

PROGRAMS OF TREATMENT FOR PERSONS WHO SOLICIT PROSTITUTION
PROPOSED REGULATIONS OF THE STATE BOARD OF HEALTH

EXPLANATION – Matter in *italics* is proposed regulatory language.

Matter between brackets ~~fomitted material~~ is material to be omitted.

AUTHORITY: NRS 439.150, NRS 4.373 (3)

Section 1. *Chapter 439 of NAC is hereby amended by adding thereto the provisions set forth in sections 2 to 46.*

Sec 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 46, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. “Distance media” defined. *“Distance media” means video, computer, television, correspondence, the Internet or other distance media of communication, or any combination thereof.*

Sec. 4. “Formal training” defined. *“Formal training” means a course that is related to the treatment for persons who solicit prostitution and is approved by the Division.*

Sec. 5. “Hour of continuing education” *means 60 minutes of instruction in a course of continuing education approved by the Division pursuant to section 33.*

Sec. 6. “Indigent” defined. *“Indigent” means a perpetrator receiving program services who does not have a current ability to pay the full program fee.*

Sec. 7. “Offender” defined. *“Offender” means a person who has been convicted of an offense that constitutes soliciting prostitution and has been ordered by a court of competent jurisdiction in this State to participate in a program.*

Sec. 8. “Program” defined. *“Program” means a program of treatment for persons who solicit prostitution in accordance with the provisions of these regulations.*

Sec. 9. “Program Facilitator” defined. *“Program Facilitator” means an individual who has been approved in accordance to section 37 to work in a program of treatment for persons who solicit prostitution as a program facilitator.*

Sec. 10. “Administrator” *means the Administrator of the Division.*

Sec. 11. “Division” *means the Division of Public and Behavioral Health of the Department of Health and Human Services.*

Sec. 12. “Electronic signature” *means a user name attached to or logically associated with a record and executed or adopted by a person with the intent to sign an electronic application or other document.*

Sec. 13. *“Signature” includes an electronic signature.*

Sec. 14. INITIAL PROGRAM APPLICATION

1. *An organization which desires to obtain a certificate for a program must submit an application to the Division in a manner prescribed by the Division, including, without limitation:*

(a) The names of the program facilitators retained pursuant to subsection 3 and proof of the qualifications of the program facilitators pursuant to section 35;

(b) The name of the director of the program and proof of qualifications of the director pursuant to section 34;

(c) A copy of the curriculum and the instructional materials developed pursuant to section 16 that will be used in the program or proof, such as a license, contract or written permission from the program or person whose Division approved curriculum and instructional materials a program will use.

(d) The business identification number assigned by the Secretary of State upon compliance with the provisions of chapter 76 of NRS unless exempt by the Secretary of State;

(e) The name and address of the program;

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

(1) Officer and director of the corporation; and

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

(g) The telephone number and electronic mail address of the program;

(h) A signed statement by the director of the program or designee attesting that the program complies with sections 3 to 46, inclusive, of this regulation; and

(i) Any other information required by the Division required to certify a program.

2. *The application submitted pursuant to this section must be signed by the director of the program or designee.*

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

(a) Employ, or retain as an independent contractor, two or more program facilitators who are qualified pursuant to section 35 to treat persons who solicit prostitution;

(b) Employ, or retain as an independent contractor, a director of the program who is qualified pursuant to section 34 of this regulation.

(c) Provide treatment to persons who have:

(i) Been convicted of a misdemeanor that constitutes solicitation for prostitution pursuant to NRS 201.354 or paragraph (b) of subsection 1 of NRS 207.030; or

(ii) Have not been convicted of a misdemeanor that constitutes solicitation for prostitution pursuant to this section but wishes to attend.

4. *The Division shall, within 60 days, issue a certificate to an applicant who has applied to become a certified program, in a manner prescribed by the Division, that meets all the requirements for certification and who has submitted all required documentation for certification pursuant to this section. The certificate is good for 2 years from date of issuance and may be renewed pursuant to section 22.*

Sec. 15. ATTENDANCE OF COUNSELING SESSIONS VIA DISTANCE MEDIA

A program shall allow an offender to attend a live, interactive counseling sessions or other meetings through distance media if:

(1) A program facilitator has determined that an offender may participate via distance media;

(2) The offender has:

(I) Attended at least one counseling session in person before attending a counseling session or meeting by distance media and provided the program with a photograph of the offender that was taken within the immediately preceding year to be kept on file by the program; or

(II) Had their identity verified by a court in this State before attending a counseling session or meeting by distance media and the program provides a court with a photograph of the person who attends the counseling session or meeting by distance media to the court to verify the identity of the person as the offender;

(3) The distance media by which the offender attends the counseling session or meeting allows the program facilitator who is overseeing the counseling session or meeting to receive audio and video of the offender; and

(3) The program facilitator who is overseeing the counseling session or meeting verifies the identity of the offender by comparing the video of the offender with the photograph provided pursuant to subparagraph (1); and

(3) The program ensures the distance media session is held in a manner that maintains the confidentiality of the session by ensuring only the person or persons participating in the counseling session are participating in a location in which confidentiality may be maintained, such as a room with a closed door.

