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NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Amendment of Regulations of the Board of Health

LCB File No. R004-24RP1, that revises LCB File No. R016-20AP relating to cultural competency training (CCT) for employees of health care facilities is being revised by establishing new standards in accordance with AB267 of the 2023 legislative session.

NOTICE IS HEREBY GIVEN that the State Board of Health will hold a public hearing to consider amendments to Chapter 449 of Nevada Administrative Code (NAC). This public hearing is to be held in conjunction with the State Board of Health meeting on June 7, 2024.

The State Board of Health will be conducted via videoconference beginning at 9:00 am on June 7, 2024, at the following locations:

- Microsoft Teams
https://teams.microsoft.com/l/meetup-join/19%3ameeting_NTJmNTFIZGltNDFhYy00NDJjLWlzMtktZTA3NTBiZDE2Mmlw%40threa.d.v2/0?context=%7b%22tid%22%3a%22e4a340e6-b89e-4e68-8eaa-1544d2703980%22%2c%22oid%22%3a%22768e443d-3be6-48f0-9bb0-7e72f1276b8d%22%7d
- Join By Phone
(775) 321-6111; Phone Conference ID: 228 824 297#
- Physical Locations
Division of Public and Behavioral Health
Hearing Room 303
4150 Technology Way
Carson City, NV 89706

Southern Nevada Health District
Red Rock Trail Rooms A & B
208 S. Decatur Blvd.
Las Vegas, NV 89107

The proposed changes to LCB File No. R016-20AP contained in LCB File No. R004-24RP1, as authorized by AB267 of the 2023 legislative session, include the following:

- Ensure the new regulatory language establishes minimum standards for cultural competency training (CCT)
- Establishing requirements for course time and adjusting periodicity requirements to require minimum standards for CCT
- Restructuring regulations to ensure the responsible state agency can review new CCT program submissions within the 10 day allowance, while maintaining statutory topic requirements

- Maintenance of language that obligates facilities to ensure policies are in place to protect the rights of individuals when observed through the lens of cultural competency
- New language developed that allows for flexibility in the development of courses
- Reduction in burden on health care facilities to generate CCT
- Eliminate the requirement for health facilities to report the specific CCT course the facility will use to educate its employees

1. Anticipated effects on the businesses which LCB File No. R004-24RP1 regulates:

- Adverse effects:* Some respondents to the small business impact questionnaire indicated there would be an adverse economic effect, but did not relate this to the new agency draft of CCT regulations, rather related the adverse effects to the necessity for CCT in general and based related costs on the current regulation (LCB File #R016-20AP).
- Beneficial effects:* Most respondents, indicated there would be no beneficial effect, but referenced costs associated with the current CCT regulation (LCB File #R016-20AP). However, some commented that that there would be a beneficial effect associated with reduced hours of instruction.
- Immediate:* There are no anticipated immediate effects on businesses.
- Long-term:* It is anticipated that the proposed regulations will eventually encourage more facilities to submit CCT programs for approval and this will result in reduced costs for those facilities.

2. Anticipated effects on the public:

- Adverse:* There are no anticipated adverse effects for the public receiving services in health care facilities associated with the proposed regulation.
- Beneficial:* There are no anticipated beneficial effects to the public based on continued CCT training for employees in health care facilities.
- Immediate:* There are no anticipated immediate effects to the public.
- Long-term:* There are anticipated long-term beneficial effects to the public based on health care facility employees receiving CCT.

3. The Division of Public and Behavioral Health (DPBH) determined the impact on small businesses by distributing an email containing a link to the Small Business Impact Questionnaire to actively licensed facilities, hospitals, agencies, programs or homes listed in NRS 449.119 and to intermediary service organizations as set forth in NRS 449.4304. The results from the questionnaire were analyzed and tallied and then documented in a small business impact statement. DPBH also conducted a public workshop on November 14, 2023 and received additional information about the impact on all businesses and DPBH received suggested language that was incorporated into the final agency draft of these regulations to further reduce the impact of these regulations on businesses.

4. There should be no additional costs to the agency to enforce the proposed regulations. It is anticipated that the workload to track, review and approve CCT courses will continue to be incorporated into the Division's overall workload.

5. The proposed regulations do not overlap or duplicate any other Nevada state or federal 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, Cody Phinney, to be received no later than May 31, 2024, at the following address:

Secretary, State Board of Health

Division of Public and Behavioral Health
4150 Technology Way, Suite 300
Carson City, NV 89706
stateBOH@health.nv.gov

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 - 4150 Technology Way, Suite #300, Carson City, NV 89706
- Nevada Division of Public and Behavioral Health - 4220 S. Maryland Parkway, Bldg. A, Ste. 100, Las Vegas, NV 89119
- Nevada State Library and Archives - 100 Stewart Street, Carson City, NV, 89701

A copy of the regulations and small business impact statement can be found on-line by going to:
https://dph.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:

Division of Public and Behavioral Health
Bureau of Health Care Quality and Compliance
4220 S. Maryland Parkway, Building A, Suite 100
Las Vegas, NV 89119
(702) 486-6515
tcarney@health.nv.gov

Copies may also be obtained from the Nevada State Library at the address listed below:

Nevada State Library & Archives
100 N. Stewart Street
Carson City, NV 89701

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.

