

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

LCB File No. R093-22

July 15, 2022

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

AUTHORITY: §§ 1-5, NRS 433.324, 433.631 and 433.639.

A REGULATION relating to peer recovery support services; establishing the procedure for the investigation of a complaint alleging certain violations; authorizing the imposition of certain civil penalties for such violations; authorizing an appeal of such a civil penalty; providing for the confidentiality of certain records; establishing the procedure to petition for authorization to serve in certain positions despite a substantiated report of child abuse or neglect or certain related violations; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law prohibits a person from providing or supervising the provision of peer recovery support services for compensation as a regular part of his or her job duties or holding himself or herself out as authorized to provide or supervise the provision of such peer recovery support services unless he or she holds an appropriate certificate issued by the Nevada Certification Board or its successor organization. (NRS 433.631) Unless specifically authorized by the Division of Public and Behavioral Health of the Department of Health and Human Services, existing law also prohibits a person who has, within the immediately preceding 5 years, had a substantiated report of child abuse or neglect or certain related violations from serving as an employee or independent contractor who provides or supervises the provision of peer recovery support services in a position where the person has regular and substantial contact with minors. (NRS 433.639) **Section 2** of this regulation prescribes a process for the investigation of a complaint alleging a violation of those requirements. **Section 2** also authorizes the Division to disclose any information collected as part of such an investigation to the Nevada Certification Board or its successor organization. **Section 3** of this regulation prescribes the civil penalties that the Division may impose for such a violation. **Section 3** also authorizes a person aggrieved by the imposition of such a civil penalty to file an appeal with the Division. **Section 4** of this regulation provides that: (1) a complaint and any documents and information considered by the Division when determining whether to impose a civil penalty are public records; and (2) all other documents and information relating to an investigation conducted pursuant to **section 2** are confidential.

Existing law authorizes the Division to establish by regulation a process by which it may review evidence upon request to determine whether an employee or independent contractor who

has, within the immediately preceding 5 years, had a substantiated report of child abuse or neglect or certain related violations made against him or her may continue to provide or supervise the provision of peer recovery support services and have regular and substantial contact with minors despite the report. (NRS 433.639) **Section 5** of this regulation establishes such a process.

Section 1. Chapter 433 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. 1. *Upon receiving a complaint alleging a violation of NRS 433.631 or 433.639, the Division shall investigate the complaint. The investigation may include, without limitation:*

(a) An investigation of any person providing or supervising the provision of peer recovery support services, the employer of such a person or any other person or entity against whom allegations are made in the complaint;

(b) An interview of any person whom the Division determines to be relevant to the investigation;

(c) An observation on the site of any premises, as the Division determines is relevant to the investigation; and

(d) A request for any documents or information that the Division determines to be relevant to the investigation, including, without limitation:

(1) The name, residential address, business address, electronic mail address or telephone number of any person or entity;

(2) The results of or other documents relating to any investigation conducted by:

(I) The Nevada Certification Board or its successor organization;

(II) The employer of any person providing or supervising the provision of peer recovery support services; or

(III) Any other person or entity who has conducted an investigation relevant to the allegations contained in the complaint; or

(3) Any relevant documents maintained by the Nevada Certification Board or its successor organization.

2. The Division may provide any information collected as part of an investigation conducted pursuant to subsection 1 to the Nevada Certification Board or its successor organization.

Sec. 3. 1. If the Division determines after an investigation conducted pursuant to section 2 of this regulation and providing notice pursuant to NAC 439.345 that any person or entity has violated the provisions of NRS 433.631 or 433.639, the Division may impose a civil penalty not to exceed \$100 for each violation.

2. In addition to a civil penalty imposed pursuant to subsection 1, the Division may impose a civil penalty in an amount to be determined by the Division for each day a violation continues after the Division has notified the relevant person or entity of the violation.

Penalties imposed pursuant to this subsection must not exceed \$10,000 in the aggregate.

3. Any person aggrieved by the imposition of a civil penalty pursuant to this section may file an appeal with the Division in accordance with the procedures set forth in NAC 439.300 to 439.395, inclusive.

Sec. 4. 1. Except as otherwise provided in subsection 2 and NRS 239.0115, any documents and information obtained during an investigation conducted pursuant to section 2 of this regulation and any record of such an investigation are confidential.

2. The complaint filed with the Division pursuant to section 2 of this regulation and all documents and information considered by the Division when determining whether to impose a civil penalty pursuant to section 3 of this regulation are public records.

Sec. 5. 1. An employee or independent contractor who provides or supervises the provision of peer recovery support services in a position where he or she has regular and substantial contact with minors and has, within the immediately preceding 5 years, had a substantiated report of child abuse or neglect or a violation of NRS 201.540, 201.560, 392.4633 or 394.366 made against him or her may petition the Division for authorization to provide or supervise the provision of peer recovery support services in a position where he or she has regular and substantial contact with minors despite the report.

2. A petition submitted pursuant to subsection 1 must be:

(a) In the form prescribed by the Division and include:

(1) The name of the petitioner;

(2) The social security number of the petitioner or, if the petitioner has not been assigned a social security number, the taxpayer identification number of the petitioner;

(3) The consent of the petitioner for the Division to:

(I) Interview the petitioner or any other person or entity whom the Division determines may have information relevant to the petition, including, without limitation, current and prior employers and family members of the petitioner; and

(II) Obtain any information that the Division determines necessary to evaluate the petition; and

(b) Accompanied by a copy of the substantiated report of child abuse or neglect or the violation of NRS 201.540, 201.560, 392.4633 or 394.366, as applicable.

3. *A petitioner pursuant to this section shall provide to the Division any documentation requested by the Division for the purpose of evaluating the petition.*

4. *When evaluating a petition submitted pursuant to this section, the Division shall consider:*

(a) The amount of time that has passed since the most recent substantiated report of child abuse or neglect or the violation of NRS 201.540, 201.560, 392.4633 or 394.366 by the petitioner;

(b) The number of substantiated reports of child abuse or neglect or violations of NRS 201.540, 201.560, 392.4633 or 394.366 by the petitioner;

(c) Demonstration of rehabilitation of the petitioner;

(d) Relevance of the reported child abuse or neglect or the violation of NRS 201.540, 201.560, 392.4633 or 394.366 to the employment or contracted position of the petitioner;

(e) Whether the employer of the petitioner or the person with whom the petitioner has entered into a contract for the provision or supervision of the provision of peer recovery support services is aware of the reported child abuse or neglect or the violation of NRS 201.540, 201.560, 392.4633 or 394.366;

(f) Whether the person is required by federal or state law to register as a sex offender; and

(g) Any relevant extenuating circumstances.

5. *Not later than 90 days after the date on which the Division receives a petition submitted pursuant to this section, the Division shall issue and provide to the petitioner a written decision concerning whether the petitioner may provide or supervise the provision of peer recovery support services in a position where the person has regular and substantial contact with minors.*

6. The Division may rescind a written decision issued pursuant to subsection 5 at any time.

7. Not sooner than 2 years after the date on which the Division issues a written decision pursuant to subsection 5 prohibiting a person from providing or supervising the provision of peer recovery support services in a position where the person has regular and substantial contact with minors, the petitioner may submit a new petition pursuant to this section.

8. A petition submitted pursuant to this section and all information included in or accompanying such a petition is confidential. A final written decision issued pursuant to subsection 5 is a public record.