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**PROPOSED REGULATION OF THE DIVISION OF MENTAL
HEALTH AND DEVELOPMENTAL SERVICES OF THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

CHAPTER 435 – RETARDED PERSONS

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GENERAL PROVISIONS

NAC 435.010 Definitions. As used in this chapter, unless the context otherwise requires:

1. "Administrator" means the administrator of the division.
2. "Division" means the division of mental health and developmental services of the department of health and human services ~~[human resources]~~.
3. *"Agency" means an agency within the Division of Mental Health and Developmental Services.*

COMMUNITY TRAINING CENTERS FOR RETARDED PERSONS

NAC 435.200 Original application.

1. An original application is an application from a center which was not funded from the community training center account during the preceding state fiscal year.
2. Original applications for community training centers must be submitted on or before April 1 to be considered for aid during the next state fiscal year.

NAC 435.205 Contents of application.

1. To qualify for funding, a center must file an application with the division annually on or before April 1 at the office of the coordinator of the community training centers. The following information must be provided on the forms indicated, which will be furnished by the division:

- (a) The name and address of the center on form CTC-1.
- (b) The names, addresses and qualifications of administrative personnel on form CTC-2.
- (c) An outline of the educational and vocational training or habilitation program to be offered, on forms CTC-3 and CTC-4.
- (d) The number of enrollees expected for the coming state fiscal year on form CTC-1.
- (e) A complete and detailed financial statement for the operations for the coming state fiscal year, including salaries, operations, transportation, equipment and other sources of income and expenses, on form CTC-5.

2. An applicant also must provide the following information:

(a) An affidavit that the center is nonsectarian and a nonprofit organization under the Internal Revenue Code of 1954 as amended (26 U.S.C. § 501(c)(3)), on form CTC-1.

(b) Proof of insurance coverage. Except as otherwise provided in this paragraph, the insurance must provide coverage for a minimum liability of \$1,000,000 per occurrence of bodily injury or equivalent coverage. The insurance must be current and the center shall, each year, verify this coverage to the division on form CTC-1. A center may request, and the division may grant, a reduction in the minimum insurance coverage required pursuant to this paragraph on the basis of financial hardship.

(c) Proof of employer's liability coverage under the state industrial insurance system or other similar coverage on form CTC-1.

(d) An authorized signature of the applicant on form CTC-1b.

(e) The name of the sponsoring organization on form CTC-1.

(f) An affidavit stating that the ratio of the staff to the enrollees does not exceed:

- (1) One to 8 for regular programs for adults;
- (2) One to 5 for prework habilitation programs for adults; or
- (3) The ratio to be established for each enrollee for intensive training programs for adults,

unless a smaller proportion of enrollees is required by the division. The ratio must be based on the programmatic needs of the enrollees and be approved by the division.

(g) A signed subcontract for the provision of services pursuant to 42 U.S.C. §§ 1397 to 1397f, inclusive.

(h) The total number of members of the staff, persons enrolled and days of care and training that the center provided during the previous state fiscal year, on form CTC-1.

(i) The total number of enrollees at the center who have been certified by the division as eligible for funding, and the days of care and training that the center provided during the previous state fiscal year to such enrollees, on form CTC-1.

(j) A financial statement showing all income received by the center during the previous state fiscal year, and the sources of that income, on form CTC-6.

NAC 435.210 Proof of compliance with local fire regulations. Each center shall provide annually, in the form of a letter and on form CTC-1, proof that it has met the requirements imposed under the local fire regulations for community training centers in its locality.

NAC 435.215 Fees.

1. Each center that receives money and charges fees for its program shall charge on a sliding scale which indicates a potential payment of zero per month.

2. The scale must be based on the ability of the enrollee to pay.

3. On all applications, the center must file with the division the fee being charged on form CTC-4.

NAC 435.220 Certificate authorizing special minimum wages.

1. Each center which provides programs for adults and is engaged in interstate commerce must have a certificate authorizing special minimum wages for handicapped workers, as provided for in the Fair Labor Standards Act (29 U.S.C. § 214) and regulations adopted pursuant thereto (29 C.F.R. part 525). Each other center that provides programs for adults must have a subminimum wage certificate issued by the rehabilitation division of the department of employment, training and rehabilitation.

2. A copy of the application for the certificate made pursuant to subsection 1 or a copy of the certificate must be attached to form CTC-1 of the original application and to each application for renewal.

NAC 435.225 Application for renewal.

1. An application for renewal is an application received from a center which was funded from the community training center account during the preceding state fiscal year. Applications for renewal for community training centers must be submitted on or before April 1 of each year.

2. To qualify for renewal of funding, a center must file an application for renewal with the division at the office of the coordinator of the community training centers which includes the information required for an original application filed pursuant to NAC 435.205.

NAC 435.230 Rejection of applications. If an application is rejected by the administrator, he will, within 10 days after the date of filing, give the applicant written notice of the rejection.

NAC 435.235 Posting of certificate. Each center which receives a certification of qualification shall post the certificate conspicuously on the premises of the center.

NAC 435.240 Counting of enrollees.

1. Except as otherwise provided in NRS 435.300, an enrollee who has been attending a program of a school during the school year and intends to return to that program is not eligible to be counted for aid to a community training center.

2. An enrollee who has been in a program of a school and has been terminated from it and is above the age of 17 is eligible to be counted as any other enrollee.

NAC 435.245 Eligibility based on attendance and provision of services.

1. Any certified enrollee who participates in a program sponsored by the community training center may be counted for each day attended for funding from the community training center account, within the limits of legislative appropriations.

2. A center is entitled to receive money, within the limits of legislative appropriations, for a certified enrollee who attends the program only part time because of the programmatic needs of the enrollee for the hours of service provided him by the center. Prior approval must be obtained from the division's representative.

3. An enrollee is eligible for funding, within the limits of legislative appropriations, for special and follow-along services if the center arranges for and provides the required services for the enrollee.

NAC 435.250 Eligibility based on retardation.

1. Except as otherwise provided in subsection 2, the division will consider a person eligible to receive support from the community training center account if:

(a) The person's:

(1) General intellectual functioning is more than two standard deviations below the mean or average of tests on general intelligence certified by the American Association on Mental Retardation;

(2) Condition originated during his developmental period; and

(3) Condition is associated with an impairment in his adaptive behavior; and

(b) The person is a client of the division.

2. A person enrolling in a center is not eligible to receive support from the account if he obtains a score of 71 or above on standardized individual tests on intelligence unless he:

(a) Shows significant developmental delays which are documented by the division; and

(b) Is specifically approved for funding by the administrator in writing.

NAC 435.255 Evaluations for eligibility.

1. The evaluation of applicants for enrollment in a center must be reviewed by:

(a) A member of the staff of the community training center who will be working directly with the applicant; and

(b) A representative of the division.

2. A person who is a client of the division may be certified as eligible for funding for regular, intensive training or a prework program if a treatment plan specifies the goals and objectives of the training or program.

NAC 435.260 Aid for enrollees eligible for aid in school district. No center may receive aid for enrollees who would otherwise qualify for care or training under programs offered to the mentally or functionally retarded in the school district in which the enrollee lives or by the county where the enrollee lives. This restriction does not preclude aid from being given on behalf of enrollees who are receiving vocational education at any center in conjunction with a school's special education program.

NAC 435.265 Certification of enrollees for eligibility.

