

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

LCB File No. R029-10

November 22, 2010

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

AUTHORITY: §§1-46, NRS 458.025 and section 211 of chapter 1, Statutes of Nevada 2005, 22nd Special Session, at page 64.

A REGULATION relating to the abuse of alcohol and drugs; transferring certain duties relating to the abuse of alcohol and drugs from the Health Division of the Department of Health and Human Services to the Division of Mental Health and Developmental Services of the Department; adopting by reference certain publications; revising certain provisions relating to operators of substance abuse programs; and providing other matters properly relating thereto.

Section 1. Chapter 458 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this regulation.

Sec. 2. *“Agency” means the Substance Abuse Prevention and Treatment Agency of the Division, or its successor.*

Sec. 3. *“Division” means the Division of Mental Health and Developmental Services of the Department of Health and Human Services.*

Sec. 4. 1. *The use of tobacco in any form is prohibited throughout a facility, including, without limitation, all indoor areas and outdoor areas of a facility and entrances to a facility.*

2. *An operator shall not designate separate rooms or portions of an area of a facility to be used for smoking.*

3. *As used in this section, the term “indoor areas” includes, without limitation, any office, hallway, waiting room, restroom, elevator, meeting room, community area or other area in which events are conducted within a facility.*

Sec. 5. *The Division hereby adopts by reference the ASAM Patient Placement Criteria for the Treatment of Substance-Related Disorders, Second Edition-Revised. A copy of the publication may be obtained from the American Society of Addiction Medicine, 4601 North Park Avenue, Upper Arcade, Suite 101, Chevy Chase, Maryland 20815, by telephone at (800) 844-8948, for the price of \$70 for members and \$85 for nonmembers.*

Sec. 6. *The Director of the Division may authorize the Agency, upon the receipt by the Agency of a written request from an operator, to grant a waiver of any of the requirements of NAC 458.133 to 458.331, inclusive.*

Sec. 7. NAC 458.010 is hereby amended to read as follows:

458.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 458.010 and NAC 458.012 to 458.087, inclusive, *and sections 2 and 3 of this regulation* have the meanings ascribed to them in those sections.

Sec. 8. NAC 458.019 is hereby amended to read as follows:

458.019 “Client” means a person who meets the criteria of the [Health] Division for having a substance-related disorder and who is receiving a service from a program for that disorder.

Sec. 9. NAC 458.028 is hereby amended to read as follows:

458.028 “Criteria of the [Health] Division” means the criteria adopted by the [Health] Division in the *Administrative Manual* of the [Bureau] Agency for the prevention or treatment of a substance-related disorder, including, without limitation:

1. The policies and procedures established by the **[Health]** Division in the *Administrative Manual* to monitor compliance of programs with certification requirements; **[and]**
2. The criteria outlined in the current version of the *Diagnostic and Statistical Manual of Mental Disorders*, which is adopted by reference pursuant to NAC 458.095 **[]**; **and**
3. **The criteria outlined in the *ASAM Patient Placement Criteria for the Treatment of Substance-Related Disorders, Second Edition-Revised*, which is adopted by reference pursuant to section 5 of this regulation.**

Sec. 10. NAC 458.034 is hereby amended to read as follows:

458.034 “Evaluation center program” means a program which evaluates a person pursuant to NRS ~~[484.37943]~~ **484C.350** in a facility certified by the **[Health]** Division to determine whether the person is an abuser of alcohol or another drug through evaluations conducted by:

1. An alcohol and drug abuse counselor who is licensed or certified pursuant to chapter 641C of NRS to conduct such evaluations; or
2. A physician who is certified to conduct such evaluations by the Board of Medical Examiners.

Sec. 11. NAC 458.039 is hereby amended to read as follows:

458.039 “Notice of subgrant award” means a written agreement signed by the **[Health]** Division and an operator which specifies the amount of any funding awarded to a program of the operator by the **[Health]** Division and any conditions on the funding which must be satisfied for the program to remain eligible to receive the funding.

Sec. 12. NAC 458.054 is hereby amended to read as follows:

458.054 “Program” means any program certified by the **[Health]** Division to address substance-related disorders, including, without limitation:

1. An administrative program;
2. A coalition program;
3. A drug court program;
4. An evaluation center program;
5. A prevention program; and
6. A treatment program.

Sec. 13. NAC 458.063 is hereby amended to read as follows:

458.063 “Service” means an activity that is:

1. Directed toward the prevention, intervention or treatment of a substance-related disorder;
- and
2. Certified by the **[Health]** Division.

Sec. 14. NAC 458.077 is hereby amended to read as follows:

458.077 “Treatment assessment” means a thorough collection of data concerning a client, including, without limitation, data concerning any life impairments of a client, to determine:

1. The existence of a substance-related disorder;
2. The appropriate services to be provided; and
3. The appropriate plan of treatment based on the criteria of the **[Health]** Division.

Sec. 15. NAC 458.079 is hereby amended to read as follows:

458.079 “Treatment program” means a program that provides services for the treatment of a substance-related disorder in the manner set forth in the criteria of the **[Health]** Division, including, without limitation:

1. Comprehensive evaluations;
2. Early intervention services;

3. Outpatient counseling;
4. Intensive outpatient counseling;
5. Residential treatment;
6. Transitional housing;
7. Residential detoxification;
8. Civil protective custody; and
9. Opioid maintenance therapy.

