

**PROPOSED REGULATION OF THE
PERSONNEL COMMISSION**

LCB FILE NO. R151-17I

**The following document is the initial draft regulation proposed
by the agency submitted on 12/13/2017**

Section 1. NAC 284.544 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, will conform to the current language in NAC 284.5775. Similar language was removed in 2005 as “unnecessary and redundant Family and Medical Leave Act language.” However, the current language when read on its face appears to be in conflict with NAC 284.5775, subsection 5 of NRS 281.390 and current State of Nevada workers’ compensation practice. The amendment is intended to clarify which type of leave may be used to supplement an employee’s wages when receiving benefits for a workers’ compensation temporary total disability.

NAC 284.544 Sick leave: Leave without pay; catastrophic leave; receipt of benefits for temporary total disability; computation. (NRS 284.065, 284.155, 284.345, 284.355)

1. Except as otherwise provided in NAC 284.580, an employee does not accrue sick leave during the time he or she is on leave without pay or on catastrophic leave.

2. ~~1A~~ *Except as otherwise provide in NAC 284.5775, a* person who is receiving benefits for a temporary total disability pursuant to chapters 616A to 616D, inclusive, or 617 of NRS and:

(a) Makes the election provided in subsection 1 or 3 of NRS 281.390 is entitled to accrue sick leave during the period he or she is receiving those benefits and is being paid an amount of sick leave equal to the difference between his or her normal pay and the benefits received.

(b) Makes the election provided in subsection 5 of NRS 281.390 must be placed on leave of absence without pay, unless the employee ~~elects~~ *is on family and medical leave for a serious health condition that prevents him or her from performing one or more of the essential functions of his or her position. Such an employee may, while he or she is on such leave, elect to use his or her accrued annual leave in lieu of being placed on leave of absence without pay.*

3. ~~1A~~ *Except as otherwise provided in NAC 284.5775, an* employee who does not have enough sick leave to make up the difference between his or her normal pay and the benefits for temporary total disability must be placed on leave of absence without pay for the time he or she is receiving such benefits and the balance of time not covered by paid leave. The employee accrues sick leave only for the time he or she is in paid status, excluding overtime.

4. To compute the amount of sick leave to which an employee is entitled, an employee must be considered to work not more than 40 hours each week. If an employee occupies more than one position in different departments, the amount of sick leave to which the employee is entitled must be computed based on not more than 40 hours each week in each position.

5. The basis for the computation of the amount of sick leave to which an exempt classified employee or exempt unclassified employee is entitled must not exceed the number of hours authorized in the biennial operating budget of this State for his or her position.

(Added to NAC by Dep’t of Personnel, eff. 12-17-87; A 7-14-88; 7-21-89; 8-1-91; 9-16-92; 11-12-93; 3-23-94; 7-1-94; 11-16-95; R147-01, 1-22-2002; A by Personnel Comm’n by R145-05, 12-29-2005)

Section 2. NAC 284.882 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, will conform the regulation to the regulatory requirements for breath

alcohol testing mandated by the United States Department of Transportation (DOT). Effective January 1, 2018 (see pages 52240 and 52246, Federal Register, Vol. 82, No. 217), DOT will allow the use of breath-testing devices approved by the National Highway Traffic Safety Administration but not yet published on the “Conforming Products List of Evidential Breath Alcohol Measurement Devices” in the Federal Register. Using one standard for breath-testing devices will prevent confusion regarding which collection sites can be utilized for DOT regulated breath alcohol testing and breath alcohol testing that is not regulated by DOT.

NAC 284.882 Administration of screening tests. (NRS 284.065, 284.155, 284.4065, 284.407) A screening test to detect the general presence of:

1. A controlled substance must comply with:

(a) The standards established by the United States Department of Health and Human Services which are hereby adopted by reference. A copy of the standards is available, without charge, from the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Prevention, Division of Workplace Programs, 1 Choke Cherry Road, Rockville, Maryland 20857; and

(b) Any supplementary standards and procedures established by the Commission.

2. Alcohol by testing a person’s breath must be conducted using a breath-testing device ~~certified in accordance with the “Conforming Products List of Evidential Breath Alcohol Measurement Devices” published in the Federal Register~~ *approved* by the National Highway Traffic Safety Administration of the United States Department of Transportation.

(Added to NAC by Dep’t of Personnel, eff. 12-26-91; A 10-27-97; R082-00, 8-2-2000; A by Personnel Comm’n by R066-09, 10-27-2009; R009-11, 10-26-2011)