Sec. 16. CURRICULUM AND INSTRUCTIONAL MATERIALS

1. An organization that operates a program shall ensure that the curriculum and instructional materials used in the program include the following topics:

- a. Male and female gender socialization;*
- b. The sexual violence continuum;*
- c. Pimping and trafficking;*
- d. Domestic violence;*
- e. Power and violence including acknowledgement that prostitution is a form of gender-based violence and that prostitution is not a victimless crime;*
- f. Vulnerability;*
- g. Mutuality in relationships;*
- h. The will to change;*
- i. The patterns and cycle of violent or abusive behavior;*
- j. Beliefs of offenders and myths relating to gender inequality;*
- k. Accountability for engaging in gender-based violence;*
- l. Pornography and its negative impacts;*
- m. Sexual objectification;*
- n. Personal and cultural attitudes toward the opposite sex;*
- o. Cultural and societal bases for engaging in gender-based violent behavior, including, without limitation, values and beliefs relating to gender-based violent behavior;*
- p. Skills related to enhancing personal relationships;*

i. Taking a history of an offender's participation in violence, abuse or neglect, including but not limited to, the solicitation of prostitution, domestic violence, elder abuse, child abuse, sexual abuse, or any other form of violence committed by the offender;

ii. Observations regarding the mental status of the offender, if the program facilitator determines that it is appropriate to include those observations in the evaluation;

iii. The medical and psychological history of the offender, including but not limited to any violence, neglect or abuse the offender experienced as a child and its impact on the offender and their family or any other history the program facilitator determines pertinent to the treatment of the offender;

iv. A description of any abuse of drugs or alcohol by the offender and the effect that the abuse had on the offender and their family; and

v. The social and cultural history of the offender as it relates to the solicitation of prostitution.

(f) A program facilitator shall ensure the offender takes the group sessions required pursuant to subsection 1 (a) and individual sessions pursuant to subsection 1 (g) (1) and prohibits an offender from having more than two unexcused absences.

(g) A program facilitator:

(1) May require an offender that has up to, but not more than two unexcused absences, to make up for the unexcused absences by attending the equivalent number of follow-up group sessions pursuant to subsection (1) (c) of this section.

(2) May prescribe individual counseling sessions for an offender based on the evaluation conducted pursuant to subsection (1) (e) (1) during the 10-week program in a duration and frequency as deemed necessary by the program facilitator.

(3) Must have a mechanism for measuring the progress of the offender in the program, including, without limitation, their attendance and participation in counseling sessions, completion of assignments, and behavior and attitudinal changes.

(4) Must periodically assesses the needs and progress of the offender throughout the participation of the offender in the program and make adjustments to treatment in accordance with the needs of the offender, as determined by the program facilitator;

(5) Must report evidence of child abuse or neglect to an agency which provides child welfare services or to a law enforcement agency; and

(6) Must report evidence of abuse, neglect, exploitation or isolation of an older person to an entity described in NRS 200.5093.

2. A program facilitator shall prepare a written report of the results of the evaluation conducted pursuant to subsection (1) (e) (1) to be retained in the offender's file.

3. Any treatment that is provided to an offender by the program in a group counseling session:

(1) Must be conducted by two program facilitators.

(a) If a program facilitator determines that an offender cannot be treated in a group counseling session because the offender has a physical or mental limitation, the offender must be referred to an appropriate provider of health care or other services.

(b) A program facilitator who is making a determination pursuant to paragraph (a) has provided reasonable accommodation to the known physical or mental limitations of an offender with a disability who is otherwise eligible to obtain treatment in a group counseling session, unless the program facilitator can demonstrate that such

accommodation would result in a fundamental alteration of the program or an undue financial or administrative burden.

(c) If an offender does not receive treatment by the program because of a determination made pursuant to paragraph (a), the Director notifies the court that sentenced the offender of that fact and advises the offender to do the same.

(d) Who is under the age of 18 years and for whom an adult session is not suitable, shall be allowed to participate in a separate group counseling session.

4. A program shall maintain an attendance record for the group size of each group counseling session conducted within the current calendar year and each of the immediately preceding 2 calendar years.

5. A program shall maintain an annual average of 15 offenders or less in group counseling sessions.

6. The Division may waive the requirements set forth in this section if the Division determines that it would be impracticable or impossible for an organization that operates a program to comply with those requirements.

7. The Division may approve a nationally recognized program, as determined by the Division, or program that has been approved by the District of Columbia, another state agency or territorial agency of the United States to be deemed to meet the requirements of section 16 and section 17.

8. As used in this section, "provider of health care or other services" includes:

(a) A physician or a physician assistant who is licensed pursuant to chapter 630 or 633 of NRS;

(b) An advanced practice nurse pursuant to chapter 632 of NRS and who has specialized training in psychiatry;

(c) A psychologist who is licensed pursuant to chapter 641 of NRS;

(d) A clinical professional counselor who is licensed pursuant to chapter 641A of NRS;

and

(e) A clinical social worker who is licensed pursuant to chapter 641B of NRS.

Sec. 18. ADDITION OF LOCATION APPLICATION

A program that is currently certified may open additional locations by submitting an addition of location application, in a format prescribed by the Division, which includes:

(a) A director that meets the qualification pursuant to section 34;

(b) Two program facilitators that have been approved pursuant to section 37;

(c) An attestation that the program will follow the same program of the certified program submitting the addition of location application;

(d) The name and certification number of the certified program submitting the application; and

(e) Any other information required by the Division to certify an additional program location.

Sec. 19. OUT OF STATE PROGRAMS

1. A program of treatment for persons who solicit prostitution that is in the District of Columbia or in another state or territory of the United States that is certified by and in good standing with a regulatory agency in the District of Columbia, that state or territory or is a nationally recognized program for the treatment of persons that solicit prostitution, as determined by the Division, may apply to become a certified program.

