

**PROPOSED REGULATION OF THE
COMMITTEE ON TESTING FOR INTOXICATION**

LCB File No. R140-10

August 23, 2010

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

AUTHORITY: §§1 and 2, NRS 50.320.

A REGULATION relating to witnesses; revising the forms for an affidavit and a declaration of certain witnesses regarding the presence of certain prohibited substances in the blood or urine of a person; and providing other matters properly relating thereto.

Section 1. NAC 50.010 is hereby amended to read as follows:

50.010 An affidavit of an expert referred to in NRS 50.320 must be substantially in one of the following forms:

1. If the sample or substance contained a controlled substance as defined in chapter 453 of NRS or a chemical, poison, organic solvent or another prohibited substance:

State of Nevada }

 }ss.

County of}

I,, being first duly sworn, depose and say:

That I am (occupation) employed by (employer);

That on (date) I first qualified in the ~~[District]~~ Court of

County, *Nevada, a court of record*, as an expert witness for the purpose of testifying regarding

the presence and identity in the blood or urine of a person of a controlled substance the use or possession of which is regulated by chapter 453 of NRS or a chemical, poison, organic solvent or another prohibited substance, or the identity of a controlled substance alleged to have been in the possession of a person;

That on (date) I obtained certain evidence from (person, or evidence vault in sealed container), the evidence bearing Identification No. of (agency) and consisting of for the purpose of performing a chemical analysis on the contents thereof;

That on (date) I analyzed the sample or substance and determined it to be or contain (name of controlled substance, chemical, poison, organic solvent or other prohibited substance);

That on (date) I replaced the sample or substance in its container and sealed the container with a seal bearing my initials

That the evidence was in my sole custody or control from the time I obtained it until I resealed its container, at which time it was in substantially the same condition as when I first obtained it; and

That on (date) I returned the evidence to (person or evidence vault) or that I still have the evidence in my possession.

.....

Affiant's Signature

.....

Affiant's Title

Subscribed and sworn to before me this
..... day of the month of of the year
.....

Notary Public

2. If the sample contained alcohol:

State of Nevada }
 }ss.
County of}

I,, being first duly sworn, depose and say:

That I am (occupation) employed by (employer);

That on (date) I first qualified in the ~~District~~ Court of
County, *Nevada, a court of record*, as an expert witness for the purpose of testifying regarding
the presence and amount of alcohol in the blood or urine of a person;

That on (date) I obtained evidence from (person, or evidence vault
in sealed container), the evidence bearing Identification No. of (agency) and
consisting of a sample of (blood or urine);

That on (date) I analyzed the sample and determined that the blood of the person from whom the sample was taken contained a concentration of alcohol of (grams per 100 milliliters of blood);

That on (date) I replaced the sample in its container and sealed the container with a seal bearing my initials

That the evidence was in my sole custody or control from the time I first obtained it until I resealed its container, at which time it was in substantially the same condition as when I first obtained it; and

That on (date) I returned the evidence to (person or evidence vault) or that I still have the evidence in my possession.

.....

Affiant's Signature

.....

Affiant's Title

Subscribed and sworn to before me this
..... day of the month of of the year
.....

Notary Public

Sec. 2. NAC 50.015 is hereby amended to read as follows:

50.015 A declaration of an expert referred to in NRS 50.320 must be substantially in one of the following forms:

1. If the sample or substance contained a controlled substance as defined in chapter 453 of NRS or a chemical, poison, organic solvent or another prohibited substance:

I,, hereby declare:

That I am (occupation) employed by (employer);

That on (date) I first qualified in the ~~District~~ Court of County, *Nevada, a court of record*, as an expert witness for the purpose of testifying regarding the presence and identity in the blood or urine of a person of a controlled substance the use or possession of which is regulated by chapter 453 of NRS or a chemical, poison, organic solvent or another prohibited substance, or the identity of a controlled substance alleged to have been in the possession of a person;

That on (date) I obtained certain evidence from (person, or evidence vault in sealed container), the evidence bearing Identification No. of (agency) and consisting of for the purpose of performing a chemical analysis on the contents thereof;

That on (date) I analyzed the sample or substance and determined it to be or contain (name of controlled substance, chemical, poison, organic solvent or another prohibited substance);

That on (date) I replaced the sample or substance in its container and sealed the container with a seal bearing my initials

That the evidence was in my sole custody or control from the time I obtained it until I resealed its container, at which time it was in substantially the same condition as when I first obtained it; and

That on (date) I returned the evidence to (person or evidence vault) or that I still have the evidence in my possession.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on (Date) (Declarant's Signature)

(Date)

(Declarant's Signature)

.....

(Declarant's Title)

2. If the sample contained alcohol:

I,, hereby declare:

That I am (occupation) employed by (employer);

That on (date) I first qualified in the ~~District~~ Court of County, *Nevada, a court of record*, as an expert witness for the purpose of testifying regarding the presence and amount of alcohol in the blood or urine of a person;

That on (date) I obtained evidence from (person, or evidence vault in sealed container), the evidence bearing Identification No. of (agency) and consisting of a sample of (blood or urine);

That on (date) I analyzed the sample and determined that the blood of the person from whom the sample was taken contained a concentration of alcohol of (grams per 100 milliliters of blood);

That on (date) I replaced the sample in its container and sealed the container with a seal bearing my initials

That the evidence was in my sole custody or control from the time I first obtained it until I resealed its container, at which time it was in substantially the same condition as when I first obtained it; and

That on (date) I returned the evidence to (person or evidence vault) or that I still have the evidence in my possession.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on

(Date)

.....

(Declarant's Signature)

.....

(Declarant's Title)