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November 2, 2018

MEMORANDUM

To: Jon Pennell, Chair
State Board of Health
From: Julie Kotchevar, Secretary
State Board of Health

Re: Consideration and adoption of proposed regulation amendment(s) to Nevada Administrative Code (NAC) 433, "Community Based Living Arrangement", LCB File No. R134-18.

PURPOSE OF AMENDMENT

Nevada Administrative Code chapter 433 contains regulations established for oversight of Community Based Living Arrangement (CBLA) facilities. The regulations were adopted on July 1, 2017 in order to regulate providers of CBLA facilities. Currently the regulations do not spell out specific requirements regarding health and safety of the residents living in CBLA's. The proposed regulations have been drafted to ensure health and safety protections, limitations on applicability and to establish fees to properly regulate CBLA facilities.

SUMMARY OF CHANGES TO NEVADA ADMINISTRATIVE CODE (NAC)

The proposed regulations currently moving forward accomplish the following:

-fees to support the cost of inspections/investigations and certification activities
-establish limitations on applicability, such that only operators providing a living environment are eligible for certification in alignment with the statutory definition (AB46, 2017 session), wherein it indicates services are provided in the home
-space availability for client bedrooms and limitations on the number of clients in a bedroom
-adequate furnishings, beds, chairs, tables
-food storage requirements, temperature ranges, no expired items
-medication management only pursuant to an ultimate user agreement in accordance with statutory prohibition/allowances for dangerous drugs and controlled substances
-provision to ensure all the providers of care have CPR and first aid (not just the applicant)
-safe temperature range within the living environment

-operable water fixtures, hot and cold
-fire safety features, operational smoke detectors, fire extinguisher, evacuation plan, available exits, smoking policies
-safe, sanitary environment, internal/external, free of insect infestations/rodents
-modification of the 3 months reserve funds language, to accommodate new applicants
-modifications to the application language to more efficiently certify facilities

POSSIBLE OUTCOME IF PROPOSED AMENDMENT IS NOT APPROVED

If the proposed amendments are not approved residents in CBLA facilities may be residing in homes with unsafe conditions.

APPLICABILITY OF PROPOSED AMENDMENT

These regulations will apply statewide to all individuals that apply for a CBLA certificate and current certified CBLA providers.

PUBLIC COMMENT RECEIVED

An outline of opportunities for public comment follows:
Pursuant to NRS 233B.0608 (2) (a), Notice was sent to all Community Based Living Arrangement facility providers certified by the Division to respond by 9/21/2018, requesting that all interested individuals complete the small business impact questionnaire. An email notice with a link to the small business impact questionnaire and proposed amended regulations was provided to those with an email address. In addition, a phone number was provided which an individual could call to obtain a copy of both documents. The proposed regulations were also posted on DPBH's website.

Below is a summary of the responses to the questionnaire.

Summary of Comments Received (17 responses were received out of 70 small business impact questionnaires distributed)			
Will a specific regulation have an adverse economic effect upon your business?	**Will the regulation (s) have any beneficial effect upon your business?**	**Do you anticipate any indirect adverse effects upon your business?**	**Do you anticipate any indirect beneficial effects upon your business?**
7 – Yes 5- No 4- No Answer 1-N/A	4-Yes 5- No 7– No Answer 1-N/A	3-Yes 7- No 6 – No Answer 1-N/A	2- Yes 8- No 6 – No Answer 1-N/A

November 2, 2018 – Public Workshop

A public workshop was held on November 2, 2018.

There were 18 participants in the Southern Nevada location and 6 Participants in the Northern Nevada location.

Summary of testimony:

- 2 non CBLA providers gave testimony that CBLA facilities should be held to the same licensure requirements as other residential facilities in Nevada.
- 3 participants agreed with the extinguisher requirements in the proposed regulations in section 10 of the proposed regulations.
- 2 participants did not agree with Section 13 of the proposed regulations with the addition of the $100 application fee and thinks there should be no fee due to having to pay for multiple certifications for each facility they own would be a financial burden.

STAFF RECOMMENDATION

Staff recommends the State Board of Health adopt the proposed regulation amendments to NAC 433, "Community Based Living Arrangement", LCB File No. R134-18.

PRESENTER

Amir Bringard, Health Facilities Inspection Manager

Enclosures

PROPOSED REGULATION OF THE

STATE BOARD OF HEALTH

LCB File No. R134-18

July 20, 2018

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

AUTHORITY: §§1-12, 18-22 and 25, NRS 433.324 and 433.609; §13, NRS 433.324, 433.607, 433.609 and 439.150; §§14 and 15, NRS 433.324, 433.607 and 433.609; §16, NRS 433.324, 433.607, 433.609 and 433.613; §17, NRS 433.324, 433.607, 433.609, 433.613 and 439.150; §§23 and 24, NRS 433.324, 433.609 and 433.613.

A REGULATION relating to community-based living arrangement services; establishing standards for the provision of such services in facilities; requiring certain persons to undergo a criminal background check; requiring certain employees or independent contractors of a provider of services to complete training concerning cardiopulmonary resuscitation and first aid; revising provisions governing required training for an applicant for the issuance of a provisional certificate; requiring an application fee for the issuance of a provisional certificate to provide community-based living arrangement services or the renewal of a certificate to provide such services; revising the required contents of an application for the issuance of a provisional certificate; requiring the Division of Public and Behavioral Health of the Department of Health and Human Services to inspect a facility before issuing a provisional certificate to the operator of the facility; requiring a provider to be in substantial compliance with certain provisions; revising provisions governing quality assurance reviews and plans of correction; requiring a provider take certain actions relating to employees and the living environments of recipients of services; clarifying that the Division is not required to be a party to certain contracts; requiring a provider to keep records regarding recipients of services in a secure location on the premises of a facility, if applicable; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Health to adopt regulations governing community-based living arrangement services, which are defined as flexible, individualized services that are: (1) provided in the home, for compensation, to a person with a mental illness

who is served by the Division of Public and Behavioral Health of the Department of Health and Human Services or any other entity; and (2) designed and coordinated to assist the person in maximizing the person's independence. (NRS 433.605, 433.609)

Section 2 of this regulation defines the term "facility" to mean a home operated by a provider in which services are provided. **Sections 6-11** of this regulation establish standards of operation for facilities. **Section 6**: (1) requires a facility to be owned or leased by its operator; (2) prohibits a facility from having more than 6 residents; and (3) requires the operator of a facility to maintain compliance with all applicable building codes, zoning requirements and business licensing requirements. **Section 7** establishes requirements concerning bedrooms at a facility. **Section 8** requires a provider who operates a facility to furnish common areas and provide a dining area and kitchen for the use of residents. **Section 8** also establishes standards governing food storage. **Section 9** prescribes requirements relating to bathrooms, waste disposal and the maintenance of the premises of a facility. **Section 10** establishes standards governing fire safety at a facility. **Section 11**: (1) prescribes requirements concerning visitors at a facility; and (2) prohibits a provider from allowing a minor child of the provider or an employee thereof to be present at the facility when services are provided.

Existing regulations require each applicant for a provisional certificate to provide community-based living arrangement services or, if the applicant is not a natural person, a member of the governing body of an applicant, to undergo a background check. (NAC 433.330) Existing regulations also provide for the denial of an application or the revocation of a provisional certificate or certificate if a provider or employee or independent contractor of a provider is convicted of certain crimes relevant to the provision of services. (NAC 433.339, 433.384) **Section 4** of this regulation requires an employee or independent contractor of an applicant or any adult who will be present during the provision of services to also undergo a criminal background check. **Sections 15 and 25** of this regulation allow the Division to deny an application or revoke a certificate or provisional certificate if an adult who will be present during the provision of services is convicted of such a crime.

Existing regulations require an applicant for a provisional certificate to provide community-based living arrangement services to submit an application to the Division. Existing regulations require each such applicant who is a natural person to submit as part of that application proof that he or she has received certain training in cardiopulmonary resuscitation and first aid. (NAC 433.330) **Section 5** of this regulation also requires each employee or independent contractor of a provider who provides services to have completed such training. **Section 13** of this regulation requires an application for a provisional certificate to be accompanied by a nonrefundable fee of $100. **Section 17** of this regulation requires an applicant for the renewal of a certificate to submit an application, which must also be accompanied by a nonrefundable fee of $100.

Existing regulations require an application for a provisional certificate to include proof that the applicant has sufficient working capital to provide services for at least 3 months without

compensation. (NAC 433.330) **Section 13** revises this requirement to instead require an applicant to attest that he or she has sufficient working capital to effectively provide services and, if the applicant proposes to operate a facility, to operate the facility. **Section 13** additionally clarifies that certain documents may be signed using an electronic signature.

Existing regulations require an applicant for a provisional certificate or each employee of the applicant who will oversee the provision of services to complete 16 hours of training provided by the Division concerning the provision of services. After the completion of that training, the Division is required to issue a provisional certificate to the applicant. (NAC 433.336) **Section 14** of this regulation: (1) requires that training to be completed between the date on which the application is submitted and 3 months after that date; and (2) authorizes an applicant or employee of the applicant to complete training offered by an entity other than the Division if the training is approved by the Division. **Section 14** also requires the inspection of any facility operated by an applicant and the correction of violations before the issuance of a provisional certificate.

Existing regulations require the holder of a provisional certificate or certificate to comply with provisions of regulations governing community-based living arrangement services (NAC 433.339, 433.342, 433.345, 433.351, 433.384) **Sections 15, 16, 17, 19 and 25** of this regulation instead require substantial compliance with all provisions of chapter 433 of NAC and chapter 433 of NRS.

Existing regulations require the Division to conduct a quality assurance review upon the request of the holder of a provisional certificate within 6 months after the issuance of the provisional certificate. (NAC 433.342) **Section 16** removes the requirement that a holder request a quality assurance review and instead requires the Division to conduct such a review within 12 months of the issuance of a provisional certificate.

Section 18 of this regulation requires a provider of services to: (1) monitor the living environments of persons receiving services; (2) establish policies to immediately assist such persons in repairing unsafe or unhealthy environmental conditions or in finding an alternative residence; (3) develop and implement policies concerning the hiring of persons who will provide services; (4) maintain a personnel file for each such employee; and (5) ensure that each such employee is capable of and qualified to carry out his or her responsibilities and able to communicate effectively with each person to whom he or she provides services.