2. The Division shall certify, for two years, a program that applies pursuant to subsection 1 and submits proof, as determined by the Division, that the program is certified by and in good standing with a regulatory agency in the District of Columbia, that state or territory of the United States or if a nationally recognized program, the Division shall make that determination.

3. An out-of-state certified program shall pay for all travel costs including airline, ground transportation, hotel, per diem and incidental costs, if the Division must travel to a program certified pursuant to this section to conduct an onsite inspection or complaint investigation.

Sec. 20. PROGRAM CHANGES

1. An organization that operates a program shall notify the Division, in a form prescribed by the Division, not later than 30 days after any change to the information submitted pursuant to section 14 or section 19, but not limited to:

- (a) A change in the ownership of the organization;
- (b) A change of the name of the program;
- (c) A relocation of the program;
- (d) The discontinuance of the program;
- (e) A significant change in the program;
- (f) A change in the director of the program; or
- (g) A change in the phone number or electronic mail address of the program.

2. If an organization that operates a program is no longer in compliance with any provisions of sections 3 to 46 because the director or the minimum requirement of 2 program facilitators are no longer employed or retained at the program, the organization shall submit, within 10 days after the person ceases to be employed or retained, a written plan describing the actions the organization will take to regain compliance with all applicable provisions of sections 3 to 46 within 90 days after submission of the written plan.

Sec. 21. ESTABLISH FEES

The following fees must be paid by a certificate holder or an applicant for a certificate to operate a program of treatment for persons who solicit prostitution, as applicable:

- 1. Initial program certification application fee \$897
- 2. Program certification renewal application fee \$449
- 3. Addition of program location fee \$245
- 4. Out-of-state initial certification application fee \$224
- 5. Out-of-state renewal application fee \$112

Sec. 22. PROGRAM CERTIFICATE RENEWAL REQUIREMENTS

1. Each permit issued pursuant to section 14 is renewable every two years on or before the expiration date of the certificate and payment of all fees required pursuant to section 21 unless the Division finds, after an inspection or complaint investigation, that the facility has not satisfactorily complied with the provisions of sections 3 to 46 of this regulation.

2. The application for renewal pursuant to subsection 1 must be submitted in a manner prescribed by the Division and must be signed by the director or designee.

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

(a) The application for renewal is complete;

(b) The organization which operates the program has satisfied all regulatory requirements pursuant to sections 3 to 46 which a program must follow, inclusive, of this regulation;

(c) The program has passed an inspection of the Division conducted pursuant to section 44 of this regulation, if one is conducted;

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

(1) An attestation that the program has on staff a director qualified pursuant to section 34;

(2) An attestation that all program facilitators have been approved in accordance with section 37.

(3) Any notification of changes to the program required pursuant to section 20;

and

(4) Any other information required by the Division.

4. If a completed application and the documents described in subsections 2 or 3 are not received by the Division on or before the renewal date of the certificate, the certificate expires 30 days after that date.

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

6. If a certificate is not renewed in a timely manner as required by subsection 1 it is considered expired, or if a renewal of a certificate is denied pursuant to section 40:

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

(b) The organization which operated the program may reapply for initial certification of a program pursuant to section 14 and pay any applicable fees pursuant to section 21 if the program failed to renew in a timely manner or if the renewal application was denied, the program may appeal the decision to deny a renewal certificate pursuant to section 41.

Sec. 23. CONSEQUENCES OF NOT RENEWING PROGRAM CERTIFICATE

If the certification of a program is not renewed, the organization that operates the program shall notify each:

1. Court that refers offenders to the program that the certification of the program was not renewed; and
2. Offender who has been referred to the program that he or she is required to make a request to the court that sentenced him or her to:
 - (a) Reassign the offender to another program; and
 - (b) Determine the number of treatment sessions the offender completed, if any, that will be credited toward the completion of the treatment ordered by the court.

Sec. 24. SLIDING SCALE

1. An organization that operates a program shall ensure that:
 - a. The program shall accept up to 5 percent of the offenders that are indigent.
 - b. The program determines the ability of an offender to pay for the program and charges the offender a fee that is based on a sliding scale that enables the offender to pay for the program.
2. The program does not deny an offender participation in the program solely because of the offender's inability to pay for the program.

Sec. 25. OFFENDER COMPLETION/TERMINATION OF COURSE

1. An organization that operates a program shall ensure that:
 - (a) The program issues a certificate of completion to an offender who:
 - (1) Successfully completes the program; and
 - (2) Complies with the provisions of the agreement set forth in section 28.
 - (b) The program issues a discharge to an offender who has been referred to another program.
 - (c) The program terminates the treatment of an offender who violates any of the provisions of the agreement set forth in section 28 or who has more than two unexcused absences pursuant to section 17, subsection (1)(f).
2. If the program issues a discharge to an offender or terminates the treatment of an offender, the organization that operates the program shall notify:
 - (a) The court that sentenced the offender of the discharge or termination and provide to the court a written summary concerning the behavior of the offender in the program and the number of treatment sessions the offender successfully completed, if any; and
 - (b) The offender they are required to make a request to the court that sentenced him or her to reassign them to another program.
3. An organization that operates a program shall ensure that if, at the time that a discharge or termination of an offender is considered, the offender exhibits signs of violent behavior and resists treatment, a program facilitator:
 - (b) Provides to the court that sentenced the offender, and to each of the following persons the program facilitator determines is necessary, a statement of the progress of the offender and the recommendation of the program facilitator concerning whether the treatment of the offender should be continued or terminated:
 - (1) The parole and probation officer of the offender; and
 - (2) The prosecuting attorney; and

(c) Requests that the offender continue their participation in the program or refers the offender to another program.