**REVISED PROPOSED REGULATION OF
THE STATE BOARD OF HEALTH**

LCB File No. R004-24

March 18, 2024

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

AUTHORITY: §§ 1-3, 5 and 17, NRS 449.0302; §§ 4, 6, 7, 11-14 and 16, NRS 449.0302 and 449.103, as amended by section 1 of Assembly Bill No. 267, chapter 202, Statutes of Nevada 2023, at page 1176; §§ 8-10, NRS 449.0302 and 449.101; § 15, NRS 449.0302 and 449.104.

A REGULATION relating to health care; authorizing the audit of a course or program of cultural competency training; revising the specific types of discrimination in which certain facilities are prohibited from engaging; removing certain requirements relating to statements, notices and information on prohibited discrimination that must be posted in certain facilities; prescribing the amount of cultural competency training that certain agents or employees of certain facilities are required to complete; revising the requirements and procedures for the review and approval by the Department of Health and Human Services of a course or program on cultural competency training; revising requirements governing the course materials for such a course or program; revising requirements governing the adaptation of certain health records to reflect gender identity or expression; repealing requirements governing the provision of certain information to patients or residents and the designation of a representative of a facility to ensure compliance with certain requirements; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law prohibits medical facilities, facilities for the dependent and certain other licensed health facilities and any employee or independent contractor of such a facility from discriminating in the admission of, or the provision of services to, a patient or resident based wholly or partially on the actual or perceived race, color, religion, national origin, ancestry, age, gender, physical or mental disability, sexual orientation, gender identity or expression or human immunodeficiency virus status of the patient or resident or any person with whom the patient or resident associates. (NRS 449.101) Existing regulations prescribe the specific types of discrimination which are prohibited, including: (1) discrimination that results in a person not being treated with dignity and which is based wholly or partially on the person being in a protected class listed above; (2) certain indirect discrimination; and (3) discrimination which is based wholly or partially on the discriminated person associating with persons who are in such a protected class. (Section 7 of LCB File No. R016-20) **Section 8** of this regulation: (1) revises

prohibitions on discrimination based on a person being actually in or perceived to be in a protected class listed above to be more clear and concise; and (2) corrects a drafting error relating to indirect discrimination.

Existing law requires medical facilities, facilities for the dependent and certain other licensed health facilities to: (1) develop and carry out policies to prevent discrimination; and (2) post in the facility and on the Internet website of the facility a statement that the facility does not discriminate. (NRS 449.101) Existing regulations set forth the specific requirements for such a statement, including: (1) the size of the paper and text of the statement; and (2) the locations in a facility where the statement must be posted. (Section 10 of LCB File No. R016-20) **Section 9** of this regulation removes the requirements that such a statement must: (1) state the name of the facility; and (2) be posted in certain locations in a facility.

Existing law requires the State Board of Health to adopt regulations requiring a facility to conduct training relating specifically to cultural competency that is approved by the Department of Health and Human Services for certain agents and employees of the facility. (NRS 449.103) Assembly Bill No. 267 (A.B. 267) of the 2023 Legislative Session additionally requires: (1) the Board to set forth by regulation the frequency with which such a facility is required to conduct such training; and (2) agents and employees who provide clinical, administrative or support services and regularly have direct patient contact as part of their regular job duties or oversee such agents or employees to receive such training. (NRS 449.103, as amended by section 1 of Assembly Bill No. 267, chapter 202, Statutes of Nevada 2023, at page 1176) **Section 11** of this regulation removes a requirement that any agent or employee of the facility who provides care to a patient or resident of the facility receive cultural competency training because A.B. 267 specifies the agents or employees who must receive such training. (NRS 449.103, as amended by section 1 of Assembly Bill No. 267, chapter 202, Statutes of Nevada 2023, at page 1176) **Section 11** additionally requires each agent or employee who is required to receive cultural competency training to receive at least 2 hours of such training within 90 days after the employee or agent is hired or contracted, as applicable, and biennially thereafter.

Section 12 of this regulation removes the requirement that a facility that uses a course or program of cultural competency training apply to the Department for approval and instead requires the provider of the course or program to apply for such approval. **Section 12** also revises the required contents of an application for such approval. **Section 13** of this regulation revises requirements governing the course materials that must be included in a program or course of cultural competency training. **Section 13** also requires the Department, upon request, to provide a copy of those requirements to an applicant for approval, rather than a facility.

Section 14 of this regulation revises certain time periods for the review and approval by the Department of a course or program of cultural competency training. **Section 14** also provides that the approval of a course or program by the Department is valid for 3 years.

Section 17 of this regulation repeals a requirement that the Division of Public and Behavioral Health of the Department assign a course number to an approved course or program and **section 14** instead requires the Director of the Department or his or her designee to assign such a course number. **Section 4** of this regulation authorizes: (1) the Director or his or her designee to audit an approved course or program; and (2) the Department to revoke the approval of the course or program if the course or program no longer meets the necessary requirements. **Section 16** of this regulation deems a course or program that was approved before the effective date of this regulation to be approved until 3 years after the effective date of this regulation.