Existing regulations require a provider to enter into a written contract for the provision of services with each person who will receive services or his or her parent or guardian, if applicable, and the Division. (NAC 433.363) **Section 20** of this regulation clarifies that: (1) the entity providing services is only required to be a party to a contract if the provider is providing services for the Division; and (2) if the provider is providing services for an entity other than the Division, that entity must be a party to such a written contract. **Section 21** of this regulation requires a provider of services to keep records regarding persons for whom services are provided

in a secure location which, if the provider operates a facility, must be on the premises of the facility. **Section 22** of this regulation requires a complaint filed with the Division against a provider to be in the form prescribed by the Division.

Existing regulations: (1) require the Division to conduct a quality assurance review before issuing a provisional certificate or renewing a certificate; and (2) authorize the Division to conduct a quality assurance review upon a complaint of abuse, neglect or exploitation of a recipient of services or a concern relating to the health or welfare of a recipient of services. (NAC 433.378) **Section 23** of this regulation instead authorizes the Division to conduct a quality assurance review at any time during the certification of a provider. In addition, **section 23** provides that the Division will conduct a quality assurance review of each provider who operates a facility at least annually, which must include an inspection of the facility. **Section 23** also clarifies that the Division is authorized to inspect any premises operated by a provider as part of a quality assurance review. Finally, **section 23** requires the Division, after conducting a quality assurance review, to make a report of violations available to a provider.

Existing regulations authorize the Division, after determining pursuant to a quality assurance review that there are deficiencies in the provision of services by a provider relating to the health or welfare of a recipient of services, to require the provider to prepare and submit a written plan of correction. (NAC 433.381) **Section 24** of this regulation requires such a plan to be submitted within 10 days after the report of violations is made available to the provider. **Section 24** also authorizes the Division to require a provider to resubmit a plan of correction or develop a mandatory directed plan of correction for the provider.

Section 1. Chapter 433 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this regulation.

Sec. 2. ***"Facility" means a home operated by a provider in which services are provided.***

Sec. 3. ***"Resident" means a person who resides at and receives services from a facility.***

Sec. 4. ***1. Except as otherwise provided in subsection 2, within 10 days after hiring a new employee, entering into a contract with an independent contractor or determining that an adult who is not a recipient of services, including, without limitation, an adult child of the applicant or an adult child of an employee or independent contractor thereof, will be present during the provision of services and every 5 years thereafter, a provider shall:***

(a) Obtain from the employee, independent contractor or other adult one set of fingerprints and a written authorization to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(b) Submit to the Central Repository for Nevada Records of Criminal History the fingerprints obtained pursuant to paragraph (a) to obtain information on the background and personal history of each employee, independent contractor or other adult to determine whether the person has been convicted of any crime listed in NAC 433.339.

2. Upon receiving information from the Central Repository for Nevada Records of Criminal History pursuant to subsection 1, or evidence from any other source, that an employee, independent contractor or any other adult who is not a recipient of services and who will be present during the provision of services has been convicted of a crime listed in NRS NAC 433.339, the provider shall terminate the employment or contract of that person or prohibit that adult from being present during the provision of services after allowing the person time to correct the information as required pursuant to subsection 3.

3. If an employee, independent contractor or other adult believes that the information provided by the Central Repository for Nevada Records of Criminal History is incorrect, the employee, independent contractor or other adult may immediately inform the provider. The provider that is so informed shall give the employee, independent contractor or other adult a reasonable amount of time of not less than 30 days to correct the information received from the Central Repository before terminating the employment or contract of the person or

prohibiting the person from being present during the provision of services pursuant to subsection 2.

Sec. 5. *Each employee or independent contractor of a provider who provides services must:*

1. Be currently certified in standard first aid through a course from the American Red Cross or American Heart Association or their successor organizations or, if the applicant submits proof that the course meets or exceeds the requirements of the American Red Cross or the American Heart Association or their successor organizations, an equivalent course in standard first aid; and

2. Have successfully completed a course in cardiopulmonary resuscitation according to the guidelines of the American Red Cross or American Heart Association or their successor organizations.

Sec. 6. *1. A facility must be owned or leased by the provider who operates the facility.*

2. A provider who operates a facility shall ensure that the facility:

(a) Has no more than 6 residents; and

(b) Remains in compliance with all applicable state and local building codes, zoning requirements and business licensing requirements.

Sec. 7. *1. A provider shall not authorize a resident to share a room in a facility with more than one other resident. A bedroom that is occupied by:*

(a) One resident must have at least 80 square feet of floor space.

(b) Two residents must have at least 120 square feet of floor space.

2. A provider who operates a facility shall provide for each resident a separate bed that is at least 36 inches wide and has a comfortable and clean mattress, at least two sets of clean sheets, at least one blanket, at least one pillow and at least one bedspread.

3. A provider who operates a facility shall not:

(a) Use a bedroom for any other purpose; or

(b) Use any of the following as a bedroom for a resident:

(1) A hallway, stairway, unfinished attic, garage, storage area, shed or similar area; or

(2) A room that can only be reached by passing through a bedroom occupied by another resident.

Sec. 8. *1. A provider who operates a facility shall:*

(a) Furnish each common area with comfortable furniture.

(b) Provide a dining area with a sufficient number of tables and chairs to provide seating for the number of residents for which the facility is certified. The tables and chairs must be sturdy, of proper height for dining and have surfaces that are easily cleaned.

(c) Provide a kitchen that allows for the sanitary preparation of food and is furnished with equipment that is clean and in good working condition.

(d) Ensure that all perishable food is refrigerated at a temperature of 41 degrees Fahrenheit or less, all frozen food is kept at a temperature of 0 degrees Fahrenheit or less and all stored foods have not expired.

(e) Ensure that food is not stored for longer than the length of time recommended by the United States Department of Health and Human Services in "Storage Times for the Refrigerator and Freezer," which is hereby adopted by reference. This chart may be obtained:

(1) From the United States Department of Health and Human Services for free at 200 Independence Avenue, S.W., Washington, D.C. 20201, and at the Internet address https://www.foodsafety.gov/keep/charts/storagetimes.html; or

(2) Under the circumstances described in subsection 4, on an Internet website maintained by the Division.

2. Except as otherwise provided in this section, the most current version of the guidelines adopted by reference pursuant to paragraph (e) of subsection 1 which is published will be deemed to be adopted by reference.

3. If the Division determines that an update of or revision to the guidelines adopted by reference pursuant to paragraph (e) of subsection 1 are not appropriate for use in the State of Nevada, the Division will present this determination to the State Board of Health and the update or revision, as applicable, will not be adopted.

4. If the guidelines adopted by reference pursuant to paragraph (e) of subsection 1 cease to exist, the last version of the guidelines that was published shall be deemed to be the current version.

Sec. 9. *A provider who operates a facility shall ensure that:*

1. The facility has a safe and sufficient supply of water, adequate drainage and an adequate system for the disposal of sewage.

2. Each faucet for a sink, tub, shower or other similar fixture is operable with hot and cold running water.

3. Each toilet is operational.

4. Each container used to store garbage outside of the facility is kept reasonably clean and covered to prevent rodents from entering the container.

5. Each container used to store garbage in the kitchen is covered with a lid or kept in an enclosed cupboard that is clean and prevents infestation by rodents and insects.

6. The premises of the facility are free of:

(a) Offensive odors, insects, rodents and accumulation of dirt, garbage or other refuse; and

(b) Hazards, including, without limitation, obstacles that impede the free movement of residents inside and outside of the facility.

7. Each window in the facility that is capable of being opened and each door that is left open to provide ventilation is screened to prevent insects from entering the facility.

8. The facility has sufficient electrical lighting to ensure the comfort and safety of residents.

9. The temperature of the facility does not exceed 82 degrees Fahrenheit or drop below 68 degrees Fahrenheit.

10. The facility remains in compliance with all applicable federal, state and local laws, regulations and ordinances concerning sanitation, safety and accessibility for persons with disabilities.

Sec. 10. *A provider who operates a facility shall ensure that:*

1. Portable multipurpose class ABC fire extinguishers are installed throughout the facility at the direction of the governmental entity that has jurisdiction over fire safety at the facility.

2. Each portable fire extinguisher available at a facility is inspected, recharged and tagged at least once each year by a person certified by the State Fire Marshal to conduct such inspections.

3. Each exit is maintained free of obstructions.

4. Smoke detectors are installed at the facility at the direction of the governmental entity that has jurisdiction over fire safety at the facility and maintained operational.

5. Smoking does not occur in the facility or within 25 feet of the facility.

6. An extinguishing receptacle approved by the governmental entity that has jurisdiction over fire safety at the facility is placed in each area on the premises of the facility where smoking is allowed.

Sec. 11. *1. A provider who operates a facility:*

(a) Shall maintain a policy concerning visitation by family, friends or acquaintances of residents and employees who enter the facility.

(b) Shall not allow a minor child of the provider or an employee of the provider to be present at the facility when services are provided.

2. A child of a resident may visit the resident in accordance with the policy maintained pursuant to subsection 1 and the individualized plan prepared pursuant to NAC 433.360 for the resident.

Sec. 12. NAC 433.300 is hereby amended to read as follows:

433.300 As used in NAC 433.300 to 433.393, inclusive, ***and sections 2 to 11, inclusive, of this regulation,*** unless the context otherwise requires, the words and terms defined in NAC

433.303 to 433.324, inclusive, ***and sections 2 and 3 of this regulation*** have the meanings ascribed to them in those sections.

Sec. 13. NAC 433.330 is hereby amended to read as follows:

433.330 An application for a provisional certificate must be submitted to the Division on a form furnished by the Division ***accompanied by a nonrefundable fee of $100*** and must include:

1. For an applicant who is a natural person:

(a) Three or more letters of professional reference;

(b) A certification, signed by the applicant, that the applicant will maintain the confidentiality of information relating to any person who receives services;

(c) Proof that the applicant has successfully completed a course in cardiopulmonary resuscitation according to the guidelines of the American Red Cross or American Heart Association;

(d) Proof that the applicant is currently certified in standard first aid through a course from the American Red Cross or American Heart Association or, if the applicant submits proof that the course meets or exceeds the requirements of the American Red Cross or the American Heart Association, an equivalent course in standard first aid;

(e) Written verification, on a form prescribed by the Division, that the fingerprints of the applicant were taken and forwarded electronically or by another means directly to the Central Repository for Nevada Records of Criminal History and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of

Investigation and to such other law enforcement agencies as the Division deems necessary for reports on the applicant's background to the Division and the applicant;

(f) A copy of the social security card of the applicant;

(g) ~~[Proof]~~ ***A copy of a form of government issued identification, which may include, without limitation, a passport, identification card or driver's license;***

(h) An attestation that the applicant has sufficient working capital to ***effectively*** provide services ~~[for at least 3 months without compensation;~~

~~(h)]~~ ***and, if the applicant proposes to provide services in a facility, operate the facility;***

(i) If applicable, a copy of the applicant's state business license and a copy of the current business license issued for the applicant's business by the county, city or town in which the applicant's business is located or written verification that the applicant is exempt from any requirement to obtain a business license; and

~~[(i)]~~ ***(j)*** Any other information required by the Division.

