

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

LCB File No. R038-20

February 7, 2022

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

AUTHORITY: §§ 1-14 and 16-40, NRS 4.373, 5.055 and 439.200; § 15, NRS 4.373, 5.055, 439.150 and 439.200.

A REGULATION relating to prostitution; prescribing the requirements for the certification of a program for the treatment of persons who solicit prostitution; requiring a person or governmental entity that operates such a program to obtain the approval of the Division of Public and Behavioral Health of the Department of Health and Human Services before a program operates a new location and to notify the Division of certain changes; requiring the Division to maintain a list of certified programs; prescribing certain fees; prescribing certain requirements governing the content and operation of a program; prescribing the qualifications and duties of certain staff of a program; prescribing the requirements for the approval of a program facilitator and formal training and continuing education for program facilitators; requiring the Division to maintain a list of approved courses of formal training and continuing education for program facilitators that comply with current evidence-based standards; prescribing grounds for disciplinary action against a program or program facilitator and procedures for imposing such disciplinary action; authorizing the Division to investigate or inspect a program under certain circumstances; authorizing any person to submit a complaint against a program or program facilitator; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a justice of the peace or municipal judge to suspend the sentence of a person who is convicted of a misdemeanor that constitutes the solicitation of prostitution for not more than 2 years upon a condition that the person actively participate in a program for the treatment of persons who solicit prostitution which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services. (NRS 4.373, 5.055) This regulation enacts provisions governing the certification and regulation of such programs.

Sections 3-8 of this regulation define terms relating to such programs. **Section 9** of this regulation prescribes the requirements to apply for the certification of a program. **Section 10** of this regulation requires a person or governmental entity that operates a certified program to apply for and obtain the approval of the Division before operating an additional location. **Section 11** of this regulation authorizes the person or governmental entity that operates a program that is

licensed, certified or similarly credentialed in another state or nationally recognized to apply for licensure by endorsement. **Section 12** of this regulation requires a person or governmental entity that operates a program to notify the Division of any change to the information submitted as part of an application for certification or an application to open an additional location. **Section 13** of this regulation prescribes the requirements for the renewal of a certificate. **Section 14** of this regulation requires the Division to maintain and provide to the justices of the peace and municipal judges of this State a list of certified programs. If a certificate expires or is suspended or revoked, **section 14** requires: (1) the Division to remove the program from that list; (2) the person or entity that operates the program to notify each justice of the peace or municipal judge who has referred offenders to the program that the program is no longer certified; and (3) the person or governmental entity that operates the program to notify each offender referred to the program of certain duties relating to transferring to a different program. **Section 15** of this regulation prescribes the application fees for the issuance or renewal of a certificate and the opening of an additional location.

Section 16 of this regulation prescribes requirements concerning the fee that a program charges an offender to participate in the program and accommodations for participants who cannot pay that fee. **Section 17** of this regulation prescribes the required subject matter of the curriculum and instructional materials used by a program. **Section 17** also requires the person or governmental entity that operates a program to obtain the approval of the Division before revising or adopting new curriculum and instructional materials. **Section 18** of this regulation requires: (1) the person or governmental entity that operates a program to ensure that a program facilitator monitors each participant in the program; and (2) a program facilitator to conduct an initial evaluation of each participant that he or she monitors. **Section 19** of this regulation requires a program to be for a duration of 10 weeks and prescribes requirements governing certain group counseling provided by a program and the evaluation of a program. **Section 19** also authorizes the Division to waive any provision of **section 18 or 19** if the Division determines that it is not practicable for the program to comply with the provision. **Section 20** of this regulation requires a person or governmental entity that operates a program to allow a participant to attend counseling sessions or other meetings through distance media under certain circumstances.

Section 23 of this regulation requires a participant in a program to enter into an agreement that sets forth the responsibilities of the participant and the program facilitator who monitors the participant. **Section 21** of this regulation requires a person or governmental entity that operates a program to issue: (1) a certificate of completion to a participant who successfully completes the program and complies with the agreement; (2) a discharge to a participant who is unable to complete the program for certain reasons; and (3) a termination of the treatment of a participant in the program if the participant violates the agreement. **Section 22** of this regulation prescribes requirements governing the confidentiality of records of participants in a program and communications by such participants. **Section 24** of this regulation authorizes the Division to require a program to: (1) use methods and measures prescribed by the Division to evaluate the effectiveness of the program; and (2) submit to the Division any information necessary to monitor the effectiveness of the program.

Section 25 of this regulation prescribes the qualifications and duties of the director of a program. **Section 26** of this regulation requires a program to have at least two program facilitators who are approved by the Division and who meet certain other requirements. If a program ceases to employ or retain at least two program facilitators, **section 12** requires the

person or governmental entity that operates the program to submit to the Division a plan of actions that the person or governmental entity intends to take to employ or retain additional program facilitators.

Section 27 of this regulation prescribes the requirements to apply for approval to serve as a program facilitator, which include receiving certain formal training. **Section 27** additionally requires such approval to be renewed biennially. **Section 28** of this regulation prescribes the requirements to renew such approval, which include receiving certain continuing education. **Section 29** of this regulation prescribes the authorized topics for a course of formal training or continuing education for program facilitators. **Section 30** of this regulation prescribes the requirements to apply for the approval of the Division to offer a course of formal training or continuing education. **Section 30** additionally requires the Division to maintain a list of approved courses of formal training or continuing education that comply with current evidence-based standards. Finally, **section 30** authorizes a program facilitator to apply to the Division to receive credit for a course of formal training or continuing education that has not been approved.

Section 31 of this regulation prescribes the grounds for disciplinary action against a program facilitator and the types of disciplinary action that the Division may impose against a program facilitator. **Section 32** of this regulation authorizes the Division to investigate a program facilitator to determine if any of those grounds for disciplinary action exist. **Section 33** of this regulation prescribes the grounds for imposing disciplinary action against a program and the types of disciplinary action that the Division may impose against a program. **Sections 32 and 33** authorize the Division to collect from a program facilitator or program the cost associated with any disciplinary action imposed against the program facilitator or program, as applicable.

Existing regulations set forth the administrative process for appealing a decision of the Division. (NAC 439.300-439.395) **Section 34** of this regulation authorizes any person aggrieved by a decision of the Division concerning the imposition of disciplinary action or the denial of approval of a course of formal training or continuing education to appeal to the Division using that process.

