by the center. Prior approval must be obtained from the Division's representative.

3. An enrollee is eligible for funding, within the limits of legislative appropriations, for special and follow-along services if the center arranges for and provides the required services for the enrollee.

435.250 Eligibility based on retardation. (NRS 435.220, 435.230, 435.290)

1. Except as otherwise provided in subsection 2, the Division will consider a person eligible to receive support from the Community Training Center Account if:

(a) The person's:

(1) General intellectual functioning is more than two standard deviations below the mean or average of tests on general intelligence certified by the American Association on Mental Retardation;

(2) Condition originated during his or her developmental period; and

(3) Condition is associated with an impairment in his or her adaptive behavior; and

(b) The person is a consumer of the Division.

2. A person enrolling in a center is not eligible to receive support from the Account if he or she obtains a score of 71 or above on standardized individual tests on intelligence unless the person:

(a) Shows significant developmental delays which are documented by the Division; and

(b) Is specifically approved for funding by the Administrator in writing.

435.255 Evaluations for eligibility. (NRS 435.220, 435.230)

1. The evaluation of applicants for enrollment in a center must be reviewed by:
 - (a) A member of the staff of the community training center who will be working directly with the applicant; and
 - (b) A representative of the Division.
2. A person who is a consumer of the Division may be certified as eligible for funding for regular, intensive training or a prework program if a treatment plan specifies the goals and objectives of the training or program.

435.260 Aid for enrollees eligible for aid in school district. (NRS 435.220, 435.300) No center may receive aid for enrollees who would otherwise qualify for care or training under programs offered to persons with mental or functional retardation in the school district in which the enrollee lives or by the county where the enrollee lives. This restriction does not preclude aid from being given on behalf of enrollees who are receiving vocational education at any center in conjunction with a school's special education program.

435.265 Certification of enrollees for eligibility. (NRS 435.220, 435.230, 435.290)

1. The certification of enrollees as eligible for funding is the responsibility of the Division. Certification will be granted only for consumers of the Division.
2. For each eligible enrollee, the center shall maintain at the center a file of the pertinent documentary records used for certification.
3. The Division will:
 - (a) Notify the center in writing of the receipt of all forms for certification; and
 - (b) Provide money to the center, within the limits of legislative appropriations, on the basis of the number of enrollees certified and the services actually provided.

4. No money will be paid from the Community Training Center Account before certification of the enrollee. Enrollees certified by the completion of the month may be funded for that month.

435.270 Payment and use of money. (NRS 435.220, 435.290)

1. A full-time member of the staff who provides at least 75 percent of his or her total time each month with a center in direct service to its enrollees is eligible to be fully paid for his or her total service from the Community Training Center Account. A member of the staff who provides a lesser portion of his or her time in direct service to the enrollees is eligible to be paid from the Account a portion based on the percentage which his or her direct service to enrollees is of his or her total service. A part-time member of the staff who is scheduled so that he or she spends 75 percent or more of his or her time with the center in direct service to enrollees may be counted toward meeting the ratio of staff to enrollees appropriate to the center's programs for each day of his or her service. As used in this subsection, "direct service" means:

- (a) The treatment, training or supervision of an enrollee by an employee.
- (b) The testing or evaluation of an enrollee.
- (c) The development of a treatment plan or goals or the provision of services for an enrollee by a professional employee.

2. A letter of request for money to start a center from an applicant who has received approval from the Commission on Mental Health and Developmental Services to establish a new center must detail proposed expenditures.

3. Except as otherwise provided in this subsection, money allocated to a center from the Community Training Center Account must be used to provide salaries and related benefits or costs for members of the staff who provide direct care, including industrial insurance, premiums for medical and dental benefits, retirement and Social Security. Of the total amount granted to a

center, a maximum of 20 percent may be allocated to other costs of operating, including rent, utilities, equipment, supplies and salaries for members of the staff who do not provide direct care.

4. All money allocated to centers from the Community Training Center Account must be expended in the state fiscal year for which it was received.

5. The Division may require an independent audit of any center at the Division's expense.

435.275 Gifts, bequests and grants. (NRS 435.220, 435.280)

1. A center must report the source of any gift, bequest, grant or income other than funding by the Division and the Federal Government and payment on behalf of an enrollee on form CTC-8A.

2. A community training center may use such income to augment the stipend paid by the Division in order to provide supplemental services to its enrollees.

435.280 Deposit of money. (NRS 435.220, 435.230) Grantees shall deposit all money received from the Community Training Center Account into a bank, maintain a comprehensive bookkeeping system for reporting financial activities, and provide the bank's name and the account number to the Division on form CTC-5.

435.285 Contractual agreements. (NRS 435.220, 435.310)

1. Centers with a certificate of qualification may enter into contracts with authorized state, county and school officials to give care and training to enrollees who would also qualify for care or training programs offered by the public schools or by county welfare programs.

2. At least 10 days before entering into such a contract, the center must provide the Division with a statement of its intent to enter into the contract.

