

**PROPOSED REGULATION OF THE
PERSONNEL COMMISSION**

LCB FILE NO. R069-19I

**The following document is the initial draft regulation proposed
by the agency submitted on 09/11/2019**

Section 1. NAC 284.892 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, will allow for an employee assistance program (EAP) provider to provide an agency with the documentation required as part of a mandatory referral due to a positive result on an alcohol and/or drug screening test. This amendment will make the documentation process consistent with other documentation required from providers of health care processes such as documentation from a provider of health care of the need to use sick leave.

NAC 284.892 Duties of employee who is referred to employee assistance program. (NRS 284.065, 284.155, 284.407)

1. If an employee is referred to an employee assistance program as a result of a positive result on a screening test or pursuant to NAC 284.653, ~~he or she~~ *the employee or an employee assistance program provider* shall provide to the appointing authority:

(a) Evidence of ~~his or her~~ *the employee's* consultation with a counselor employed by an employee assistance program; and

(b) Any recommendation of the counselor with respect to ~~his or her~~ *the employee's* rehabilitation,

↳ within 5 working days after the date of the initial consultation.

2. The employee *or an employee assistance program provider* shall provide to the appointing authority on a monthly basis all recommendations of the counselor with respect to ~~his or her~~ *the employee's* rehabilitation.

3. The employee *or an employee assistance program provider* shall provide to the appointing authority evidence of ~~his or her~~ *the employee's* completion of any rehabilitation program recommended by the counselor within 5 working days after completing the program.

4. ~~{An employee who fails to provide evidence of his or her consultation with a counselor or successful completion of a rehabilitation program is}~~ *The employee shall be* subject to disciplinary action, *if the appointing authority is not timely provided evidence of the employee's consultation with a counselor or successful completion of a rehabilitation program solely due to the fault of the employee.*

(Added to NAC by Dep't of Personnel, eff. 12-26-91; A 11-12-93)

Sec. 2. NAC 284.893 is hereby amended to read as follows:

Explanation of Proposed Change: This amendment, proposed by the Division of Human Resource Management, will allow for an employee assistance program (EAP) provider to provide an agency with the documentation required as part of a mandatory referral due to a positive result on an alcohol and/or drug screening test. This amendment will make the documentation process consistent with other documentation required from providers of health care processes such as documentation from a provider of health care of the need to use sick leave.

NAC 284.893 Return to work of employee who tests positive for alcohol or controlled substance while on duty. (NRS 284.065, 284.155, 284.407)

1. The appointing authority of an employee who tests positive for the presence of alcohol or a controlled substance while on duty and who, as a result, is subject to disciplinary action pursuant

to NAC 284.646 or 284.650 but is not terminated shall, before allowing the employee to return to work, require ~~{the employee to}~~:

(a) ~~{Provide}~~ *The employee or an employee assistance program to provide* to the appointing authority documentation from a counselor who is licensed or certified pursuant to chapter 641C of NRS or another health care provider who has training or experience in substance abuse counseling, which verifies that the employee is able to return to duty and perform the essential functions of his or her job.

(b) ~~{Submit}~~ *The employee to submit* to a screening test.

2. The employee is responsible for the cost of any:

(a) Counseling services the employee receives to verify that the employee is able to return to duty and perform the essential functions of his or her job and any documentation of those services; and

(b) Screening test,

↪ required pursuant to subsection 1.

3. An employee who fails or refuses to submit to a screening test required pursuant to subsection 1 is subject to disciplinary action, including, without limitation, termination, at the discretion of the employee's appointing authority.

(Added to NAC by Personnel Comm'n by R066-09, eff. 10-27-2009; A by R195-09, 4-20-2010; R138-12, 10-4-2013)