4. An organization that operates a program shall ensure that any documentation of actions taken under this section is placed in the file of the offender.

Sec. 26. PROGRAM RECORD RETENTION

An organization that operates a program shall retain all records relating to an offender for 7 years after the last date of treatment of that offender.

Sec. 27. CONFIDENTIALITY REQUIREMENTS

An organization that operates a program shall ensure that:

1. A program facilitator or any other staff member of the program does not disclose any confidential communications made by an offender during the course of treatment or acquired through his or her work with the program, except:

- (a) Upon the written consent of the offender;
- (b) To the extent necessary to report the status of the treatment of an offender to the court that ordered the offender to participate in the program;
- (c) To the extent necessary to comply with the provisions of subsection 3 of section 25;
- (d) Pursuant to an investigation or on-site inspection by the Division;
- (e) To report evidence of child abuse or neglect to an agency which provides child welfare services or to a law enforcement agency;
- (f) To report evidence of abuse, neglect, exploitation or isolation of an older person to an entity described in NRS 200.5093; or
- (g) As otherwise required by law.

2. Each staff member of the program maintains a confidential record indicating the course and scope of treatment provided by a program facilitator.

3. No staff member of the program discloses a confidential record or information contained in such a record to another person except:

- (a) Upon the written consent of the offender;
- (b) To the extent necessary to report the status of the treatment of an offender to the court that ordered the offender to participate in the program;
- (c) To the extent necessary to comply with the provisions of subsection 3 of section 46;
- (d) Pursuant to a complaint investigation or on-site or off-site inspection by the Division;
- (e) To report evidence of child abuse or neglect to an agency which provides child welfare services or to a law enforcement agency;
- (f) To report evidence of abuse, neglect, exploitation or isolation of an older person to an entity described in NRS 200.5093; or
- (g) As otherwise required by law.

4. A program facilitator:

- (a) Informs each offender of the provisions set forth in subsections 1 and 3; and
- (b) Before providing any treatment to the offender, obtains written consent from the offender that sets forth that a confidential communication made by the offender and a

confidential record relating to the offender or information contained in such a record may be disclosed for any of the purposes set forth in subsection 1 or 3.

Sec. 28. OFFENDER AGREEMENT & REQUIREMENTS

1. Upon the admission of an offender to the program, the program requires a written agreement that sets forth the responsibilities of the offender and the program facilitator and includes the provisions set forth in subsection 2 of this section. The agreement must be signed by:

- (a) The offender in the presence of a program facilitator; and*
- (b) The program facilitator who witnessed the signature pursuant to paragraph (a).*

2. An organization that operates a program shall ensure that the agreement an offender is required to comply with provides:

1. That the offender agrees to:

(a) Submit a copy of:

(1) A report of a peace officer's investigation of the offender's solicitation of prostitution;

(2) The order of the court requiring the offender to participate in a program;

(3) Any report concerning probation prepared by the offender's parole and probation officer; and

(4) The results of a psychological evaluation of the offender if such an evaluation has been completed;

(b) Be free of all forms of violence, including, without limitation, physical, sexual and psychological violence;

(c) Accept responsibility for his or her violent behavior;

(d) Attend counseling sessions pursuant to section 15, if applicable, and to section 17;

(e) Refrain from using sexist or racist language in the counseling sessions;

(f) Pay any fee charged by the program pursuant to section 24;

(g) Refrain from using any alcohol or drugs during the period in which the offender is participating in the program if the program facilitator indicates in the report of the results of the evaluation he or she prepared pursuant to section 17, subsection 2, that the offender has abused alcohol or drugs;

(h) Openly express feelings and emotions in the counseling sessions; and

(i) Refrain from discussing the identity of or communications made by another offender in a group counseling session.

2. The number of treatment sessions the offender must attend to complete the treatment ordered by the court, if applicable, and the number of absences from treatment sessions that the offender is allowed, if any.

3. That the program will, pursuant to section 25, terminate the treatment of the offender if they violate any of the provisions of the agreement.

4. That an offender is held accountable for accepting responsibility for their gender-based violence and for changing their gender-based violent behavior.

Sec. 29. PROGRAM EVALUATION

The Division or an independent contractor thereof may require a program to:

1. Use methods and measures prescribed by the Division to evaluate the outcomes of the program; and

2. Submit to the Division or contractor thereof, at any time as required by the Division or contractor thereof, any data or other information necessary to measure the effectiveness of a program, including, without limitation, social security numbers of offenders who participated in the program, information concerning outcomes for such offenders, dropout rates, reinstatement rates, treatment methods and input from staff and clients.

Sec. 30. APPROVAL TO TEACH CONTINUING EDUCATION AND FORMAL EDUCATION COURSES

1. A person who wishes to offer or teach a course of continuing education or formal training pursuant to section 32 must, for all such continuing education or formal training provided in any format, submit to the Division an application in a manner prescribed by the Division, that includes, without limitation:

- (a) The name and address of the instructor of the course;
- (b) The resume of the instructor;
- (c) The syllabus for the course;
- (d) The content of the information that will be provided to persons enrolled in the course;
- (e) Whether the course will be provided via distance media, in person, or as a combination of both;
- (f) A written evaluation of the content and presentation of the course that will be completed by each person who is enrolled in the course; and
- (g) A statement describing:
 - (1) The purpose of the course; and
 - (2) The requirements for attendance.