1. The certification of enrollees as eligible for funding is the responsibility of the division. Certification will be granted only for clients of the division.
2. For each eligible enrollee, the center shall maintain at the center a file of the pertinent documentary records used for certification.
3. The division will:
 - (a) Notify the center in writing of the receipt of all forms for certification; and
 - (b) Provide money to the center, within the limits of legislative appropriations, on the basis of the number of enrollees certified and the services actually provided.
4. No money will be paid from the community training center account before certification of the enrollee. Enrollees certified by the completion of the month may be funded for that month.

NAC 435.270 Payment and use of money.

1. A full-time member of the staff who provides at least 75 percent of his total time each month with a center in direct service to its enrollees is eligible to be fully paid for his total service from the community training center account. A member of the staff who provides a lesser portion of his time in direct service to the enrollees is eligible to be paid from the account a portion based on the percentage which his direct service to enrollees is of his total service. A part-time member of the staff who is scheduled so that he spends 75 percent or more of his time with the center in direct service to enrollees may be counted toward meeting the ratio of staff to enrollees appropriate to the center's programs for each day of his service. As used in this subsection, "direct service" means:
 - (a) The treatment, training or supervision of an enrollee by an employee.
 - (b) The testing or evaluation of an enrollee.
 - (c) The development of a treatment plan or goals or the provision of services for an enrollee by a professional employee.
2. A letter of request for money to start a center from an applicant who has received approval from the commission on mental health and developmental services to establish a new center must detail proposed expenditures.
3. Except as otherwise provided in this subsection, money allocated to a center from the community training center account must be used to provide salaries and related benefits or costs for members of the staff who provide direct care, including industrial insurance, premiums for medical and dental benefits, retirement and Social Security. Of the total amount granted to a center, a maximum of 20 percent may be allocated to other costs of operating, including rent, utilities, equipment, supplies and salaries for members of the staff who do not provide direct care.
4. All money allocated to centers from the community training center account must be expended in the state fiscal year for which it was received.
5. The division may require an independent audit of any center at the division's expense.

NAC 435.275 Gifts, bequests and grants.

1. A center must report the source of any gift, bequest, grant or income other than funding by the division and the Federal Government and payment on behalf of an enrollee, on form CTC-8A.

2. A community training center may use such income to augment the stipend paid by the division in order to provide supplemental services to its enrollees.

NAC 435.280 Deposit of money. Grantees shall deposit all money received from the community training center account into a bank, maintain a comprehensive bookkeeping system for reporting financial activities, and provide the bank's name and the account number to the division on form CTC-5.

NAC 435.285 Contractual agreements.

1. Centers with a certificate of qualification may enter into contracts with authorized state, county and school officials to give care and training to enrollees who would also qualify for care or training programs offered by the public schools or by county welfare programs.

2. At least 10 days before entering into such a contract, the center must provide the division with a statement of its intent to enter into the contract.

NAC 435.290 Personnel policy.

1. Each center shall develop and maintain a personnel policy which includes:

(a) A description of the organizational structure of the center showing the lines of authority.

(b) A description of the benefits relating to vacations, sick leave and maternity leave, including an explanation of how each relates to the other and whether the center will pay for these benefits.

(c) A description of available medical benefits.

(d) The procedure and criteria used to evaluate employees.

(e) The procedure used to dismiss an employee and the process available to the employee for appeal.

(f) The procedure used to inform all employees of:

(1) The rights assured to clients of the division pursuant to NRS 433.464 to 433.534, inclusive;

(2) The division's policy on reporting abuse and neglect; and

(3) The center's policy on reporting abuse and neglect.

2. Each center shall have on file a signed statement from each employee declaring that the employee is familiar with the policies and procedures established by the center pursuant to subsection 1.

NAC 435.295 Required hours of service. Unless the needs of an enrollee, as determined by the division, require otherwise, each center shall provide service during at least 6 hours a day, including lunch and a period for rest. Each center is eligible to receive payment for not less than 229 days a year, including 5 days per year for programs for development of the staff.

NAC 435.305 Progress reports and review of clients.

1. Each center shall provide written progress reports and participate in the quarterly and annual review of each client.
2. Each report must be reviewed quarterly by the appropriate member of the staff of the division and revised accordingly.

NAC 435.310 Preservation of enrollee's rights and human dignity.

1. An enrollee must be guaranteed protection from participation in research without the informed and express written consent of the adult enrollee or, if appropriate, a parent or guardian. Participation in research involving an enrollee may only occur after approval of the researcher by the commission on mental health and developmental services and the committee for human rights which is established by the division to ensure the preservation of the enrollee's rights and human dignity.
2. An enrollee must be provided with a policy that outlines the working conditions of the center and the rights and benefits of the enrollee. The file of each enrollee must contain a verification that he has been informed verbally and in writing of that policy.
3. The provisions of NRS 433.464 to 433.534, inclusive, apply to an enrollee and guarantee the same rights as if he were a client of a facility of the division.

NAC 435.315 Annual review of enrollee. An annual review of each enrollee is required.

NAC 435.320 Summary report of progress upon withdrawal or termination of enrollee. When an enrollee withdraws or is terminated from a center, a written summary report of his progress must be provided to the case manager of the division.

NAC 435.335 Contents of records. The records of a center must contain:

1. The source of enrollment and referral of an enrollee and an appropriate release for information, testing and emergency medical care;
2. Individual programs for enrollees including:
 - (a) Behavioral goals;
 - (b) Methods of reaching goals, including the specific activities to be initiated by a member of the staff of the center to assist the enrollee to achieve each goal, and the schedule or frequency of such activities;
 - (c) Notes showing the correlation between the activities planned and the actual activities performed to achieve each goal;
 - (d) Observational data recorded at least once a month;
 - (e) The name of the person responsible for the program;
 - (f) Notes on progress for each goal; and
 - (g) Reports on termination for enrollees leaving the program;
3. A signed, dated copy of any subcontract between the division and the center for services pursuant to 42 U.S.C. §§ 1397 to 1397f, inclusive;
4. The attendance of the enrollees;
5. Documentation of certification for the center;
6. All records of payroll for enrollees, including the computations for determining the rate of pay;

7. Verification that the enrollee has been informed verbally and in writing of his rights and the policies of the center concerning clients; and
8. The name, address and qualifications of all members of the staff of the center.

NAC 435.340 Confidentiality of records. The center must maintain the enrollee's records in a manner which ensures confidentiality. Information may only be released to persons with authority to examine the information or others who have been designated in a signed release.

NAC 435.345 Monthly, quarterly and annual reporting.

1. A center must use the accrual basis of accounting, accumulating by addition all previous expenditures in current totals, in reporting and disbursing money. Reports must be submitted on the forms provided by the division and by the dates specified by the division. Funding may be delayed pending receipt or approval of the new or renewal applications or monthly billing forms.
2. For each month, the center must submit a Client Service Report, form CTC-7.
3. For each quarter, the center must submit:
 - (a) Community Training Center Report of Staff and Salary Expenses, form CTC-2.
 - (b) Quarterly Disbursement of Community Training Center Funds, form CTC-8.

NAC 435.350 Withholding of money.

1. If, at any time, a center fails to comply with the provisions of NRS 435.130 to 435.320, inclusive, or NAC 435.200 to 435.350, inclusive, the center may be notified in writing and, subject to subsection 2, money may be withheld until all items in question are in order.
2. A center may appeal any proposed withholding of money in the same manner as provided for revocation or denial of a certificate of qualification. Money will not be withheld until a final decision on the appeal is rendered.