Existing law requires the Board to adopt regulations that require a facility to adapt electronic records to reflect the gender identities or expressions of patients or residents. (NRS 449.104) Existing regulations require a medical facility, facility for the dependent or other residential facility to adapt electronic and paper health records to reflect the gender identity or expression of a patient or resident in differing manners, depending on the type of facility. (Section 19 of LCB File No. R016-20) **Section 15** of this regulation limits the requirement to adapt records to apply only to the extent practicable by and available within the systems in use at the facility. **Section 15** also establishes uniform requirements governing such adaptation of records across all types of facilities.

Existing regulations require a facility that adapts electronic records to reflect the gender identify or expression of patients or residents to develop a method to obtain thorough and medically relevant information to accurately reflect the diverse gender identities or expressions of patients or residents. (Section 19 of LCB File No. R016-20) **Section 15** requires any such method to protect the privacy of patients or residents.

Existing regulations require a facility to post prominently in the facility and on any Internet website to market the facility a notice that a patient or resident who has experienced prohibited discrimination may file a complaint with the Division. (Section 9 of LCB File No. R016-20) Existing regulations also require a facility to provide to a patient or resident, upon admission, a written copy of certain statements, notices and information concerning prohibited discrimination. (Section 11 of LCB File No. R016-20) **Section 17** repeals those provisions and **sections 9 and 10** of this regulation make conforming changes by removing references to those repealed provisions.

Sections 2 and 3 of this regulation define and interpret certain terms used in **section 4** and existing law. **Sections 6 and 7** of this regulation revise existing definitions to update certain references to existing law. **Section 5** of this regulation makes conforming changes to indicate the proper placement of **sections 2-4** in the Nevada Administrative Code.

Section 1. Chapter 449 of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. *“Patient or resident” includes, without limitation, any person who receives services from a facility.*

Sec. 3. *As used in NRS 449.103, as amended by section 1 of Assembly Bill No. 267, chapter 202, Statutes of Nevada 2023, at page 1176, sections 2 to 22, inclusive, of LCB File No. R016-20 and sections 2, 3 and 4 of this regulation, the Board will interpret the term “agent or employee” to:*

1. Have the meaning ascribed to “employee” in NRS 608.010; and

2. Include a person who performs a service for a fixed price according to his or her own methods and without subsection to the supervision or control of the person paying the fixed price, except as to the results of the work, and not as to the means by which the services are accomplished.

Sec. 4. *1. The Director or his or her designee may audit a course or program of cultural competency training approved by the Department pursuant to section 17 of LCB File No. R016-20. If the Director or his or her designee audits a course or program, the provider of the course or program shall make all course materials and attendance documents available to the auditor at no cost to the auditor.*

2. If the Director or his or her designee determines as the result of an audit conducted pursuant to subsection 1 that the course or program no longer meets the requirements set forth in sections 2 to 22, inclusive, of LCB File No. R016-20 and sections 2, 3 and 4 of this regulation, the Department may revoke its approval of the course or program. If the Department revokes its approval, the Office of Minority Health and Equity of the Department shall remove the course or program from the list of approved courses and programs maintained on the Internet website of the Office pursuant to subsection 5 of NRS 449.103, as amended by section 1 of Assembly Bill No. 267, chapter 202, Statutes of Nevada 2023, at page 1176.

Sec. 5. Section 2 of LCB File No. R016-20 is hereby amended to read as follows:

As used in sections 2 to 22, inclusive, of LCB File No. R016-20, *and sections 2, 3 and 4 of this regulation*, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of LCB File No. R016-20 and *sections 2 and 3 of this regulation* have the meanings ascribed to them in those sections.

Sec. 6. Section 3 of LCB File No. R016-20 is hereby amended to read as follows:

“Cultural competency training” means the training required by ~~section 14 of LCB File No. R016-20.~~ *subsection 1 of NRS 449.103, as amended by section 1 of Assembly Bill No. 267, chapter 202, Statutes of Nevada 2023, at page 1176.*

Sec. 7. Section 6 of LCB File No. R016-20 is hereby amended to read as follows:

“Facility” means a ~~medical~~ facility ~~facility for the dependent or facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed.~~ *listed in subsection 1 of NRS 449.103, as amended by section 1 of Assembly Bill No. 267, chapter 202, Statutes of Nevada 2023, at page 1176.*

Sec. 8. Section 7 of LCB File No. R016-20 is hereby amended to read as follows:

Pursuant to paragraph (e) of subsection 1 of NRS 449.0302 and paragraph (a) of subsection 2 of NRS 449.101, the specific types of prohibited discrimination include, without limitation:

1. Discrimination ~~that results in a person not being treated with dignity and~~ which is based wholly or partially on the actual or perceived race, color, religion, national origin, ancestry, age, gender, physical or mental disability, sexual orientation, gender identity or expression or human immunodeficiency virus status of the patient or resident or any person with whom the patient or resident associates ~~and~~, *including, without limitation, where the discrimination results in a person not being treated with dignity and respect.*

2. Indirect discrimination that may or may not be intentional and which results in the application of policies ~~that are applied uniformly and~~ in a ~~nondiscriminatory~~ *discriminatory* manner by the facility.

