

**PROPOSED REGULATION OF THE  
STATE BOARD OF HEALTH**

**LCB FILE NO. R134-18I**

**The following document is the initial draft regulation proposed  
by the agency submitted on 06/08/2018**

## COMMUNITY-BASED LIVING ARRANGEMENT SERVICES

Nevada Administrative Code chapter 433 contains regulations established for oversight of Community Based Living Arrangement (CBLA) facilities. These modifications have been drafted to ensure health and safety protections, limitations on applicability and fees to properly regulate CBLA facilities.

EXPLANATION – Matter in *blue italics* is new; matter in [red brackets] is material to be omitted.

**Section. 1.** NAC Chapter 433 is hereby amended by adding thereto sections 2 through 9:

**Sec. 2.** *“Electronic signature” means a user name attached to or logically associated with a record and executed or adopted by a person with the intent to sign an electronic application or other document.*

**Sec. 3.** *“Signature” includes an electronic signature.*

**Sec. 4. *Applicability***

- 1. The Division shall not issue a certificate or provisional certificate to operate a facility that provides community-based living arrangement services, hereinafter referred to as “facility”, unless the services are provided in a residential environment owned or leased by the provider of the services and only where the services are provided in that same environment.*
- 2. A facility may not provide residential services to more residents than is permitted by local ordinance, but in any case, no more than 6 total residents.*
- 3. Each facility, must maintain compliance with state and local building codes and state and local business licensing requirements.*

**Sec. 5. *Bedrooms***

- 1. A bedroom in a facility, that is shared by two residents must have at least 60 square feet of floor space for each resident who resides in the bedroom. A resident may not share a bedroom with more than one other resident. A bedroom that is occupied by only one resident must have at least 80 square feet of floor space.*
- 2. A separate bed with a comfortable and clean mattress must be made available for each resident. The bed must be at least 36 inches wide. Two clean sheets, a blanket, a pillow and a bedspread must be available for each bed.*
- 3. A hall, stairway, unfinished attic, garage, storage area or shed or other similar area of a facility must not be used as a bedroom. Any other room must not be used as a bedroom if it:  
a) can only be reached by passing through a bedroom occupied by another resident; or  
b) is used for any other purpose.*

**Sec. 6. *Common Areas; Dining Area***

- 1. Common areas must be furnished and equipped with comfortable furniture.*
- 2. Dining area tables and chairs must be of proper height and of sufficient number to provide seating for the number of residents authorized for the facility. They must be sturdy and have easily washable surfaces.*

**Sec. 7. *Kitchen Equipment; Food Storage***

1. *Kitchen equipment must be in good working condition, clean and must allow for the sanitary preparation of food.*
2. *Perishable foods must be refrigerated at a temperature of 41 degrees Fahrenheit or less. Frozen foods must be kept at a temperature of 0 degrees Fahrenheit or less. Stored foods and components must not be expired. The United States Department of Health and Human Services Storage Times for the Refrigerator and Freezer, shall be followed. This information can be obtained for free at [foodsafety.gov](http://foodsafety.gov).*

### **Sec. 8. Safe Environment, Operable Fixtures**

1. *Each facility must:*
  - (a) *Have a safe and sufficient supply of water, adequate drainage and an adequate system for the disposal of sewage;*
  - (b) *Ensure fixtures such as faucets for sinks, tubs and showers are operable with hot and cold running water;*
  - (c) *Ensure toilets are operational; and*
  - (d) *Comply with all local ordinances and state and federal laws and regulations relating to, sanitation, safety and accessibility for any persons that have been admitted with disabilities.*
2. *Containers used to store garbage outside of the facility must be kept reasonably clean and must be covered in such a manner that rodents are unable to get inside the containers.*
3. *Containers used to store garbage in the kitchen must be covered with a lid unless the containers are kept in an enclosed cupboard that is clean and prevents infestation by rodents or insects.*
4. *To the extent practicable, the premises of the facility must be kept free from:*
  - (a) *Offensive odors;*
  - (b) *Hazards, including obstacles that impede the free movement of residents within and outside the facility;*
  - (c) *Insects and rodents; and*
  - (d) *Accumulations of dirt, garbage and other refuse.*
5. *All windows that are capable of being opened in the facility and all doors that are left open to provide ventilation for the facility must be screened to prevent the entry of insects.*
6. *The facility must maintain electrical lighting as necessary to ensure the comfort and safety of the residents of the facility.*
7. *The temperature in the facility must be maintained at a level that is not less than 68 degrees Fahrenheit and not more than 82 degrees Fahrenheit.*

### **Sec. 9. Fire Safety**

1. *Portable fire extinguishers must be visible and accessible and installed throughout each facility at the direction of the fire authority having jurisdiction. Each portable fire extinguisher available at a facility must be inspected, recharged and tagged at least once each year by a person certified by the State Fire Marshal to conduct such inspections. Fire extinguishers must be multipurpose, Class ABC extinguishers.*
2. *Exits must be maintained free of obstructions.*
3. *Smoke detectors must be installed at the direction of the fire authority having jurisdiction and must be maintained operational.*
4. *Each facility shall prohibit smoking within the facility and within 25 feet of the facility.*

5. *If the facility allows for smoking outside the facility, in those areas where smoking is allowed, there must be an extinguishing receptacle approved by the local fire authority.*

**Sec. 10.** NAC 433.324 is hereby amended to read as follows:

NAC 433.324

“Quality assurance review” means *an offsite or onsite inspection to determine compliance with the provisions of this chapter and/or a review of the provision of services conducted by the Division pursuant to NAC 433.378.*

