

**PROPOSED REGULATION OF THE
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH OF THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

LCB File No. R073-24

June 11, 2024

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

AUTHORITY: §§ 1-7, NRS 439.258.

A REGULATION relating to domestic violence; clarifying that certain organizations are not prohibited from providing treatment relating to domestic violence to persons who have not been ordered by a court to participate in a certified program for the treatment of persons who commit domestic violence; requiring an applicant for the issuance or renewal of a certificate for a program to submit certain information relating to the curriculum and instructional materials of the program; requiring the Division of Public and Behavioral Health of the Department of Health and Human Services to notify an applicant of an incomplete application for a certificate; revising the qualifications for supervisors of treatment at certified programs; eliminating the requirement that certain information be recorded in a form approved by the Division; revising provisions relating to the renewal of a certificate for a program; repealing obsolete provisions relating to the Committee on Domestic Violence; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Division of Public and Behavioral Health of the Department of Health and Human Services to: (1) evaluate, certify and monitor programs for the treatment of persons who commit domestic violence; and (2) adopt regulations governing the evaluation, certification and monitoring of such programs. (NRS 439.258) Existing law provides that a court shall require certain persons who are convicted of a battery which constitutes domestic violence to participate in such a program that has been certified by the Division. (NRS 200.485)

Section 1 of this regulation clarifies that the provisions of the Nevada Administrative Code relating to programs for the treatment of persons who commit domestic violence do not prohibit: (1) an organization that has not obtained a certificate for a program from providing treatment relating to domestic violence to persons who have not been ordered by a court to participate in a program; and (2) an organization that operates a program from, in addition to providing treatment to offenders, providing treatment relating to domestic violence to persons who have not been ordered by a court to participate in a program.

Existing regulations set forth the requirements for an organization to apply for a certificate for a program, including that the applicant include a copy of the curriculum and the instructional materials that will be used in the program. (NAC 228.100) **Section 2** of this regulation requires that an applicant also submit proof that the applicant has permission to use the curriculum and instructional materials for the entire period during which the certificate will be valid. **Section 6** of this regulation adds the same requirement for an application for the renewal of a certificate. **Section 2** also requires the Division to notify an applicant if additional information to complete the application is required, similar to a requirement in existing regulations relating to applications for the renewal of a certificate. (NAC 228.130)

Existing regulations set forth the qualifications for supervisors of treatment at a certified program, including that a person: (1) possess a master's or doctorate degree in a field of clinical human services; and (2) be licensed in good standing in this State as certain professionals. (NAC 228.110) **Section 4** of this regulation defines the term "field of clinical human services." **Section 4** further provides that certain persons may also serve as a supervisor of treatment, including, a person who is licensed: (1) as an alcohol and drug counselor; (2) as a clinical alcohol and drug counselor; or (3) as an advanced practice registered nurse and practices psychiatry. **Section 4** eliminates certain exceptions to the qualifications to be a person who was employed, or retained as an independent contractor in the position of a supervisor of treatment or provider of treatment on the effective date of LCB File No. R071-20 (July 28, 2021).

Existing regulations require that each supervisor of treatment in a certified program record certain information in a form approved by the Division. (NAC 228.115) **Section 5** of this regulation eliminates the requirement that the information be recorded in a form approved by the Division.

Existing regulations provide that the Division will renew a certificate for a program if the Division determines that the organization which operates the program has submitted: (1) proof of completion of certain hours of continuing education by supervisors of treatment and providers of treatment; (2) a copy of certain attestations; and (3) certain annual reports. (NAC 228.130) **Section 6** of this regulation eliminates these requirements.

Existing regulations provide that: (1) the Division will provide to the Committee on Domestic Violence certain information relating to an application for the certificate of a program; and (2) the Committee is required to provide to the Division a written recommendation as to whether the program should be certified. (NAC 228.101) **Section 7** of this regulation repeals these obsolete provisions, as the Committee no longer has the authority to certify such programs. **Section 3** of this regulation makes a conforming change to eliminate an internal reference to the provision that is repealed by **section 7**.