Sec. 16. NAC 458.095 is hereby amended to read as follows:

458.095 The ~~[Health]~~ Division hereby adopts by reference the *Diagnostic and Statistical Manual of Mental Disorders*, in the form most recently published by ~~[the]~~ American Psychiatric ~~[Association.]~~ *Publishing, Inc.* A copy of the manual may be obtained from ~~[the]~~ American Psychiatric ~~[Association]~~ *Publishing, Inc.*, at 1000 Wilson Boulevard, Suite 1825, Arlington, Virginia 22209-3901, at the Internet address ~~[<<http://www.psych.org>>]~~ <http://www.appi.org> or by telephone at ~~[(800) 368-5777,]~~ (888) 357-7924, for the price of ~~[\$64,]~~ \$99.00, plus ~~[\$9.95]~~ \$11.95 for shipping and handling.

Sec. 17. NAC 458.103 is hereby amended to read as follows:

458.103 A program must be certified by the ~~[Health]~~ Division to be eligible for any state or federal money for alcohol and drug abuse programs administered by the ~~[Health]~~ Division pursuant to chapter 458 of NRS for the prevention or treatment of substance-related disorders.

Sec. 18. NAC 458.108 is hereby amended to read as follows:

458.108 1. An operator may apply for the initial certification of a program by submitting to the ~~[Health]~~ Division:

- (a) A completed application for initial certification on a form provided by the **[Health]** Division;
- (b) Documentation evidencing that the applicant is in compliance with all applicable local, state and federal laws, regulations and ordinances;
- (c) All names used by the applicant in its operation of the program or practice of business;
- (d) A copy of the manual containing the policies and procedures of the program;
- (e) A nonrefundable fee in the amount set forth in NAC 458.138; and
- (f) A copy of the policy of insurance evidencing the insurance coverage required pursuant to NAC 458.173.

2. An operator may apply for recertification of the program by submitting to the **[Health]** Division, within 90 days before the expiration of the initial certification or any previous recertification:

- (a) A completed application for recertification on a form provided by the **[Health]** Division;
- (b) Documentation evidencing that the applicant is in compliance with all applicable local, state and federal laws, regulations and ordinances;
- (c) All names used by the applicant in the operation of the program or practice of business;
- (d) A copy of the manual containing the policies and procedures of the program, including, without limitation, documentation that:

(1) Describes any changes to the manual which was submitted with the initial application for certification or any previous application for recertification and which were approved by the **[Health]** Division; and

(2) Specifies in writing whether the changes were:

(I) Made as a result of findings of the [Health] Division, including, without limitation, findings made before the expiration of the certification and findings made in any notice of revocation of certification by the [Health] Division;

(II) Made as a result of findings of an agency or organization, other than an agency or organization owned or operated by the operator; or

(III) Initiated by the operator;

(e) A nonrefundable fee in the amount set forth in NAC 458.138; and

(f) A copy of the policy of insurance evidencing the insurance coverage required pursuant to NAC 458.173.

3. If the certification of a program expires without recertification in accordance with the requirements set forth in subsection 2 and the operator wishes to certify the program, the operator must apply for initial certification of the program in the manner set forth in subsection 1.

Sec. 19. NAC 458.113 is hereby amended to read as follows:

458.113 1. Upon receipt of a completed application for initial certification or recertification of a program, the [Health] Division shall:

(a) Review the application;

(b) Schedule and perform an inspection of the program;

(c) Review the services listed in the application to ensure compliance with the criteria of the [Health] Division; and

(d) Provide a written report of the findings of the inspection to the applicant.

2. The [Health] Division shall return any incomplete application to the applicant.

3. If the [Health] Division finds that the program is in compliance with the requirements set forth in this chapter, the [Health] Division must issue a written initial certification or recertification of the program.

4. The [Health] Division may issue an initial certification or recertification of a program for a period not to exceed 2 years. The [Health] Division shall determine the period of each initial certification or recertification based upon the criteria for the length of certification set forth in the criteria of the [Health] Division.

Sec. 20. NAC 458.118 is hereby amended to read as follows:

458.118 1. Except as otherwise provided in subsection 5, the [Health] Division may only certify and provide funding for programs that provide services in accordance with the criteria of the [Health] Division.

2. The [Health] Division may amend the criteria of the [Health] Division if:

(a) The staff of the [Bureau] Agency submits a written proposed amendment to the [Health] Division to change the criteria of the [Health] Division based upon:

(1) A review by the staff of the [Bureau] Agency of any changes made to:

(I) Any nationally recognized criteria for the prevention or treatment of substance-related disorders; and

(II) The requirements for federal funding of programs; or

(2) A request by the Advisory Board or any member of a provider group or the public for a change to the criteria of the [Health] Division;

(b) The proposed amendment is placed on the agenda for the next scheduled meeting of the Advisory Board and heard in accordance with the requirements for meetings of state and local agencies set forth in chapter 241 of NRS;

(c) The Advisory Board approves the amendment proposed by the staff of the [Bureau] Agency and recommends to the Administrator that he amend the criteria of the [Health] Division; and

(d) The Administrator approves the amendment recommended by the Advisory Board.

3. The staff of the [Bureau] Agency shall send notice of a meeting of the Advisory Board to hear an amendment to the criteria of the [Health] Division to each known alcohol and drug abuse program which operates in this State for the prevention or treatment of substance-related disorders and to each person or organization requesting such notification.

4. If the Administrator [of the Health Division] approves any changes to the criteria of the [Health] Division, the changes must be:

(a) Published in the *Administrative Manual* of the [Bureau;] Agency;

(b) Posted on the Internet at [~~http://health2k.state.nv.us/BADA/~~]; <http://mhds.nv.gov>; and

(c) Mailed to each certified alcohol and drug abuse program which operates in this State for the prevention or treatment of substance-related disorders.

5. If the [Health] Division amends the criteria of the [Health] Division in accordance with this section before an operator is required to recertify a program, the [Health] Division shall not require the operator to recertify the program to comply with the amended criteria of the [Health] Division before the date required for recertification of the program. The [Health] Division may require the operator to:

(a) Revise the policies and procedures of the program to comply with the amended criteria of the [Health] Division before the operator is required to recertify the program; and

(b) Submit to the [Health] Division a copy of the manual containing the revised policies and procedures.