2. The Division may request additional information or documentation from an applicant as the Division deems necessary.

3. The Division will consider the information submitted pursuant to paragraph (d) of subsection 1 of this section to be proprietary information and will not release that information without the consent of the applicant.

4. The Division may approve course subjects listed in section 32 provided by a nationally recognized organization, as determined by the Division, a governmental agency, or a university or college accredited in the District of Columbia, state or territory of the United States.

Sec. 31. PROGRAM FACILITATOR – CREDIT FOR NON-APPROVED CONTINUING EDUCATION AND FORMAL EDUCATION COURSES

1. A program facilitator who wishes to obtain credit for a course of continuing education or approval for formal training listed in section 32 that has not been approved by the Division must submit to the Division an application, in a manner prescribed by the Division, that includes the information set forth in section 30, unless the continuing education course or formal training is approved pursuant to subsection 4 of section 30, in which case the information provided in subsection 1 of section 30 would not be required to be submitted.

2. *The Division may request additional information or documentation from an applicant as the Division deems necessary.*

Sec. 32. CONTINUING EDUCATION AND FORMAL TRAINING REQUIREMENTS FOR PROGRAM FACILITATORS

The Division may approve an application submitted pursuant to section 30 for a course of continuing education or formal training that a program facilitator must take pursuant to section 35 for the following course subjects:

1. *The patterns and cycle of violent or abusive behavior;*
2. *Cultural, values, beliefs or myths surrounding gender inequality;*
3. *Gender-based violence and its negative impacts;*
4. *Pornography and its negative impacts;*
5. *Sexual objectification;*
6. *Personal and cultural attitudes toward the opposite sex;*
7. *Skills related to enhancing personal relationships;*
8. *Health relationships including mutuality in relationships;*
9. *Models for personal relationships that are based on nonviolence and equality and that incorporates the concepts of accountability for one's own behavior, negotiation, fairness, and equality concerning economic issues;*
10. *Toxic and healthy masculinity;*
11. *How to identify signs of a relapse in behavior and methods of preventing such a relapse;*
12. *Confidentiality;*
13. *Ethics;*
14. *Gender roles, socialization and the nature and function of violence;*
15. *Cultural competency and diversity;*
16. *Programs to intervene concerning perpetrators soliciting illegal prostitution;*
17. *Facilitation of group therapy;*
18. *Facilitation of individual therapy;*
19. *Motivational Interviewing;*
20. *Procedures for intake and assessment;*
21. *Use of questions for self-evaluation;*
22. *Intimacy skills;*
23. *Male and female gender socialization;*
24. *The sexual violence continuum;*
25. *Pimping and trafficking;*
26. *Any combination of the subjects listed in subsections 1 to 25, inclusive; or*
27. *Any other subject deemed appropriate by the Division.*

Sec. 33. REQUIREMENTS FOR DIVISION APPROVAL OF CONTINUING EDUCATION AND FORMAL TRAINING COURSES

1. *The Division may approve a course of continuing education or formal training listed in section 32 and submitted pursuant to section 30 or award credit for completion of a course of continuing education if the course:*

- (a) *Will be taught by a qualified instructor as demonstrated by his or her educational,*

professional and teaching experience;

(b) Contains appropriate educational materials; and

(c) Requires the completion of a written evaluation of the content and presentation of the course by each program facilitator who is enrolled in the course; or

(d) Is provided by a nationally recognized organization, as determined by the Division, or government agency or a college or university accredited in the District of Columbia, the state or territories of the United States.

2. A course approved pursuant to this section does not expire but may be removed from the list of approved courses if after an evaluation of the course, the Division deems the course to be outdated and no longer applicable to current evidence-based standards.

3. Within 15 days after the Division renders its decision concerning an application made pursuant to section 30 it will provide written notice of its decision to the applicant.

4. If the Division approves the course or will award credit for the completion of the course, the notice of approval will set forth:

(a) The number of hours of continuing education for which the course is approved or for which the applicant will receive credit; and

5. If the Division does not approve the course or will not award credit for the completion of the course, the notice will include the reasons for the disapproval of the course or the denial of credit.

Sec. 34. DIRECTOR QUALIFICATIONS

1. The director of a program must be a program facilitator or person who:

(a) Is at least 18 years of age;

(b) Has received a high school diploma or its equivalent;

(c) Understands the provisions of sections 3 to 46 inclusive, of this regulation;

(d) Has demonstrated the ability to read, write, speak and understand the English language; and

(e) Has at least 1 year of supervisory or administrative experience in a related field.

2. The director of a program shall:

(a) Ensure that each program facilitator who is employed by or serves as an independent contractor for the program has been approved as program facilitator pursuant to section 37 before providing program services;

(b) Ensure compliance with sections 3 to 46, inclusive, of this regulation; and

(c) Ensure that the program develops and follows policies, procedures and schedules that ensure the provisions of section 15, if applicable, and section 17 are carried out.