3. ~~Discrimination which is based wholly or partially on the person associating with other persons who:~~

~~—(a) Are actually or perceived to be of a different race, color, religion, national origin, ancestry, age, gender, sexual orientation, gender identity or expression or human immunodeficiency virus status of the person; or~~

~~—(b) Actually or are perceived to have a physical or mental disability.~~

~~—4.]~~ Harassment or bullying of any kind of a person because of his or her actual or perceived race, color, religion, national origin, ancestry, age, gender, physical or mental disability, sexual orientation, gender identity or expression or human immunodeficiency virus status.

Sec. 9. Section 10 of LCB File No. R016-20 is hereby amended to read as follows:

~~{1.}~~ The statement required to be posted pursuant to paragraph (b) of subsection 2 of NRS 449.101 and the notice and information required to be posted pursuant to subsection 3 of NRS 449.101 ~~{or section 9 of LCB File No. R016-20, as applicable,}~~ must:

~~{(a) State the name of the facility; and~~

~~—(b) When posted in the facility:~~

~~—(1)]~~ 1. Be not less than 8.5 inches in height and 11 inches in width, with margins not greater than 0.5 inches on any side; and

~~{(2)}~~ 2. Be written using a single typeface in not less than 22-point type.

~~{2.}—When posting prominently the statement required to be posted pursuant to paragraph (b) of subsection 2 of NRS 449.101 and the notice and information required to be posted pursuant to subsection 3 of NRS 449.101 or section 9 of LCB File No. R016-20, as applicable, the facility shall post the statement or notice and information in each:~~

~~—(a) Public entrance of the facility;~~

~~—(b) Waiting room of the facility; and~~

~~—(c) Public dining room of the facility.]~~

Sec. 10. Section 12 of LCB File No. R016-20 is hereby amended to read as follows:

A facility shall:

1. Develop and adopt a written policy on how a complaint with the facility ~~{that is filed pursuant to paragraph (b) of subsection 1 of section 11 of LCB File No. R016-20 is}~~ :

(a) May be filed with the facility; and

(b) Will be documented, investigated and resolved; and

2. Maintain a log that lists:

(a) All complaints *concerning prohibited discrimination that are filed* with the facility ; ~~{that are filed pursuant to paragraph (b) of subsection 1 of section 11 of LCB File No. R016-20;}~~

(b) The actions taken by the facility to investigate and resolve ~~{the}~~ *each* complaint; and

(c) If no action was taken ~~{}~~ *concerning a complaint*, an explanation as to why no action was taken.

Sec. 11. Section 14 of LCB File No. R016-20 is hereby amended to read as follows:

1. ~~{Pursuant to subsection 1 of}~~ *Except as otherwise provided in* NRS 449.103, ~~{within 30 business days after the course or program is assigned a course number by the Division pursuant to section 18 of LCB File No. R016-20 or within 30 business}~~ *as amended by section 1 of Assembly Bill No. 267, chapter 202, Statutes of Nevada 2023, at page 1176, a facility shall provide at least 2 hours of cultural competency training through an approved course or program to an agent or employee described in subsection 2 of NRS 449.103, as amended by section 1 of Assembly Bill No. 267, chapter 202, Statutes of Nevada 2023, at page 1176:*

(a) Within 90 days ~~{of any}~~ *after contracting with or hiring the* agent or employee ; ~~{being contracted or hired , whichever is later,}~~ and ~~{at}~~

(b) *At least ~~once each year~~ biennially* thereafter . ~~[- a facility shall conduct training relating specifically to cultural competency for any agent or employee of the facility who provides care to a patient or resident of the facility so that the agent or employee may:~~

~~—(a) More effectively treat patients or care for residents, as applicable; and~~

~~—(b) Better understand patients or residents who have different cultural backgrounds, including, without limitation, patients or residents who fall within one or more of the categories in paragraphs (a) to (f), inclusive, of subsection 1 of NRS 449.103.]~~

2. The facility ~~[shall]~~ *may* provide the training required by subsection 1 ~~[through a course or program that is approved by the Director of the Department or his or her designee pursuant to section 17 of LCB File No. R016-20 and is assigned a course number by the Division pursuant to section 18 of LCB File No. R016-20.]~~ *over several instructional periods or during a single instructional period so long as the agent or employee:*

(a) Completes the hours of cultural competency training required by subsection 1 and the entire contents of the course or program; and

(b) Receives a certificate of completion on or before the date on which subsection 1 requires the agent or employee to complete the cultural competency training.