If the Division intends to suspend the certificate of a program or the approval of a program facilitator, **section 35** of this regulation requires the Division to notify the program or program facilitator, as applicable, of the conditions that must be satisfied to prevent the suspension and the date by which those conditions must be satisfied. **Section 35** also prescribes the required contents of a written warning issued by the Division to a program or program facilitator. **Section 36** of this regulation provides that notice from the Division will be deemed sufficient if sent to the last address or electronic mail address provided by the person to whom the notice is to be delivered.

Section 37 of this regulation authorizes the Division to conduct an on-site inspection of a program at any time to determine whether the program is in compliance with the provisions of this regulation. **Section 38** of this regulation authorizes any person to submit a complaint if the person believes that a program or a program facilitator has violated any of those provisions. **Section 38** requires the Division to investigate each complaint it receives and compile a report of such an investigation. **Section 39** of this regulation requires a program that is located outside this State to reimburse the Division for travel costs associated with inspecting or investigating the program or investigating a program facilitator employed or retained by the program. **Section 39** also requires a program to submit a plan of correction for each violation identified in the report of an inspection or investigation. **Section 39** provides that a plan of correction is confidential until it is approved by the Division. **Section 40** of this regulation prescribes the conditions for the

release of the report of the inspection or investigation of a program. **Section 40** provides that proceedings and investigations resulting from the submission of a complaint are otherwise confidential.

Section 1. Chapter 439 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 40, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 40, inclusive, of this regulation, unless the context otherwise requires, the words and terms used in sections 3 to 8, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Distance media” means video, computer, television or any other means that allows a person to communicate with another person from a remote location.*

Sec. 4. *“Division” means the Division of Public and Behavioral Health of the Department of Health and Human Services.*

Sec. 5. *“Offender” means a person who has been ordered pursuant to NRS 4.373 or 5.055 to actively participate in a program.*

Sec. 6. *“Participant” means a person who participates in a program, regardless of whether the person is an offender.*

Sec. 7. *“Program” means a program for the treatment of persons who solicit prostitution that is certified by the Division pursuant to section 9 or 11 of this regulation.*

Sec. 8. *“Program facilitator” means a person approved by the Division pursuant to section 27 of this regulation to perform the duties set forth in sections 2 to 40, inclusive, of this regulation.*

Sec. 9. 1. *Except as otherwise provided in section 11 of this regulation, to obtain the certification of a program, the person or governmental entity that operates the program must*

apply to the Division in the form prescribed by the Division and pay the fee required by section 15 of this regulation. The application must be signed by the director of the program or his or her designee and must include, without limitation:

(a) The name, address, telephone number and electronic mail address of the program.

(b) The name and address of the owner of the person or governmental entity that operates the program or, if the program is operated by a corporation, the name of each:

(1) Officer or director of the corporation; and

(2) Person who owns 10 percent or more of the shares of the corporation.

(c) The name of the director of the program and proof that the director meets the qualifications prescribed by section 25 of this regulation.

(d) The name of each program facilitator employed or retained by the program as an independent contractor and proof that each program facilitator has been approved by the Division pursuant to section 27 of this regulation.

(e) A copy of the curriculum and instructional materials developed pursuant to section 17 of this regulation for use in the program or proof that the program has permission to use the curriculum and instructional materials developed by another person or governmental entity which has previously been approved by the Division. Such proof:

(1) May include, without limitation, a copy of a license, contract or written permission authorizing such use; and

(2) Must demonstrate that the program has permission to use the curriculum and instructional materials for the entire period during which the program is certified.

(f) The business identification number assigned by the Secretary of State pursuant to NRS 225.082.

(g) Proof that the program holds any business license required by the county or city in which the program is located.

(h) A statement signed by the director of the program or his or her designee attesting that the program meets the requirements of sections 2 to 40, inclusive, of this regulation.

(i) Any other information requested by the Division.

2. Not later than 60 days after receiving an application, the Division shall approve or deny the application. If the Division determines that an applicant meets the requirements prescribed by sections 2 to 40, inclusive, of this regulation, the Division must approve the application and issue a certificate to the program.

3. If an application to renew a certificate is not received by the Division pursuant to section 13 of this regulation on or before the date 2 years after the date on which the certificate was issued, the certificate expires 30 days after that date.

Sec. 10. *1. A person or governmental entity that operates a program may apply to the Division in the form prescribed by the Division for permission to operate an additional location. The application must be accompanied by the fee required by section 15 of this regulation and must include, without limitation:*

(a) The name and certification number of the program;

(b) The name of the director of the program;

(c) The name of each program facilitator employed or retained by the program;

(d) An attestation that the program will use the same curriculum and instructional materials as used at its existing location;

(e) The address of the additional location at which the program proposes to operate; and

(f) Any other information requested by the Division.

2. Not later than 60 days after receiving an application to operate an additional location, the Division shall approve or deny the application. If the Division determines that the applicant meets the requirements prescribed by sections 2 to 40, inclusive, of this regulation when operating an additional location, the Division must approve the application.

Sec. 11. *1. A person or governmental entity that operates a program may apply to the Division for certification by endorsement if the program is:*

(a) Licensed, certified or similarly credentialed by a regulatory authority of another state, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States for the treatment of persons who solicit prostitution; or

(b) Nationally recognized for the treatment of persons who solicit prostitution, as determined by the Division.

2. An application pursuant to this section must be in the form prescribed by the Division and accompanied by the fee required by section 15 of this regulation. If the applicant is licensed, certified or similarly credentialed by a regulatory authority in another jurisdiction, the application must include, without limitation, proof of such license, certificate or similar credential.

3. Not later than 60 days after receiving an application pursuant to this section, the Division shall approve or deny the application. If the Division determines that an applicant meets the requirements prescribed by subsection 1, the Division must approve the application and issue a certificate by endorsement to the program.

4. A certificate by endorsement expires 2 years and 30 days after the date on which it was issued. To renew a certificate by endorsement, the person or governmental entity that operates

the program must, not later than 2 years after the date on which the certificate was issued, apply to the Division in the form prescribed by the Division and pay the fee required by section 15 of this regulation. The application must include, without limitation, proof that the license, certificate or similar credential issued to the applicant by a regulatory body in another jurisdiction remains valid.