Sec. 35. PROGRAM FACILITATOR QUALIFICATIONS

1. A person may be employed, or retained as an independent contractor, as a program facilitator if they:

(a) Are a high school graduate or equivalent;

- (b) Have satisfactorily completed at least 60 hours of formal training from course subjects listed in section 32, with a minimum of 5 different course subjects selected; **and**
- (c) Have satisfactorily completed at least 15 hours of training from the course subjects listed in section 32 of this section during the 2 years immediately preceding the date on which the person applied to become an approved program facilitator pursuant to section 37; **or**
- (d) Have 2 years of experience within 5 years of submitting a program facilitator application pursuant to section 37 working as a program facilitator for a nationally recognized program of treatment for persons who solicit prostitution, as determined by the Division, or for a certified, licensed or permitted program of treatment for persons who solicit prostitution by the District of Columbia, a state of the United States of America or any of its territories.

(e) Have never:

- (1) Entered a plea of guilty, guilty but mentally ill or nolo contendere to;
- (2) Been found guilty or guilty but mentally ill of; or
- (3) Been convicted of,

-> a crime which demonstrates their unfitness to act as a staff member of the program.

(f) Are currently free of violence in their life; and

(g) Are not currently an abuser of prescription drugs or alcohol or a user of illegal drugs.

Sec. 36. REQUIRED PROFESSIONAL CONDUCT OF PROGRAM FACILITATORS

The organization that operates a program shall ensure that program facilitators employed, or retained as an independent contractor, at a program:

- 1. Shall provide treatment with professional skill and competence;
- 2. Shall refrain from entering into a sexual relationship with any offender during the time that the offender is receiving treatment by the program and for 2 years after the termination of treatment;
- 3. Shall refrain from entering into a dual relationship with any offender receiving treatment by the program;
- 4. Shall not practice, condone, facilitate or collaborate with any form of discrimination based on race, color, sex, gender orientation, age, religion, national origin, social, economic, health or marital status, political belief, diagnosis, mental or physical disability, or any preference or personal characteristic, condition or status; and
- 5. Shall not influence or attempt to influence an offender in any manner which could be reasonably anticipated in their deriving benefits of an unprofessional nature from the offender during the time that the offender is receiving treatment from the program facilitator and for 2 years after the termination of those services.

Sec. 37. PROGRAM FACILITATOR APPLICATION

1. An applicant to become an approved program facilitator shall submit, in a format prescribed by the Division, with each application:

- (a) The applicant's full name, including his or her first name, middle name if applicable and last name;
- (b) Any other name that has been used by the applicant;
- (c) The applicant's date of birth;
- (d) The applicant's physical address and the applicant's mailing address if different than the physical address;
- (e) A telephone number at which the applicant can be reached;

(f) A method of electronic communication, including, without limitation, an electronic mail address, a telephone number that will accept electronic mail, or any other method by which the Division may communicate with the applicant other than by telephone or United States mail. The Division may exempt an applicant from the requirements of this paragraph if the applicant attests that the methods set forth in this paragraph are not feasible for him or her and acknowledges that the United States mail is the only means by which to communicate with the applicant;

(g) The applicant's social security number;

(h) A statement by the applicant acknowledging the mandatory reporting requirements concerning the abuse, neglect, exploitation or isolation of an older person set forth in NRS 200.5093, the abuse, neglect, exploitation or isolation of a vulnerable person set forth in NRS 200.50935 and the abuse or neglect of a child set forth in NRS 432B.220;

(i) The name of the program for which the applicant will be working if approved as a program facilitator;

(j) Proof, as determined by the Division, of meeting the qualifications to become a program facilitator pursuant to section 35; and

(k) Any other information required by the Division to determine the applicant's identity or eligibility to become a qualified program facilitator.

2. Approval to work as a program facilitator expires 2 years after the date of issuance of approval to work as a program facilitator pursuant to this section.

3. An applicant shall notify the Division of any change to the information contained in their application pursuant to this section within 30 days after the change. The notification may be made in writing, by electronic mail or by any other method authorized by the Division.

Sec. 38. RENEWAL OF PROGRAM FACILITATOR'S APPROVAL TO WORK IN PROGRAMS

1. Each program facilitator approval issued pursuant to section 37 is renewable every two years on or before the expiration date of the approval.

2. The application for renewal pursuant to subsection 1 must be submitted in a manner prescribed by the Division and must be signed by the applicant.

3. The Division may renew the approval to serve as a program facilitator if the applicant:

(a) Submits a completed application which is in compliance with subsection 1 and subsection 2 of this section;

(b) Attests that the applicant has satisfactorily completed a minimum of 30 hours of continuing education in course subjects listed in section 32 within the previous 2 years of renewing for approval to work as a program facilitator pursuant to this section.

(c) Attests that they have not committed any act which is grounds for disciplinary action, unless the Division determines that sufficient restitution has been made or the act was not substantially related to practicing as a program facilitator; and

(d) Submits any other information, as required by the Division, to complete the renewal.

4. The program facilitator shall keep a copy of all continuing education certificates required pursuant to subsection (3)(b) of this section for 6 years.

5. The Division, may at any time, perform an audit of a program facilitator to determine if they are in compliance with the continuing education requirements pursuant to subsection (3)(b) of this section.

6. If the Division determines the program facilitator is not in compliance with subsection (3)(b) of this section, the Division will give the program facilitator 45 days to come into compliance. If the program facilitator does not come into compliance within the required 45 days, the program facilitator will not be allowed to work in a program and will need to submit a new program facilitator application pursuant to section 37.

7. A program facilitator approved pursuant to section 37 may work for any program if they are a currently approved program facilitator pursuant to section 37 with no further approvals required.

8. The Division shall determine what constitutes satisfactory documentation and information required to renew an approval to become a program facilitator pursuant to this section.

9. If a completed application and the documents pursuant to this section are not received by the Division on or before the renewal date of the approval, the program certificate is considered expired.