3. ~~[The]~~ *Except as otherwise provided in subsection 4, the* facility shall keep documentation in the personnel file of ~~[any]~~ *an* agent or employee of the facility *or a record of an agent or employee in the relevant electronic system of the facility proof* of the completion of the cultural competency training required pursuant to ~~[subsection 1.]~~ *NRS 449.103, as amended by section 1 of Assembly Bill No. 267, chapter 202, Statutes of Nevada 2023, at page 1176.*

4. *If an agent or employee of a facility is exempt from the requirement to complete cultural competency training pursuant to subsection 3 of NRS 449.103, as amended by section*

1 of Assembly Bill No. 267, chapter 202, Statutes of Nevada 2023, at page 1176, the facility shall maintain proof in the personnel file of the agent or employee or a record of the agent or employee in the relevant electronic system of the facility that the agent or employee holds a valid professional license, registration or certificate, as applicable, for which the continuing education described in subsection 3 of NRS 449.103, as amended by section 1 of Assembly Bill No. 267, chapter 202, Statutes of Nevada 2023, at page 1176, is required for renewal.

Sec. 12. Section 15 of LCB File No. R016-20 is hereby amended to read as follows:

~~{1. Within 90 days after a facility is licensed to operate, the facility must submit to the Department on a form prescribed by the Department the course or program which the facility will use to provide cultural competency training. The facility may:~~

~~—(a) Develop or operate the course or program; or~~

~~—(b) Contract with a third party to develop and operate the course or program.~~

~~—2. The} *Except as otherwise provided in subsection 6 of NRS 449.103, as amended by section 1 of Assembly Bill No. 267, chapter 202, Statutes of Nevada 2023, at page 1176, the provider of a* course or program ~~{submitted by the facility pursuant to subsection 1 must address patients or residents who have different cultural backgrounds from that of the agent or employee of the facility, including, without limitation, patients or residents who fall within one or more of the categories in paragraphs (a) to (f), inclusive, of subsection 1 of NRS 449.103.~~~~

~~—3. When a facility submits a course or program pursuant to subsection 1, the facility must also provide to the Department the following information for the instructor of the course or program:~~

~~—(a) The application of the instructor who will teach the course or program;~~

~~—(b) Three letters of recommendation for the instructor, including, without limitation, at least one letter of recommendation in which the recommender has knowledge of the methods the instructor uses in teaching a cultural competency course or program; and~~

~~—(c) The resume of the instructor of the course or program that includes, without limitation, the education, training and experience the instructor has in providing cultural competency training.~~

~~—4. Except as otherwise provided in subsection 5, when a facility submits a course or program pursuant to subsection 1, the facility must also provide to the Department:~~

~~—(a) The syllabus of the~~ *on cultural competency training must apply to the Department for approval pursuant to subsection 4 of NRS 449.103, as amended by section 1 of Assembly Bill No. 267, chapter 202, Statutes of Nevada 2023, at page 1176. The application must include or be accompanied by:*

1. All ~~course or program;~~

~~—(b) The following information:~~

~~—(1) The name of the facility;~~

~~—(2) The address of the facility;~~

~~—(3) The electronic mail address of the facility;~~

~~—(4) The license number of the facility; and~~

~~—(5)~~ *materials for the course or program;*

2. The name and contact information of a person ~~who represents the facility and~~ who can discuss the course or program ~~submitted by the facility pursuant to subsection 1;~~

~~—(c) If the facility contracts with a third party who develops and operates the course or program, the following information:~~

- ~~— (1) The name of the third party;~~
- ~~— (2) The address of the third party;~~
- ~~— (3) The electronic mail address of the third party; and~~
- ~~— (4) The name and contact information of a person who represents the third party and who can discuss the course or program submitted by the facility pursuant to subsection 1;~~
- ~~— (d) Evidence that the subjects covered by the course or program include, without limitation, the course materials required by section 16 of LCB File No. R016-20;~~
- ~~— (e) A sample sign-in sheet for the course or program that contains:~~
 - ~~— (1) The dates of the course or program; and~~
 - ~~— (2) A place for a participant of the course or program to print and sign his or her name;~~
- ~~— (f) ;~~

3. A notation indicating whether the applicant is seeking approval of the course or program for all types of facilities or only certain types of facilities and, if the applicant is seeking approval for only certain types of facilities, the types of facilities for which the applicant is seeking approval;

4. A sample evaluation form that a participant of the course or program may complete at the end of the course or program which evaluates:

- ~~{(1)}~~ (a) The content of the course or program;
- ~~{(2)}~~ (b) The instructor of the course or program; and
- ~~{(3)}~~ (c) The manner in which the course or program is presented to the participant; and
- ~~{(g)} A sample document that a participant of the course or program may complete at the end of the course or program in which the participant can perform a self-evaluation.}~~

5. A ~~facility may submit a course or program pursuant to subsection 1 without submitting the information required in subsection 4 if the course or program:~~

~~—(a) Is provided by:~~

~~——(1) A nationally recognized organization, as determined by the Director of the Department;~~

~~——(2) A federal, state or local government agency; or~~

~~——(3) A university or college that is accredited in the District of Columbia or any state or territory of the United States; and~~

~~—(b) Provides proof] *sample certificate* of completion ~~[upon the] that a~~ participant of the course or program *receives upon* completing the course or program that ~~[the Director or his or her designee determines to be satisfactory.~~~~

~~—6.— When a facility submits pursuant to subsection 1 a course or program that is described in subsection 5, the facility must also provide to the Department:~~