6. As used in this section, “Advisory Board” means the board created by the Administrator to advise the ~~[Bureau.]~~ *Agency*.

Sec. 21. NAC 458.123 is hereby amended to read as follows:

458.123 An operator shall notify the ~~[Health]~~ Division of any anticipated change which will affect the certification of the program not later than 90 days before the change will occur or as soon as the operator is aware of the change if the operator is not aware of the change at least 90 days before the change will occur. The ~~[Health]~~ Division shall notify the operator of any actions the operator must take to maintain the certification of the program or whether the operator will be required to apply for a new certification as a result of the change.

Sec. 22. NAC 458.128 is hereby amended to read as follows:

458.128 1. If, during the period of certification of a program, the operator wishes to provide a service that was not listed in the application for initial certification or recertification, the operator must submit to the ~~[Health]~~ Division:

- (a) A completed application for the addition of a new service on a form provided by the ~~[Health]~~ Division;
- (b) A copy of the manual containing the policies and procedures of the program, including, without limitation, a description of the operations of each new service and the procedures relating to each new service; and
- (c) A nonrefundable fee in the amount set forth in NAC 458.138 for each new service at each geographic location at which the service will be provided.

2. The ~~[Health]~~ Division may revise the certificate of the program to include the new service for a period not to exceed the time remaining in the period of certification established by the ~~[Health]~~ Division pursuant to subsection 4 of NAC 458.113.

3. If the operator wishes to continue the certification of the program with the new service after the period of certification, the operator must submit an application for recertification in accordance with the requirements set forth in subsection 2 of NAC 458.108 to maintain certification of the program with the new service. The ~~Health~~ Division shall determine the period of the recertification based upon the criteria for the length of certification set forth in the criteria of the ~~Health~~ Division.

Sec. 23. NAC 458.133 is hereby amended to read as follows:

458.133 The certification of a program is not transferable and may not be used for any other program ~~or~~ *or location*.

Sec. 24. NAC 458.138 is hereby amended to read as follows:

458.138 The ~~Health~~ Division shall charge and collect nonrefundable fees for the initial certification and recertification of programs and services in accordance with the following schedule:

| | |
|--|-------|
| For each administrative program..... | \$100 |
| For each coalition program | 100 |
| For each drug court program at each geographic location at which the drug court program will be provided | 100 |
| For each evaluation center program | 100 |
| For each prevention program | 100 |
| For each service provided by a treatment program at each geographic location at which the service will be provided..... | 100 |

For each service to be added to a program at each geographic location at which
the service will be provided..... 100

Sec. 25. NAC 458.153 is hereby amended to read as follows:

458.153 1. A program must have a specified operator who is responsible for the program.

The operator ~~may~~ *must* designate another responsible party to implement and supervise the responsibilities of the operator pursuant to this chapter. The operator remains responsible for any actions of his designee.

2. If the program is operated by a corporation, the governing body of the corporation must be the operator. The governing body shall:

(a) Adopt written bylaws or policies that define any reimbursement to be provided to its members and the powers and duties of the governing body and its committees;

(b) Meet at least quarterly and keep written minutes that indicate:

(1) The date of the meeting;

(2) The names of the persons present at the meeting;

(3) Any decisions made by the governing body at the meeting; and

(4) Any other actions taken by the governing body at the meeting; and

(c) Make available for review by the ~~Health~~ Division the minutes of meetings, the articles of incorporation and the bylaws of the governing body.

3. An operator shall:

(a) Develop and maintain a manual containing the policies and procedures of the program which meets the requirements set forth in NAC 458.158;

(b) Review and approve any changes to the manual containing the policies and procedures of the program;

(c) Comply with the provisions of the manual containing the policies and procedures of the program in operating the program;

(d) Make a copy of the manual containing the policies and procedures of the program available for review to any person who requests to review it;

(e) Notify the ~~Health~~ Division within 24 hours after the occurrence of an incident that may cause imminent danger to the health or safety of the clients, participants or staff of the program, or a visitor to the program;

(f) Submit for review and approval by the ~~Health~~ Division a plan for improving the quality of the services provided by the program and for ensuring that the integrity of the program will be maintained;

(g) After the ~~Health~~ Division approves the plan submitted pursuant to paragraph (f), implement the plan;

(h) Maintain all licensure and certifications required by the ~~Health~~ Division and comply with all local, state and federal laws, regulations and ordinances;

(i) Document that paid staff are on the premises where the program is providing services at all times when a client or participant is present on the premises;

(j) Post a plan for evacuation of the premises where a program is providing services in a place where the plan can be easily viewed by clients, participants and staff; ~~and~~

(k) If the operator receives a report from a governmental agency or certifying agency relating to the program, the physical plant on the premises where the program is providing services or the

operations of the program, provide a copy of the report to the [Health] Division not more than 30 days after the operator receives the report [.] ;

(l) If a subgrantee provides services to children with funding awarded through a subgrant, maintain documentation verifying that the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation have completed background checks on all staff, volunteers and consultants, including, without limitation, verification of any information disseminated to the operator pursuant to NRS 179A.180 to 179A.240, inclusive; and

(m) Monitor facilities for compliance with the provisions of section 4 of this regulation.

4. The [Health] Division shall report any known violation of any local, state or federal law, regulation or ordinance by an operator to the appropriate regulatory agencies which govern the licensure or certification of the program and to the appropriate agencies responsible for investigating the violation.