Section 1. Chapter 228 of NAC is hereby amended by adding thereto a new section to read as follows:

Nothing in this chapter prohibits:

1. An organization that has not obtained a certificate for a program from providing treatment relating to domestic violence to persons who have not been ordered by a court of competent jurisdiction in this State to participate in a program.

2. An organization that operates a program from, in addition to providing treatment to offenders, providing treatment relating to domestic violence to persons who have not been ordered by a court of competent jurisdiction in this State to participate in a program.

Sec. 2. NAC 228.100 is hereby amended to read as follows:

228.100 1. Except as otherwise provided in subsection 4, an organization which desires to obtain a certificate for a program must submit an application to the Division in the form prescribed by the Division, including, without limitation:

(a) Proof that the organization has satisfied the requirements of subsection 3;

(b) A copy of the curriculum and the instructional materials that will be used in the program and that satisfy the requirements set forth in NAC 228.185 ~~H~~ *and proof that the applicant has permission to use the curriculum and the instructional materials for the entire period during which the certificate will be valid;*

(c) A statement of whether the applicant has a state business license and, if so, the business identification number assigned by the Secretary of State upon compliance with the provisions of chapter 76 of NRS;

(d) The name and address of the program;

(e) The name of each owner of the program or, if the program is operated by a corporation, the name of each:

(1) Officer and director of the corporation; and

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

(f) Except as otherwise provided in subsection 5, the telephone number and electronic mail address of the program;

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

(h) A signed statement by the director of the program or his or her designee attesting that the program complies with the requirements of NAC 228.010 to 228.275, inclusive, and sections 2, 3 and 4 of LCB File No. R071-20; and

(i) Any other information required by the Division.

2. The application must be signed by the director of the program or his or her designee.

3. To obtain a certificate, an organization which operates a program must:

(a) Employ, or retain as an independent contractor, one or more providers of treatment who are qualified pursuant to NAC 228.110 to treat persons who commit domestic violence;

(b) Employ, or retain as an independent contractor, at least one supervisor of treatment who is qualified pursuant to NAC 228.110 to supervise the treatment of persons who commit domestic violence;

(c) Employ, or retain as an independent contractor, a director of the program who:

(1) Is qualified pursuant to NAC 228.108; and

(2) May also serve as a supervisor of treatment as required by paragraph (b) if he or she meets the requirements of NAC 228.110;

(d) Satisfy the requirements of NAC 228.010 to 228.275, inclusive, and sections 2, 3 and 4 of LCB File No. R071-20;

(e) Provide treatment to persons who have been convicted of an offense that constitutes domestic violence which meets the requirements of any court order issued pursuant to subsection 6 of NRS 200.485, if applicable;

(f) Allow an offender to attend live and interactive counseling sessions or other meetings through electronic means if:

(1) The program has implemented a mechanism to ensure that the offender attending a counseling session or meeting by electronic means is the offender who is supposed to be attending the counseling session or meeting;

(2) The electronic means by which the offender attends the counseling session or meeting allows the provider of treatment who is overseeing the counseling session or meeting to receive audio and video of the offender; and

(3) The provider of treatment who is overseeing the counseling session or meeting verifies the identity of the offender by using the mechanism described in subparagraph (1);

(g) Prohibit persons who have been convicted of a first offense that constitutes domestic violence within the immediately preceding 7 years from having more than four unexcused absences within a period of 6 months; and

(h) Prohibit persons who have been convicted of a second offense that constitutes domestic violence within the immediately preceding 7 years from having more than eight unexcused absences within a period of 12 months.