~~—(a) The name of the course or program;~~

~~—(b) The name of the organization, agency, university or college providing the course or program;~~

~~—(c) If the course or program is provided online, the URL of the course or program;~~

~~—(d) If the course or program is provided through a training system, access to the training system;~~

~~—(e) If the course or program is not provided online or through a training system, the syllabus of the course or program;~~

~~—(f) The following information:~~

~~——(1) The name of the facility;~~

- ~~— (2) The address of the facility;~~
- ~~— (3) The electronic mail address of the facility;~~
- ~~— (4) The license number of the facility; and~~
- ~~— (5) The name and contact information of a person who represents the facility and who can discuss the course or program submitted by the facility pursuant to subsection 1; and~~
- ~~— (g) Any other information the Department requests to assist the Director or his or her designee in determining whether or not to approve the course or program pursuant to section 17 of LCB File No. R016-20.~~

~~— 7. As used in this section, “URL” means the Uniform Resource Locator associated with an Internet website.} *includes, without limitation:*~~

- (a) A designated area for the name of the participant and for the date the course or program was completed;*
- (b) A designated area for the course number assigned by the Department pursuant to subsection 2 of section 17 of LCB File No. R016-20; and*
- (c) The total time required for a participant to complete the course or program.*

Sec. 13. Section 16 of LCB File No. R016-20 is hereby amended to read as follows:

1. A course or program ~~{subject to the requirements of subsection 4 of section 15 of LCB File No. R016-20}~~ *on cultural competency training* must include, without limitation, the following course materials:

- ~~(a) {An overview of cultural competency;~~
- ~~— (b) An overview of } *Instruction on* implicit bias , ~~{and}~~ indirect discrimination };~~
- ~~(c) The common assumptions and myths concerning stereotypes and examples of such assumptions and myths;~~

~~—(d) An overview of social determinants of health;~~

~~—(e) An overview of best practices when interacting with] *and the prevention of discriminatory practices and language;*~~

(b) Instruction that uses the voice, perspective or experience of persons who fall within one or more of the categories in paragraphs (a) to (f), inclusive, of subsection 1 of NRS 449.103 ~~;~~

~~—(f) An overview of gender, race and ethnicity;~~

~~—(g) An overview of religion;~~

~~—(h) An overview of sexual orientation and gender identities or expressions;~~

~~—(i) An overview of mental and physical disabilities;~~

~~—(j) Examples of barriers to providing care;~~

~~—(k) Examples of language and behaviors that are discriminatory; and~~

~~—(l) Examples of a welcoming and safe environment.] ; *and*~~

(c) Instruction on preferred approaches to providing care for people who fall within one or more of the categories in paragraphs (a) to (f), inclusive, of subsection 1 of NRS 449.103.

2. The course materials included in a course or program, including, without limitation, the course materials required by subsection 1, must include, without limitation:

(a) Evidence-based, peer-reviewed sources;

(b) Source materials that are used in universities or colleges that are accredited in the District of Columbia or any state or territory of the United States;

(c) Source materials that are from nationally recognized organizations, as determined by the Director of the Department;

(d) Source materials that are published or used by federal, state or local government agencies;

or

(e) Other source materials that are deemed appropriate by the Department.

3. The Department ~~must~~ *shall*:

(a) Publish a copy of the requirements set forth in subsections 1 and 2 on its Internet website;

and

(b) Provide a copy of the requirements set forth in subsections 1 and 2 to ~~a facility~~ *an applicant requesting approval of a course or program on cultural competency training pursuant to section 15 of LCB File No. R016-20* upon request by the ~~facility~~ *applicant*.

Sec. 14. Section 17 of LCB File No. R016-20 is hereby amended to read as follows:

1. The Department shall review the course or program information submitted ~~pursuant to section~~ *by an applicant requesting approval of a course or program of cultural competency training pursuant to section 15 of LCB File No. R016-20 to ensure that it complies with the requirements set forth in sections 15 ~~of LCB File No. R016-20~~ and ~~, if applicable, section~~ 16 of LCB File No. R016-20 . ~~within 60 days after receipt. During this review process, the Department may have the course or program reviewed by a person who is an expert on cultural competency or a committee of persons who are experts on cultural competency.~~*

2. If the information that is provided to the Department meets the requirements set forth in sections 15 and 16 ~~, if applicable,~~ of LCB File No. R016-20, the Director or his or her designee may approve the course or program ~~+~~ *and assign it a course number indicating that the course or program is approved by the Department*. If the information that is provided to the Department does not meet the requirements set forth in sections 15 and 16 ~~, if applicable,~~ of LCB File No. R016-20, the Director or his or her designee shall not approve the course or program.

3. Within ~~{5}~~ 10 business days after ~~{completing the review}~~ receipt of ~~{the information}~~ *an application submitted* pursuant to ~~{subsection 1,}~~ *section 15 of R016-20*, the Director or his or her designee shall:

(a) Notify the ~~{facility that submitted the information}~~ *applicant* whether the course or program is approved or not approved pursuant to subsection 2; and

(b) If the Director or his or her designee does not approve the course or program, inform the ~~{facility}~~ *applicant* of any additional information that the ~~{facility}~~ *applicant* needs to submit for the course or program to be approved.