ASSISTANCE TO PERSONS CARING FOR CERTAIN RETARDED RELATIVES AT HOME

NAC 435.395 "Parent or other relative" interpreted. (NRS 435.365) As used in NRS 435.365, the division will interpret "parent or other relative" to mean:

1. A biological parent or relative of a person with mental retardation; or
2. A person who has legally adopted or is the legal guardian of such a person.

NAC 435.400 Qualifications of retarded person. (NRS 435.365)

1. A parent or other relative of a person with mental retardation is eligible for assistance pursuant to NAC 435.400 to 435.430, inclusive, if the person with mental retardation:
 - (a) Has severe or profound mental retardation or is under 6 years of age and has developmental delays requiring support equivalent to the support required by a person with severe or profound mental retardation; and
 - (b) Meets the financial requirements for fee reduction established by the division pursuant to NRS 433.404 and 435.115.
2. The division will consider the person to have profound or severe mental retardation within the meaning of NRS 435.365 if:

(a) A psychological examiner diagnoses the person as having profound or severe mental retardation based on the results obtained by generally accepted methods for assessing the intellectual capability and coping or adaptive skills of the person; or

(b) The person is under 6 years of age and a multidisciplinary team identifies him as having developmental delays that require support that is equivalent to the support required by a person with profound or severe mental retardation.

3. The diagnosis required by subsection 2 must be made in accordance with the criteria set forth in *Mental Retardation: Definition, Classification and Systems of Support*, 9th edition, 1992. A copy of the publication may be obtained from the American Association on Mental Retardation, 444 North Capitol Street, N.W., Washington, D.C. 20001-1512, for the price of \$65, plus \$4 for shipping and handling.

4. As used in this section:

(a) "Multidisciplinary team" means a psychological examiner and one or more other persons, including a parent, legal guardian, clinician, educator, physician, social worker, therapist, case manager or nurse of a person with mental retardation, who, because of personal or specialized knowledge, are qualified to provide or interpret information relating to the person's cognitive, physical, psychological, language, speech and social development or self-help skills.

(b) "Psychological examiner" means a psychologist who is licensed in this state or any other person who, because of specialized training and knowledge, including any training and knowledge required to assess the intellectual capabilities or an impairment of the adaptive behavior of a person, is qualified to diagnose a person as having:

(1) Profound or severe mental retardation; or

(2) Developmental delays that require support that is equivalent to the support required by a person with profound or severe mental retardation.

NAC 435.405 Application for financial assistance. (NRS 435.365)

1. An application for financial assistance from the division for care provided by a parent or other relative of a person with mental retardation must be submitted to the division on a form which, upon request, will be provided by the division.

2. Upon receipt of the application, a staff member of the division will:

(a) Conduct an interview with the applicant;

(b) Request any additional information required for the applicant to complete the application; and

(c) Inform the applicant of the services available from the division.

NAC 435.410 Eligibility for assistance. (NRS 435.365)

1. To be eligible for assistance pursuant to NAC 435.400 to 435.430, inclusive, an applicant must reside in this state.

2. In determining whether the applicant or his relative with mental retardation is reasonably able to pay for the care and support of the relative, the division will consider:

(a) The adequacy of the financial resources of those persons; and

(b) Whether the applicant or his relative with mental retardation is eligible in accordance with the schedules of fees established pursuant to NRS 433.404 and 435.115 for a reduction of fees for services other than services provided by the division pursuant to NAC 435.400 to 435.430, inclusive.

3. To determine the adequacy of the care that the applicant will provide for the relative with mental retardation, the division will consider whether the relative will be provided care in accordance with a plan approved by the division.

4. Eligibility for continued assistance will be reviewed with the applicant at least annually.

NAC 435.415 Determination and notice of eligibility for and amount of assistance; retroactive assistance; death of retarded person. (NRS 435.365)

1. The division will:

(a) Determine whether an applicant is eligible for assistance and the amount of that assistance, if any; and

(b) Provide the applicant written notice of the decision.

2. If an applicant becomes eligible for assistance, he is entitled to retroactive assistance from the first day of the month after the date on which the division received his completed application.

3. If the relative with mental retardation for whose care assistance is provided pursuant to NAC 435.400 to 435.430, inclusive, dies while eligible for the assistance, the applicant is entitled to receive 1 additional month of assistance pursuant to those sections.

NAC 435.420 Distribution of payment; recovery of overpayment. (NRS 435.365)

1. The division will distribute assistance monthly by check. The division will stop the payment of any such check if it is not cashed within 90 days after it is issued by the division.

2. If the division makes an overpayment of assistance in a monthly check issued to a person, the division may, in any subsequent monthly check issued by the division to the person, deduct a portion of the assistance provided in the check until the amount of the overpayment is recovered.

NAC 435.425 Reporting of certain changes to division. (NRS 435.365)

1. If a change occurs in the home of a person who is receiving assistance for providing care to a relative with mental retardation pursuant to the provisions of NAC 435.400 to 435.430, inclusive, and that change affects the adequacy of that care or the eligibility of the person to receive the assistance as specified in a form provided to the person by the division, the person shall report the change to the division within 30 days after the change occurs.

2. If a change occurs in the diagnosis of mental retardation of a relative specified in subsection 1, the person receiving assistance for the relative shall report the change to the division on or before the end of the month in which the change occurs. The report must include any materials for testing used to conduct the diagnosis.

3. A report specified in this section must be submitted on a form provided by the division.

NAC 435.430 Appeals. (NRS 435.365)

1. An applicant may appeal from:

(a) A decision by the division that he is ineligible for assistance pursuant to NAC 435.400 to 435.430, inclusive; or

(b) An award or denial of assistance to the applicant by the division.

If the applicant wishes to appeal the decision or award or denial of assistance, he must file a written appeal with the regional coordinator of the division in whose region the decision or award or denial was made within 15 days after the applicant received notice of the decision.

2. The regional coordinator with whom an appeal is filed pursuant to subsection 1 may require documentary evidence to support the appeal. The regional coordinator shall complete his review of the appeal within 30 days after he receives the written appeal.

3. An applicant may appeal a decision of a regional coordinator issued pursuant to subsection 2 by filing a written appeal with the administrator or a person designated by him. The appeal must be filed within 15 days after the applicant receives written notice of the decision of the regional coordinator. The decision of the administrator or the person designated by him concerning an appeal filed pursuant to this section is a final decision for the purposes of judicial review.

RESIDENCES FOR ~~[RETADED PERSONS]~~ PEOPLE WITH MENTAL RETARDATION AND RELATED CONDITIONS

NAC 435.500 Policy and scope.

1. It is the policy of the division to establish such standards for services furnished to *a person with mental retardation or a related condition* ~~[mentally retarded persons]~~ living in residences within the community as will ensure that their basic and specialized needs are fulfilled.

2. NAC 435.500 to 435.740, inclusive, reflect the desire of the division to improve services and facilities in accordance with modern concepts of care, protection, supervision, guidance and training.

3. NAC 435.500 to 435.740, inclusive, do not preclude any person who is seeking admission to a residence, or any person or agency which is making referrals or will be paying for services, from requiring higher standards or additional services not in conflict with NAC 435.500 to 435.740, inclusive, as a condition of the admission, referral or payment of a specified rate.