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

11. A program facilitator who does not renew their approval on or before the expiration date of the approval shall not be allowed to work in a program as the approval will be considered expired until such time that the program facilitator reapplies for approval in accordance with section 37 and is once again approved to serve as a program facilitator.

Sec. 39. DENIAL, SUSPENSION OR REVOCATION OF APPROVED PROGRAM FACILITATOR

1. The Division may deny, refuse to renew, revoke or suspend any approval to work as a program facilitator, or take such other disciplinary action against a program facilitator, or place a program facilitator on probation with specified conditions for a specified period or issue a written warning, upon determining that the program facilitator:

(a) Is guilty of fraud or deceit in procuring or attempting to procure approval to work as a program facilitator;

(b) Is guilty of any offense:

(1) Which demonstrates their unfitness to act as a staff member of the program; or

(2) Relating to the qualifications, functions or duties of a program facilitator;

(c) Uses any controlled substance, dangerous drug as defined in chapter 454 of NRS, or intoxicating liquor to an extent or in a manner which is dangerous or injurious to any other person or which impairs their ability to practice as a program facilitator;

(d) Is guilty of unprofessional conduct, which includes, without limitation:

(1) *Permitting or allowing another person to use their approval to work as a program facilitator or utilizing another program facilitator's approval to work as a program facilitator.*

(2) *Physical, verbal or psychological abuse of any individual participating in a program;*

(e) *Has willfully or repeatedly violated any provision of sections 3 to 46, inclusive, of this regulation;*

(f) *Is guilty of aiding or abetting any person in violating any provision of sections 3 to 46, inclusive, of this regulation;*

(g) *Has been disciplined in another state in connection with practicing as a program facilitator or has committed an act in another state which would constitute grounds for the denial, suspension or revocation of approval as a program facilitator pursuant to this section.*

(h) *Has engaged in conduct likely to deceive, defraud or endanger an individual participating in a program or the general public;*

(i) *Has engaged in unethical practice in the treatment for persons who solicit prostitution; or*

(j) *Has failed to notify the Divisions of program facilitator application changes as required by section 37 (3).*

2. *The Division may investigate, as necessary, to carry out the provisions of this section, including but not limited, determining whether the program facilitator has committed any actions listed in subsection 1 of this section. The program facilitator must provide any required interviews, documentation or other information deemed necessary by the Division to conduct its investigation pursuant to this section in order to complete its investigation.*

3. *The Division may assess against and collect from a program facilitator all costs incurred by the Division in connection with any disciplinary action taken against a program facilitator, including, without limitation, costs for investigators and stenographers, attorney's fees and other costs of the hearing. If the Division bills a program facilitator the costs pursuant to this subsection, the Division shall provide an itemized bill with the associated costs.*

4. *For the purposes of this section, a plea or verdict of guilty or guilty but mentally ill or a plea of nolo contendere constitutes a conviction of an offense. The Division may take disciplinary action pending the appeal of a conviction.*

5. *A program facilitator whose approval to work as a program facilitator has been suspended or revoked or whose renewal application has been denied, shall not be allowed to work in a program pending the result of an appeal, if filed, pursuant to section 41, or whose approval has been reinstated pursuant to section 42.*

Sec. 40. DIVISION DENIAL OF APPLICATION, REVOCATION OR SUSPENSION OF PROGRAM CERTIFICATE

1. *The Division may refuse to issue or renew a certificate for a program, revoke or suspend a certificate, place a program on probation with specified conditions for a specified period or issue a written warning if:*

a. *The organization that operates the program has not complied with sections 3 to 46, inclusive, of this regulation;*

b. *The organization that operates the program has obtained a certificate or any other license by fraudulent misrepresentation;*

c. *A staff member of the program has committed gross malpractice in his or her actions or omissions related to the program;*

d. A staff member of the program, while at a facility of the program or while performing any work for the program, has been intoxicated or has used or possessed a controlled substance without a prescription;

e. A staff member of the program has engaged in violent behavior or has:

(1) Entered a plea of guilty, guilty but mentally ill or nolo contendere to;

(2) Been found guilty or guilty but mentally ill of; or

(3) Been convicted of,

-> a crime which demonstrates his or her unfitness to act as a staff member of the program.

f. The organization that operates the program or a staff member of the program has engaged in unethical practice in the treatment for persons who solicit prostitution;

g. The organization that operates the program fails to notify the Division of a change in the program as required by section 20;

h. The organization that operates the program or a staff member of the program fails to comply with a stipulation, agreement, order, advisory opinion or declaratory order issued by the Division;

j. The program provides treatment to an offender after its certificate has expired; or

k. The organization that operates the program or a staff member of the program has engaged in any other unjust practice, method or treatment which the Division determines warrants such an action.

2. The Division may assess against and collect from a program all costs incurred by the Division in connection with any disciplinary action taken against a program, including, without limitation, costs for investigators and stenographers, attorney's fees and other costs of the hearing. If the Division bills a program the costs pursuant to this subsection, the Division shall provide an itemized bill with the associated costs.

3. For the purposes of this section, a plea or verdict of guilty or guilty but mentally ill or a plea of nolo contendere constitutes a conviction of an offense. The Division may take disciplinary action pending the appeal of a conviction.