4. The ~~{facility shall submit}~~ *applicant may resubmit the application with the* the additional information that the ~~{facility}~~ *applicant* needs to submit pursuant to paragraph (b) of subsection 3 ~~{within 45 days}~~ after being notified that the course or program is not approved pursuant to paragraph (a) of subsection 3. ~~{Upon receiving the additional information, the Director or his or her designee may approve the course or program.}~~ *Within 10 business days after receiving the resubmitted application, the Director or his or her designee shall notify the applicant whether the course or program is approved or not approved.* If the additional information ~~{is not received or}~~ fails to include all of the information that the Director or his or her designee informed the ~~{facility}~~ *applicant* that ~~{it}~~ *the applicant* needed to submit, the Director or his or her designee shall not approve the course or program ~~{}~~ *and the applicant may resubmit the course or program for initial review pursuant to section 15 of LCB File No. R016-20.*

5. Any course or program approved pursuant to this section may be provided:

- (a) Online;
- (b) Through a training system; or
- (c) In person.

6. ~~If the Director or his or her designee approves the course or program, the Director or his or her designee shall notify the Division of the approval of the course or program not later than 7 business days after such approval.~~ *Except as otherwise provided in this subsection, the approval of a course or program by the Department is valid for 3 years after the date on which the course or program was approved. If a provider of an approved course or program wishes for the Department to reapprove the course or program, the provider of the course or program must apply to the Department for approval pursuant to section 15 of LCB File No. R016-20 before the date on which the current approval expires. Upon submission of the application, the course or program remains provisionally approved until the Director:*

(a) Notifies the applicant pursuant to subsection 3 that the course or program has been reapproved; or

(b) Notifies the applicant pursuant to subsection 4 that the course or program is not reapproved.

Sec. 15. Section 19 of LCB File No. R016-20 is hereby amended to read as follows:

1. A facility shall:

(a) Develop policies to ensure that a patient or resident is addressed by his or her preferred name and pronoun and in accordance with his or her gender identity or expression; and

(b) *To the extent practicable and available within the systems in use at the facility:*

(1) Adapt electronic records and any paper records the facility ~~has~~ uses to reflect the ~~gender identities or expressions of patients or residents with diverse gender identities or expressions, including, without limitation:~~

~~—(1) If the facility is a medical facility, adapting health records to meet the medical needs of patients or residents with diverse sexual orientations and gender identities or expressions,~~

~~including, without limitation, integrating~~ *preferred name, pronoun and gender identity or expression of a patient or resident; and*

(2) *Integrate* information concerning ~~{sexual orientation and}~~ gender identity or expression into electronic systems for maintaining health records . ~~}; and~~

~~—(2) If the facility is a facility for the dependent or other residential facility, adapting electronic records and any paper records the facility has to include the preferred name and pronoun and gender identity or expression of a resident.}~~

2. If a patient or resident chooses to provide the following information, the ~~{health}~~ records adapted pursuant to subparagraph (1) of paragraph (b) of subsection 1 must , *to the extent required by subsection 1*, include, without limitation:

(a) The preferred name and pronoun of the patient or resident;

(b) The gender identity or expression of the patient or resident;

(c) The gender identity or expression of the patient or resident that was assigned at the birth of the patient or resident;

(d) The sexual orientation of the patient or resident; and

(e) If the gender identity or expression of the patient or resident is different than the gender identity or expression of the patient or resident that was assigned at the birth of the patient or resident:

(1) A history of the gender transition and current anatomy of the patient or resident; and

(2) An organ inventory for the patient or resident which includes, without limitation, the organs:

(I) Present or expected to be present at the birth of the patient or resident;

(II) Hormonally enhanced or developed in the patient or resident; and

(III) Surgically removed, enhanced, altered or constructed in the patient or resident.

3. A medical facility that has adapted ~~health~~ records pursuant to subparagraph (1) of paragraph (b) of subsection 1 shall develop a method to lead patients or residents through a series of questions to help obtain thorough and medically relevant information regarding the patients or residents to accurately reflect the diverse gender identities or expressions of patients or residents with diverse gender identities or expression to be used in providing care to the patient or resident ~~. [, including, without limitation, when interacting with insurance providers.]~~ A patient or resident may decline to answer any such questions. *The method developed pursuant to this subsection must protect the privacy of patients or residents.*

Sec. 16. This regulation is hereby amended by adding thereto the following transitory language which has the force and effect of law but which will not be codified in the Nevada Administrative Code:

1. Except as otherwise provided in subsection 2, if the Department approved a course or program on cultural competency training before the date on which this regulation is approved by the Legislative Commission and filed with the Secretary of State pursuant to NRS 233B.070, the course or program is deemed to be approved until 3 years after the date on which this regulation is approved by the Legislative Commission and filed with the Secretary of State pursuant to NRS 233B.070.