4. In lieu of complying with the provisions of subsections 1 and 2, an organization that operates a program certified pursuant to this section and wishes to obtain a certificate for another program may submit an abbreviated application to the Division if the curriculum and instructional materials for the additional program are substantially similar to the curriculum and instructional materials used in the certified program. An application submitted pursuant to this subsection must be in the form prescribed by the Division and be signed by the director of the additional program or his or her designee.

5. The Division may exempt an applicant from the requirements of paragraph (f) of subsection 1 if the applicant attests that telephone and electronic mail are not feasible means by which to communicate with the applicant and that United States mail is the only feasible means by which to communicate with the applicant.

6. *If the Division receives an incomplete application pursuant to subsection 1, the Division will notify the applicant of the additional information required to complete the application. If the Division does not receive the additional information within 90 days after the date on which the applicant is notified, the Division will deny the application.*

7. By submitting an application pursuant to subsection 1 or 4, an applicant authorizes the Division to investigate as it determines is necessary to verify the information set forth in the application. Upon the request of the Division, the applicant must submit verification of that information.

Sec. 3. NAC 228.102 is hereby amended to read as follows:

228.102 1. The Division may issue a provisional certificate to an organization that operates a program if ~~f:~~

~~—(a) The~~ *the* organization has submitted an application pursuant to NAC 228.100 and has substantially complied with the requirements set forth in that section. ~~f: and~~

~~—(b) The Division has not yet received the written recommendation of the Committee pursuant to subsection 2 of NAC 228.101.f~~

2. A provisional certificate expires on the date that the Division grants or denies certification to the program.

3. For the purposes of this section an organization has substantially complied with the requirements set forth in NAC 228.100 if the organization has employed, or retained as an independent contractor:

(a) One or more providers of treatment and at least one supervisor of treatment who meet the training and education requirements set forth in NAC 228.110; and

(b) A director of the program who meets the requirements of NAC 228.108.

Sec. 4. NAC 228.110 is hereby amended to read as follows:

228.110 1. A person may be employed, or retained as an independent contractor, in the position of a supervisor of treatment at a program if he or she:

(a) Possesses a master's or doctorate degree in a field of clinical human services from an accredited college or university;

(b) Except as otherwise provided in subsection 3, is licensed in good standing in this State:

(1) As a psychologist pursuant to chapter 641 of NRS;

(2) As a marriage and family therapist pursuant to chapter 641A of NRS;

(3) As a clinical professional counselor pursuant to chapter 641A of NRS;

(4) As a clinical social worker pursuant to chapter 641B of NRS; ~~to~~

(5) *As an alcohol and drug counselor or a clinical alcohol and drug counselor pursuant to chapter 641C of NRS;*

(6) *As an advanced practice registered nurse pursuant to chapter 632 of NRS and practices psychiatry; or*

(7) To practice medicine pursuant to chapter 630 or 633 of NRS and practices psychiatry;

(c) Except as otherwise provided in subsection 2, has:

(1) At least 2 years of experience in a supervisory capacity in the provision of services to victims of domestic violence or in the treatment of persons who commit domestic violence; or

(2) At least 5 years of experience in the direct provision of services to victims of domestic violence or treatment of persons who commit domestic violence;

(d) Has satisfactorily completed at least 60 hours of formal training in domestic violence which includes at least 30 hours of training in the provision of services to victims of domestic violence and at least 30 hours of training in the provision of treatment to persons who commit domestic violence;

(e) Has satisfactorily completed at least 15 hours of the training in domestic violence required by paragraph (d) during the 2 years immediately preceding the date on which the person is employed, or retained as an independent contractor, in the position of a supervisor of treatment at the program;

(f) Except for any conviction which is the subject of a pending appeal or with respect to which the time for filing a notice of appeal has not yet expired, attests, in the form prescribed by the Division, that he or she has never been convicted of a crime which demonstrates the person's unfitness to act as a supervisor of treatment;

(g) Is free of violence in his or her life;

(h) Is not currently a person with an addictive disorder related to prescription drugs or alcohol or a user of illegal drugs; and

(i) Except as otherwise provided in ~~subsections~~ **subsection 3**, ~~and 9,~~ is approved by the Division to work as a supervisor of treatment pursuant to section 2 of LCB File No. R071-20.