NAC 435.505 Definitions. As used in NAC 435.500 to 435.740, inclusive, unless the context otherwise requires:

1. "Residence" is limited to a residence where supervised care is provided to ~~[mentally retarded persons]~~ *a person with mental retardation or a related condition* who are in need of:

- (a) Personal services;
- (b) Protection;
- (c) Supervision;
- (d) Assistance;
- (e) Guidance; or
- (f) Training,

in order that they may receive personal protection and be given training essential for them to attain or sustain the ability to carry on the activities of daily living.

2. "Resident" is limited ~~[to a mentally retarded]~~ *to a person with mental retardation or related condition* who is living in a residence.

3. "*Provider*" means the provider of supported living arrangement services. (as defined in NRS 435.)

4. "*Direct Support Staff*" means staff who work with persons receiving services through the Division.

5. "*Supported living arrangement services*" means flexible, individualized services provided in the home, for compensation, to a person with mental retardation or a related condition who is served by the Division that are designed and coordinated to assist the person

in maximizing his independence, including, without limitation, training and habilitation services.

6. *“Guardian” means a person who has qualified as the guardian of a minor or incapacitated person pursuant to testamentary or judicial appointment.*

7. *“Parent” means the parent of a child. The term does not include the parent of a person who has attained the age of 18 years.*

8. *“Person” is a person with mental retardation or a related condition.*

9. *“Provider of Health Care” means a physician licensed pursuant to chapter 630, 630A, or 633 of NRS, a dentist, a registered nurse, APN, PA.*

10. *“Provisional Certification” means temporary certification pending successful completion of quality assurance review(s).*

11. *“Certification” means that the provider meets the standards set forth by the and is eligible to receive payment.*

12. *Person certified to administer medication is a person who has successfully completed a certified program for the administration of medication approved by the Division.*

NAC 435.510 ~~[Permit]~~ Certification required for payment from state. A Provider must be certified pursuant to Division policy to be eligible to receive payment from the Division for provision of supported living services.

NAC 435.515 Application for ~~[permit.]~~enrollment as a provider of the Division.

1. To obtain ~~[a-permit]~~ certification to~~[operate a residence]~~ provide supported living services, any person, firm, partnership, association, corporation or governmental entity must ~~[file]~~ apply for enrollment in the certification process ~~[with the division]~~ on a form ~~[a-verified application on a form]~~ furnished by the division.

2. The application ~~[must include]~~ for an Individual Provider must include:

(a) *Provider Application*

(b) *Letters of Reference;*

(c) *Signed Confidentiality Statement(s);*

(d) *Proof of First Aid and CPR Training;*

(e) *Proof of cleared Local Law Enforcement Background Check;*

(f) *Proof that a FBI Background Check has been submitted;*

(g) *Copy of Social Security Card;*

(h) *Proof of 90 Days Working Capital;*

(i) *Other information as may be required by the Division.*

3. *The application for a Provider Organization must include:*

(a) *Provider Application;*

(1) *Proof of qualification of professional staff meeting criteria of a Qualified Mental Retardation Professional;*

(2) *Business License;*

(3) *Articles of Incorporation/By Laws and related documentation;*

(4) *List of Board of Directors;*

(5) *If the applicant is an association or a corporation, the name, title, and principal business address of each officer and member of its governing body. The application must be signed by the chief executive officer or an authorized representative. The applicant must provide a copy of its articles of association or incorporation, its constitution, if any, and*

bylaws. If the applicant is a corporation, it must provide the name and address of each person holding more than 10 percent of its stock.

(6) The director(s) of the organization must provide;

(I) Letters of reference;

(II) Cleared local law enforcement background check;

(III) Proof that a FBI background check has been submitted;

(7) Proof of 90 days working capital;

(8) Copies of policies and procedures as required by Division policy;

(9) Other information as may be required by the Division.

4. Application packets will be reviewed for completeness and qualified applicants will be interviewed by a screening panel. The panel will determine whether the applicant meets criteria to proceed with the enrollment process.

~~[(a) The proposed name of each residence to be operated.~~

~~—(b) The applicant's name and address.~~

~~—(c) If the applicant is a natural person, his date of birth, and if the applicant is a partnership, the name, date of birth and principal business address of each partner.~~

~~—(d) If the applicant is an association or a corporation, the name, title and principal business address of each officer and member of its governing body. The application must be signed by the chief executive officer or an authorized representative. The applicant must provide a copy of its articles of association or incorporation, its constitution, if any, and bylaws. If the applicant is a corporation, it must provide the name and address of each person holding more than 10 percent of its stock.~~

~~—(e) The level of care which the applicant intends to provide.~~

~~—(f) The maximum number of residents to be served.~~

~~—(g) The resources of the proposed residence, a specification of the services to be provided and the hours or periods of operation.~~

~~—(h) The consultants and community resources to be utilized.~~

~~—(i) The location of the residence and the administrative offices of the applicant.~~

~~—(j) The name and qualifications of the operator of the proposed residence and the person designated to direct the program of habilitation.~~

~~—(k) A copy of documents showing the proposed administrative and programmatic organization.~~

~~—(l) Evidence, satisfactory to the division, that the applicant is reputable and responsible.~~

~~—(m) Evidence, satisfactory to the division, that the applicant has the personal and financial ability to comply with the requirements of NAC 435.500 to 435.740, inclusive.~~

~~—(n) Such other information as may be required by the division.]~~

NAC 435.520 Denial of application.

1. Each of the following acts and omissions constitutes a ground for denial of an application for a permit:

(a) The ~~[operator]~~ **applicant** ~~[of the proposed residence]~~ lacks personnel who are sufficient in number or qualifications to provide proper care for the number and types of intended residents;

(b) The applicant has misrepresented or failed to disclose any material fact in his application or in any financial record or other document requested by the division;

(c) The ~~[owner or operator of the proposed residence]~~ *applicant* has been convicted of a crime relevant to any aspect of the operation of a facility which provided health care or personal care; or

(d) The ~~[proposed residence has any]~~ *applicant's proposed services have any* major deficiency which would preclude compliance with NAC 435.500 to 435.740, inclusive *or Division and Agency policies.*

(e) Failure to successfully complete the training requirements of the Division will result in denial of the application.

2. If an application is denied, the division will give the applicant a written notice of the denial. ~~[The notice will be given by personal service or sent by registered mail.]~~

3. Incomplete applications will be held for 30 days pending; submission of required documentation. Failure to submit items within 30 days of initial receipt of packets may result in denial of application

NAC 435.XXX Training

1. If the initial application is accepted by the Division, the applicant and/or organization's management must successfully complete established training requirements of the Division.

NAC 435.XXX Provider Review and Certification

1. Upon successful completion of training the Division will grant provisional certification.

2. Certification will remain provisional until the provider successfully completes the initial quality assurance review pursuant to Division and Agency policies.

3. Based on the findings of the quality assurance review the Division may certify the provider up to two years.

4. At any time the Division can conduct a review for cause if there are allegation of abuse/neglect/exploitation or concerns related to the health, safety, or welfare of the people being served.

NAC 435.XXX Quality Reviews

1. All providers must submit to quality assurance reviews as pursuant to Division and Agency policies.

2. If a quality assurance review determines there are deficiencies in the provision of services related to the health, safety and welfare of people receiving services that warrant corrective action, the Division may request a written plan of correction from the provider, pursuant to Division and agencies policies.