Sec. 26. NAC 458.173 is hereby amended to read as follows:

458.173 An operator shall ensure that the program is insured:

1. For liability in an amount sufficient to protect the clients, participants and staff of the program, and the visitors to the program. The operator shall submit a copy of the policy of insurance to the [Health] Division with any application for initial certification or recertification. The policy of insurance must provide that notice be given to the [Health] Division not later than 30 days after cancellation of the policy or after an operator does not renew the policy. Upon request, an operator shall make a copy of the policy of insurance available to the [Health] Division for review.

2. For all liabilities arising out of the acts or omissions of a consultant while providing a service for the program. The insurance may be provided by the program or the consultant. If the

insurance is provided by the consultant, the operator must obtain a copy of the policy and place the copy in the personnel file of the consultant.

Sec. 27. NAC 458.177 is hereby amended to read as follows:

458.177 1. An operator and the staff shall not knowingly provide false information to the **[Health]** Division or a representative of the **[Health]** Division.

2. An operator and the staff shall use information that is generally accepted in the field of prevention or treatment of substance-related disorders.

3. An operator shall supervise the staff to ensure that a member of the staff does not:

(a) Become impaired in his ability to perform services; or

(b) Perform activities which are unauthorized by his licensure or certification.

4. An operator shall not allow a client or participant to grant power of attorney to the operator or a member of the staff.

Sec. 28. NAC 458.203 is hereby amended to read as follows:

458.203 The operator of a coalition program shall:

1. Ensure that the governing body of the nonprofit organization which operates the coalition program meets at least quarterly, keeps minutes of the meetings and makes copies of the minutes available for review by the **[Health]** Division upon request.

2. Ensure that the nonprofit organization which operates the coalition program is comprised of individuals, organizations and agencies which broadly represent the community to be served by the coalition program.

3. At the request of the **[Health]** Division, develop a written comprehensive plan for the prevention of substance-related disorders in the community based upon:

(a) An assessment of the risk factors and protective factors in the community;

(b) An assessment of the resources available in the community to address the need for the prevention of substance-related disorders;

(c) Research concerning the prevention of substance-related disorders; and

(d) Any evidence-based programs which target risk factors and protective factors of substance-related disorders.

4. Make a good faith effort to include all providers of services relating to the prevention of substance-related disorders in:

(a) Conducting the assessment of the risk factors, protective factors and resources available in the community; and

(b) Developing and writing the comprehensive plan for the prevention of substance-related disorders in the community.

5. Submit all reports to the [Health] Division as may be required by the [Health] Division.

6. Ensure that all records of the coalition program are kept for at least [4] 6 years, including, without limitation, fiscal records, information reported to the [Health] Division, records which substantiate any information reported to the [Health] Division and records which substantiate any claims for funds from the [Health] Division.

7. Meet all requirements as specified by the [Health] Division in the notice of subgrant award.

Sec. 29. NAC 458.213 is hereby amended to read as follows:

458.213 1. The operator of an administrative program shall:

(a) Submit a request for funding to the [Health] Division to provide a service in the support of the prevention or treatment of a substance-related disorder.

(b) Meet all the requirements as specified by the [Health] Division in the notice of subgrant award.

(c) Keep all records required by the [Health] Division, and any documents to support those records, for at least 6 years after the end of the year in which a grant was awarded to the administrative program.

2. The [Health] Division shall group the requests for funding received pursuant to subsection 1 based on the services to be provided and determine which administrative program will be awarded money based on a competitive bidding process.

Sec. 30. NAC 458.228 is hereby amended to read as follows:

458.228 The operator of a prevention program shall:

1. Submit to the [Health] Division a written statement signed by the operator of the prevention program assuring the [Health] Division that the prevention program promotes the message to minors not to use alcohol, tobacco or other drugs.

2. To satisfy federal requirements for the evaluation of a prevention program, include a requirement in the manual containing the policies and procedures of the prevention program that a minor and the parent or guardian of the minor wishing to participate in the prevention program must comply with the criteria of the [Health] Division regarding consent to participate in a prevention program.

3. If the prevention program includes an evaluation of the prevention program by the participants, maintain documentation that the operator made a good faith effort to obtain the consent required pursuant to subsection 2.

4. Maintain documentation of the consent required pursuant to subsection 2 and make the documentation available to the staff of the [Health] Division upon request.

5. If the prevention program is directed at a specific community:

(a) Participate with any coalition program in that community which is funded by the [Health]

Division to develop a comprehensive plan for the prevention of substance-related disorders in that community.

(b) Submit quarterly reports to the [Health] Division which outline:

(1) Specific activities of the prevention program with the coalition program; and

(2) How the services of the prevention program:

(I) Adhere to the goals and objectives of the comprehensive plan for the prevention of substance-related disorders;

(II) Maintain fidelity to the appropriate evidence-based practices; and

(III) Satisfy the goals of federal and state alcohol and drug abuse programs for the prevention or treatment of substance-related disorders.

6. Include in the manual containing the policies and procedures of the prevention program procedures for the staff to follow concerning the physical and computer records of a participant, including, without limitation, policies and procedures for:

(a) Preventing the release of information concerning the participant without a signed consent form from the participant for the release of the information;

(b) The conditions for release of information that would occur pursuant to 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164;

(c) Maintaining the records at the place of business of the operator or at a site designated by the operator working with an agency which has contracted with the [Health] Division to maintain the records; and

(d) Maintaining physical records in a locked facility and computer records in a system which allows access to only those persons authorized by the operator.

7. Ensure that all records of the prevention program are kept for at least ~~4~~ 6 years, including, without limitation, staff records, participant records, fiscal records, information reported to the ~~Health~~ Division, records which substantiate any information reported to the ~~Health~~ Division and records which substantiate any claims for funds from the ~~Health~~ Division.

8. If the operator is providing a service directed at specific participants, prepare records of the service, including, without limitation, records of attendance which include the date the service was provided, the name of each participant, the name and signature of the person who conducted the service and the location at which the service was provided.