2. For an applicant other than a natural person:

(a) If applicable, a copy of the state business license of the organization and a copy of the current business license issued for the applicant's business by the county, city or town in which the applicant's business is located or written verification that the applicant is exempt from any requirement to obtain a business license;

(b) The federal tax identification number of the organization;

(c) A copy of the bylaws, articles of incorporation, articles of association, articles of organization, partnership agreement, constitution and any other substantially equivalent documents of the applicant, and any amendments thereto;

(d) A list of the members of the governing body of the applicant;

(e) If the applicant is an association or a corporation:

(1) The name, title and principal business address of each officer and member of its governing body;

(2) The signature of the chief executive officer or an authorized representative; and

(3) If the applicant is a corporation, the name and address of each person holding more than 10 percent of its stock;

(f) For each member of the governing body:

(1) Three or more letters of professional reference; and

(2) Written verification, on a form prescribed by the Division, that the fingerprints of the member of the governing body were taken and forwarded electronically or by another means directly to the Central Repository for Nevada Records of Criminal History and that the member of the governing body has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Division deems necessary for reports on the member's background to the Division and the applicant;

(g) ~~[Proof]~~ ***An attestation*** that the applicant has sufficient working capital to ***effectively*** provide services ~~[for at least 3 months without compensation;]~~ ***and, if the applicant proposes to provide services in a facility, operate the facility;***

(h) Copies of any policies and procedures of the applicant relating to the provision of services; and

(i) Such other information as may be required by the Division.

3. As used in this section:

(a) "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.

(b) "Signature" includes, without limitation, an electronic signature.

Sec. 14. NAC 433.336 is hereby amended to read as follows:

433.336 1. ~~[If the Division determines that an application for a provisional certificate is complete, the Division shall establish a screening panel composed of employees of the Division to interview the applicant and determine whether the applicant is qualified to participate in the training required by subsection 2.~~

~~2. Except as otherwise provided in this subsection, if the screening panel determines that an applicant is qualified to obtain a provisional certificate, the]~~ ***An*** applicant ***for a provisional certificate*** must complete 16 hours of training ***approved or*** provided by the Division concerning the provision of services. The training must be completed ***after the application is submitted but*** not later than 3 months after ~~[the]~~ ***that*** date ***.*** ~~[on which the screening panel makes its determination.]~~ If the applicant is not a natural person, each officer or employee of the applicant who will oversee the provision of services by the applicant must complete the training required by this subsection.

3. Upon successful completion of the training required by subsection ~~[2,]~~ ***1,*** the Division shall ~~[issue]~~ ***:***

(a) If the applicant proposes to provide services in a facility, inspect the facility and issue a report describing any violations of the provisions of this chapter or chapter 433 of NRS found during the inspection. If the report describes a violation, the Division may require the applicant to submit a plan of correction. The Division shall issue a provisional certificate:

(1) If the Division requires the applicant to submit a plan of correction, upon approval by the Division of the plan of correction.

(2) If the Division does not require the applicant to submit a plan of correction, upon issuance of the report.

(b) If the applicant does not propose to provide services in a facility, issue a provisional certificate to the applicant.

4. A provisional certificate is valid until the Division completes the initial quality assurance review required by NAC 433.342.

Sec. 15. NAC 433.339 is hereby amended to read as follows:

433.339 1. Each of the following constitutes a ground for denial of an application for a provisional certificate:

(a) Failure by the applicant to submit a complete application for a provisional certificate within the time required by NAC 433.333.

(b) Inability of the applicant to provide proper care for the number and types of intended recipients of services.

(c) Misrepresentation or failure by the applicant to disclose any material fact in the application submitted to the Division or in any financial record or other document requested by the Division.

(d) Conviction of the applicant, an officer or employee of the applicant ~~[or]~~ ***,*** an independent contractor of the applicant who oversees the provision of services ***or an adult who will be present during the provision of services*** of a crime relevant to any aspect of the provision of services, including, without limitation:

(1) Murder, voluntary manslaughter or mayhem;

(2) Assault or battery with intent to kill or to commit sexual assault or mayhem;

(3) Sexual assault, statutory sexual seduction, incest or lewdness or indecent exposure that is punished as a felony, or any other sexually related felony;

(4) A felony involving domestic violence;

(5) A misdemeanor involving domestic violence, within the immediately preceding 7 years;

(6) A misdemeanor involving assault or battery, within the immediately preceding 7 years;

(7) Abuse or neglect of a child or contributory delinquency;

(8) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS, within the immediately preceding 7 years;

(9) Abuse, neglect, exploitation, isolation or abandonment of an older person or vulnerable person, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;

(10) A violation of any law relating to the State Plan for Medicaid or a law of any other jurisdiction that prohibits the same or similar conduct, within the immediately preceding 7 years;

(11) A violation of any provision of NRS 422.450 to 422.590, inclusive;

(12) A criminal offense under the laws governing Medicaid or Medicare, within the immediately preceding 7 years;

(13) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property, within the immediately preceding 7 years;

(14) Any felony involving the use or threatened use of force or violence against the victim or the use of a firearm or other deadly weapon; or

(15) An attempt or conspiracy to commit any of the offenses listed in this paragraph, within the immediately preceding 7 years.

(e) Exclusion of the applicant, an officer or employee of the applicant or an independent contractor of the applicant who oversees the provision of services from participation in Medicare, Medicaid or any other federal health care program pursuant to federal law.

(f) The existence of any major deficiency in the proposed services to be provided by the applicant which would preclude compliance with ~~[NAC 433.300 to 433.393, inclusive.]~~ ***any provision of this chapter or chapter 433 of NRS.***

2. If an application is denied, the Division shall give the applicant a written notice of the denial in the manner provided by NAC 439.345.

Sec. 16. NAC 433.342 is hereby amended to read as follows:

433.342 1. Within ~~[6]~~ ***12*** months after the issuance of a provisional certificate, ~~[the holder of the provisional certificate shall request]~~ the Division ~~[to]~~ ***shall*** conduct a quality assurance

review as provided in NAC 433.378. If ~~[no timely request is made or]~~ the Division determines as the result of the quality assurance review that the holder of the provisional certificate is not in ~~[full]~~ ***substantial*** compliance with the ~~[standards for the provision of services set forth in NAC 433.300 to 433.393, inclusive,]~~ ***provisions of this chapter and chapter 433 of NRS,*** the Division may revoke or extend the term of the provisional certificate. The Division may extend the term of the provisional certificate for any period not to exceed 6 months.

2. If the Division extends the term of a provisional certificate pursuant to subsection 1, ~~[the holder of the provisional certificate]~~ ***the Division*** shall, before the expiration of the extended term, ~~[request the Division to]~~ conduct another quality assurance review. If ~~[no timely request is made or]~~ the Division determines as the result of the quality assurance review that the holder of the provisional certificate is not in ~~[full]~~ ***substantial*** compliance with the standards described in subsection 1, the Division shall revoke the provisional certificate.

3. If the Division determines as the result of a quality assurance review conducted pursuant to subsection 1 or 2 that the holder of a provisional certificate is in ~~[full]~~ ***substantial*** compliance with the ~~[standards described in subsection 1,]~~ ***provisions of this chapter and chapter 433 of NRS,*** the Division shall issue a certificate to the holder of the provisional certificate. The Division may issue a certificate to a provider for any period not to exceed 2 years.

Sec. 17. NAC 433.345 is hereby amended to read as follows:

433.345 ~~[Upon]~~ ***Not less than 45 days before the*** the expiration of a certificate, the ***holder of the certificate must apply to the Division for renewal in the form prescribed by the Division, accompanied by a nonrefundable fee of $100. The*** Division may renew the certificate ~~[of the provider]~~ for any period not to exceed 2 years if the Division ~~[conducts a quality assurance~~

~~review as provided in NAC 433.378 and]~~ determines that the ~~[provider]~~ ***holder of the certificate*** is in ***substantial*** compliance with the ~~[standards for the provision of services set forth in NAC 433.300 to 433.393, inclusive.]~~ ***provisions of this chapter and chapter 433 of NRS.***

Sec. 18. NAC 433.348 is hereby amended to read as follows:

433.348 A provider shall:

1. Comply with any state or federal statute or regulation as required for the Division to receive state or federal money for the provision of services, including, without limitation, any standard of care set forth in:

(a) The State Plan for Medicaid; and

(b) The Medicaid Services Manual established by the Division of Health Care Financing and Policy of the Department of Health and Human Services.

2. Comply with all applicable state or federal requirements concerning fiscal management, reporting and employment.

3. Comply with the individualized plan prepared pursuant to NAC 433.360 for each person who receives services.

4. Assure the health and welfare of persons receiving services. Any assessment by the Division of a provider's compliance with the requirements of this subsection must be based upon the self-reporting of persons receiving services from the provider, the observations of members of the staff of the Division and any other information available to the Division.

5. Establish internal procedures for quality assurance.

6. Promptly report to the Division any change in the officers or ownership of the provider.

7. Cooperate with any investigation by the Division.

8. Monitor the living environment of persons receiving services from the provider and establish policies to immediately assist such persons who are living in unsafe or unhealthy environmental conditions to correct those conditions or in find alternative residences.

9. Develop and implement policies concerning the hiring of persons who will provide services.

10. Maintain a personnel file for each employee or independent contractor who provides services. A personnel file must contain, without limitation:

(a) Information concerning the job duties, essential functions, physical capabilities and language proficiency of the employee or contractor; and

(b) Proof that the employee or independent contractor is in compliance with the requirements of section 5 of this regulation, if applicable.

11. Ensure that each employee or independent contractor who provides services is capable of:

(a) Carrying out the responsibilities established in the individualized plan established pursuant to NAC 433.360 for each person to whom the employee or independent contractor provides services and properly qualified by training and experience to do so; and

(b) Communicating effectively with each person to whom the employee or independent contractor provides services.

Sec. 19. NAC 433.351 is hereby amended to read as follows:

433.351 If a provider is a governmental entity or an organization, it shall, in conformance with ~~[NAC 433.300 to 433.393, inclusive,]~~ ***the provisions of this chapter and chapter 433 of***

NRS, establish policies and procedures for the provision of services and the welfare of the persons it serves.