2. The provisions of paragraph (c) of subsection 1 do not apply to a person who is employed, or retained as an independent contractor, in the position of a supervisor of treatment at a program on August 1, 2000.

3. A person who does not comply with the requirements of paragraph (b) of subsection 1 may be employed, or retained as an independent contractor, in the position of a supervisor of treatment at a program if:

(a) The person submits a written request for approval to work as a supervisor of treatment to the Division that includes, without limitation:

(1) A statement concerning his or her work history, education and experience; and

(2) ~~Except as otherwise provided in subsection 9, the~~ *The* application required for approval to work as a supervisor of treatment described in section 2 of LCB File No. R071-20;

(b) Upon the request of the Division, the person participates in an interview with the Division in person or by telephone, videoconference or other electronic means; and

(c) The Division approves the request for approval to work as a supervisor of treatment.

4. Within 120 days after the Division receives a request for approval to work as a supervisor of treatment pursuant to subsection 3, the Division will provide written notice of its approval or denial of the request to the person who submitted the request. If the Division denies the request, the notice will include the reasons for the denial of the request.

5. Unless a person who is employed, or retained as an independent contractor, in the position of a supervisor of treatment at a program pursuant to subsection 3 fails to renew his or her approval to work as a supervisor of treatment in a timely manner pursuant to section 3 of LCB File No. R071-20, the person is approved to work as a supervisor of treatment until the person is no longer employed, or retained as an independent contractor, by an organization that

operates a program if he or she meets the annual continuing education requirements set forth in NAC 228.210.

6. A person may be employed, or retained as an independent contractor, in the position of a provider of treatment at a program if the person:

(a) Except as otherwise provided in subsection 7, possesses a bachelor's degree or more advanced degree;

(b) Is supervised by a supervisor of treatment who is qualified pursuant to subsection 1, 2 or 3 and that supervision includes, without limitation, meeting with the supervisor of treatment in person at least once each month and having the supervisor of treatment submit annual reports of satisfactory performance to the Division;

(c) Has satisfactorily completed at least 60 hours of formal training in domestic violence that includes, without limitation, at least 30 hours of training in the provision of services to victims of domestic violence and at least 30 hours of training in the provision of treatment to persons who commit domestic violence;

(d) Has satisfactorily completed at least 15 hours of the training in domestic violence required by paragraph (c) during the 2 years immediately preceding the date on which the person is employed, or retained as an independent contractor, in the position of a provider of treatment at the program;

(e) Except for any conviction which is the subject of a pending appeal or with respect to which the time for filing a notice of appeal has not yet expired, attests, in the form prescribed by the Division, that he or she has never been convicted of a crime which demonstrates the person's unfitness to act as a provider of treatment;

(f) Is free of violence in his or her life;

(g) Is not currently a person with an addictive disorder related to prescription drugs or alcohol or a user of illegal drugs; and

(h) Except as otherwise provided in ~~subsections~~ *subsection 7*, ~~and 9,~~ is approved to work as a provider of treatment pursuant to section 2 of LCB File No. R071-20.

7. The Division may approve a person to be employed, or retained as an independent contractor, in the position of a provider of treatment at a program although the person does not meet the requirements of paragraph (a) of subsection 6, and a program may employ, or retain as an independent contractor, the person approved by the Division, if the program is located in a county whose population is less than 50,000 and the person proves, to the satisfaction of the Division, that:

(a) There is not another program located within a 50-mile radius of the program, or within the city or county in which the program is located;

(b) The person possesses the necessary skills and training to perform his or her job;

(c) ~~Except as otherwise provided in subsection 9, the~~ *The* person has submitted to the Division the application required to be approved to work as a provider of treatment described in section 2 of LCB File No. R071-20; and

(d) The person has satisfied all other requirements of this section.