9. Ensure that the staff are aware and knowledgeable of the theories, goals and methodologies used to successfully carry out the prevention program and the services of the program.

10. In accordance with the criteria of the ~~Health~~ Division, include in the manual containing the policies and procedures of the prevention program a written process for evaluating the outcomes of the program and for participating in an evaluation of the program.

Sec. 31. NAC 458.241 is hereby amended to read as follows:

458.241 The operator of a treatment program shall maintain a manual containing the policies and procedures of the treatment program which includes, without limitation, the policies and procedures required pursuant to NAC 458.158, and policies and procedures:

1. Concerning the control of infections, including, without limitation, communicable diseases, and concerning universal precautions against bloodborne pathogens.

2. Describing the manner in which the treatment program will satisfy the requirements set forth in NAC 458.246 and 458.272.

3. For releasing information about a client which satisfies the requirements set forth in 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164 and which reveals:

- (a) That the client has abused or neglected a child or an elderly person;
- (b) That the client presents a danger to other people;
- (c) That the client has a communicable disease; or
- (d) The identity of the client and his human immunodeficiency virus seropositive status.

4. Describing the criteria which the treatment program will use to satisfy and comply with the criteria of the **[Health]** Division for admission, continued stay and discharge.

Sec. 32. NAC 458.246 is hereby amended to read as follows:

458.246 The operator of a treatment program shall:

1. Perform an assessment of each client or obtain the most recent assessment of the client which is found to be sufficient to:

(a) Make a complete identification of any problems concerning the substance-related disorder of the client; and

(b) Determine the appropriate level of service for the client pursuant to the criteria of the **[Health]** Division.

2. Identify the staff which provide the services set forth in subsection 1 and require such staff to develop a plan of treatment, not including detoxification, on or before the third contact of the client with the program or on or before the third day on which the client receives services from the program, whichever occurs first. For the purposes of this subsection, any contact that a

client has with the program for the sole purpose of receiving medication does not constitute contact or receiving services. The plan of treatment must specify:

(a) Behavioral objectives to be achieved by the client in response to the problems identified by the treatment assessment;

(b) The services to be provided by the staff to facilitate the client in attaining the objectives of the plan; and

(c) The member of the staff who is responsible for ensuring that the services specified pursuant to paragraph (b) are provided and that the client attains the objectives of the plan.

3. Review and revise the plan of treatment of a client:

(a) If the client is receiving outpatient treatment services, whenever the condition of the client changes over the course of treatment or every 30 days, whichever occurs first; and

(b) If the client is receiving residential treatment services, whenever the condition of the client changes over the course of treatment or every 14 days, whichever occurs first.

4. Provide the appropriate level of services determined pursuant to paragraph (b) of subsection 1 or refer the client to services which are the appropriate level and are otherwise available in the community.

5. Provide, when appropriate, a referral to, and coordination of care with, an employee assistance program or any other provider of a service related to the treatment of a substance-related disorder to address any identified problems of a client which cannot be resolved by a service provided by the treatment program.

Sec. 33. NAC 458.267 is hereby amended to read as follows:

458.267 The operator of a treatment program which offers services using a system of telecommunications shall submit the policies and procedures for the operation of the system to the **[Health]** Division for approval. The policies and procedures must provide for:

1. The confidentiality of the setting for clients and information concerning clients;
2. Actions the program will take in case of an emergency involving a client; and
3. The manner in which the dignity of clients will be maintained.

Sec. 34. NAC 458.272 is hereby amended to read as follows:

458.272 The operator of a treatment program shall:

1. Ensure that a record is maintained for each client. The record must include:
 - (a) The name, age, gender, race, ethnicity and permanent address of the client.
 - (b) If services are funded by the **[Health]** Division, an evaluation of the financial status of the client sufficient to determine eligibility for such services.
 - (c) A statement from the client, signed within 24 hours after intake or upon enrollment in the treatment program, explaining that he is seeking service, unless the client is being provided a service related to civil protective custody.
 - (d) A consent form for treatment services signed by the client or the parent or guardian of the client within 24 hours after intake or upon enrollment in the treatment program, unless the client is being provided a service related to civil protective custody.
 - (e) Any consent to release information which satisfies the requirements set forth in 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164.
 - (f) The source of any referral to the treatment program.
 - (g) Documentation of the treatment assessment performed by the operator or obtained by the operator pursuant to subsection 1 of NAC 458.246.

- (h) The history of treatment of the client.
- (i) Any sources of psychosocial stress affecting the client.
- (j) The original plan of care for the client and all revisions to the plan of care.
- (k) Any additional information that should be taken into consideration during the planning of treatment, determination of appropriate referrals and determination of any need for coordination of care.
- (l) Documentation of and justification for any referral to appropriate services pursuant to the criteria of the **[Health]** Division and any resulting coordination of care.
- (m) Documentation of any discussion with the client concerning the results of the treatment assessment, appropriate referrals and any barriers to treatment.
- (n) The date, type and duration of any contact with the client, and any services provided to the client.
- (o) Documentation of any:
 - (1) Incident that may cause imminent danger to the health and safety of the client, other clients or staff, or persons outside the treatment program;
 - (2) Problem involving the client;
 - (3) Infraction of the rules of the treatment program by the client; and
 - (4) Sign or symptom of illness or injury of the client.
- (p) Documentation in support of services that the treatment program provides to the client, including, without limitation, any:
 - (1) Correspondence concerning the client; and
 - (2) Results of a test conducted on the client, including, without limitation, any test conducted by a laboratory.

(q) If the treatment program administers or dispenses medication to the client or makes medication available to the client to administer to himself, documentation of all actions taken to comply with the requirements set forth in NAC 449.144.