Sec. 20. NAC 433.363 is hereby amended to read as follows:

433.363 A provider shall enter into a written contract for the provision of services with each person who will receive services or his or her parent or guardian, if applicable, and ***, if the person is being served by the Division or another entity for which the provider is providing services,*** the Division ~~[.]~~ ***or other entity.*** The contract must prescribe the services that will be provided to the person and the payment that the provider will receive ~~[from the Division]~~ for those services.

Sec. 21. NAC 433.369 is hereby amended to read as follows:

433.369 A provider shall keep a separate record regarding each person for whom services are provided. Each such record must include the information needed for providing services, to substantiate billing and for the planning and periodic reevaluation of the needs of the person who is receiving services. The record must be ~~[available]~~ ***:***

1. Kept in a secure location, which, if the provider operates a facility, must be on the premises of the facility; and

2. Made available for review by the person who is receiving services or his or her guardian, if applicable, and the Division.

Sec. 22. NAC 433.375 is hereby amended to read as follows:

433.375 1. Any person who receives services has the same rights that are afforded to a consumer by chapter 433 of NRS and any regulations adopted pursuant thereto.

2. A person has the right to file a complaint with the Division against a provider ~~[.]~~ ***in the form prescribed by the Division.***

Sec. 23. NAC 433.378 is hereby amended to read as follows:

433.378 1. The Division:

(a) ~~[Shall conduct a quality assurance review upon a request made pursuant to NAC 433.342 and before renewing a certificate pursuant to NAC 433.345; and~~

~~(b)]~~ May conduct a quality assurance review at any time during the certification of a provider ~~[if there is a complaint of abuse, neglect or exploitation or a concern related to the health or welfare of a person who receives services from the provider.]~~ ***; and***

(b) Shall conduct a quality assurance review of each provider that operates a facility at least once each year during the certification of a provider. A quality assurance review conducted pursuant to this paragraph must include, without limitation, an inspection of the facility.

2. In conducting a quality assurance review, the Division may:

(a) Obtain any information or otherwise review any aspect of the provider's system of delivery of services, including, without limitation, any:

(1) Policies and procedures of the provider;

(2) Personnel or clinical records maintained by the provider;

(3) Documentation regarding any administrative or personnel matter directly related to the health and welfare of any person who is receiving services;

(4) Financial information concerning the provider or any person receiving services; and

(5) Information concerning the quality of care provided to any person receiving services;

(b) Interview or otherwise solicit information from any person receiving services, any employee or independent contractor of any provider or any other agency with knowledge of any person receiving services, and any member of the family or any guardian, friend or advocate of any person receiving services; ~~[and]~~

(c) Observe the services provided to any person receiving services ~~[.]~~ ***; and***

(d) Inspect any facility or other premises operated by the provider to determine compliance with the provisions of this chapter and chapter 433 of NRS.

3. After completing a quality assurance review, the Division shall make available to the provider a report that describes each violation. The provider shall correct any violation described in the report.

Sec. 24. NAC 433.381 is hereby amended to read as follows:

433.381 1. If the Division determines pursuant to a quality assurance review that there are any deficiencies in the provision of services by a provider related to the health or welfare of a person receiving such services, the Division may:

(a) Deny, suspend or revoke the provisional certificate or certificate of the provider;

(b) Require the provider to prepare and submit to the Division a written plan of correction, which must be approved by the Division; or

(c) Require changes concerning the provision of services by the provider before the Division issues, renews or reinstates a provisional certificate or certificate.

2. ***If the Division requires a provider to prepare and submit to the Division a written plan of correction, the provider shall do so not later than 10 days after the report of violations is made available to the provider pursuant to subsection 3 of NAC 433.378. Failure to do so***

constitutes a separate violation for which the Division may deny, suspend or revoke the provisional certificate or certificate of the provider or impose any sanction listed in subsection 5.

3. If the Division determines that a written plan of correction is unacceptable, the Division may:

(a) Require the provider to resubmit the written plan of correction; or

(b) Develop a mandatory directed plan of correction for the provider.

4. The Division may impose any sanction described in subsection ~~[3]~~ ***5*** upon a provider for:

(a) Any aspect of the provision of services by the provider which poses a probable risk of harm to the health or welfare of a person receiving services;

(b) Any refusal by the provider to participate in any aspect of a quality assurance review; or

(c) The failure or refusal of the provider to implement or maintain any action required by the Division to correct a deficiency identified during a quality assurance review ~~[.~~ ~~3.]~~ ***, including, without limitation, failure to submit a timely plan of correction, if required.***

5. As a sanction imposed pursuant to subsection ~~[2,]~~ ***4,*** the Division may, without limitation:

(a) Require the provider to:

(1) Participate in training concerning the provision of services;

(2) Comply with additional measures of accountability concerning the provision of services;

(3) Comply with additional measures of review by the Division; or

(4) Comply with additional performance requirements concerning the provision of services;

(b) Terminate or amend any contract that the Division has with the provider; or

(c) Suspend or reduce any payment otherwise owed by the Division to the provider.

Sec. 25. NAC 433.384 is hereby amended to read as follows:

433.384 Each of the following acts and omissions is a ground for revocation of a provisional certificate or certificate:

1. Any misrepresentation of or failure to disclose any material fact in the application for the provisional certificate or in any financial record or other document requested by the Division.

2. A lack of personnel in sufficient numbers or qualifications to provide proper care and support for the persons receiving services.

3. Conviction of the provider ~~[or]~~ , any employee or independent contractor of the provider ***or any adult present during the provision of services*** of a crime ~~[relevant to any aspect of the provision of services.]~~ ***listed in NAC 433.339.***

4. Any deficiency of the provider relating to the provision of services that poses an imminent or probable risk of harm to the health or welfare of any person receiving services.

5. Any violation of any requirement set forth in ~~[NAC 433.300 to 433.393, inclusive.]~~ ***this chapter or chapter 433 of NRS.***

6. Any accumulation or pattern of minor violations of the provisions of ~~[NAC 433.300 to 433.393, inclusive,]~~ ***this chapter or chapter 433 of NRS,*** if the violations taken as a whole endanger the health or welfare of any person who is receiving services.

7. Any fraudulent activity by the provider or an employee or independent contractor of the provider, including, without limitation, any fraudulent billing, falsification of records or misuse or misappropriation of the property of a person who is receiving services.

8. Failure to comply with any obligation set forth in the contract entered into pursuant to NAC 433.363.

9. Any refusal to participate in any aspect of a quality assurance review or any other review or investigation by the Division.

10. The failure or refusal of the provider to implement or maintain any action required by the Division to correct a deficiency identified during a quality assurance review or any other review or investigation by the Division.

11. Abuse, neglect, exploitation or coercion of a person who is receiving services.

12. Harassing, coercive, intimidating, insulting, abusive or disruptive language or behavior directed at an employee of the Division, an employee or independent contractor of the provider, another provider or a person or entity providing services other than community-based living arrangement services, a person who is receiving services or a family member or guardian of such a person.

13. Exclusion of the provider, an officer or employee of the provider or an independent contractor of the provider who oversees the provision of services from participation in Medicare, Medicaid or any other federal health care program pursuant to federal law.

Errata – LCB File No. R134-18P

Blue italic = Proposed language found in LCB File No. R134-18P
[Red italic in brackets] = Proposed omitted material found in LCB File No. R134-18P
Green italic = New language proposed as Errata

Sec. 9. ***Fire Safety***
1. Portable fire extinguishers must be visible and accessible and installed throughout each facility at the direction of the fire authority having jurisdiction. Each portable fire extinguisher available at a facility must be inspected, recharged and tagged at least once each year by a person certified by the State Fire Marshal to conduct such inspections. Fire extinguishers must be multipurpose, Class ABC extinguishers.
2. Exits must be maintained free of obstructions.
3. Smoke detectors must be installed at the direction of the fire authority having jurisdiction and must be maintained operational.
4. Each facility shall prohibit smoking within the facility ~~*[and within 25 feet of the facility].*~~
5. If the facility allows for smoking outside the facility, it those areas where smoking is allowed, there must be an extinguishing receptacle approved by the local fire authority.

Sec. 18. NAC 433.348 is hereby amended to read as follows:
433.348 A provider shall:
1. Comply with any state or federal statute or regulation as required for the Division to receive state or federal money for the provision of services, including, without limitation, any standard of care set forth in:
(a) The State Plan for Medicaid; and
(b) The Medicaid Services Manual established by the Division of Health Care Financing and Policy of the Department of Health and Human Services.
2. Comply with all applicable state or federal requirements concerning fiscal management, reporting and employment.
3. Comply with the individualized plan prepared pursuant to NAC 433.360 for each person who receives services.
4. Assure the health and welfare of persons receiving services. Any assessment by the Division of a provider's compliance with the requirements of this subsection must be based upon the self-reporting of persons receiving services from the provider, the observations of members of the staff of the Division and any other information available to the Division.
5. Establish internal procedures for quality assurance.
6. Promptly report to the Division any change in the officers or ownership of the provider.
7. Cooperate with any investigation by the Division.
8. Monitor the living environment of persons receiving services from the provider and establish policies to immediately assist such persons who are living in unsafe or unhealthy environmental conditions to correct those conditions or in find alternative residences.
9. Develop and implement policies concerning the hiring of persons who will provide services.
10. Maintain a personnel file for each employee or independent contractor who provides

services. A personnel file must contain, without limitation:
(a) Information concerning the job duties, essential functions, physical capabilities and language proficiency of the employee or contractor; and
(b) Proof that the employee or independent contractor is in compliance with the requirements of section 5 of this regulation, if applicable.
11. Ensure that each employee or independent contractor who provides services is capable of:
(a) Carrying out the responsibilities established in the individualized plan established pursuant to NAC 433.360 for each person to whom the employee or independent contractor provides services and properly qualified by training and experience to do so; and
(b) Communicating effectively with each person to whom the employee or independent contractor provides services.
12. Comply with the policies adopted by the Commission of Behavioral Health pursuant to NRS 433.314(1).

Rationale: The errata proposed in this section is necessary to ensure all providers comply with clinical standards for mental health services established by the Commission of Behavioral Health.

SMALL BUSINESS IMPACT STATEMENT 2018

PROPOSED AMENDMENTS TO NAC Chapter 433

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments may have different financial impacts on the industry based on how each small business is impacted by the proposed regulations. However, the proposed amendments should not prevent the formation, operation or expansion of a small business in Nevada.

A small business is defined in Nevada Revised Statutes NRS 233B as a "business conducted for profit which employs fewer than 150 full-time or part-time employees."