8. A person who is employed, or retained as an independent contractor, in the position of a provider of treatment at a program pursuant to subsection 7 is approved to work as a provider of treatment for a period which ends on:

(a) The expiration date of the approval to work as a provider of treatment, if the provider of treatment fails to renew the approval in a timely manner pursuant to section 3 of LCB File No. R071-20; or

(b) The date on which the program ceases to operate,

↳ whichever occurs first.

~~9. [The provisions of paragraph (i) of subsection 1, subparagraph (2) of paragraph (a) of subsection 3, paragraph (h) of subsection 6 and paragraph (c) of subsection 7 do not apply to a person who is employed, or retained as an independent contractor, in the position of a supervisor of treatment or provider of treatment on the effective date of LCB File No. R071-20.~~

~~—10.— The director of a program or his or her designee shall:~~

~~—(a) Upon hiring, or retaining as an independent contractor, a person in the position of a supervisor of treatment or a provider of treatment, attest in writing that the person meets the requirements of this section as a supervisor of treatment or a provider of treatment, as applicable; and~~

~~—(b) Maintain a copy of the written attestation described in paragraph (a) for the duration of the person's employment or service as an independent contractor and provide it to the Division upon request and as required by NAC 228.130.~~

~~—11.] As used in this section [,"free] :~~

(a) "Field of clinical human services" means a field of study in one of the following areas:

(1) Allopathic medicine;

(2) Cognitive sciences;

(3) Community mental health;

(4) Counseling or any subset of counseling, including, without limitation, clinical mental health counseling or marriage and family therapy;

(5) Education, including, without limitation, a degree in education with an emphasis on school counseling, counselor education or special education;

(6) Human development, including, without limitation, child or adolescent development and family relationships;

(7) Human services;

(8) Nursing;

(9) Osteopathic medicine;

(10) Psychiatric rehabilitation;

(11) Psychology or any subset of psychology, including, without limitation, educational psychology or developmental psychology;

(12) Social work; or

(13) Sociology or sociological practice.

(b) “Free of violence in his or her life” means that a person:

~~(a)~~ *(1) Does not engage in acts of physical violence;*

~~(b)~~ *(2) Does not verbally abuse, threaten, coerce or intimidate other persons on a regular basis;*

~~(c)~~ *(3) Does not deny personal responsibility for the person’s actions or blame other persons for his or her mistakes on a regular basis; and*

~~(d)~~ *(4) Lives his or her life in a manner that is capable of serving as a model of nonviolent behavior.*

Sec. 5. NAC 228.115 is hereby amended to read as follows:

228.115 1. The organization that operates a program shall ensure that each supervisor of treatment:

(a) Meets individually at least once each month with each provider of treatment he or she supervises;

- (b) Is available by telephone to consult with each provider of treatment he or she supervises;
- (c) Reviews, at least once each month, a random sample of at least 10 percent of the records of the offenders who are receiving treatment from each provider of treatment he or she supervises and records ~~in a form approved by the Division~~ each record he or she reviews;
- (d) Observes, at least once every 3 months, a group counseling session conducted by each team of two providers of treatment he or she supervises who conduct counseling sessions for the program and records ~~in a form approved by the Division~~ each group counseling session he or she observes; and
- (e) Prepares an annual report concerning the performance of each provider of treatment he or she supervises.

2. A supervisor of treatment may observe a group counseling session required pursuant to paragraph (d) of subsection 1 via distance media if the session is conducted anywhere in this State other than Boulder City, Carson City, Henderson, Las Vegas, North Las Vegas, Reno or Sparks.

Sec. 6. NAC 228.130 is hereby amended to read as follows:

228.130 1. Except as otherwise provided in subsections 5 and 6, an organization that has obtained a certificate for a program pursuant to NAC 228.100 must submit a completed application to renew its certification not later than 12 months after the effective date of the certificate and every 12 months thereafter. If the organization was issued a provisional certificate pursuant to NAC 228.102 before it obtained a certificate for a program pursuant to NAC 228.100, the certificate obtained pursuant to NAC 228.100 expires 18 months after the Division first issued the provisional certificate.