3. Sanctions for any deficiencies may be imposed pursuant to Division and Agency policies.

4. Division and Agency policies will provide for an appeal process for sanctions imposed on the provider.

NAC 435.525 Supervision and operation of ~~[residence]~~ of supported living arrangement services. ~~[- governing body.]~~

1. Each ~~[holder of a permit to operate a residence shall exercise general supervision over the affairs of the residence and shall, in conformance with NAC 435.500 to 435.740, inclusive,~~

~~establish policies concerning the operation of the residence and the welfare of the persons it serves.] **provider is required to follow all Division and Agency policies and procedures.**~~

2. ~~[If the holder is an association or a corporation, it must have a legally constituted governing body which is active and functioning and holds regularly scheduled meetings.] **If the provider is an organization it shall, in conformance with NAC 435.500 to 435.740, inclusive, and Division and agencies policies, establish policies concerning the operation of the supported living program and the welfare of the persons it serves.**~~

3. ~~[If the holder is a nonprofit organization, the members of its governing body must serve without compensation but may be reimbursed for expenses. No member of the governing body may profit financially by reason of his membership or be employed by the organization, whether full time or part time, unless the employment is approved by the division.]~~

4. ~~[If the holder is a corporation conducted for profit, it must have an advisory board.]~~

Repealed [NAC 435.530 Plan of operation. The operator of a residence shall have:

~~—1. A written outline which sets forth his philosophy, objectives and goals and is available for distribution to his staff, the residents or their representatives and interested members of the public. The outline must include the operator's:~~

~~—(a) Goal for the residents; and~~

~~—(b) Concept of his relationship to the parents of the residents or to the parents' surrogates.~~

~~—2. A written statement of policies and procedures, approved by the division, which ensure the rights of the residents and are consistent with NRS 433.464 to 433.534, inclusive.~~

~~—3. A written statement of policies and procedures, approved by the division, which protect the financial interests of the residents and provide for counseling in the use of money to any resident who possesses or is entitled to a large sum of money and for appropriate protection of that money. These policies must permit normalized and normalizing possession and use of money by the residents, for example, permission for them to use cash and checks in buying clothes and other items.~~

~~—4. A statement of his policies and procedures, approved by the division, for admission and discharge, including a declaration that the residence is operated on a nondiscriminatory basis.~~

~~—5. An administrative organization.~~

~~—6. A plan for staffing the residence and a statement of the qualifications and duties of the members of the staff.~~

~~—7. A plan for training members of the staff while they are employed at the residence.~~

~~—8. A sketch of the residence and a floor plan, showing the use of the interior space and the grounds.~~

~~—9. Arrangements for the transportation of residents who do not have independent arrangements.]~~

NAC 435.535 Consultation for programs.

1. The ~~[operator of a residence]~~ **provider** shall make arrangements for obtaining services from professionally qualified persons or other specially trained persons as needed to assist in planning, carrying out and reviewing the ~~[program of the residence]~~ **services provided..**

2. Evidence of the use of such services must be on file ~~[in the residence]~~ **with the provider.**

3. The need for such services must be determined initially by an ~~[interdisciplinary]~~ **individual support** team and be reviewed by the team on a regular basis, at least annually.

NAC 435.540 Finances. The ~~[operator]~~ *provider* of a ~~[residence shall]~~ *supported living arrangement must:*

1. Have a financial plan which ensures that there will be sufficient resources to meet the operating costs for care of the *person(s)* ~~[residents;]~~
2. Maintain adequate financial records; and
3. Submit to the division any financial report:
 - (a) Which the division requests in writing; and
 - (b) The need for which is explained by the division.

Repealed ~~[NAC 435.545 Outside services. The operator of a residence shall cooperate with the placement agency for each resident and with the sponsor of any program of treatment, training or education which the resident attends. The operator shall attempt to reinforce the goals and objectives of these outside services.]~~

Repealed ~~[NAC 435.550 Notice to fire department. Upon commencing the operation of a residence, the operator shall give notice of the operation to the fire department having jurisdiction in the area where the residence is located.]~~

NAC 435.555 Preliminary assessment.

1. ~~[An operator]~~ *The provider* may not ~~[admit]~~ *provide supported living services to a person* ~~[a person who is developmentally disabled to the residence]~~ until there has been an assessment of the person's *support* needs, except as provided in subsection 4.
2. The assessment must be performed or approved by the ~~[regional agency for mental retardation]~~ *division*. The assessment must include an interim individualized plan. ~~[for the person and positive statement as to his ability to exercise average judgment in taking action for his own safety under emergency conditions.]~~
3. Following the assessment, if the person is accepted by the ~~[operator of the residence]~~ *provider*, the findings of the assessment must be entered into the person's records *at the provider and the Division*. ~~[at the residence.]~~
4. In an urgent situation ~~[such a person may be admitted for a]~~ *the provider may accept a person into services upon division approval for a* period of not more than 5 working days before the assessment. ~~[if the regional director for mental retardation recommends the admission.]~~

Repealed ~~[NAC 435.560 Appraisal of prospective resident.~~

- ~~— 1. Before accepting any retarded person for services, the operator of the residence, in collaboration with the person or his designated representative, shall make an appraisal and determine whether:
 - ~~— (a) The amount of care and supervision required by the person is available in the residence;~~
 - ~~— (b) The kinds of services and skills required to meet the person's needs are available in the residence;~~
 - ~~— (c) The person will be compatible with other persons served in the residence; and~~
 - ~~— (d) The characteristics of the person are compatible with limitations of the residence and the terms of any special permit issued for operation of the residence.~~~~
- ~~— 2. No retarded person may be accepted into the residence by the operator unless such an appraisal has been made and he determines that the person will be compatible and the appropriate services will be available.~~

~~—3. If a person has been referred for admission, the operator shall conduct the appraisal in collaboration with the agency making the referral.]~~

NAC 435.565 ~~[Admission agreement required]~~ *Contract required.*

1. Each ~~[operator]~~ *provider* of ~~[a residence]~~ *supported living services* must enter into a written ~~[agreement]~~ *contract* with ~~[each]~~ *the* person ~~[received]~~ or his ~~[representative]~~ *guardian and the division*. The *contract* ~~[agreement]~~ *will be completed pursuant to Division and Agency policies*. ~~[must be completed before admission and must be dated and signed by the operator or his representative.]~~

2. ~~[The operator shall retain the original of the agreement, shall provide a copy of it to the person admitted or his representative, and shall provide a copy to the placement agency if it is a party to the contract.]~~

NAC 435.570 *Rights of persons receiving services.*

1. All persons served shall receive the rights as set forth in NRS Chapter 433.

2. All persons have the right to file a complaint regarding their services directly with the division or agency.

(a) The procedure for filing a complaint will be set forth in Division and Agency policies.