Sec. 12. 1. *A person or governmental entity that operates a program shall notify the Division in the form prescribed by the Division not more than 30 days after any information submitted pursuant to sections 9, 10 or 11 of this regulation changes. Such changes may include, without limitation:*

- (a) Different ownership of the program;*
- (b) A new name for the program;*
- (c) Relocation of the program;*
- (d) The discontinuance of the program;*
- (e) A different director of the program;*
- (f) A new telephone number or electronic mail address for the program; or*
- (g) Any other change to the information provided about the program.*

2. *Not later than 10 days after a program no longer has at least two program facilitators as required by section 26 of this regulation, the person or governmental entity that operates the program must submit to the Division a written plan of action to employ or retain sufficient additional program facilitators to comply with that requirement.*

Sec. 13. 1. *A person or governmental entity that operates a program may renew a certification issued pursuant to section 9 of this regulation by applying to the Division in the form prescribed by the Division and paying the fee required by section 15 of this regulation.*

The application must be signed by the director of the program or his or her designee and must include, without limitation:

(a) An attestation that the program employs a director who meets the requirements of section 25 of this regulation;

(b) An attestation that the program employs or retains at least two program facilitators who meet the requirements set forth in section 26 of this regulation; and

(c) Any other information requested by the Division.

2. If the Division determines that an application for renewal is incomplete, the Division must notify the applicant of the additional information necessary to complete the application. If the applicant does not provide the additional information to the Division within 90 days after receiving such notice, the certificate shall be deemed expired.

3. The Division may inspect an applicant for the renewal of a certificate pursuant to section 37 of this regulation to determine if the applicant is in compliance with sections 2 to 40, inclusive, of this regulation.

4. The Division shall renew a certificate upon determining that:

(a) The application for renewal is complete; and

(b) The applicant is in compliance with sections 2 to 40, inclusive, of this regulation.

5. If a certificate expires, the person or governmental entity that operates the program may reapply for initial certification pursuant to section 9 of this regulation at any time.

Sec. 14. 1. The Division shall:

(a) Maintain a list of programs currently certified pursuant to sections 9 and 11 of this regulation; and

(b) Provide the list to the justices of the peace and municipal courts in this State to facilitate the referral of offenders to those programs pursuant to NRS 4.373 and 5.055.

2. If a certificate expires or is suspended or revoked pursuant to section 33 of this regulation:

(a) The Division must remove the program from the list of programs provided pursuant to subsection 1; and

(b) The person or governmental entity that operates the program shall notify:

(1) Each justice of the peace or municipal judge who has referred offenders to the program of the expiration, suspension or revocation; and

(2) Each offender who has been referred to the program that the offender is required to request that the justice of the peace or municipal judge overseeing his or her case:

(I) Reassign the offender to another program; and

(II) Determine the number of treatment sessions that the offender completed, if any, that the justice of the peace or municipal judge will credit toward the completion of the program by the offender.

Sec. 15. *The Division shall charge and collect the following fees:*

- 1. For an initial application for a certificate, other than a certificate by endorsement.....\$897*
- 2. For the renewal of a certificate, other than a certificate by endorsement.....449*
- 3. For an initial application for a certificate by endorsement.....224*
- 4. For the renewal of a certificate by endorsement.....112*
- 5. For an application to operate at an additional location.....245*

Sec. 16. *A person or governmental entity that operates a program shall ensure that:*

1. At least 5 percent of offenders accepted by the program are persons who do not have the ability to pay the fee for the program.

2. The program establishes a sliding scale to be used in charging offenders for participation in the program that is based upon the ability of the offender to pay for the program.

3. The program does not exclude an offender from participating in the program solely because of the inability of the offender to pay for the program.

Sec. 17. 1. *The curriculum and instructional materials used by a program must be developed in accordance with evidence-based practices and must include, without limitation, instruction concerning:*

(a) Male and female gender socialization;

(b) The continuum of sexual violence;

(c) Pimping and trafficking;

(d) Domestic violence;

(e) Power and violence, including, without limitation, acknowledgement that prostitution is a form of gender-based violence and is not a victimless crime;

(f) Vulnerability;

(g) Mutuality in relationships;

(h) Building and maintaining the will to change behavior;

(i) The cycle of violent or abusive behavior;

(j) Beliefs of persons who solicit prostitution and myths relating to inequality among genders;

(k) Accountability for engaging in gender-based violence;

- (l) Pornography and the negative impacts of pornography;*
 - (m) Sexual objectification;*
 - (n) Personal and cultural attitudes toward the opposite gender;*
 - (o) Cultural and societal motivation for gender-based violence, including, without limitation, values and beliefs related to gender-based violence;*
 - (p) Skills for improving personal relationships;*
 - (q) The ability to share power and decision-making equally in a personal relationship;*
 - (r) Using a model for personal relationships that:
 - (1) Is based on nonviolence and equality; and*
 - (2) Incorporates the concepts of accountability for a person's own behavior, negotiation, fairness and equality concerning economic issues;**
 - (s) Toxic and healthy masculinity; and*
 - (t) Identifying signs of a relapse in negative behavior and methods of preventing relapse.*
- 2. A person or governmental entity that operates a program may develop curriculum and instructional materials or use curriculum and instructional materials developed by another person or governmental entity. If the person or governmental entity uses curriculum and instructional materials developed by another person or governmental entity, the person or governmental entity must obtain permission to use the curriculum and instructional materials through a licensing agreement, contract or written approval that is valid for the period during which the program is certified.*
- 3. A person or governmental entity that operates a program must obtain the approval of the Division before revising the curriculum and instructional materials or adopting a new curriculum and new instructional materials.*

Sec. 18. *A person or governmental entity that operates a program shall ensure that a program facilitator monitors each participant in the program. The program facilitator shall:*

1. Evaluate the participant before the participant participates in any of the group counseling sessions required by section 19 of this regulation. The evaluation must include, without limitation:

(a) A history of the participant engaging in violence, abuse or neglect, including, without limitation, solicitation of prostitution, domestic violence, elder abuse, child abuse, sexual abuse or any other violence;

(b) Observations concerning the mental condition of the participant, if determined appropriate by the program facilitator;

(c) The medical and psychological history of the participant, including, without limitation, any violence, abuse or neglect experienced by the participant as a child, the impact of the violence, abuse or neglect, as applicable, on the participant and his or her family and any other history determined relevant by the program facilitator;

(d) A description of any substance use disorder experienced by the participant and the effect of that substance use disorder on the participant and his or her family; and

(e) Any social or cultural history of the participant that is relevant to his or her solicitation of prostitution.