This small business impact statement is made pursuant to NRS 233B.0608 (3) and complies with the requirements of NRS 233B.0609. As required by NRS 233B.0608(3), this statement identifies the methods used by the agency in determining the impact of the proposed regulation on a small business in sections 1, 2, 3, and 4 below and provides the reasons for the conclusions of the agency in section 8 below followed by the certification by the person responsible for the agency.

Background

Nevada Administrative Code chapter 433 contains regulations established for oversight of Community Based Living Arrangement (CBLA) facilities. Currently the regulations do not spell out specific requirements regarding health and safety of the residents living in CBLA's. The proposed regulations have been drafted to ensure health and safety protections, limitations on applicability and to establish fees to properly regulate CBLA facilities.

1) A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

A public workshop will be held allowing for further input by stakeholders regarding the proposed regulations and how they will impact CBLA providers certified by the Division. These comments will be taken into consideration for possible further revisions to the regulations to reduce the economic impact on programs.

Notice was sent to all Community Based Living Arrangement facility providers certified by the Division to respond by 9/21/2018, requesting that all interested individuals complete the small business impact questionnaire. An email notice with a link to the small business impact questionnaire and proposed amended regulations was provided to those with an email address. In addition, a phone number was provided which an individual could call to obtain a copy of both documents. The proposed regulations were also posted on DPBH's website. The questions on the questionnaire were:

1) How many employees are currently employed by your business?
2) Will a specific regulation have an adverse economic effect upon your business?
3) Will the regulation(s) have any beneficial effect upon your business?

4) Do you anticipate any indirect adverse effects upon your business?
5) Do you anticipate any indirect beneficial effects upon your business?

Summary of Response

Summary of Comments Received (17 responses were received out of 70 small business impact questionnaires distributed)			
Will a specific regulation have an adverse economic effect upon your business?	**Will the regulation (s) have any beneficial effect upon your business?**	**Do you anticipate any indirect adverse effects upon your business?**	**Do you anticipate any indirect beneficial effects upon your business?**
7 – Yes 5- No 4- No Answer 1-N/A	4-Yes 5- No 7– No Answer 1-N/A	3-Yes 7- No 6 – No Answer 1-N/A	2- Yes 8- No 6 – No Answer 1-N/A

Comments:

Below is a high-level summary of the comments received from the small business impact questionnaire. Specifically, three respondents indicated there would be a financial burden with the proposed amended regulations. For a more detailed account of the comments received (includes breakdown by questions) please see Attachment 1.

Three respondents indicated that the proposed regulations would have an adverse economic effect upon their business and would not have any beneficial effect including:

- Providing 2 sets of clean sheets for clients could cost from $1500-several thousands of dollars for up to 50 residents.
- The $100 application fee would be burdensome to providers who have multiple facilities.
- The proposed regulations would make it unprofitable to run CBLA's if the providers are held accountable to maintain their facilities clean and in good repair as the mental health clients may destroy property.
- Having a designated smoking area 25 feet from the homes may put the residents to the fence line of the properties and be subjected to inclement weather.
- Having to provide window screens for every openable window would be a financial hardship.
- Expenses would be too high to accept clients from the State with the cost of operations and to maintain a positive cash flow.

Two providers commented that the proposed regulations may have a beneficial effect upon their business including:

- Although there is no cost savings with the proposed regulations, there will be peace of mind that all providers will be held to the same standards across the board.
- Being able to take up to 6 clients (although there was no limitation in the regulation) from 4 would provide additional revenue.

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Amir Bringard, MBA at:

Division of Public and Behavioral Health
Bureau of Health Care Quality and Compliance
4220 S Maryland Pkwy, Suite 810, Building D
Las Vegas, NV 89119
Amir Bringard
Phone: 775-684-3202
Email: abringard@health.nv.gov

2) Describe the way the analysis was conducted.

An analysis of the input collected was conducted by a Health Facilities Inspection Manager. The analysis involved analyzing feedback obtained from the small business impact questionnaire and review of current statutes and review of the amendments to NAC 433. This information was then used to complete this small business impact statement including the conclusion on the impact of the proposed regulation on a small business found in number 8.

The proposed amended regulations were done to ensure basic health and safety of the residents in CBLA homes. Simple necessities such as adequate furnishings, providing hot and cold running water, adequate temperatures within the homes, space requirements in bedrooms, adequate storage of food to prevent food borne illnesses and safe environments from fire and disasters were put in the regulation to ensure the health and safety of the residents while keeping the cost to the provider down by spelling out the specific requirements.

3) The estimated economic effect of the proposed regulation on the small business which it is to regulate including, without limitation both adverse and beneficial effects and both direct and indirect effects.

Direct Beneficial Effects: One person indicated they would be able to take on an additional client which could be a financial benefit.

Indirect Beneficial Effects: Indirect benefits may include allowing training to be completed after the application is submitted instead of having to wait on a screening panel determination to decide, which may speed up the application process allowing a program to start operation and collecting revenue sooner than how the regulations are currently written.

Removes the requirement that an applicant has enough working capital to provide services for at least 3 months without compensation and changes it to an attestation that an applicant has sufficient working capital to effectively provide services. The Division identified that

some CBLA's were having difficulty meeting this working capital financial standard; therefore, potentially causing a financial burden for some or not allowing others to open for business. The proposed regulations continue to require applicants to have sufficient working capital to effectively provide services while eliminating this burden.

Direct Adverse Effects: With the new amended regulations, a fee was established for certification of CBLA homes. Currently there is no fee for a provider to get certified. With the amended regulations a non-refundable $100 fee will be imposed for application to be certified by the Division.

Indirect Adverse Effects: With the amended regulations, there may be indirect adverse effects as the regulations now establish specific requirements. Feedback from the questionnaire indicate a financial hardship would occur if the provider had to provide for each bed: two clean sheets, a blanket, a pillow and a bedspread. The provider submitting the feedback indicated that the residents tear up the bed sheets and the regulation to maintain 2 sets of clean sheets would be a financial burden. The individual estimated it would cost their company $1,500 as a best-case scenario to thousands a year for the worst-case scenario. Other feedback included that it will be a hardship for providers to be accountable for requirements in the amended regulations regarding keeping the facility clean and in good repair.

4) **Provide a description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.**

HCQC looked at keeping the initial certification costs to CBLA providers to a minimum. For an applicant who wants to get a certification as a CBLA provider the cost has been proposed to be $100 for the initial provisional certificate (good for one year) followed by an application renewal fee of $100 to be certified for two years. This fee is to compensate for processing of applications by our agency. Although HCQC is funded by State Mental Health for CBLA inspector positions and the inspection process, there is an expense for processing of CBLA certificates that is not covered.

Part of the new proposed regulations sets a maximum number of residents per facility at 6. Prior to the proposed regulations the contracted providers were only allowed 4 residents in the facilities by Mental Health. By defining the space requirements in the proposed amended regulations, we have increased the maximum residents allowed to 6 residents, which would be a potential 50% increase in revenue for the providers.

5) **The estimated cost to the agency for enforcement of the proposed regulation.**

The amended regulations spell out requirements for providers, which may prevent subsequent follow up visits, saving the division money instead of having to go back on multiple follow up visits to ensure compliance. Although funding for inspections will be transferring over from mental health services to cover inspection costs, we have also incurred additional costs to process certification applications. The $100 fee for the application for a

provisional certificate and the $100 renewal fee to be collected (period not to exceed 2 years) will be used to support the initial and renewal certification application workload, including the issuing of certificates. The cost to process the fees is based on staff hours to process applications, follow up on documents submitted with providers and all correspondence. On average it takes about 5 hours from the beginning to end of the application process for our staff to complete. The $100 fee is to compensate HCQC for a full-time staff to process the application completely.

6) If the proposed regulation provides a new fee or increases an existing fee, the total annual amount DPBH expects to collect and the manner in which the money will be used.

The amendments to NAC 433 for Community Based Living Arrangements will now include a fee for new provider applications for the provisional certification of $100 as well as $100 renewal fee every 2 years. It is estimated that with currently about 120 certified CBLA's, DPBH would collect approximately $12,000 in renewal fees. DPBH would also collect $100 for each new application submitted, which based on our current new applications would be approximately 40 new applications a year, adding approximately $4,000 collected in new application fees yearly.

7) An explanation of why any duplicative or more stringent provisions than federal, state or local standards regulating the same activity are necessary.

There are no other state or federal regulations addressing the same activity.

8) Provide a summary of the reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.

The reasons for the Division's conclusion on the impact of the proposed regulations on small businesses is based on feedback received from the industry and the analysis as outlined in number two. The conclusion is the proposed regulations may have a minor financial impact on applicants or small businesses that will now have to pay for an application to be a CBLA provider.

Certification by Person Responsible for the Agency

I, Julie Kotchevar, Administrator of the Division of Public and Behavioral Health certify to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and the information contained in this statement was prepared properly and is accurate.

Signature Julie Kotchevar Date: 10/11/18

Small Business Impact Questionnaire

Community Based Living Arrangement Proposed Regulations

The following questions pertain to how the changes in the Nevada Administrative Code chapter 433, presented in the enclosure will affect your business. If it is determined that the proposed regulation is likely to impose a direct and significant economic burden upon a small business; or directly restrict the formation, operation or expansion of a small business; then the agency will take any or all of the following actions:

1. Insofar as practicable, consult with owners and officers of affected small businesses,

2. Consider methods to reduce the impact of the proposed regulation, and

3. Prepare a small business impact statement and make copies of the statement available to the public at the workshop conducted and the public hearing held pursuant to NRS 233B.061.

To review the proposed regulations please go the following website: http://dpbh.nv.gov/Reg/HealthFacilities/State_of_Nevada_Health_Facility_Regulation_Public_Workshops/

Please answer each of the questions that apply and add any qualifying remarks that may help us to understand your position. **Mail, fax or email your completed form on or prior to September 21, 2018** to:

Amir Bringard, Health Facility Inspection Manager
Bureau of Healthcare Quality and Compliance
4220 S. Maryland Pkwy. Suite 810, Bldg. D
Las Vegas, NV 89119
702-486-6515
FAX 702-486-6520
abringard@health.nv.gov

Your Name_____

Organization_____

Date_____

NRS 233B.0382 "Small Business defined." "Small business" means a business conducted for profit, which employs fewer than 150 full-time or part-time employees.

1. How many employees are currently employed by your business? _____If more than 150, you will not need to answer the rest of the questions, but you may provide feedback on how the proposed regulations may impact you by emailing: abringard@health.nv.gov

If less than 150, please continue with the remaining questions. Please MAIL, EMAIL or FAX questionnaire to the above address.