3. All persons have the right to participate in directing their services pursuant to Division and Agency policies.

Repealed ~~[NAC 435.570 Content of admission agreement; division approval required.~~

~~—1. The agreement required in NAC 435.565 must specify:~~

~~—(a) The basic services to be provided in the residence.~~

~~—(b) The rate to be charged for basic services, a list of charges for any other services, the person who is to pay the charges and the dates and intervals for payment.~~

~~—(c) The conditions for modification of the agreement, including 30 days' prior written notice of any change in the rate for basic services. For any person whose care is being paid for at rates prescribed in a government funded program, the agreement may specify that the basic rate will change on the operative date of any rate change made in that program or at the beginning of the fiscal year.~~

~~—(d) The conditions under which the operator of the residence will make refunds.~~

~~—(e) That the operator shall at all times provide services without discrimination.~~

~~—(f) Conditions under which the agreement may be terminated.~~

~~—(g) That no resident may be summarily evicted unless he is clearly engaged in behavior which is a threat to property or to the safety of other persons in the residence, and that if a summary eviction is carried out, the operator shall notify the evicted person's representative or placement agency on or before the next business day. If an eviction which is not summary is to be made, the person's representative or placement agency must be notified before the eviction.~~

~~—2. The operator of a residence shall not enter into an agreement for the continuing care of any person without approval by the division.]~~

Repealed ~~[NAC 435.575 Medical examination. The operator of a residence must have a medical examination made of each retarded person within 3 months before or 30 days after his admission. The report of the medical examination must:~~

- ~~—1. Establish whether the person has communicable tuberculosis or any other infectious or contagious disease which would preclude care of him in the residence;~~
- ~~—2. Include a record of prior medical and related social services provided to the person;~~
- ~~—3. Identify any physical limitations of the person to determine his capability to participate in programs provided in the residence; and~~
- ~~—4. Include basic physical data concerning the person, such as his weight and height.]~~

Repealed [NAC 435.580 Level of care; maximum number of residents.

- ~~—1. The manager of a residence may provide its residents with:~~
- ~~—(a) General habilitation, under the 24-hour supervision of a staff; or~~
- ~~—(b) Social or transitional habilitation, under less than 24-hour supervision.~~
- ~~—2. A residence must not be used to provide care for more than six residents unless that use is approved by the division.]~~

Repealed [NAC 435.585 Policy on basic services. The basic services provided in a residence must be conducted so as to promote independence and self-direction in all the residents. The residents must be encouraged to participate as fully as their conditions permit in daily living activities, both in the residence and in the community.]

Repealed [NAC 435.590 Observation of residents.

- ~~—1. The operator of a residence shall continuously observe each resident for any changes in his physical, mental, emotional or social functioning which reveal unmet needs or which might require a change in the existing level of service, specialized services, a discharge or a transfer to another type of facility.~~
- ~~—2. The operator shall bring such observations to the attention of the resident and any representative or agency responsible for him so that his needs and the operator's plan of action may be reassessed.]~~

Repealed [NAC 435.595 Planned activities.

- ~~—1. Each resident must be encouraged to participate in and be assisted in planned activities which are related to his social, cultural, physical, intellectual and emotional requirements and which contribute to development and maintenance of his capability for self-direction.~~
- ~~—2. All residents must be encouraged to contribute to the planning, preparation, conduct, cleanup and critique of the activities.~~
- ~~—3. The planned activities must include free time during which the residents may engage in activities of their own choosing.~~
- ~~—4. The operator of a residence shall arrange for use of available community resources where appropriate to the needs and interests of the residents.~~
- ~~—5. The operator of a residence shall encourage the participation of volunteers in planned activities. Such volunteers must be under the direction and supervision of the employees responsible for the activity.]~~

Repealed [NAC 435.600 Space for activities. A residence must contain sufficient space to accommodate indoor and outdoor activities. A residence must have:

- ~~— 1. A living room or similar area for use by the residents. The room or area must be comfortable, attractively furnished and available to all residents for their relaxation and for entertaining friends and relatives.~~
- ~~— 2. An attractive dining area, large enough to accommodate the entire group of residents in comfort.~~
- ~~— 3. A yard space which is easily accessible to the residents and is protected from traffic. The yard space must be pleasant, comfortable and appropriately equipped for outdoor use.~~
- ~~— 4. Enough space for storage of the recreational equipment and supplies necessary for activities.]~~

Repealed [NAC 435.605 Safety and sanitation of premises.

- ~~— 1. The operator of a residence shall maintain it in a safe and sanitary condition.~~
- ~~— 2. If the administrator of the division determines that an evaluation of the structural condition of a residence is necessary, the operator shall submit to the division a report by the local building department or a licensed engineer or architect which establishes a basis for elimination or correction of any structural condition which is hazardous to the occupants.]~~

Repealed [NAC 435.610 Safety requirements.

- ~~— 1. A residence must provide a safe and healthful environment.~~
- ~~— 2. The operator shall protect the residents against any hazards existing in the residence by adequate supervision, instruction in life protection and other safety matters, and installation of appropriate protective devices such as fencing around pools and other hazardous areas and nonslip materials for rugs.~~
- ~~— 3. Stairways, inclines, ramps and open porches must have hand railings and must be well lighted.~~
- ~~— 4. Nightlights must be maintained in hallways and common bathrooms.~~
- ~~— 5. All outdoor and indoor passageways and stairways must be kept free of obstruction.~~
- ~~— 6. Fireplaces must have adequate screens.~~
- ~~— 7. All rooms must be well lighted and maintained at a comfortable temperature.]~~

Repealed [NAC 435.615 Maintenance and operation.

- ~~— 1. A residence must be kept in a clean, safe and sanitary condition and in good repair at all times.~~
- ~~— 2. The operator of a residence shall provide such procedures and services for maintaining it as will ensure the safety and well-being of the residents, employees and visitors.~~
- ~~— 3. The operator shall maintain the heating, ventilating and air conditioning systems of the residence in normal operating condition to provide a comfortable temperature for the residents.~~
- ~~— 4. The toilet, hand-washing and bathing facilities of a residence must be maintained in operating condition.]~~

Repealed [NAC 435.620 Space requirements.

- ~~— 1. A residence must have enough space to accommodate the persons served in comfort and safety.~~
- ~~— 2. A residence must be large enough to provide comfortable living accommodations and privacy for its residents and members of the staff who live therein.]~~

Repealed [~~NAC 435.625 Number of residents per room. Not more than two residents may be assigned to sleep in a bedroom unless the program of care or supervision justifies a living arrangement of more than two to a room and the arrangement is approved in writing by the division.~~]

Repealed [~~NAC 435.630 Personal hygiene. Equipment and supplies necessary for personal care and maintenance of adequate hygiene must be readily available to each resident. The operator of a residence shall provide:~~

- ~~— 1. A bed for each resident except that married couples may be provided with one appropriately sized bed. Each bed must be equipped with a clean and comfortable mattress, a pillow and lightweight warm bedding. Rubber sheeting must be provided when necessary.~~
- ~~— 2. Clean linen which is changed at least once each week and more often when necessary.~~
- ~~— 3. Each resident with his own toilet articles, including a toothbrush and comb.~~
- ~~— 4. Each resident with towels and washcloths which are washed at regular intervals. The use of common washcloths and towels is prohibited.~~
- ~~— 5. Closets and drawer space for clothing and personal belongings.~~
- ~~— 6. Appropriate space and equipment for washing, ironing and mending personal clothing and make arrangements so that residents who are able and who so desire may do their own work.]~~