2. Prepare a written report of the evaluation and place the report in the file of the participant.

3. Measure the progress of the participant in the program, including, without limitation, attendance and participation in counseling sessions, completion of assignments and changes in behavior and attitude.

4. Periodically assess the needs of the participant and make adjustments in accordance with those needs.

Sec. 19. 1. *A program must be for a duration of 10 weeks and, except as otherwise provided in subsection 6, must require a participant in the program to:*

(a) Attend one orientation session and participate in the evaluation conducted pursuant to section 18 of this regulation;

(b) Attend at least eight group counseling sessions each week with a combined total of at least 20 hours each week; and

(c) During the final week of the program, complete:

(1) A written evaluation of the content and presentation of the program; and

(2) A self-evaluation or reflection on the program, including, without limitation, a description of the knowledge acquired and an evaluation of the performance of the program facilitators who facilitated the group sessions in which the participant participated.

2. A group counseling session must be conducted by at least two program facilitators and must not include more than 16 participants.

3. In addition to the sessions required by subsection 1, a program must include weekly, follow-up sessions that a participant may choose to attend for ongoing support.

4. A person or governmental entity that operates a program shall not allow a participant who has unexcused absences from more than two of the group counseling sessions required by paragraph (b) of subsection 1 to complete the program. A program facilitator may require a participant who has not more than two unexcused absences from group counseling sessions to make up those absences by attending the equivalent number of follow-up sessions conducted pursuant to subsection 3.

5. *The program facilitator who monitors a participant pursuant to section 18 of this regulation may, based on the evaluation conducted pursuant to subsection 1 of section 18 of this regulation, require the participant to attend individual counseling sessions and determine the frequency and duration of such counseling sessions.*

6. *If a program facilitator determines that a group counseling session is not suitable for a participant because of a physical or mental disability or other physical or mental limitation of the participant, the program facilitator must refer the participant to an appropriate provider of health care or other services. Before making such a determination, the program facilitator must attempt to provide a reasonable modification to accommodate the disability or limitation of the participant unless the necessary modification would fundamentally alter the program or create an undue financial or administrative burden. If an offender receives a referral, the director of the program must notify the justice of the peace or municipal judge overseeing the case and advise the participant to notify the justice of the peace or municipal judge of the referral.*

7. *If a participant is under 18 years of age and a program facilitator determines that an adult group counseling session is not suitable for the participant, the participant must be allowed to participate in a separate group counseling session that is only for participants who are under 18 years of age.*

8. *The director of a program or his or her designee shall maintain a record of the number of participants in each group counseling session conducted during the current calendar year and each of the two immediately preceding calendar years.*

9. *Upon determining that compliance with a requirement is not practicable, the Division may waive any requirement of this section or section 18 of this regulation.*

10. As used in this section, “provider of health care or other services” means:

(a) A physician or physician assistant who is licensed pursuant to chapter 630 or 633 of NRS;

(b) An advanced practice registered nurse who has specialized training in psychiatry; or

(c) A psychologist, clinical professional counselor or clinical social worker.

Sec. 20. 1. A person or governmental entity that operates a program shall ensure that a participant is allowed to attend a live, interactive counseling session or other meeting through distance media if:

(a) A program facilitator has authorized the participant to attend the session or meeting through distance media;

(b) The participant has:

(1) Attended at least one counseling session or meeting in person before attending a counseling session or meeting through distance media and provided the program with a photograph of the participant that was taken within the immediately preceding 12 months to be kept on file by the program; or

(2) If the participant is an offender, had his or her identity verified by the justice of the peace or municipal judge overseeing his or her case before attending a counseling session or meeting through distance media and the program provides a photograph of the person who attends the counseling session or meeting through distance media to the justice of the peace or municipal judge, as applicable, to verify the identity of the person as the offender;

(c) The distance media used allows the program facilitator overseeing the counseling session or meeting to hear and see the participant through audio and video means; and

(d) The program facilitator who oversees the counseling session or meeting verifies the identity of the participant by comparing the video of the participant with the photograph provided pursuant to paragraph (b).

2. A program facilitator who oversees a counseling session or other meeting held through distance media shall ensure that:

(a) Only persons invited to participate in the session or meeting, including, without limitation, the program facilitator and each participant, are present during the session or meeting; and

(b) Each person who participates in the session or meeting does so from a location at which confidentiality may be maintained. Such locations may include, without limitation, a room with a closed door.

Sec. 21. 1. A person or governmental entity that operates a program shall ensure that:

(a) The program issues a certificate of completion to a participant who:

(1) Successfully completes the program; and

(2) Complies with the provisions of the agreement set forth in section 23 of this regulation.

(b) The program issues a discharge to a participant who is unable to complete the program because he or she moved from the area of service of the program or was referred to another program.

(c) The program terminates the treatment of a participant who violates any of the provisions of the agreement set forth in section 23 of this regulation.

2. If the program issues a discharge to an offender or terminates the treatment of an offender, the person or governmental entity that operates the program shall notify:

(a) The justice of the peace or municipal judge overseeing the case of the discharge or termination and provide to the justice of the peace or municipal judge, as applicable, a written summary concerning the behavior of the offender in the program and the number of counseling sessions the offender successfully completed, if any; and

(b) The offender that he or she is required to make a request to the justice of the peace or municipal judge overseeing his or her case to be reassigned to another program.

3. If, at the time that a discharge or termination of an offender is considered, the person or governmental entity that operates the program in which the offender participated determines that the offender has exhibited signs of violent behavior and has resisted treatment, the program facilitator that monitored the offender must:

(a) Provide to the justice of the peace or municipal judge overseeing the case and, if determined necessary by the program facilitator, the parole and probation officer of the offender and the prosecuting attorney, a statement of the progress of the offender and a recommendation whether the offender should continue to receive treatment; and

(b) Request that the justice of the peace or municipal judge overseeing the case require the offender to continue his or her participation in the program or refer the offender to another program.

4. A person or governmental entity that operates a program shall:

(a) Ensure that any documentation of actions taken pursuant to this section is placed in the file of the participant; and

(b) Retain all records relating to a participant for at least 7 years after the last date of treatment of that participant.