(r) If the client is transferred to a different location or provided a different service, including a service provided by the same operator, a copy of the case note made at the time of transfer which includes, without limitation:

- (1) Diagnosis of the client at the time of admission or intake;
- (2) The response of the client to treatment;
- (3) Diagnosis of the client at the time of transfer; and
- (4) Recommendations for persons who will be providing treatment to the client.

(s) After the client is discharged from the treatment program:

(1) Documentation that a copy of the plan for continuing care of the client, including, without limitation, any referrals given to the client, was provided to the client before discharge, if possible; and

(2) Documentation that, not more than 5 business days after the client was discharged from the treatment program, a summary was completed which meets the criteria of the **[Health]** Division for the discharge of a client.

(t) A copy of the notification, which is in the form approved by the **[Health]** Division and which was signed by the client, indicating:

(1) The procedure for the client to register a complaint and to appeal a decision by the treatment program concerning a complaint;

(2) The requirements for the confidentiality of client information set forth in 42 C.F.R. Part 2, 45 C.F.R. Parts 160, 162 and 164 and any other applicable federal or state laws governing the confidentiality of client information for the service provided; and

(3) Any other rights of the client that are specified by the [Health] Division.

(u) Documentation to support any claims for services or data reported to the [Health] Division.

2. Ensure that each client receives a copy of the notification required pursuant to paragraph (t) of subsection 1.

3. Ensure that the client records adhere to procedures for medical records.

4. Ensure that the case notes for each client accurately reflect the treatment and services needed by the client, as identified in the assessment and plan of treatment required pursuant to NAC 458.246.

5. Ensure that the staff readily has access to the client records to the extent authorized pursuant to 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164.

6. Maintain a system for the maintenance and protection of client information which satisfies the requirements set forth in 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164, including, without limitation, requirements for:

(a) Adequate provisions to prevent unauthorized access or theft of any form of a record of a client;

(b) The locked storage of paper records;

(c) Adequate provisions for a system of backup of records maintained in a computer system in case of a failure of the primary system;

(d) Retention of the records of each client for not less than 6 years after the client is discharged from the treatment program, to be made available as required pursuant to 45 C.F.R. Parts 160, 162 and 164; and

(e) Appropriate methods to destroy records of clients as required by federal regulation.

7. Ensure that each client has access to their records as required pursuant to 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164.

Sec. 35. NAC 458.291 is hereby amended to read as follows:

458.291 The operator of a drug court program shall maintain a manual containing the policies and procedures of the drug court program which includes, without limitation, the policies and procedures required pursuant to NAC 458.158, and policies and procedures:

1. Concerning the control of infections, including, without limitation, communicable diseases, and concerning universal precautions against bloodborne pathogens.
2. Describing the manner in which the drug court program will satisfy the requirements set forth in NAC 458.296 and 458.306.
3. For releasing information about a client which satisfies the requirements set forth in 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164 and which reveals:
 - (a) That the client has abused or neglected a child or an elderly person;
 - (b) That the client presents a danger to other people;
 - (c) That the client has a communicable disease; or
 - (d) The identity of the client and his human immunodeficiency virus seropositive status.
4. Describing the criteria which the drug court program will use to satisfy and comply with the criteria of the **[Health]** Division for admission, continued stay and discharge.

Sec. 36. NAC 458.296 is hereby amended to read as follows:

458.296 The operator of a drug court program shall perform an assessment of each client or obtain the most recent assessment which is found to be sufficient to:

1. Make a complete identification of any problems related to the substance-related disorder of the client; and
2. Determine the appropriate level of service for the client pursuant to the criteria of the **[Health]** Division.

Sec. 37. NAC 458.306 is hereby amended to read as follows:

458.306 The operator of a drug court program shall:

1. Ensure that a record is maintained for each client. The record must include:
 - (a) The name, age, gender, race, ethnicity and permanent address of the client.
 - (b) If services are funded by the **[Health]** Division, an evaluation of the financial status of the client sufficient to determine eligibility for such services.
 - (c) A statement from the client, signed upon intake or enrollment in the drug court program, explaining that he is seeking service, unless the client is being provided a service related to civil protective custody.
 - (d) A consent form for treatment services signed by the client or the parent or guardian of the client upon intake or enrollment in the drug court program, unless the client is being provided a service related to civil protective custody.
 - (e) Any consent to release information which satisfies the requirements set forth in 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164.
 - (f) The source of any referral to the drug court which referred the client to the drug court program.

(g) Documentation of the assessment performed by the operator or obtained by the operator pursuant to NAC 458.296.

(h) The history of treatment of the client.

(i) Any sources of psychosocial stress affecting the client.

(j) Any additional information that should be taken into consideration during the planning of treatment, determination of appropriate referrals and determination of any need for coordination of care.

(k) Documentation of and justification for any referral to appropriate services pursuant to the criteria of the ~~Health~~ Division and any resulting coordination of care.

(l) Documentation of any discussion with the client concerning the results of the treatment assessment, appropriate referrals and any barriers to treatment.

(m) The date, type and duration of any contact with the client, and any services provided to the client.

(n) Documentation of any:

(1) Incident that may cause imminent danger to the health and safety of the client, other clients or staff, or persons outside the drug court program;

(2) Problem involving the client; and

(3) Sign or symptom of illness or injury of the client.

(o) Documentation in support of services that the drug court program provides to the client, including, without limitation, any:

(1) Correspondence concerning the client; and

(2) Results of a test conducted on the client, including, without limitation, any test conducted by a laboratory.

(p) A copy of the notification, which is in the form approved by the [Health] Division and which was signed by the client, indicating:

(1) The procedure for the client to register a complaint and to appeal a decision by the drug court program concerning a complaint;

(2) The requirements for the confidentiality of client information set forth in 42 C.F.R. Part 2, 45 C.F.R. Parts 160, 162 and 164 and any other applicable federal or state laws governing the confidentiality of client information for the service provided; and

(3) Any other rights of the client that are specified by the [Health] Division.