1. Will a specific regulation have an adverse economic effect upon your business? If so, please indicate the estimated dollar amount(s) you believe the adopted regulations will cost you over one calendar year with a brief explanation as to how the dollar amount was calculated.

Yes_____ No_____ Explain: Please list each regulation and explain the impact.

2. Will the regulation(s) have any beneficial effect upon your business? If so, please include any cost savings you believe the adopted regulations will save you over one calendar year with an estimated dollar amount if applicable.

Yes_____ No_____

Explain:

3. Do you anticipate any indirect adverse effects upon your business?

Yes_____ No_____

Explain:

4. Do you anticipate any indirect beneficial effects upon your business?

Yes_____ No_____

Explain:

Objections to the proposed regulations in lcb R134-18 and related attachments.

I am Dr shawn mcgivney. I represent all licensed long-term care provides PCA, RFFG, SNF's and the rest of the choice based, free market health care system who have ALL been damaged by the overfunding of Unlicensed, State Certified, SLA and now CBLA non-medical care.

ALL licensed providers have been dramatically underfunded for almost a decade. That underfunding coincides with $100 million in diverted funding away from licensed care to Unlicensed, State Certified SLA and now CBLA care.

Hospitals now are also complaining of unsupervised patients leading to readmission. While the complaints before were to desert regional now the complaints are to HCQC who is faced with an enormous conflict of interest in administering two competing sets of regulations nrs 433/435 and nrs 449 for the same non-medical care. One group by definition is getting far less safety and care than the other. How does HCQC a mandatory reporter justify their unequal care for similar care needs patients in two competing system of care? When the regional centers administered it HCQC had plausible deniability. However, now that they regulate and monitor two competing systems of regulations for the same non-medical care we are concerned they face a conflict of interest.

The continued negative outcomes of unlicensed, state certified, CBLA care now are infecting Nevada's best in the nation set of regulations which decades of past legislator, regulations, the industry have created. HCQC is sending out conflicted technical bulletins including the CBLA hospital discharge bulleting and the dementia care technical bulleting. HCQC conflict of interest has caused them to increase enforcement on licensed care when it is not needed for complaints we believe are from Unlicensed providers.

While the $100 million was just inefficiently spent and negatively impacted only the unfortunate seniors, disabled and mentally ill who were placed without choice, or under informed consent, in unlicensed, state certified CBLA. Now the non-transparent shuffle of CBLA from the Regionals to HCQC is damaging Nevada's safer, more cost effective, long time proven safe system of Licensed nrs 449 care.

We believe that the lack of transparency and lack of informed choice for those who are placed in unlicensed, state certified care is worse than an informed choice made by many to get totally unlicensed care in the community. Those who choose unlicensed, uncertified care do so with no false or misleading state certification of monitoring. They get their care with an "as is" understanding. The misleading "certification" the state provides implying supervision and monitoring is misleading at best. When you add in that the state now does not have plausible deniability which existed when hcqc could say we don't know it is the Regional Centers, you have to ask how transparent the unlicensed, state certified assurance are for anyone who is placed there when the far better, safer, licensed choices exists. We believe totally unlicensed and uncertified care which is offered "as is" to the people who choose it is safer, fairer and more transparent than the new second system of unlicensed, state certified care that is being created in CBLA.

Now with three consecutive negative state audits of performance, finances and value the facts of negative outcomes and low value for CBLA care are clear compared to the long time proven safe, multi level monitored and cost-effective licensed system of care. Other clear and recurring signs of negative outcomes of unlicensed, state certified, CBLA care are clear in the TV news stories, community complaints and even deaths of residents and staff in unlicensed homes.

The most recent audit requested by Chairman Leslie Cohen of Senior citizens, veterans and adults with special needs committee confirms again the recurring negative financial and quality outcomes of SLA and CBLA. We also support Senator Ben Kieckhefer's concern noted in the Nevada Independent in response to the most recent audit info showing the state's Division of Public and Behavioral Health likely lost up to $1.5 million in possible overpayments last year — plus another $600,000 because of a discrepancy in service rates.

Senator Kieckhefer response "As we know, we've been housing them in somewhat deplorable conditions and now we

know we're overpaying for it. It's a system that I just see as broken right now, and we need to find a better way to do this because there are people whose lives are relying on us to find a better way."

There is a better way. We have the answer! It is not a mystery. Licensed nrs 449 care with a best in the nation set of regulations, oversight, and choice-based care that allows both big multi state business and local small businesses to compete with the same best in the nation set of regulations. That is not achieved with an unlicensed, state certified system.

That is $2.1 million would pay for many hours of licensed PCA care, or fill many wait listed waiver spots or... However, that 2.1 million is insignificant when you realize the state spent $100 million in unlicensed, state certified care when Licensed care is paid far less for far more care, supervision, and oversight.

We request you join our coalition with ALL licensed providers pca, rffg, snf's, the senior citizens, veterans and adults with special needs commitee, the health care committee, and the silver haired forum in supporting our BDR to combine unlicensed, state certified, non – medical CBLA and SLA care back into licensed nrs 449 standard of care.

Simply doing a lateral move and creating a conflict of interest for HCQC but keeping unlicensed, state certified care regulated under nrs 433/435 adds little safety, oversight, or cost effectiveness to an already proven less effective system of care. It is difficult to see any logic in further experimenting on seniors, the disabled or mentally ill in "developing" a new unlicensed, state certified system of care when we have a best in the nation licensed choice. If anyone in CBLA, or any agency can show cause of **who** is benefiting, **how and why** we welcome that analysis. Right now, the facts clearly show the disabled are negatively affected, tax payers, the community and other single-family home owners and all existing licensed providers are damaged. *Who is benefiting? Let that person who is benefiting or the individuals who are supporting this come forth publicly and report on their reasoning and beliefs of how unlicensed, state certified care is better, more cost effective, than licensed NRS 449 non-medical care.*

We request unlicensed, state certified, CBLA providers submit public responses to the concerns we have generated and the three state audits and many other investigations provided.

To date the seven letters submitted in passive, unsubstantiated, objection of combining unlicensed, state certified care back to licensed nrs 449 standards are the extent of any positive findings we are aware of for unlicensed, state certified care. The seven letters submitted at the 7/19/18 senior citizens, veterans and adults with special needs meeting merely indicated "they see no reasons" to re combine the two very different sets of regulations nrs 433/435 and nrs 449 for the same non-medical care of protective supervision, medication management and individualized assistance or care. However, they *offer no factual data or clarification* to the clear, recurring, pattern of negative outcomes is clear and convincing evidence of the need and concern for that action which we hope you can support.

https://www.leg.state.nv.us/App/InterimCommittee/REL/Interim2017/Committee/1405/Meetings

We request CBLA providers and the authors of those letters clarify why seniors, the disabled and mentally ill they care for deserve far less safety, supervision, and protection than all other people in Nevada who get the same non-medical care? How are those disabled people benefiting by sacrificing the rich, system of check and balances, monitoring, care, required training that exists in licensed care?

Why are we creating a second, less rigid and *more expensive*, set of regulations with far less monitoring and safety for the frail group of residents we serve?

We request that CBLA and its supporters and those who are funding CBLA at $100 million and underfunding **ALL** other proven safe and monitored licensed long term care settings show with documents **who** is benefiting from CBLA compared to the licensed nrs 449 alternative those disabled in CBLA are not offered. We also request an answer to **why** the three state audits continue to raise questions about the finances in unlicensed, state certified CBLA? We believe the

injured disabled, tax payers and homeowners are entitled to the transparency on the discrepancies that are repeatedly noted.

Regarding the documents for review today.

The Agenda # 1 notes a fee of $100 for CBLA applications and renewal every two years.

How is HCQC now being funded to supervise unlicensed, state certified CBLA? SLA / CBLA use to be supervised in the regional centers but now (as of 2/2018 without formal notice to the other interested parties) are in the LARGELY PRIVATE, NON STATE FUNDED, licensed industries monitoring regulatory body of HCQC. Are HCQC staff who are paid by Licensed NRS 449's far higher fees paying to supervise the competing unlicensed, HCQC industry? What is the goal of creating this token "fee"? We voice concern that their calling it a fee as opposed to a licensing fee. We believe there may be an undisclosed, less transparent, purpose and intent of avoiding other state laws for licensed facilities that might require a sprinkler. Why call it a fee and not licensing fee. How did they arrive at $100 every two years when RFFG pay $2000 or more a year and a per bed licensing fee?

The agenda #2 notes fire safety is an issue. *We agree since a caregiver burned to death and others have repeatedly been injured due to lack of sprinklers, and staff supervision in unlicensed, state certified SLA / CBLA's.* Moreover, it is difficult to see how seniors, the disabled and mentally ill who are placed, *without informed choice* of the better, safer, more cost-effective licensed care choice can deserve so much less when there is a sprinkled, three level of monitoring, far safer choice in licensed care? Adding fire extinguishes is a paper band aide compared to the complex system of fire safety in licensed care. Licensed care not only have sprinklers but alarms, egress lighting, fire marshal approval, required monthly fire drills, smoke detectors checks and much more. Beyond that the staffing and staff training, requirements also contribute to fire and overall safety. Again, one needs to ask why we are re-inventing a second, unlicensed, state certified, system of care FOR THE SAME NON-MEDICAL CARE and who is benefiting? Re-inventing the wheel when you have a far better multi lawyer system of care needs to have an open, written, transparent answer before spending the next $100 million dollars on unlicensed care.

Agenda #3 allows 6 residents in a single-family home used for unlicensed, state certified care. We believe the sprinkler issue has always been an issue and that is one reason they do not want to offer equivalent or the same regulations and safety for those they serve. Those who live in a shared community with a disability, physical, cognitive or a mental illness are expected to need more time to evacuate. Mentally ill people are known to have far higher incidence of smoking and not being able to follow the house rules of not smoking inside. That combined with no ability for supervised mediation management and the no ability to have 24 hr supervision puts them and the caregivers in life threatening situations. How can we have two standards of care and regulation for the exact same single-family residential homes of 6 or less?

The errata lcb file no R134-18P #4 *Each facility shall prohibit smoking within the facility.* Is that a reasonable assumption for mentally ill patients with no required24 hr live in supervision and no access to supervised medication management including using as needed medications? You can't give "as needed" medications if no supervision exists to make that determination.