Sec. 22. 1. A person or governmental entity that operates a program shall ensure that:

(a) A program facilitator or any other staff member of the program does not disclose a confidential record, any information contained in such a record or any confidential communications made by a participant during the course of treatment or acquired through the work of the program facilitator or staff member with the program except:

(1) Upon the written consent of the participant to whom the record, information or communications pertain;

(2) To the extent necessary to report the status of the treatment of an offender to the justice of the peace or municipal judge overseeing the case;

(3) To the extent necessary to comply with the provisions of section 21 of this regulation;

(4) Pursuant to an investigation or on-site inspection by the Division;

(5) To report evidence of child abuse or neglect pursuant to NRS 432B.220;

(6) To report evidence of abuse, neglect, exploitation, isolation or abandonment of an older person or vulnerable person pursuant to NRS 200.5093; or

(7) As otherwise required by law.

(b) A program facilitator:

(1) Informs each participant of the provisions set forth in paragraph (a); and

(2) Before providing any treatment to the participant, obtains written consent from the participant providing that a confidential communication made by the participant and a confidential record relating to the participant or information contained in such a record may be disclosed for any of the purposes set forth in paragraph (a).

2. *As used in this section, “confidential record” includes, without limitation, any record indicating the reason for the treatment of a participant or the course and scope of treatment provided by a program facilitator.*

Sec. 23. *1. When a participant is admitted to a program, the person or governmental entity that operates the program must require the participant to enter into an agreement that sets forth the responsibilities of the participant and the program facilitator who monitors the participant pursuant to section 18 of this regulation. The agreement must require:*

(a) A participant who is an offender to submit to the program a copy of:

(1) The report prepared by a peace officer concerning the solicitation of prostitution by the offender;

(2) The order of the justice of the peace or municipal judge requiring the offender to participate in a program;

(3) Any report concerning probation prepared by the parole and probation officer of the offender; and

(4) If a psychological evaluation of the offender has been performed, the results of the psychological evaluation.

(b) Each participant to:

(1) Refrain from engaging in any form of violence, including, without limitation, physical, sexual and psychological violence;

(2) Accept responsibility for engaging in solicitation of prostitution, any related behavior and any other violent or negative behavior and for changing that behavior;

(3) Attend group counseling sections as required by section 19 of this regulation;

(4) Refrain from using sexist or racist language during group counseling sessions;

(5) Pay any fee charged for participating in the program;

(6) If the program facilitator indicates in the written report of the evaluation he or she prepared pursuant to section 18 of this regulation that the participant suffers from substance use disorder, refrain from using any alcohol or drugs while participating in the program;

(7) Openly express feelings and emotions during the group counseling sessions; and

(8) Refrain from discussing the identity of or communications made by another participant during a group counseling session.

2. An agreement entered into pursuant to subsection 1 must also include:

(a) The number of counseling sessions the participant is required to attend to complete the program and the number of absences from such counseling sessions that will be allowed, if any.

(b) Acknowledgment that pursuant to section 21 of this regulation, the program has the right to terminate the treatment of the participant for violating any of the provisions of the agreement.

3. An agreement entered into pursuant to this section must be signed by:

(a) The participant in the presence of a program facilitator; and

(b) The program facilitator who witnessed the signature of the participant pursuant to paragraph (a).

Sec. 24. *The Division may require a program to:*

1. Use methods and measures prescribed by the Division to evaluate the outcomes of participants in the program; and

2. Submit to the Division at any time any data or other information necessary to measure the effectiveness of a program, including, without limitation, social security numbers of

offenders who participate in the program, information concerning outcomes for participants, dropout rates, reinstatement rates, treatment methods and input from staff and clients.

Sec. 25. 1. *The director of a program must be a program facilitator or a person who:*

(a) Is at least 18 years of age;

(b) Has received a high school diploma or its equivalent;

(c) Understands the provisions of sections 2 to 40, inclusive, of this regulation;

(d) Has demonstrated the ability to read, write, speak and understand the English language;

(e) Has at least 1 year of supervisory or administrative experience in a related field; and

(f) Attests that he or she has not been convicted of a felony involving:

(1) Murder, voluntary manslaughter or mayhem;

(2) Assault or battery with intent to kill or to commit sexual assault or mayhem;

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

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

(5) 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

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

2. For the purposes of this section, a plea or verdict of guilty or guilty but mentally ill or a plea of nolo contendere shall be deemed a conviction of an offense.

3. The director of a program shall ensure that:

(a) Each program facilitator who is employed by a program or retained by the program as an independent contractor has been approved by the Division pursuant to section 27 of this regulation before he or she is allowed to facilitate program services; and

(b) The program complies with sections 2 to 40, inclusive, of this regulation, including, without limitation, by requiring the establishment of policies, procedures and schedules to ensure compliance with sections 19 and 20 of this regulation.

Sec. 26. 1. A program must have at least two program facilitators at all times.

2. To become a program facilitator, a person must:

(a) Refrain from engaging in violence;

(b) Not currently suffer from a substance use disorder or use any illegal drug; and

(c) Be approved by the Division pursuant to section 27 of this regulation.

3. The duties of a program facilitator must include, without limitation:

(a) Providing treatment to patients of the program with professional skill and competence;

and

(b) When required, making reports of abuse or neglect of a child pursuant to NRS 432B.220 and reports of abuse, neglect, exploitation or isolation of an older or vulnerable person pursuant to NRS 200.5093.

4. A program facilitator shall not:

(a) Enter into a sexual relationship with a participant while the participant is receiving treatment from the program for which the program facilitator provides services and for 2 years after the termination of such treatment;

(b) Enter into a dual relationship with a participant while the participant is receiving treatment from the program;

(c) Practice, condone, authorize, facilitate or approve of, in any form, discrimination in any matter relating to services provided as a program facilitator that is based on:

(1) Race, ethnicity, ancestry, national origin, color, sex, gender identity or expression, sexual orientation, age, religion, political belief, diagnosis or mental or physical disability;

(2) Social, economic, health or marital status; or

(3) Any other preference or physical characteristic, condition or status; or

(d) Influence or attempt to influence a participant in any manner that may reasonably be anticipated to cause the program administrator to obtain a benefit of an unprofessional nature from the participant while the participant is receiving treatment from the program and for 2 years after the termination of such treatment.

5. As used in this section, “dual relationship” means a relationship between a program facilitator and a participant to whom the program facilitator provides services that includes another professional, social or business relationship with the participant.