435.290 Personnel policy. (NRS 435.220, 435.230)

1. Each center shall develop and maintain a personnel policy which includes:
 - (a) A description of the organizational structure of the center showing the lines of authority.
 - (b) A description of the benefits relating to vacations, sick leave and maternity leave, including an explanation of how each relates to the other and whether the center will pay for these benefits.
 - (c) A description of available medical benefits.
 - (d) The procedure and criteria used to evaluate employees.
 - (e) The procedure used to dismiss an employee and the process available to the employee for appeal.
 - (f) The procedure used to inform all employees of:
 - (1) The rights assured to consumers of the Division pursuant to NRS 433.464 to 433.534, inclusive;
 - (2) The Division's policy on reporting abuse and neglect; and
 - (3) The center's policy on reporting abuse and neglect.
2. Each center shall have on file a signed statement from each employee declaring that the employee is familiar with the policies and procedures established by the center pursuant to subsection 1.

435.295 Required hours of service. (NRS 435.220, 435.230) Unless the needs of an enrollee, as determined by the Division, require otherwise, each center shall provide service during at least 6 hours a day, including lunch and a period for rest. Each center is eligible to receive payment for not less than 229 days a year, including 5 days per year for programs for development of the staff.

435.305 Progress reports and review of consumers. (NRS 435.220, 435.230)

1. Each center shall provide written progress reports and participate in the quarterly and annual review of each consumer.

2. Each report must be reviewed quarterly by the appropriate member of the staff of the Division and revised accordingly.

435.310 Preservation of enrollee's rights and human dignity. (NRS 435.220, 435.230)

1. An enrollee must be guaranteed protection from participation in research without the informed and express written consent of the adult enrollee or, if appropriate, a parent or guardian. Participation in research involving an enrollee may only occur after approval of the researcher by the Commission on Mental Health and Developmental Services and the Committee for Human Rights which is established by the Division to ensure the preservation of the enrollee's rights and human dignity.

2. An enrollee must be provided with a policy that outlines the working conditions of the center and the rights and benefits of the enrollee. The file of each enrollee must contain a verification that he or she has been informed verbally and in writing of that policy.

3. The provisions of NRS 433.464 to 433.534, inclusive, apply to an enrollee and guarantee the same rights as if he or she were a consumer of a facility of the Division.

435.315 Annual review of enrollee. (NRS 435.220, 435.230) An annual review of each enrollee is required.

435.320 Summary report of progress upon withdrawal or termination of enrollee. (NRS 435.220, 435.230) When an enrollee withdraws or is terminated from a center, a written summary report of his or her progress must be provided to the case manager of the Division.

435.335 Contents of records. (NRS 435.220, 435.230) The records of a center must contain:

1. The source of enrollment and referral of an enrollee and an appropriate release for information, testing and emergency medical care;
2. Individual programs for enrollees, including:
 - (a) Behavioral goals;
 - (b) Methods of reaching goals, including the specific activities to be initiated by a member of the staff of the center to assist the enrollee to achieve each goal, and the schedule or frequency of such activities;
 - (c) Notes showing the correlation between the activities planned and the actual activities performed to achieve each goal;
 - (d) Observational data recorded at least once a month;
 - (e) The name of the person responsible for the program;
 - (f) Notes on progress for each goal; and
 - (g) Reports on termination for enrollees leaving the program;
3. A signed, dated copy of any subcontract between the Division and the center for services pursuant to 42 U.S.C. §§ 1397 to 1397f, inclusive;
4. The attendance of the enrollees;
5. Documentation of certification for the center;
6. All records of payroll for enrollees, including the computations for determining the rate of pay;
7. Verification that the enrollee has been informed verbally and in writing of his or her rights and the policies of the center concerning consumers; and
8. The name, address and qualifications of all members of the staff of the center.

435.340 Confidentiality of records. (NRS 435.220, 435.230) The center must maintain the enrollee's records in a manner which ensures confidentiality. Information may only be released to persons with authority to examine the information or others who have been designated in a signed release.

435.345 Monthly, quarterly and annual reporting. (NRS 435.220, 435.230)

1. A center must use the accrual basis of accounting, accumulating by addition all previous expenditures in current totals, in reporting and disbursing money. Reports must be submitted on the forms provided by the Division and by the dates specified by the Division. Funding may be delayed pending receipt or approval of the new or renewal applications or monthly billing forms.

2. For each month, the center must submit a Client Service Report, form CTC-7.

3. For each quarter, the center must submit:

(a) Community Training Center Report of Staff and Salary Expenses, form CTC-2.

(b) Quarterly Disbursement of Community Training Center Funds, form CTC-8.

435.350 Withholding of money. (NRS 435.220, 435.230)

1. If, at any time, a center fails to comply with the provisions of NRS 435.130 to 435.320, inclusive, or NAC 435.200 to 435.350, inclusive, the center may be notified in writing and, subject to subsection 2, money may be withheld until all items in question are in order.

2. A center may appeal any proposed withholding of money in the same manner as provided for revocation or denial of a certificate of qualification. Money will not be withheld until a final decision on the appeal is rendered.