(q) Documentation to support any claims for services or data reported to the [Health] Division.

2. Ensure that each client receives a copy of the notification required pursuant to paragraph (p) of subsection 1.

3. Ensure that the client records adhere to procedures for medical records.

4. Ensure that the case notes for each client accurately reflect the treatment and services needed by the client, as identified in the assessment required pursuant to NAC 458.296.

5. Ensure that the staff readily has access to the client records to the extent authorized pursuant to 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164.

6. Maintain a system for the maintenance and protection of client information which satisfies the requirements set forth in 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164, including, without limitation, requirements for:

(a) Adequate provisions to prevent unauthorized access or theft of any form of a record of a client;

(b) The locked storage of paper records;

(c) Adequate provisions for a system of backup of records maintained in a computer system in case of a failure of the primary system;

(d) Retention of the records of each client for not less than 6 years after the client is discharged from the drug court program, to be made available as required pursuant to 45 C.F.R. Parts 160, 162 and 164; and

(e) Appropriate methods to destroy records of clients as required by federal regulation.

7. Ensure that each client has access to their records as required pursuant to 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164.

Sec. 38. NAC 458.321 is hereby amended to read as follows:

458.321 The operator of an evaluation center program shall maintain a manual containing the policies and procedures of the evaluation center program which includes, without limitation, the policies and procedures required pursuant to NAC 458.158, and policies and procedures:

1. Concerning the control of infections, including, without limitation, communicable diseases, and concerning universal precautions against bloodborne pathogens.

2. Describing the manner in which the evaluation center program will satisfy the requirements set forth in NAC 458.326 and 458.331.

3. For releasing information about a client which satisfies the requirements set forth in 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164 and which reveals:

(a) That the client has abused or neglected a child or an elderly person;

(b) That the client presents a danger to other people;

(c) That the client has a communicable disease; or

(d) The identity of the client and his human immunodeficiency virus seropositive status.

4. Describing the criteria which the evaluation center program will use to satisfy and comply with the criteria of the ~~[Health]~~ Division for admission, continued stay and discharge.

Sec. 39. NAC 458.326 is hereby amended to read as follows:

458.326 The operator of an evaluation center program shall perform an assessment of each client or obtain the most recent assessment which is found to be sufficient to:

1. Make a complete identification of any problems related to the substance-related disorder of the client; and
2. Determine the appropriate level of service for the client pursuant to the criteria of the ~~[Health]~~ Division.

Sec. 40. NAC 458.331 is hereby amended to read as follows:

458.331 The operator of an evaluation center program shall:

1. Ensure that a record is maintained for each client. The record must include:
 - (a) The name, age, gender, race, ethnicity and permanent address of the client.
 - (b) If services are funded by the ~~[Health]~~ Division, an evaluation of the financial status of the client sufficient to determine eligibility for such services.
 - (c) A statement from the client, signed upon intake or enrollment in the evaluation center program, explaining that he is seeking service, unless the client is being provided a service related to civil protective custody.
 - (d) A consent form for treatment services signed by the client or the parent or guardian of the client upon intake or enrollment in the evaluation center program, unless the client is being provided a service related to civil protective custody.
 - (e) Any consent to release information which satisfies the requirements set forth in 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164.

- (f) The source of any referral to the evaluation center program.
- (g) Documentation of the assessment performed by the operator or obtained by the operator pursuant to NAC 458.326.
- (h) The history of treatment of the client.
- (i) Any sources of psychosocial stress affecting the client.
- (j) Any additional information that should be taken into consideration during the planning of treatment, determination of appropriate referrals and determination of any need for coordination of care.
- (k) Documentation of and justification for any referral to appropriate services pursuant to the criteria of the **[Health]** Division and any resulting coordination of care.
- (l) Documentation of any discussion with the client concerning the results of the treatment assessment, appropriate referrals and any barriers to treatment.
- (m) The date, type and duration of any contact with the client, and any services provided to the client.
- (n) Documentation of any:
 - (1) Incident that may cause imminent danger to the health and safety of the client, other clients or staff, or persons outside the evaluation center program;
 - (2) Problem involving the client; and
 - (3) Sign or symptom of illness or injury of the client.
- (o) Documentation in support of services that the evaluation center program provides to the client, including, without limitation, any:
 - (1) Correspondence concerning the client; and

(2) Results of a test conducted on the client, including, without limitation, any test conducted by a laboratory.

(p) A copy of the notification, which is in the form approved by the **[Health]** Division and which was signed by the client, indicating:

(1) The procedure for the client to register a complaint and to appeal a decision by the evaluation center program concerning a complaint;

(2) The requirements for the confidentiality of client information set forth in 42 C.F.R. Part 2, 45 C.F.R. Parts 160, 162 and 164 and any other applicable federal or state laws governing the confidentiality of client information for the service provided; and

(3) Any other rights of the client that are specified by the **[Health]** Division.

(q) Documentation to support any claims for services or data reported to the **[Health]** Division.

2. Ensure that each client receives a copy of the notification required pursuant to paragraph (p) of subsection 1.

3. Ensure that the client records adhere to procedures for medical records.

4. Ensure that the case notes for each client accurately reflect the treatment and services needed by the client, as identified in the assessment required pursuant to NAC 458.326.

5. Ensure that the staff readily has access to the client records to the extent authorized pursuant to 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164.

6. Maintain a system for the maintenance and protection of client information which satisfies the requirements set forth in 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164, including, without limitation, requirements for:

(a) Adequate provisions to prevent unauthorized access or theft of any form of a record of a client;

(b) The locked storage of paper records;

(c) Adequate provisions for a system of backup of records maintained in a computer system in case of a failure of the primary system;

(d) Retention of the records of each client for not less than 6 years after the client is discharged from the evaluation center program, to be made available as required pursuant to 45 C.F.R. Parts 160, 162 and 164; and

(e) Appropriate methods to destroy records of clients as required by federal regulation.