Sec. 27. 1. *To obtain the approval of the Division to serve as a program facilitator, a person must apply to the Division. The application must include, without limitation:*

(a) The first, last and, if applicable, middle name of the applicant and any other name that has been used by the applicant;

(b) The date of birth and social security number of the applicant;

(c) The physical address of the applicant and the mailing address of the applicant, if different from the physical address;

(d) The telephone number of the applicant;

(e) Except as otherwise provided in subsection 3, a method by which the Division may communicate with the applicant other than his or her mailing address and telephone number, which may include, without limitation, an electronic mail address;

(f) A statement by the applicant acknowledging the mandatory reporting requirements concerning the abuse, neglect, exploitation, isolation or abandonment of an older person or vulnerable person set forth in NRS 200.5093 and the abuse or neglect of a child set forth in NRS 432B.220;

(g) The name of the program with which the applicant seeks to serve as a program facilitator;

(h) Proof satisfactory to the Division that the applicant:

(1) Meets the requirements of paragraphs (a) and (b) of subsection 2 of section 26 of this regulation;

(2) Has received a high school diploma or its equivalent or has graduated from a program that is currently certified;

(3) Has satisfactorily completed at least 60 hours of formal training approved by the Division pursuant to section 30 of this regulation or for which the Division has authorized credit pursuant to that section concerning at least five of the subjects described in section 29 of this regulation and has:

(I) Satisfactorily completed within 2 years immediately preceding the date of the application at least 15 hours of formal training approved by the Division pursuant to section 30 of this regulation or for which the Division has authorized credit pursuant to that section;
or

(II) Received at least 2 years of experience serving as a program facilitator within the 5 years immediately preceding the date of the application in a program that is licensed, certified or similarly credentialed by a regulatory authority of any state, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States for the treatment of persons who solicit prostitution or is nationally recognized for the treatment of persons who solicit prostitution, as determined by the Division;

(i) An attestation that the applicant has not been convicted of a felony involving:

(1) Murder, voluntary manslaughter or mayhem;

(2) Assault or battery with intent to kill or to commit sexual assault or mayhem;

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

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

(5) 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

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

(j) Any other information requested by the Division.

2. For the purposes of this section, a plea or verdict of guilty or guilty but mentally ill or a plea of nolo contendere shall be deemed a conviction of an offense.

3. The Division may exempt an applicant from the requirements of paragraph (e) of subsection 1 if the applicant attests that the methods set forth in that paragraph are not

feasible and acknowledges that United States mail is the only manner by which the applicant is able to receive documents.

4. Not later than 60 days after receiving an application pursuant to this section, the Division shall approve or deny the application. An approval must be renewed not later than 2 years after the date on which the approval was issued and every 2 years thereafter in the manner prescribed by section 28 of this regulation.

5. If any of the information submitted to the Division pursuant to this section changes, an applicant or approved program facilitator shall notify the Division of the change in writing within 30 days, by electronic mail or using another method approved by the Division.

Sec. 28. 1. *A program facilitator may renew the approval to serve as a program facilitator issued pursuant to section 27 of this regulation by applying to the Division in the form prescribed by the Division. The application must be signed by the applicant and must include, without limitation:*

(a) An attestation that the applicant has completed at least 30 hours of continuing education approved by the Division pursuant to section 30 of this regulation or for which the Division has authorized credit pursuant to that section within the period following the issuance or the most recent renewal of the approval, as applicable;

(b) An attestation that the applicant has not committed any act that constitutes grounds for disciplinary action pursuant to section 31 of this regulation or a list of such acts committed by the applicant; and

(c) Any other information requested by the Division.

2. If the Division does not receive a renewal application on or before the date required by section 27 of this regulation, the approval to serve as program facilitator expires on that date.

3. *If the Division determines that a renewal application is incomplete, the Division must notify the applicant of the additional information necessary to complete the application. If the Division does not receive the additional information within 90 days after such notice is provided, the approval to serve as program facilitator expires on that date.*

4. *A program facilitator shall retain each certificate of completion for continuing education demonstrating satisfaction of paragraph (a) of subsection 1 for at least 6 years immediately following the issuance of the certificate. The Division may audit a program facilitator at any time to determine compliance with the continuing education requirements.*

5. *If the Division determines that an applicant for renewal of approval to serve as a program facilitator has not complied with the continuing education requirements set forth in paragraph (a) of subsection 1, the Division must notify the applicant of that determination. The applicant must provide proof of completion of such continuing education within 45 days to the Division. If the applicant fails to submit such proof within that time, the approval expires on that date.*

6. *The Division shall renew the approval to serve as program facilitator upon determining that the applicant:*

(a) Has submitted a completed application;

(b) Has completed the required continuing education; and

(c) Has submitted the attestation pursuant to paragraph (b) of subsection 1 or the Division has determined that any act committed by the applicant that constitutes grounds for disciplinary action pursuant to section 31 of this regulation was not substantially related to the duties of the applicant as a program facilitator or that the applicant has made sufficient restitution for any such act.

7. If approval to serve as a program facilitator expires, the person may reapply for approval at any time in the manner set forth in section 27 of this regulation.

Sec. 29. *Formal training or continuing education for program facilitators may concern the following subjects:*

- 1. The cycle of violent or abusive behavior;*
- 2. Cultural values, beliefs and myths relating to inequality among genders;*
- 3. Gender-based violence and the negative impacts of gender-based violence;*
- 4. Pornography and its negative impacts;*
- 5. Sexual objectification;*
- 6. Personal and cultural attitudes toward the opposite gender;*
- 7. Skills for improving personal relationships;*
- 8. Healthy relationships, including, without limitation, mutuality in relationships;*
- 9. The manner in which to establish a model for personal relationships that:*
 - (a) Is based on nonviolence and equality; and*
 - (b) Incorporates the concepts of accountability for a person's own behavior, negotiation, fairness and equality concerning economic issues;*
- 10. Toxic and healthy masculinity;*
- 11. Identifying signs of a relapse in negative behavior and methods of preventing relapse;*
- 12. Confidentiality;*
- 13. Ethics;*
- 14. Gender roles, socialization and the function of violence;*
- 15. Cultural competency and diversity;*
- 16. The operation of a program;*

- 17. Facilitation of group therapy;*
- 18. Facilitation of individual therapy;*
- 19. Motivational interviewing;*
- 20. Procedures for intake and assessment of participants;*
- 21. Use of questions for self-evaluation;*
- 22. Intimacy skills;*
- 23. Male and female gender socialization;*
- 24. The continuum of sexual violence;*
- 25. Pimping and trafficking;*
- 26. Any combination of subjects listed in subsections 1 to 25, inclusive; and*
- 27. Any other subject deemed appropriate by the Division.*

Sec. 30. 1. Except as otherwise provided in subsection 4, to obtain the approval of the Division to offer a course of formal training or continuing education for program facilitators, a person must apply to the Division in the form prescribed by the Division. The application must include, without limitation:

- (a) The name and address of the instructor of the course;*
- (b) The resume of the instructor;*
- (c) The syllabus for the course;*
- (d) A description of the information to be provided to persons enrolled in the course;*
- (e) Whether the course will be provided in person, through distance media or both;*
- (f) A copy of a written evaluation of the content and presentation of the course to be completed by persons enrolled in the course;*

(g) A statement describing the purpose of the course and the requirements for attendance;

and

(h) Any other information requested by the Division.