**Sec. 11.** NAC 433.330 is hereby amended to read as follows:

NAC 433.330

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

1. *For all applicants a nonrefundable fee paid to the Division as follows:*

<i>Facility fee</i>	<i>Fee per certified bed in the facility</i>
<i>\$500.00</i>	<i>\$92</i>

[1]2. 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;**

*e) A copy of a government issued identification, such as a passport, identification card, or driver’s license.*

**(g) [Proof] An attestation that the applicant has sufficient working capital to *operate the facility [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]3. 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]** *An attestation* that the applicant has sufficient working capital to *operate the facility [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. 12.** NAC 433.336 is hereby amended to read as follows:  
NAC 433.336

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 a]**An applicant **[is qualified to obtain a provisional certificate, the applicant]** must complete 16 hours of training *approved by or* provided by the Division concerning the provision of services, *prior to the issuance of a provisional certificate*. The training must be completed *after submission of the application and* not later than 3 months after the date on which the *application was submitted [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.

2. *Each applicant or employee of the applicant, who will provide community-based living arrangement services to a resident in the home must:*
  - (a) *Obtain proof the applicant or employee of the applicant has successfully completed a course in cardiopulmonary resuscitation according to the guidelines of the American Red Cross or American Heart Association, and;*
  - (b) *Obtain proof the applicant or employee of 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;*
3. **[Upon]***After successful completion of the training required by subsection 2, the Division will conduct an inspection of the facility and issue a report of findings identifying any noncompliance. If a plan of correction is required, after receiving an acceptable plan of correction, 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 NAC 433.342.

**Sec. 13.** NAC 433.342 is hereby amended to read as follows:  
NAC 433.342

1. **[Within 6 months after the issuance of a provisional certificate, the holder of the provisional certificate shall request]** the Division **[to]***shall* conduct a quality assurance review as provided in NAC 433.378 *within one year after the issuance of a provisional certificate*. 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]***substantial* compliance with the standards for the provision of services set forth in **[NAC 433.300 to 433.393, inclusive]***this chapter*, 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]***shall* conduct another quality assurance review *prior to the expiration of the extension of the provisional certificate*. 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]***substantial* 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]***substantial* 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.
4. *Upon completion of any quality assurance review, inspection, or investigation, the Division shall:*
  - (a) *Compile a report including each violation, if any; and*
  - (b) *Make the report available to the facility by a method prescribed by the Division.*
5. *If violations are indicated in the report, the facility shall correct each violation and if the Division directs the facility to return a written plan of correction, the facility shall submit a written plan for approval within 10 days after receipt of a report generated pursuant to subsection 4.*

6. *If a written plan of correction is required pursuant to subsection 5, but is determined unacceptable by the Division, the Division may direct the facility to resubmit a written plan of correction or the Division may develop a directed plan of correction with which the facility must comply.*
7. *If the report generated pursuant to subsection 4 identifies violations and the Division has directed the facility to return a written plan of correction, failure to submit the written plan of correction to the Division within 10 days, constitutes a separate violation and the Division may place a facility on a provisional certificate, suspend or revoke the facility's certificate.*
8. *Once a facility is either provisionally certified or receives a regular certification, The Division shall conduct additional on-site inspections not less than once every year.*

**Sec. 14.** NAC 433.345 is hereby amended to read as follows:  
NAC 433.345

**[Upon]** *Not less than 45 days prior to the expiration of a certificate, the holder of a certificate must apply to renew the certificate. The application for renewal must include a nonrefundable fee as follows:*

<i>Facility fee</i>	<i>Fee per certified bed in the facility</i>
<i>\$250.00</i>	<i>\$46</i>

**[t]***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 NAC 433.378 and]** determines that the provider is in *substantial* compliance with the standards for the provision of services set forth in **[NAC 433.300 to 433.393, inclusive]** *this chapter.**

**Sec. 15.** NAC 433.354 is hereby amended to read as follows:  
NAC 433.345

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 NAC 433.360 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.
4. *Each facility must develop and implement policies regarding hiring practices for all providers of services.*
5. *A personnel file must be maintained for all providers of services and must document information concerning job duties, essential functions, the physical requirements of the services provided and language proficiency.*
6. *Providers of services in the facility must be able and qualified by training or experience to competently carry out their responsibilities as established in each client's individualized plan, developed pursuant to NAC 433.360. Providers of services must demonstrate the ability to communicate with residents receiving services.*
7. *Each facility must develop and implement policies regarding visitation by family, friends or acquaintances entering the facility.*

8. *Providers of services must not allow their children, under the age of 18, to be present in the facility during the provision of services in the facility. If adult children of the provider of services are in the facility, those individuals must submit fingerprints and have on file with the facility the results of a background check as described in NAC 433.330.*

9. *A resident's children may visit pursuant to the facility's visitation rules and in accordance with the resident's individualized plan.*

**Sec. 16.** NAC 433.369 is hereby amended to read as follows:

NAC 433.369

A provider shall keep a separate record *secure and in the facility*, 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. 17.** NAC 433.375 is hereby amended to read as follows:

NAC 433.375

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 *on a form prescribed by the Division*.

**Sec. 18.** NAC 433.378 is hereby amended to read as follows:

NAC 433.378

1. The Division[:

*(a) Shall conduct a quality assurance review upon a request made pursuant to NAC 433.342 and before renewing a certificate pursuant to NAC 433.345; and*

*(b) M]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.