7. Ensure that each client has access to their records as required pursuant to 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164.

Sec. 41. NAC 458.361 is hereby amended to read as follows:

458.361 The **[Health]** Division shall accept complaints against programs in person, in writing, over the phone or by electronic means. The **[Health]** Division may enter the premises of a program and inspect the premises or request additional information from the program at any time.

Sec. 42. NAC 458.366 is hereby amended to read as follows:

458.366 When investigating a complaint regarding a program, the **[Health]** Division shall:

1. Request that the person registering the complaint state in writing the substance of the complaint and the name of the person or program alleged to have violated a requirement of this chapter. An investigation will proceed whether or not the allegations are put in writing.

2. Conduct announced or unannounced inspections and any other investigation necessary to determine the validity of the complaint.

3. If the investigation is conducted on the premises where a program is providing services, inform the operator or his designee of the presence of staff from the [Health] Division on the premises upon arrival.

4. Inform the operator or his designee of the nature of the complaint.

5. Except as otherwise provided in this subsection, keep all information gathered during the course of the investigation confidential while the investigation is proceeding. This subsection does not prohibit the [Health] Division from:

(a) Communicating or cooperating with any agency or board that:

(1) Is investigating a member of the staff who is under investigation;

(2) Is investigating the same program as the [Health] Division; or

(3) Regulates or has jurisdiction over the violations alleged in a complaint or found during the course of the investigation.

(b) Communicating with the operator or his designee when a complaint against a person who is a member of the staff alleges a condition posing a significant hazard to the health or safety of the clients, participants or staff of the program, or a visitor to the program.

Sec. 43. NAC 458.371 is hereby amended to read as follows:

458.371 Except as otherwise provided in this section, if the [Health] Division imposes any disciplinary action against an operator, the information gathered during the course of an investigation conducted pursuant to NAC 458.361 or 458.366 and the records of the investigation become public after the [Health] Division completes the investigation. Any information required to be kept confidential pursuant to 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164 may not be made public.

Sec. 44. NAC 458.376 is hereby amended to read as follows:

458.376 1. The ~~Health~~ Division may revoke the certification of a program or deny the initial certification or recertification of a program based on the following grounds:

- (a) Diminished quality of the service from when the program was originally certified;
- (b) Major noncompliance with any local, state or federal law, regulation or ordinance;
- (c) Disseminating false or misleading information to the public, consumers or the ~~Health~~

Division;

- (d) Failure of the operator or the staff to comply with the requirements of this chapter;
- (e) A condition which poses a significant hazard to the health or safety of the clients, participants or staff of the program, or a visitor to the program;
- (f) Significant mismanagement of the program by the operator;
- (g) Significant fiscal mismanagement of the program by the operator;
- (h) Formal criminal charges or an investigative process being brought against the operator or any member of the staff;
- (i) A complaint against a program or a member of the staff made by a client, participant, entity or individual with knowledge of the program which alleges a violation of a requirement of this chapter and which has been substantiated by the ~~Health~~ Division after an investigation concerning the complaint; or
- (j) Failure to comply with the requirements for funding as specified in the notice of subgrant award.

2. The ~~Health~~ Division may deny the certification of any new service to a program and may suspend funding for any service of a program for the same grounds as set forth in subsection 1.

3. If the certification of a program has been revoked pursuant to this section, the operator may not apply for recertification for at least 6 months after the date of revocation of the certification.

Sec. 45. NAC 458.401 is hereby amended to read as follows:

458.401 1. A person who has reason to believe that an action taken by the ~~[Health]~~ Division pursuant to this chapter or chapter 458 of NRS is incorrect or based upon inadequate knowledge may, within 10 business days after receiving notice of the action, request an informal discussion with the employee of the ~~[Health]~~ Division responsible for the action and the immediate supervisor of the employee.

2. If the informal discussion does not resolve the problem, the aggrieved person may, within 10 business days after the date scheduled for the informal discussion, submit a written request to the ~~[Bureau]~~ Agency for an informal conference. The informal conference must be scheduled for a date, time and place mutually agreed upon by the aggrieved person and the ~~[Bureau,]~~ Agency, except that the informal conference must be held not later than 60 days after the date on which the ~~[Bureau]~~ Agency received the written request for the conference.

3. Except as otherwise provided in subsection 4, ~~[the determination of the Bureau resulting from the informal conference cannot be appealed and is the final remedy available to the]~~ *an aggrieved person ~~[.]~~ may appeal the decision of the Agency resulting from the informal conference within 15 days after receiving the decision by submitting an appeal, in writing, to the Administrator. The Administrator will issue a written decision in response to the appeal not later than 30 days after the date on which the Administrator receives the appeal.*

4. An applicant for or holder of a certificate issued pursuant to this chapter or chapter 458 of NRS who is aggrieved by an action of the ~~[Health]~~ Division relating to the denial of initial

certification or recertification of a program, the denial of certification of additional services to a program or the suspension of funding for services of a program may appeal that action in accordance with ~~[NAC 439.300 to 439.395, inclusive,]~~ *the provisions of chapter 233B of NRS* after exhausting the informal procedures set forth in this section, except that the ~~[Bureau]~~ *Agency* may waive the informal procedures, or any portion thereof, by giving written notice to the aggrieved person.

Sec. 46. NAC 458.017 is hereby repealed.

TEXT OF REPEALED SECTION

458.017 “Bureau” defined. (NRS 458.025) “Bureau” means the Bureau of Alcohol and Drug Abuse of the Health Division, or its successor.