Repealed [~~NAC 435.635 Requirements for bedrooms.~~

- ~~— 1. A residence must contain bedrooms which are suitably furnished and sufficient in number, size and location to accommodate the residents.~~
- ~~— 2. There must be enough space around beds to permit easy passage.~~
- ~~— 3. A room which is commonly used for other purposes may not be used as a sleeping room for any resident. This provision applies to any hall, stairway, unfurnished attic, garage or shed or similar detached building.~~
- ~~— 4. A bedroom which is located above the first floor must be restricted to occupancy by ambulatory residents unless the fire chief having jurisdiction approves its occupancy by nonambulatory residents.~~
- ~~— 5. No bedroom of a resident may be used as a passageway to another room, a bath or a toilet.~~
- ~~— 6. Each bedroom must be large enough for the placement of needed furniture, such as a chair, night stand and chest of drawers and to allow for easy passage between beds and other items of furniture.]~~

Repealed [~~NAC 435.640 Requirements for toilets and bathrooms.~~

- ~~— 1. The toilets and bathrooms in a residence must be conveniently located. The ratio of toilet and bath facilities to occupants must be at least:
 - ~~— (a) One toilet and one wash basin for each four persons; and~~
 - ~~— (b) One bathtub or shower for each six persons.~~~~
- ~~— 2. All toilet, bath and shower areas must afford privacy.]~~

Repealed [~~NAC 435.645 Food service.~~

- ~~— 1. All food at a residence must be selected, stored, prepared and served in a safe and healthful manner. If doubt exists concerning compliance with this provision, the division will require the operator of the residence to provide copies of menus used over a given period.~~

~~— 2. All reusable utensils for eating and drinking or preparation of food and drink must be cleaned and sanitized after each use.]~~

Repealed ~~[NAC 435.650 Daily dietary allowances. If meals are provided as part of the residential program, the total daily diet must be of the quality and in the quantity necessary to meet the needs of the residents and must meet the daily allowances which are specified in the following table:]~~

Repealed ~~[NAC 435.655 Medical and dental care:~~

~~— 1. The operator of a residence shall arrange or assist in arranging for medical and dental care appropriate to the conditions and needs of the residents. He shall develop a plan for incidental medical and dental care for the residents. The plan must encourage annual and routine medical and dental care and provide for assistance to the residents in obtaining that care.~~

~~— 2. The name, address and telephone number of each resident's physician and dentist must be readily available.~~

~~— 3. The operator shall arrange for the transportation of residents so that they can keep their medical and dental appointments.]~~

Repealed ~~[NAC 435.660 First aid and emergencies:~~

~~— 1. The operator of a residence shall have written evidence of arrangements with appropriate agencies in the community for handling emergencies involving any physical or mental conditions of the residents. The name, address and telephone number of each agency, crisis center or medical facility to be called in the day or at night in the event of an emergency must be posted in a readily accessible location.~~

~~— 2. The name and telephone number of an ambulance service must be readily available.~~

~~— 3. The operator shall establish written procedures for first aid, including procedures to be used in an emergency.~~

~~— 4. Staff members who are designated to administer care in emergencies must receive appropriate training in first aid from qualified persons in agencies such as the Red Cross.~~

~~— 5. A complete first aid kit must be maintained and be readily available in a specified location in the residence.~~

~~— 6. A current edition of a first aid manual approved by the American Red Cross, the American Medical Association or a state or federal health agency must be available in the residence.]~~

Repealed ~~[NAC 435.665 Safekeeping of valuables and medication. The operator of a residence shall safeguard all valuables, medications and other items that could be misused or appropriated by residents or unauthorized personnel, thereby causing potential harm to themselves or loss of a resident's property.]~~

Repealed ~~[NAC 435.670 Assistance with and storage of medication:~~

~~— 1. Assistance with medication by the operator of a residence and his staff must be limited to:~~

~~— (a) Storing a resident's medication in a cool, dry, secure place;~~

~~— (b) Making the medication available to the resident in the original container at the time directed on the label;~~

~~— (c) Overseeing the taking of the medication; and~~

~~— (d) Returning the original container to the storage area.~~

- ~~—2. Medication stored in a refrigerator must be kept in a locked metal box unless the refrigerator is located in a locked area.~~
- ~~—3. Each container of medication must be plainly labeled to show its contents and the name of the resident for whom the medication is intended. The containers must be stored in an orderly fashion.~~
- ~~—4. Medications for external use only must be kept in a separate secure area from the area used to store medications for internal use.~~
- ~~—5. Medication may be made available only to the resident for whom it has been prescribed and must be of a type that can be self-administered.]~~

NAC 435.XXX Certification for Administration of Medication

- 1. No provider or provider staff shall administer medication to a person without successfully completing a certification program approved by the Division.***
- 2. Certification in medication administration is strictly limited to staff who work with person receiving services through the Division.***

NAC 435.675 Administering medication.

- ~~1. [A medication must not be transferred from its original container to an individual container or “medication tray” and then presented to the resident unless the person who performs this service is licensed to practice professional nursing or practical nursing in this state.]~~***Medication may only be administered by a provider of health care or a person certified by the Division to administer medications.***
- ~~2. [A medication must not be given to a resident before the time when he is to take it. For example, a medication must not be placed in a container alongside a resident’s table setting at meal time.]~~***Written authorization must be obtained from the person or the person’s guardian before administration of medications by a person certified by the Division.***
- ~~3. [The person who provides assistance with medication must have had proven experience, education or training or a combination of these, which qualifies him for this function.]~~***The person must be medically cleared on an annual basis by their health care provider prior to administration of medications by a person certified by the Division.***
- ~~4. [If it is necessary for the operator to exercise authority to keep a resident on his prescribed medical regime, the resident must be transferred to a health and care facility that provides licensed nursing care].~~***The provider must refer the person to the provider of health care if:***
 - (a) The condition of the person changes or a new medical condition develops;***
 - (b) The progress or condition of the person after medication administration is different than expected;***
 - (c) An emergency situation develops; or***
 - (d) At the instruction of the provider of health care.***
- 5. A provider shall not perform medication administration pursuant to this section for a person who resides in a medical facility.***
- 6. Medications that require dose titration and/or assessment and interpretation of assessment findings prior to administration may not be administered by a person certified by Division.***
- 7. All DEA categorized schedule II and any opioid agonist medications will not be administered by a person certified by the Division.***

8. *Extended released medications that must be crushed, cut or otherwise altered may not be administered by a person certified by the Division.*

9. *Enteral administration of nutrition and medication will not be administered by a person certified by the Division.*

NAC 435.680 Destruction of medication.

1. All medications, whether internal or external, must be destroyed *pursuant to Division and Agency policies* promptly upon discontinuance of use.

~~[2. An acceptable method of destruction is by flushing contents of vials, bottles or other containers into a toilet.~~

~~—3. The operator of a residence must destroy any medication in the presence of a witness. A notation must be made in the resident's record and must be signed by the operator and the witness.]~~

Repealed [NAC 435.685 Health of employees.

~~—1. The operator of a residence must have a written policy, approved by the division, in effect to ensure that no employee with symptoms of communicable disease is permitted to work at the residence.~~

~~—2. Each person employed at a residence must be medically determined to be free of communicable and infectious disease at the time of his employment and at least annually thereafter.]~~

Repealed [NAC 435.690 Physical abuse prohibited.

~~—1. The operator of a residence shall instruct his personnel in the detection and reporting of any suspected physical abuse of the residents.~~

~~—2. The operator shall not establish or carry out a policy of physical restraints, isolation, corporal punishment, personal humiliation or the withholding of food, water or clothing.]~~

NAC 435.695 Records [concerning residents.]