2. The certificate will be renewed if the Division determines that:

(a) The application for renewal is complete ~~{1}~~, *including, without limitation, proof that the program has permission to use the curriculum and the instructional materials for the entire period during which the renewed certificate will be valid;*

(b) The organization which operates the program has satisfied the requirements of subsection 3 of NAC 228.100;

(c) The program has passed the inspection of the Division conducted pursuant to NAC 228.270, if one is conducted;

(d) The organization which operates the program has submitted:

~~(1) Proof of completion of the hours of continuing education required by NAC 228.210;~~
~~—(2) For each person hired or retained as an independent contractor in the position of a supervisor of treatment or a provider of treatment during the previous year, a copy of the attestation required by subsection 10 of NAC 228.110;~~

~~—(3) The annual reports required by NAC 228.115;~~

~~—(4)~~ The names of each provider of treatment or supervisor of treatment hired or retained as an independent contractor by the program after the date on which the initial application or the most recent application for renewal of the certificate, whichever is more recent, was submitted;

~~{(5) Proof that each provider of treatment or supervisor of treatment hired or retained as an independent contractor by the program has completed the continuing education required by NAC 228.210 for the period after the date on which the initial application or the most recent application for renewal of the certificate, whichever is more recent, was submitted;~~

~~{(6)}~~ (2) Any notification required by NAC 228.125; and

~~{(7)}~~ (3) Any other information required by the Division; and

(e) The director of the program or his or her designee has signed the application for renewal.

3. Except as otherwise provided in subsection 6, if a completed application and the ~~{documents}~~ *information* described in paragraph (d) of subsection 2 are not received by the Division on or before the renewal date of the certificate, the certificate expires 30 days after that date.

4. If a completed application is:

(a) Submitted electronically, it shall be deemed received by the Division on the date on which the Division records the application as having been received.

(b) Deposited with the United States Postal Service, it shall be deemed received by the Division on the date indicated on the post office cancellation mark stamped upon the envelope containing the document if:

(1) The envelope is properly addressed as instructed by the Division; and

(2) That date is earlier than the actual receipt of that document.

5. If an incomplete application for the renewal of a certificate is submitted, the Division will notify the applicant of the additional information required to complete the application. If the Division does not receive the additional information within 90 days after the date of the notice, the Division will deny the application.

6. The organization may renew the certificate within 30 days after the renewal date of the certificate if the organization complies with the requirements set forth in subsection 2.

7. If a certificate is not renewed in a timely manner as required by subsection 1 or 6 or renewal of a certificate is denied pursuant to subsection 5:

(a) The Division will remove the program from the list of programs that it makes available to the courts of this State; and

(b) The organization which operated the program may reapply for certification of the program pursuant to NAC 228.100.

Sec. 7. NAC 228.101 is hereby repealed.

TEXT OF REPEALED SECTION

228.101 Application: Provision to Committee; meeting of Committee to consider; transmittal of Committee's recommendation to Division. (NRS 439.258)

1. Upon receiving an application for the certification of a program pursuant to NAC 228.100, the Division will provide to the Committee:

(a) The application for a recommendation as to whether the program should be certified; and

(b) The date by which the Committee must include the application on an agenda of a meeting of the Committee, which must be at least 30 days after the date on which the Division provides the application to the Committee.

2. Not later than 15 days after the meeting of the Committee described in paragraph (b) of subsection 1, the Committee shall provide to the Division its written recommendation as to whether the program whose application was included on the agenda of the meeting should be certified. The recommendation may be provided electronically. Except as otherwise provided in subsection 1 of NAC 228.102, the Division will not certify a program until it receives the written recommendation of the Committee.