Sec 18. We are concerned that the lack of transparency in CBLA does not comply with Federal Fair housing regulations for this use of a single-family home. We believe the prison release programs, housing the homeless, claims of using transitional and independent living all violate federal fair housing definitions of the protected classes they protect. That violates the other residential community neighbors right to enjoy their single-family homes. That is not a "reasonable" accommodation for a disabled person but a way to skirt existing licensing types for drug and EtOH rehab licensed homes, halfway houses which exist in licensed nrs 449 regulations. If the community has transparency, knowledge and the house is approved as it would be for a licensed care choice that is fair. What is not fair is implying unlicensed, state certified, are anything like the transparent licensed uses. We know from the 8/3/18 LCB investigation meeting that prison release patients are difficult to control. We request SLA, CBLA and now HCQC to transparently, and publicly

acknowledge use of CBLA for prisoners and the homeless and request reconciliation how that use falls under the existing federal fair housing laws which govern that use of a residential single family home.

Erata sec 18 #8. This is a big one. They use one word "monitor" but have no details. They want to "establish policies". That is as non-transparent and misleading as it gets when there is an existing TRIPPLE LEVEL OF LICENSED MONITORING in licensed care. Unlicensed, state certified care is protected from ombudsman visits. In the last session a minor financial foot noted prevented unlicensed, state certified care form also being monitored by the state ombudsman. Of course, the financial foot note was far less than the $100 million of tax payer dollars that are redirected away from ALL licensed long-term care providers. Licensed care have annual onsite HCQC visits, they have a required BELTCA licensed and regulated administrator and they have unannounced ombudsman visits all as overlapping parts of a multi-level system of checks and balances. Again, one must wonder who is benefiting and how since the frail, disabled and mentally ill who are placed in unlicensed, state certified care without informed choice of the real options are not benefiting.

Who and why is anyone authorizing the continued ***EXPERIMENTATION*** on the seniors, disabled and mentally ill who are placed in the unlicensed, state certified home as someone "develops" a new set of regulations when decades of past legislator, regulations, the industry have created a proven set of licensed regulations? Are we getting family or responsible party releases for this experiment? Are state guardians choosing unlicensed state certified care over licensed care? If so do Guardians believe they have informed consent? Do guardians see the benefit not only of sprinklers but the multiple, overlapping protections their charges might benefit from?

The small business impact questionnaire for code ch 433 (R134-18) failed to consider **ALL** THE LICENSED PROVIDERS PCA, RFFG AND SNF'S who are damaged by the continued overfunding of unlicensed, state certified care at their expense. The small business impact statement likely did not reach the labor division who might advocate for caregivers and the family whose mother burned to death in an unlicensed, state certified home with no sprinkles or workers comp ins.

We have submitted 1000's of pages of proof for our concerns about the safety of seniors, the disabled and mentally ill we care for in unlicensed, state certified care. We include for the record the industry documents from the senior citizens, veterans and adults with special needs committee meetings, the health care committee meeting and the silver haired forum meetings as added written documented supports of our concerns.

We include the LCB investigation meeting on 8/3/18 where CBLA providers would not respond to safety needs but only complained of their not being able to do the work with sprinklers or if their pay was cut. Recall at the same meeting licensed providers continued to do the best in the nation work despite being dramatically relatively under compensated compared to the unlicensed, state certified care.

We feel the long-term care system is at a breaking point and continuing unlicensed, state certified care experiment is something seniors, the disabled, mentally ill, tax payers, the entire heath care system, the community and single-family home owners can no longer support.

Please join or coalition and support the BDR to combine unlicensed, state certified nrs 433/435 care back into the same regulations as licensed nrs 449 care. You, a loved one, or friend will most likely be impacted with reduced choices in long term care in pca, RFFG and SNF care. Would you choose unlicensed, state certified care if you had informed consent about the glaring contrast in level of care for the two sets of regulations that do the same non-medical care?

Shawn McGivney RFA, MD

NALA, and other industry groups.

Minds Matter LV (702) 475-7442

Please indicate the estimated dollar amount you believe the adopted regulation will cost your business over one calendar year with a brief explanation as to how the dollar amount was calculated.

This regulation can cost the Company anywhere from $1,500 as a best-case scenario to thousands a year for worst case scenario.

Section 7.2 - "....two sets of clean sheets" If this is only provided initially instead of maintaining it would cost $10 - $15 more per individual since everyone gets one sheet/comforter set that includes a bed skirt, a pillow case, a pillow, and a zippered mattress cover. 50 clients would cost $500 - $750. If a provider had to maintain the "two sheet set" rule then it would cost double. Clients tear, burn, and lose their sheets approximately twice a year. For a CBLA to cover those as well as other costs would hinder the provider's ability to stay in business.

Section 8

(c) - provide equipment that is clean and in good working condition. Is the provider required to maintain the equipment in good working condition and keep it clean when there is no reimbursement vehicle on the contract? CBLA State contracts allow for direct service hours (training with ADLs)/supervision service hours (monitoring), rent/utilities, personal needs allowance, food, and rent reimbursement. There is nothing in the contract that reimburses the provider to clean up after clients or repair equipment that has been broken. There are times that repairs are reimbursed by the Case Manager from the client's account, but only if the client has extra money to spare. This can cost thousands of dollars annually. Clear guidance for "provide" and/or "maintain" is needed so we may include it in the contract.

(d) A CBLA Provider is not allowed to violate a client's rights by throwing away packaged food that has a "best if used by" date unless it becomes a safety/health hazard where the food actually shows signs of being spoiled. If the item is past an actual expiration date and doesn't show any signs of being expired, the client will request the provider to replace the discarded food.

Section 9

4. Each container used to store garbage outside of the facility is kept reasonably clean and covered to prevent rodents from entering the container.

Currently, all of the garbage cans located outside of the homes have dirt on the inside. Clients throw away individual items (soda cans with liquid still in them, open food containers, unfinished fruits, etc...) without placing them in a bag first. Clients are reminded constantly to place their garbage in bags and tied before thrown out in the garbage can. Providers can't force clients to clean. This results in providers paying staff or professional cleaners to clean the garbage cans for them to be inspection ready. There is no reimbursement vehicle in the contracts for this expense.

6(a). Offensive odors, insects, rodents and accumulation of dirt, garbage or other refuse.

If the offensive odors are emanating from or by the clients we are limited on what we can make a client do (shower, clean their area, etc...) based off of the client's rights. More clarification is needed.

7. Each window in the facility that is capable of being opened and each door that is left open to provide ventilation is screened to prevent insects from entering the facility.

This will limit the available housing we can lease for residential placement. We already have enough trouble finding suitable housing at an affordable price for our clients. Placing requirements like these will delay placement for clients.

9. The temperature of the facility does not exceed 82 degrees Fahrenheit or drop below 68 degrees Fahrenheit.

Temperatures are set/locked anywhere between 70-75 degrees Fahrenheit throughout the year. Sometimes clients change the temperatures on their own beyond the set range you have identified. We install thermostat locking cases in those instances, but they manage to break the locked case regardless. Some flexibility is needed for this requirement if the temperature is not in the identified range due to client tampering unless it's a mechanical issue that's causing it.

Section 10

1. Portable multipurpose class ABC fire extinguishers are installed throughout the facility at the direction of the governmental entity that has jurisdiction over fire safety at the facility.

Is the governmental agency the Fire Department? All of our homes meet the current fire codes. We have issues with State representatives that have their own opinions and add to the fire department requirements, which ends up costing us more money to meet. This should not be left to individual opinion.

2. Each portable fire extinguisher available at a facility is inspected, recharged and tagged at least once each year by a person certified by the State Fire Marshal to conduct such inspections.

We have purchased fire extinguishers from stores and if not used are supposed to be good for 6 years. They are replaced when they are used with new fire extinguishers. Will that meet the requirement?

5. Smoking does not occur in the facility or within 25 feet of the facility.

All of our homes and/or apartments have backyards or balconies that the clients use for smoking. It is not feasible to set a designated area 25ft from their homes. That requirement will almost ensure clients smoking in the homes.

6. An extinguishing receptacle approved by the governmental entity that has jurisdiction over fire safety at the facility is placed in each area on the premises of the facility where smoking is allowed.

Is the governmental agency the Fire Department on this one as well? There are receptacles in place at the moment and will have to be compared to the required specifications, but depending on the cost for specialized equipment we can't estimate a dollar amount.

Sections 13 and 17

A nonrefundable fee of $100 for initial and/or renewal applications would cause a significant financial burden for our company. This $100 fee along with the other fees (i.e. fingerprints/background checks, CPR, first aid, State business license, City business license, required liability and professional insurance, payroll, taxes, etc...) we are responsible for, which in some occurrences are for each governing body and/or staff, would unquestionably place an enormous economic burden on our small business. There is simply not enough profit from State contracts to meet all the requirements proposed for a CBLA and pay $100 per application to an agency that is already charged with that responsibility. We can't afford to pay for another agency's personnel. Ten CBLA homes would cost $1000 a year just in application fees. CBLAs for State contracts will have to be placed in a lower priority based off of the hourly rate we are receive for direct training and supervision hours in comparison to other programs. These other programs do not require residential assistance (private pay, insurances, etc...) and allow for less expenses to conduct the much-needed mental health services (BST, PSR, therapy, etc...) by visiting the client's home or in an office setting.

Section 21

Maintaining files in a locked container or area at our homes/apartments limits access to State representatives when conducting unannounced inspections. Our CBLAs do not require live-in staff therefore can't provide immediate access to those files. We would have to send personnel to that location to provide access.

Section 23(d). Inspect any facility or other premises operated by the provider to determine compliance with the provisions of this chapter and chapter 433 of NRS.

Clarification is needed when stating "Inspect **any** facility or other premises operated by the provider" to ensure that only those that are "in support of services" are inspected and not locations that have nothing to do with mental health/residential services.

NOTICE OF PUBLIC HEARING

Intent to Adopt Regulations
(LCB File No. R134-18)

NOTICE IS HEREBY GIVEN that the State Board of Health will hold a public hearing to consider amendments to Chapter 433 of Nevada Administrative Code (NAC), Administration of Mental Health and Intellectual and Developmental Disability Programs. This public hearing is to be held in conjunction with the State Board of Health meeting on December 7, 2018.

The State Board of Health will be conducted via videoconference beginning at 9:00 a.m. on Friday, December 7, 2018 at the following locations:

Division of Public and Behavioral Health 4150 Technology Way Room #303 Carson City, NV 89706	Grant Sawyer Office Building 555 E. Washington Ave. Las Vegas, NV 89101

The proposed changes to NAC 433 include the following:

- Establishment of fees for application to be a community based living arrangement (CBLA) provider. The proposed regulations would require a $100 fee for the initial application for a provisional certificate as well as $100 fee for renewal every two years
- Establishes requirements for fire safety as well as requirements for a safe environment.
- Allows a maximum of 6 residents in a CBLA home and establishes space requirements in resident bedrooms.
- Allows for an attestation that the applicant has enough working capital to operate the facility.
- Establishes requirements for kitchen, dining and common areas.
- Establishes training requirements for applicants and employees of CBLA's.