Sec. 41. APPEAL RIGHTS FOR ANY DECISIONS MADE BY THE DIVISION PURSUANT TO THESE REGULATIONS

If a person is aggrieved by a decision of the Division pursuant to section 39 or section 40 relating to the denial, suspension, refusal to renew or revocation of a certification of a program or approval of a program facilitator or pursuant to section 33, subsection (5) relating to the denial of an application to conduct a formal training or continuing education course, the person who is aggrieved may appeal the action in accordance with NAC 439.300 to 439.395, inclusive.

Sec. 42. REINSTATEMENT OF APPROVED PROGRAM FACILITATOR OR PROGRAM

1. If the Division intends to suspend the certificate of a program facilitator pursuant to section 39 or a program pursuant to section 40, the Division will also notify the program or program facilitator, as applicable, of:

(a) The remedial steps that, if completed to the satisfaction of the Division in a timely manner, will result in the Division ending the suspension; and

(b) The date by which such remedial steps must be completed.

2. A written warning issued to a program facilitator pursuant to section 39 or program pursuant to section 40 must include:

(a) The specific reason for the warning;

(b) A citation to the statute or regulation that the Division has determined to have been violated by the program; and

(c) A statement of any actions that the Division has determined are necessary to remedy the violation.

Sec. 43. NOTICE SUFFICIENT IF SENT TO RECENT ADDRESS

Any notice that is required to be provided to an applicant or the holder of a certificate pursuant to sections 3 to 46, inclusive, of this regulation or pursuant to NRS 233B as part of the administrative regulations process, shall be deemed sufficient if the notice is sent to the last address or electronic mail address provided to the Division by the applicant or holder, as applicable.

Sec. 44. ONSITE & OFFSITE INSPECTIONS

1. The Division may conduct an on-site or off-site inspection of a program at any time to determine whether the organization that operates the program is in compliance with the provisions of sections 3 to 46, inclusive, of this regulation.

2. Upon the completion of an inspection, the Division will:

(a) Compile a report of the inspection, which must include a description of each violation discovered during the inspection or a statement that no violations were discovered during the inspection; and

(b) Make the report available to the program that is the subject of the report.

3. If a report compiled as a result of an onsite or offsite inspection conducted pursuant to this section or a complaint investigation conducted pursuant to sections 45 or 46 of this regulation indicates that a violation has occurred, the program that is the subject of the report shall, not later than 10 days after the report is made available to the program, submit to the Division a plan of correction for each violation. The plan of correction must include specific actions that will be taken to correct the violation, the date by which such actions will be taken and the name and title of the employee or independent contractor of the program who is responsible for ensuring that the plan is implemented. Failure to submit a timely plan of correction constitutes a separate violation for which additional disciplinary action may be imposed.

4. If the Division determines that a plan of correction is:

(a) Acceptable, the Division will notify the program that submitted the plan of correction that the plan of correction has been approved; or

(b) Not acceptable, the Division may require the program that submitted the plan of correction to:

(1) Submit a revised plan of correction; or

(2) Comply with a plan of correction prescribed by the Division.

5. A plan of correction may only be released once it has been approved.

Sec. 45. COMPLAINTS

1. Any person may submit a complaint concerning a program or program facilitator to the Division if the person believes that the program or program facilitator has violated a provision of sections 3 to 46, inclusive, of this regulation.

2. A person may not submit a complaint to the Division concerning the cost of services provided by a program.

3. Upon the receipt of a complaint, the Division will provide written notice to the person who filed the complaint that the complaint has been received.

4. Not later than 45 days after receiving a complaint concerning a program pursuant to subsection 1, the Division will initiate an investigation of the program. The Division may also investigate a program if it determines that a program has likely committed an action described in subsection 1, regardless of whether a complaint is submitted.

5. An investigation conducted pursuant to subsection 4 may include, without limitation:

(a) Seeking additional information or requesting documents from the complainant, the program to which the complaint pertains, or any other person involved in the actions described in the complaint; and

(b) A visit to any site at which the program operates to interview staff and clients, review records and make observations.

6. Not later than 10 business days after completing an investigation, the Division will:

(a) Compile a report of the investigation, which must include, without limitation, a description of each violation discovered during the inspection or a statement that no violations were discovered during the investigation; and

(b) Make the report available to the program that is the subject of the report.

Sec. 46. CONFIDENTIALITY OF COMPLAINTS, RELEASE OF INVESTIGATION OR INSPECTION REPORTS & SCOPE OF COMPLAINT INVESTIGATIONS

1. All proceedings and investigations after the filing of a complaint are confidential, except to the extent necessary for the conduct of an investigation or as otherwise provided in this subsection. Except as otherwise provided in section 44, subsection 5, a report of an investigation made available to a program pursuant to section 45 of this regulation or a plan of correction approved by the Division pursuant to section 44 of this regulation are not confidential, except for any name of a person, personal identifying information or protected information pursuant to NRS Chapter 239 shall remain confidential.

2. Except as provided in subsection 1 of this section, the Division may, upon request, release a report of an investigation conducted pursuant to section 45 or an inspection conducted pursuant to section 44 to any person after:

(a) The expiration of at least 14 days immediately following the date on which the report is made available to the program that is the subject of the report pursuant to sections 44 or 45 of this regulation; or

*(b) The approval of a plan of correction,
-> whichever is earlier.*

3. If the Division investigates a complaint against a program, the Division may not limit the scope of its investigation to the matters set forth in the complaint but may extend the investigation to any additional matters that appear to constitute a violation of any provision of this regulation.

4. If, after its investigation, the Division dismisses the complaint, the dismissal does not operate as a limitation on or a deterrent to any subsequent investigation or other action by the Division

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