2. Information submitted pursuant to paragraph (d) of subsection 1 shall be deemed proprietary information and the Division shall not release that information without the consent of the applicant.

3. The Division must approve an application submitted pursuant to subsection 1 if it determines that:

(a) The application is complete;

(b) The instructor of the course is properly qualified, as demonstrated by his or her educational, professional and teaching experience; and

(c) The instructional materials for the course and the written evaluation to be completed by persons enrolled in the course are appropriate.

4. The Division may approve a course of formal training or continuing education for program facilitators without the submission of an application pursuant to this section if the course:

(a) Relates to a subject described in section 29 of this regulation; and

(b) Is provided by a nationally recognized person or governmental entity, as determined by the Division, a governmental entity or a college or university accredited in any state, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

5. The Division shall:

(a) Notify an applicant for approval of a course of formal training or continuing education for program facilitators pursuant to subsection 1 of its decision concerning the application not later than 60 days after receiving the application; and

(b) Maintain a list of courses approved pursuant to this section that conform to current evidence-based standards. The Division may remove a course from that list if it determines that the course no longer conforms to current evidence-based standards. The approval of a course, including, without limitation, a course that is removed from the list of approved courses, does not expire.

6. Not later than 15 days after making a determination concerning an application submitted pursuant to subsection 1, the Division shall notify the applicant of the decision. If the Division:

(a) Approves a course, the notice must set forth the number of hours of formal training or continuing education for which the course is approved.

(b) Denies approval of a course, the notice must set forth the reasons for the denial.

7. A program facilitator or applicant for approval as a program facilitator who wishes to receive credit for a course of formal training or continuing education that has not been approved by the Division must submit to the Division an application for such credit. The application must be in the form prescribed by the Division and must include, without limitation, the information prescribed by subsection 1 for an application for approval of the course. Not later than 60 days after receiving an application pursuant to this subsection, the Division shall notify the program facilitator of its decision concerning the application.

Sec. 31. 1. *The Division may deny, refuse to renew, revoke or suspend approval to serve as a program facilitator, place a program facilitator on probation with specified conditions for a specified period or issue a written warning upon determining that a program facilitator:*

(a) Has engaged in fraud or deceit in procuring or attempting to procure approval to serve as a program facilitator;

(b) Has been convicted of any offense which, in the determination of the Division, demonstrates unfitness to serve as a program facilitator or otherwise relates to the qualifications, functions or duties of the program facilitator;

(c) Uses alcohol, a controlled substance or a dangerous drug, as defined in chapter 454 of NRS, to an extent or in a manner that may be dangerous or injurious to any other person or may impair the ability of the program facilitator to serve in that capacity;

(d) Has engaged in unprofessional conduct, which includes, without limitation:

(1) Allowing a different person to use the approval to serve as a program facilitator or using the approval of another person to serve as a program facilitator; or

(2) Physical, verbal or psychological abuse of any participant in a program;

(e) Has willfully or repeatedly violated any provision of sections 2 to 40, inclusive, of this regulation;

(f) Has aided or abetted any person to violate any provision of sections 2 to 40, inclusive, of this regulation;

(g) Has been disciplined in another state in connection with serving as a program facilitator or has committed an act in another state which would constitute grounds for disciplinary action pursuant to this section;

(h) Has engaged in conduct that is likely to deceive, defraud or endanger a participant in a program or the general public;

(i) Has engaged in an unethical practice in the treatment of persons who solicit prostitution, including, without limitation, any practice prohibited by subsection 4 of section 26 of this regulation; or

(j) Has failed to comply with the requirements of subsection 5 of section 27 of this regulation.

2. For the purposes of this section, a plea or verdict of guilty or guilty but mentally ill or a plea of nolo contendere shall be deemed a conviction of an offense. The Division may take disciplinary action pending the appeal of a conviction.

3. A program facilitator whose approval to serve as a program facilitator has been suspended or revoked or whose application to renew approval has been denied shall not work for a program pending the result of an appeal filed pursuant to section 34 of this regulation.

Sec. 32. *1. The Division may conduct any investigation necessary to carry out the provisions of section 31 of this regulation, including, without limitation, an investigation to determine whether a program facilitator has committed an act that constitutes a ground for disciplinary action as set forth in that section.*

2. A program facilitator who is investigated pursuant to this section shall participate in any interview and provide any documentation or information requested by the Division as part of the investigation.

3. The Division may assess against and collect from a program facilitator against whom disciplinary action is imposed pursuant to section 31 of this regulation any cost incurred by the Division relating to the imposition of the disciplinary action, which may include, without

limitation, the cost of investigators and stenographers, attorney's fees and costs of a hearing pursuant to section 34 of this regulation.

Sec. 33. 1. *The Division may refuse to issue or renew a certificate for a program, revoke or suspend a certificate, or place a program on probation with specified conditions for a specified period or issue a written warning if:*

(a) The person or governmental entity that operates the program has failed to comply with any provision of sections 2 to 40, inclusive, of this regulation;

(b) The person or governmental entity that operates the program obtained a certificate or any other license by fraudulent misrepresentation;

(c) A program facilitator or other staff member of the program commits gross malpractice related to the program;

(d) A program facilitator or other staff member of the program, while at a facility of the program or while performing any work for the program, has been intoxicated or used or possessed a controlled substance without a prescription;

(e) A program facilitator or other staff member of the program has engaged in violent behavior or been convicted of a crime which demonstrates unfitness to be a program facilitator or other staff member of the program;

(f) The person or governmental entity that operates the program or a program facilitator or other staff member of the program has engaged in any unethical practice in the treatment of persons who solicit prostitution;

(g) The person or governmental entity that operates the program fails to notify the Division of a change in the program as required by section 12 of this regulation;

(h) The person or governmental entity that operates the program or a program facilitator or other staff member of the program fails to comply with a stipulation, agreement, order, advisory opinion or declaratory order issued by the Division;

(i) The program provides treatment to an offender after its certificate has expired; or

(j) The person or governmental entity that operates the program or a program facilitator or other staff member of the program has engaged in any other unjust practice, method or treatment which the Division determines warrants such an action.