1. Anticipated effects on the business which NAC 433 regulates:

A. *Adverse effects*: With the new amended regulations, a fee was established for certification of CBLA homes. Currently there is no fee for a provider to get certified. With the amended regulations a non-refundable $100 fee will be imposed for application to be certified by the Division.

B. *Beneficial:* Providers would be able to take on an additional clients which could be a financial benefit. Training could be done prior to having to wait for a screening panel approval by the Division. Removes the requirement that an applicant has enough working capital to provide services for at least 3 months without compensation and changes it to an attestation that an applicant has sufficient working capital to effectively provide services. The proposed regulations continue to require applicants to have sufficient working capital to effectively provide services while eliminating this burden.

A. *Immediate:* As soon as the proposed regulations become effective it would allow providers to process their application quicker to become a CBLA.
B. *Long-term:* There may be an increased number of CBLA providers in Nevada.

2. Anticipated effects on the public:

A. *Adverse*: None.
B. *Beneficial:* May decrease the number of individuals diagnosed with a mental illness to be homeless on the streets.
C. *Immediate*: Would put additional safety measures in place that would be required to be followed if someone opened a CBLA. It would also remove a barrier that may have delayed processing of applications with applicants attesting to their financial stability.
D. *Long-term:* There may be an increased number of CBLA's in Nevada providing rehabilitation homes for individuals with mental health conditions.

3. The estimated cost to the Division of Public and Behavioral Health for enforcement of the proposed regulations includes: Although funding for inspections will be transferring over from mental health services to cover inspection costs, we have also incurred additional costs to process certification applications. The $100 fee for the application for a provisional certificate and the $100 renewal fee to be collected every 2 years (period not to exceed 2 years) will be used to support the initial and renewal certification application workload, including the issuing of certificates. The cost to process the fees is based on staff hours to process applications, follow up on documents submitted with providers and all correspondence. On average it takes about 5 hours from the beginning to end of the application process for our staff to complete. The $100 fee is to compensate HCQC for a full-time staff to process the application completely.

The proposed regulations do not overlap or duplicate any other Nevada state regulations.

Members of the public may make oral comments at this meeting. Persons wishing to submit written testimony or documentary evidence in excess of two typed, 8-1/2" x 11" pages must submit the material to the Board's Secretary, Julie Kotchevar, Ph.D, to be received no later than November 21, 2018 at the following address:

Secretary, State Board of Health
Division of Public and Behavioral Health
4150 Technology Way, Suite 300
Carson City, NV 89706

Written comments, testimony, or documentary evidence in excess of two typed pages will not be accepted at the time of the hearing. The purpose of this requirement is to allow Board members adequate time to review the documents.

A copy of the notice and proposed regulations are on file for inspection and/or may be copied at the following locations during normal business hours:

Nevada Division of Public and Behavioral Health
727 Fairview Drive, Suite E
Carson City, NV 89701

Nevada State Library
100 Stewart Street
Carson City, NV 89701

Nevada Division of Public and Behavioral Health
4220 S. Maryland Parkway, Suite 810, Building D
Las Vegas, NV 89119

A copy of the regulations and small business impact statement can be found on-line by going to: http://dpbh.nv.gov/Reg/HealthFacilities/State_of_Nevada_Health_Facility_Regulation_Public_Workshops/

A copy of the public hearing notice can also be found at Nevada Legislature's web page: https://www.leg.state.nv.us/App/Notice/A/

Copies may be obtained in person, by mail, or by calling the Division of Public and Behavioral Health at (775) 684-1030 in Carson City or (702) 486-6515 in Las Vegas.
Copies may also be obtained from any of the public libraries listed below:

Carson City Library
900 North Roop Street
Carson City, NV 89702

Churchill County Library
553 South Main Street
Fallon, NV 89406

Clark County District Library
1401 East Flamingo Road
Las Vegas, NV 89119

Douglas County Library
1625 Library Lane
Minden, NV 89423

Elko County Library
720 Court Street
Elko, NV 89801

Esmeralda County Library
Corner of Crook and 4th Street
Goldfield, NV 89013-0484

Eureka Branch Library
80 South Monroe Street
Eureka, NV 89316-0283

Henderson District Public Library
280 South Green Valley Parkway
Henderson, NV 89012

Humboldt County Library
85 East 5th Street
Winnemucca, NV 89445-3095

Lander County Library
625 South Broad Street
Battle Mountain, NV 89820-0141

Lincoln County Library
93 Maine Street
Pioche, NV 89043-0330

Lyon County Library
20 Nevin Way
Yerington, NV 89447-2399

Mineral County Library
110 1st Street
Hawthorne, NV 89415-1390

Pahrump Library District
701 East Street
Pahrump, NV 89041-0578

Pershing County Library
1125 Central Avenue
Lovelock, NV 89419-0781

Storey County Library
95 South R Street
Virginia City, NV 89440-0014

Tonopah Public Library
167 Central Street
Tonopah, NV 89049-0449

Washoe County Library
301 South Center Street
Reno, NV 89505-2151

White Pine County Library
950 Campton Street
Ely, NV 89301-1965

Per NRS 233B.064(2), upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

NOTICE OF PUBLIC WORKSHOP

NOTICE IS HEREBY GIVEN that the Division of Public and Behavioral Health will hold a public workshop to consider amendments to Nevada Administrative Code (NAC) Chapter 433, LCB file R134-18.

The workshop will be conducted via videoconference beginning at 9 AM on Friday November 2, 2018 at the following locations:

Division of Public and Behavioral Health 4150 Technology Way, Suite 303 Carson City, NV 89706	Desert Regional Center 1391 S. Jones Blvd. Las Vegas, NV 89146

These workshops will be conducted in accordance with NRS 241.020, Nevada's Open Meeting Law.

AGENDA

1. Introduction of workshop process
2. Public comment on proposed amendments to Nevada Administrative Code Chapter 433, LCB file R134-18.
3. Public Comment

The proposed changes will revise Chapter 433 (R134-18) of the Nevada Administrative Code and are being proposed in accordance with NRS 652.125 and NRS 652.090.

The proposed amended regulations provide provisions for:

1. Establishment of fees for application to be a CBLA. The proposed regulations would require a $100 fee for the initial application for a provisional certificate as well as $100 fee for renewal every two years
2. Establishes requirements for fire safety as well as requirements for a safe environment.
3. Allows a maximum of 6 residents in a CBLA home and establishes space requirements in resident bedrooms.
4. Allows for an attestation that the applicant has enough working capital to operate the facility.
5. Establishes requirements for kitchen, dining and common areas.
6. Establishes training requirements for applicants and employees of CBLA's.

Members of the public may make oral comments at this meeting. Persons wishing to submit written testimony or documentary evidence may submit the material to Amir Bringard, Health Facilities Inspection Manager at the following address:

Division of Public and Behavioral Health
4220 S. Maryland Pkwy. Suite 810, Bldg. D
Las Vegas, NV 89119
702-486-6520 (FAX)

Members of the public who require special accommodations or assistance at the workshops are required to notify Amir Bringard, Health Facilities Inspection Manager, in writing to the Division of Public and Behavioral

Health, 4220 S. Maryland Pkwy. Suite 810, Bldg. D, Las Vegas, NV 89119 or by calling (702) 486-6515 at least five (5) working days prior to the date of the public workshop.

You may contact Amir Bringard, Health Facilities Inspection Manager by calling 702-486-6515 for further information on the proposed regulations or how to obtain copies of the supporting documents.

A copy of the notice and the proposed regulations are on file for inspection and/or may be copied at the following locations during normal business hours:

Division of Public and Behavioral Health
727 Fairview Drive, Suite E
Carson City, NV

Division of Public and Behavioral Health
4220 S. Maryland Parkway, Suite 810, Bldg D
Las Vegas, NV

Nevada State Library and Archives
100 Stewart Street
Carson City, NV

A copy of the regulations and small business impact statement can be found on the Division of Public and Behavioral Health's web page:
http://dpbh.nv.gov/Reg/HealthFacilities/State_of_Nevada_Health_Facility_Regulation_Public_Workshops/

A copy of the public workshop notice can also be found at Nevada Legislature's web page:
https://www.leg.state.nv.us/App/Notice/A/

A copy of this notice has been posted at the following locations:

1. Division of Public and Behavioral Health, 4150 Technology Way, First Floor Lobby, Carson City
2. Nevada State Library and Archives, 100 Stewart Street, Carson City
3. Legislative Building, 401 S. Carson Street, Carson City
4. Grant Sawyer Building, 555 E. Washington Avenue, Las Vegas
5. Washoe County District Health Department, 9TH and Wells, Reno

Copies may be obtained in person, by mail, or by calling the Division of Public and Behavioral Health at (775) 684-1030 in Carson City or (702) 486-6515 in Las Vegas.
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Fallon, NV 89406

Clark County District Library
833 Las Vegas Boulevard North
Las Vegas, NV 89101

Douglas County Library
1625 Library Lane
Minden, NV 89423

Elko County Library
720 Court Street
Elko, NV 89801

Esmeralda County Library
Corner of Crook and 4th Street
Goldfield, NV 89013-0484

Eureka Branch Library
210 South Monroe Street
Eureka, NV 89316-0283

Henderson District Public Library
280 South Water Street
Henderson, NV 89105

Humboldt County Library
85 East 5th Street
Winnemucca, NV 89445-3095

Lander County Library
625 South Broad Street
Battle Mountain, NV 89820-0141

Lincoln County Library
93 Maine Street
Pioche, NV 89043-0330

Lyon County Library
20 Nevin Way
Yerington, NV 89447-2399

Mineral County Library
110 1st Street
Hawthorne, NV 89415-1390

Pahrump Library District
701 East Street
Pahrump, NV 89041-0578

Pershing County Library
1125 Central Avenue
Lovelock, NV 89419-0781

Storey County Library
95 South R Street
Virginia City, NV 89440-0014

Tonopah Public Library
167 Central Street
Tonopah, NV 89049-0449

Washoe County Library
301 South Center Street
Reno, NV 89505-2151

White Pine County Library
950 Campton Street
Ely, NV 89301-1965

Per NRS 233B.064(2), upon adoption of any regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.