2. If the provider of such a course or program wishes to continue offering the program after the date set forth in subsection 1, the provider must apply to the Department for approval pursuant to section 15 of LCB File No. R016-20 before that date. Upon submission of the application, the course or program remains provisionally approved until the Director of the Department:

(a) Notifies the applicant pursuant to subsection 3 of section 17 of LCB File No. R016-20 that the course or program has been reapproved; or

(b) Notifies the applicant pursuant to subsection 4 of section 17 of LCB File No. R016-20 that the course or program has not been reapproved.

3. As used in this section:

(a) “Department” means the Department of Health and Human Services.

(b) “Cultural competency training” has the meaning ascribed to it in section 3 of LCB File No. R016-20.

Sec. 17. Sections 9, 11, 18 and 21 of LCB File No. R016-20 are hereby repealed.

TEXT OF REPEALED SECTIONS

Section 9 of LCB File No. R016-20.

Sec. 9. In addition to the statement prescribed by paragraph (b) of subsection 2 of NRS 449.101, a facility shall post prominently in the facility and include on any Internet website to market the facility:

1. Notice that a patient or resident who has experienced prohibited discrimination may file a complaint with the Division; and

2. The contact information for the Division.

Section 11 of LCB File No. R016-20.

Sec. 11. 1. Upon admission of a patient or resident, the facility shall:

(a) Provide the patient or resident with a written copy of the statement required pursuant to paragraph (b) of subsection 2 of NRS 449.101 and the notice and information required pursuant to subsection 3 of NRS 449.101 or section 9 of this regulation, as applicable.

(b) Provide the patient or resident with a written notice that a patient or resident who has experienced prohibited discrimination may file a complaint with the facility. The written notice provided by the facility must include, without limitation:

(1) The contact information for the Division;

(2) A clear statement that such a complaint with the facility:

(I) May be filed in addition to the complaint that may be filed with the Division pursuant to subsection 3 of NRS 449.101 or section 9 of this regulation, as applicable; and

(II) Is not required to be filed for the patient or resident to file a complaint with the Division pursuant to subsection 3 of NRS 449.101 or section 9 of this regulation, as applicable; and

(3) The procedure that the facility uses to address such complaints with the facility and the timeframe for how long it will take the facility to address such complaints with the facility.

2. As used in this section, “prohibited discrimination” means the discrimination described in section 7 of this regulation and in subsection 1 of NRS 449.101.

Section 18 of LCB File No. R016-20.

Sec 18. 1. Not later than 7 business days after receiving the notice of approval of the course or program pursuant to subsection 6 of section 17 of this regulation, the Division shall assign a course number to the approved course or program.

2. Not later than 7 business days after assigning the course number pursuant to subsection 1, the Division shall notify the facility whose course or program is approved pursuant to section 17 of this regulation of the course number assigned pursuant to subsection 1.

Section 21 of LCB File No. R016-20.

Sec. 21. A facility shall designate a representative of the facility who shall be responsible for ensuring that the facility is in compliance with sections 2 to 22, inclusive, of this regulation and NRS 449.101 to 449.104, inclusive.

Dignity Health - St. Rose Dominican Proposed Changes to R004-24RP1

EXPLANATION:

- Plain black text is existing regulation not proposed to be modified.
- ***Blue bold italic text*** is new language proposed by the RP1 draft, but not proposed to be modified by this request.
- ~~[Bracketed red strikethrough text]~~ is existing regulation proposed to be deleted by the RP1 draft of this regulation, but not proposed to be modified by this request.
- ~~[Bracketed purple double strikethrough text]~~ is new language originally proposed to be added by the RP1 draft, which is proposed to be deleted by this request.
- **Green bold underlined text** is new language proposed to be added by this request.

Sec. 11. Section 14 of LCB File No. R016-20 is hereby amended to read as follows:

1. ~~[Pursuant to subsection 1 of]~~ ***Except as otherwise provided in*** NRS 449.103, ~~[within 30 business days after the course or program is assigned a course number by the Division pursuant to section 18 of LCB File No. R016-20 or within 30 business]~~ ***as amended by section 1 of Assembly Bill No. 267, chapter 202, Statutes of Nevada 2023, at page 1176, a facility shall provide*** ~~[at least 2 hours of]~~ ***cultural competency training through an approved course or program to an agent or employee described in subsection 2 of NRS 449.103, as amended by section 1 of Assembly Bill No. 267, chapter 202, Statutes of Nevada 2023, at page 1176:***
 - (a) ***Within 90*** days ~~[of any]~~ ***after contracting with or hiring the*** agent or employee ; ~~[being contracted or hired , whichever is later,]~~ and ~~[at]~~
 - (b) ***At least 2 hours*** ~~[once each year]~~ ***biennially*** thereafter . ~~[, a facility shall conduct training relating specifically to cultural competency for any agent or employee of the facility who provides care to a patient or resident of the facility so that the agent or employee may:~~
 - (a) ~~More effectively treat patients or care for residents, as applicable; and~~
 - (b) ~~Better understand patients or residents who have different cultural backgrounds, including, without limitation, patients or residents who fall within one or more of the categories in paragraphs (a) to (f), inclusive, of subsection 1 of NRS 449.103.]~~