1. The ~~[operator of a residence]~~ *provider* shall keep a separate record for each person ~~[admitted to the residence]~~ *receiving services*. Each such record must include information needed for providing services, for planning and for periodic reevaluation ~~[of the needs of the resident.]~~ The record must be ~~[kept in the]~~ *available to the person, provider and Division*. ~~[residence until the resident's discharge and must be readily available to the operator's staff and to the division.]~~

~~[2. Each such record must include:~~

~~—(a) The resident's name, his social security number and a current photograph;~~

~~—(b) The dates of his admission and discharge;~~

~~—(c) His last known address;~~

~~—(d) His birthdate;~~

~~—(e) His religious preference, if any;~~

~~—(f) The names, addresses and telephone numbers of the resident's responsible relatives and friends, his guardian and the agency or persons to be notified in case of accident or death;~~

~~—(g) The person or agency, if any, responsible for the placement or referral of the resident and any person or agency providing continuing services to the resident;~~

~~—(h) The name, address and telephone number of the physician to be called in an emergency;~~

- ~~—(i) The reports of any medical assessment, special problems or special precautions;~~
- ~~—(j) Any releases and authorizations signed by the resident or his representative;~~
- ~~—(k) The ambulatory status of the resident;~~
- ~~—(l) Any continuing reports of illness or provision of medical care;~~
- ~~—(m) Any current medications, the name of the prescribing physician and the physician's instructions, if any, regarding control and custody of the medications;~~
- ~~—(n) The individual plan for the resident's habilitation; and~~
- ~~—(o) A summary of the resident's discharge, including his functional status, the service he received and recommendations.~~

~~—3. The record must contain evidence showing that the resident participated in the assessment of his own needs, to the extent of his capabilities, or that his guardian participated and that there has been informed consent to the program and plan of care.~~

~~—Repealed [NAC 435.700 Confidentiality of records.~~

~~—1. All information and records obtained in the course of providing services to any resident are confidential.~~

~~—2. Any person employed in a residence shall respect the confidentiality of such information and records, however received, and may release such information or records only upon the written consent of the person or his representative, except as otherwise provided in subsection 3.~~

~~—3. The operator of a residence shall inform each resident that officers and employees of the department of human resources may examine his records without prior permission.]~~

NAC 435.705 Retention of records.

1. The ~~[operator of]~~ **provider** ~~[a residence]~~ must retain a ~~[resident's]~~ **person's** original records or photographic reproductions of them for at least 3 years after termination of services ~~[to the resident.]~~

2. All such records must be complete, current and readily available for review by representatives of the department of **health and** human ~~[resources]~~ **services**.

Repealed [NAC 435.710 Reports of death, injury, abuse, absence and unusual incidents.

~~—1. The operator of a residence shall make a preliminary report to the administrator of the division concerning:~~

- ~~—(a) The death of any resident;~~
- ~~—(b) Any injury which the attending physician determines to be serious;~~
- ~~—(c) Any unusual incident involving a resident which threatens the welfare, safety or health of any person;~~
- ~~—(d) Any physical or psychological abuse of a resident by a staff member; and~~
- ~~—(e) Any unexplained absence of a resident.~~

~~The preliminary report must also be made to the person responsible for the resident involved. The report must be made to the division and responsible person by telephone or telegraph within 24 hours after occurrence of the event.~~

~~—2. The operator shall submit a written report of the event to the department within 7 days after the occurrence of the event. The written report must include:~~

- ~~—(a) The name, age, sex and date of admission of the resident involved;~~
- ~~—(b) The date and nature of the event; and~~

~~—(c) If there was an attending physician, his name, findings and treatment, and his disposition of the case.]~~

Repealed ~~[NAC 435.715 Reports of other unusual occurrences.~~

~~—1. The operator of a residence shall report to the administrator of the division and the local health officer any outbreak of an epidemic, poisoning, catastrophe or major accident or other unusual occurrence which threatens the welfare, safety or health of the residents, personnel or visitors.~~

~~—2. The report to these officers must be made by telephone or telegraph within 24 hours after the occurrence.]~~

Repealed ~~[NAC 435.720 Inspection and examination.~~

~~—1. Any authorized officer, employee or agent of the department of human resources may, upon proper identification, enter and inspect any residences at any time, with or without advance notice.~~

~~—2. The operator of the residence shall allow the inspector to have a private interview with any resident or any staff member and shall allow examination of all records relating to the operation of the residence.]~~

NAC 435.725 Revocation of *certification* ~~[permits.]~~

Each of the following acts and omissions constitutes ~~[a]~~ grounds for revocation of ~~[a permit]~~ *a certification* to operate ~~[a residence]~~ *a supported living arrangement services*:

1. A misrepresentation of or failure to disclose any material fact in the application for the permit or in any financial record or other document requested by the division.

2. A lack of personnel in sufficient number or qualifications to provide proper care *and support for persons receiving services.* ~~[for the number or types of residents.]~~

3. The ~~[owner or operator of the residence]~~ *provider or provider staff* has been convicted of a crime relevant to any aspect of the operation of ~~[a facility]~~ *supported living arrangement services.* ~~[which provided health or personal care.]~~

4. ~~[The residence has a deficiency which endangers the health or reduces the safety of any]~~ *The provider has a deficiency that results in imminent risk to health, safety or welfare of the person(s) served.* ~~[resident.]~~

5. A ~~[repeated]~~ violation(s) of any requirement set forth in this regulation *or in Division and Agency policies.*

6. An accumulation *or a pattern* of minor violations of the provisions of this regulation *or Division or Agency policies* if the violations taken as a whole endanger the health, safety or welfare of ~~[any resident]~~ *any person receiving services.*

7. *Any fraudulent activity by the provider or their staff including, but not limited to, billing, falsification of records, misuse of a person's funds.*

8. *Failure to comply with contractual obligations.*

9. *Any other ground set forth in Division or agency policy.*

NAC 435.730 Notice of intent to revoke *certification* ~~[permit].~~ The division will give the ~~[holder of a permit to]~~ *provider* ~~[operate a residence a]~~ written notice of any intended action to revoke his *certification* ~~[permit].~~ The notice will be given by personal service upon the ~~[holder]~~

provider or sent to ~~him at least 30 days before the action is taken.~~ *the provider at least 30 days prior to the action taken.*

NAC 435.735 ~~Removal of~~ *Termination of services pending revocation of certification* ~~[residents].~~ If a revocation is pending and *the Division determines that the grounds for revocation places individuals or other persons at probable risk of harm the Division may immediately end the provision of services by the provider in accordance with Division or agency policies.* ~~[conditions at the residence seriously threaten the health, safety or welfare of one or more of its residents, the division will require an immediate removal of the affected resident or residents to another facility.]~~

NAC 435.740 Hearing on revocation; appeal to administrator.

1. To be afforded a hearing on an intended revocation of a *certification* ~~[permit]~~, the *provider* ~~[holder]~~ must, within 15 working days after receiving notice of the intent to revoke, file with the division a written request for a hearing.

2. When a decision to revoke a ~~[permit]~~ *certification* is rendered by ~~[a staff member of the]~~ *an agency of the* division, the ~~[holder]~~ provider may appeal ~~[from]~~ that decision to the administrator of the division if the ~~[holder]~~ *provider* files with the division a written notice of appeal within 15 working days after he receives notice of the decision of the staff member.

3. The administrator will consider an appeal and render his decision on the appeal within 30 days after a notice of the appeal is filed with the division.