2. For the purposes of this section, a plea or verdict of guilty or guilty but mentally ill or a plea of nolo contendere shall be deemed a conviction of an offense. The Division may take disciplinary action pending the appeal of a conviction.

3. The Division may assess against and collect from a program against whom disciplinary action is imposed any costs incurred by the Division relating to the imposition of the disciplinary action, including, without limitation, the cost for investigators and stenographers, attorney's fees and the cost of a hearing pursuant to section 34 of this regulation.

Sec. 34. 1. An aggrieved person may appeal a decision of the Division concerning:

(a) Any disciplinary action taken against a program facilitator pursuant to section 31 of this regulation or a program pursuant to section 33 of this regulation; or

(b) The denial of approval of a course of formal training or continuing education for program facilitators pursuant to section 30 of this regulation.

2. An appeal pursuant to this section must be conducted in accordance with NAC 439.300 to 439.395, inclusive.

Sec. 35. 1. If the Division intends to suspend approval of a person to serve as a program facilitator pursuant to section 31 of this regulation or the certificate of a program

pursuant to section 33 of this regulation, the Division must notify the program facilitator or program, as applicable, of:

- (a) The actions that must be taken to prevent the suspension; and*
- (b) The date by which those actions must be completed.*

2. A written warning issued pursuant to section 31 or 33 of this regulation must include, without limitation:

- (a) The specific reason for the warning;*
- (b) A citation to the statute or regulation that the Division determined has been violated;*

and

- (c) A statement of any action that the Division has determined to be a violation.*

Sec. 36. *Any notice that is required to be provided to a person pursuant to sections 2 to 40, inclusive, of this regulation, chapter 233B of NRS or NAC 439.300 to 439.395, inclusive, shall be deemed sufficient if the notice is sent to the last address or the electronic mail address provided to the Division by the person to whom the notice is required to be delivered.*

Sec. 37. *1. The Division may conduct an on-site inspection of a program at any time to determine whether the person or governmental entity that operates the program is in compliance with the provisions of sections 2 to 40, inclusive, of this regulation.*

2. Upon completion of an inspection, the Division shall:

(a) Compile a report of the inspection, which must include, without limitation, a description of each violation discovered during the inspection or a statement that no violation was discovered during the inspection; and

(b) Make the report available to the program that is the subject of the report.

Sec. 38. 1. Any person may submit a complaint to the Division alleging that a program or program facilitator has violated any provision of sections 2 to 40, inclusive, of this regulation.

2. The Division shall not consider a complaint concerning the cost of services provided by a program.

3. Upon the receipt of a complaint, the Division shall provide written notice of receipt of the complaint to the person who filed the complaint.

4. Not later than 45 days after receiving a valid complaint concerning a program or program facilitator pursuant to subsection 1, the Division shall initiate an investigation of the program or program facilitator, as applicable. The Division may also investigate a program or program facilitator if it determines that a program or program facilitator, as applicable, has likely committed an action described in subsection 1, regardless of whether a complaint is submitted.

5. An investigation conducted pursuant to subsection 4 may include, without limitation:

(a) Requesting additional information or documentation from the complainant or the program or program facilitator who is the subject of the investigation or from any other person involved in the investigation; and

(b) Visiting any site at which the program operates or the program facilitator serves, as applicable, to interview staff and clients, review records and make observations.

6. An investigation conducted pursuant to this section may include any matter that appears to constitute a violation of sections 2 to 40, inclusive, of this regulation, regardless of whether the matter is included in the complaint.

7. Not later than 10 business days after completing an investigation, the Division shall:

(a) Compile a report of the investigation, which must include, without limitation, a description of each violation discovered during the inspection or a statement that no violation was discovered during the investigation; and

(b) Make the report available to the program or program facilitator, as applicable, that is the subject of the report.

8. The dismissal of a complaint must not be construed as preventing or limiting any subsequent investigation or other action by the Division.

Sec. 39. 1. If an employee of the Division travels to investigate a program facilitator for a program that is not located in this State pursuant to section 32 of this regulation, inspect such a program pursuant to section 37 of this regulation or investigate such a program pursuant to section 38 of this regulation, the person or governmental entity that operates the program must reimburse the Division for the per diem and travel expenses provided for state officers and employees generally for the period of the investigation or inspection, as applicable.

2. If a report compiled as the result of an inspection conducted pursuant to section 37 of this regulation or the investigation of a complaint pursuant to section 38 of this regulation indicates that a program has violated any provision of sections 2 to 40, inclusive, of this regulation, the program shall, not later than 10 days after the report is made available to the program, submit to the Division a plan of correction for each violation. The plan of correction must include specific actions that will be taken to correct the violation, the date by which such actions will be taken and the name and title of the employee or independent contractor of the program who is responsible for ensuring that the plan is carried out. Failure to submit a plan

of correction in a timely manner constitutes a separate violation for which the Division may impose additional disciplinary action.

3. If the Division determines that a plan of correction is:

(a) Acceptable, the Division must notify the program of its determination; or

(b) Not acceptable, the Division may require the program to:

(1) Submit a revised plan of correction; or

(2) Comply with a plan of correction prescribed by the Division.

4. A plan of correction submitted to the Division pursuant to this section is confidential until the Division approves the plan.

Sec. 40. *1. Except as otherwise provided in this section and section 39 of this regulation, all proceedings and investigations resulting from the submission of a complaint pursuant to section 38 of this regulation are confidential.*

2. The Division may, upon the request of any person, release a report of an inspection conducted pursuant to section 37 of this regulation or the investigation of a complaint pursuant to section 38 of this regulation after the earlier of:

(a) Fourteen days immediately following the date on which the report is made available to the program or program facilitator, as applicable, that is the subject of the report; or

(b) The date on which a plan of correction is approved pursuant to section 39 of this regulation.

3. If the Division releases a report pursuant to subsection 2, the Division must redact:

(a) The name and any personally identifying information of a person; and

(b) Any other information declared by law to be confidential.