

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

LCB File No. R117-22

September 22, 2022

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

AUTHORITY: §§ 1, 4, 6 and 20, NRS 439.200, 458.025 and 458.033; §§ 2, 3, 5, 7-19 and 21-30, NRS 439.200 and 458.025.

A REGULATION relating to programs for alcohol or other substance use disorders; establishing provisions relating to substance use disorder prevention coalitions; revising various definitions relating to alcohol or other substance-related disorders; updating information concerning certain publications adopted by reference by the Division of Public and Behavioral Health of the Department of Health and Human Services; revising the documentation that an operator of a program to address substance-related disorders is required to provide with an application for certification or recertification of the program; revising the requirements that must be met for the Division to amend the criteria adopted by the Division for the prevention or treatment of a substance-related disorder; establishing examples of changes which will affect the certification of a program; revising provisions concerning the fees charged and collected for the certification and recertification of programs and services provided by programs; revising provisions relating to certain notification that must be given to the Division; revising the policies and procedures that must be included in certain program manuals; imposing on an operator of a program certain requirements relating to confidentiality and recordkeeping; revising requirements concerning systems for maintaining records of members of the staff of a program; imposing on operators of prevention programs certain requirements concerning certain written statements; revising certain requirements imposed on operators of treatment programs; increasing the passing score on an examination for certification as a detoxification technician; replacing language not preferred for use regarding alcohol and substance use, disorders and programs; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Board of Health to adopt, amend and enforce reasonable regulations to protect and promote the public health generally and to carry out all other purposes of the provisions of law governing the administration of public health. (NRS 439.200) Existing law also requires the Board to adopt regulations relating to the comprehensive state plan for programs for alcohol or other substance use disorders formulated and operated by the Division of Public and Behavioral Health of the Department of Health and Human Services. (NRS 458.025)

Existing law establishes provisions concerning substance use disorder prevention coalitions and requires the Board to adopt regulations providing for the certification of substance use disorder prevention coalitions. (NRS 458.033) Existing regulations provide for the certification of programs that address substance-related disorders, including coalition programs. (NAC 458.054, 458.103-458.138) **Section 1** of this regulation revises the definition of the term “coalition program” to mean a substance use disorder prevention coalition. (NAC 458.0235) **Section 4** of this regulation makes a conforming change by revising the definition of the term “operator” to include the governing body of a coalition program. (NAC 458.043) **Section 20** of this regulation makes a conforming change to remove language that is also removed from the definition of “coalition program.” (NAC 458.203)

Sections 2, 3 and 5-8 of this regulation revise various definitions relating to programs for alcohol or other substance use disorders. (NAC 458.029, 458.034, 458.045, 458.054, 458.063, 458.077)

Under existing regulations, the Division adopts by reference certain publications from the American Psychiatric Association and the American Society of Addiction Medicine. (NAC 458.095) **Section 9** of this regulation updates information concerning the prices for and manner in which a person may obtain a copy of such publications.

Existing regulations authorize an operator of a program to apply for the initial certification or recertification of the program by submitting to the Division certain information with a completed application, including documentation showing that the applicant is in compliance with all applicable local, state and federal laws, regulations and ordinances. (NAC 458.108) **Section 11** of this regulation additionally requires an applicant to submit documentation showing that the applicant is in compliance with the criteria adopted by the Division in its *Administrative Manual* for the prevention or treatment of a substance-related disorder.

Existing regulations authorize the Division to certify and provide funding for programs that provide services in accordance with the criteria of the Division and to amend such criteria only if certain requirements are met. (NAC 458.118) **Section 12** of this regulation revises such requirements.

Existing regulations require an operator of a program to notify the Division of any anticipated change that will affect the certification of the program at least 60 days before the change will occur or, if the operator is not aware of the change at least 60 days before the change will occur, as soon as the operator is aware of the change. (NAC 458.123) **Section 13** of this regulation sets forth examples of changes that will affect the certification of the program.

Existing law authorizes the Board to adopt regulations prescribing the fees for the certification of detoxification technicians, facilities or programs. (NRS 458.025) Existing regulations require the Division to charge and collect nonrefundable fees for the initial certification and recertification of programs and services. (NAC 458.138) **Section 14** of this regulation requires an operator of a program to apply for certification or recertification for each service that will be provided by the program at each geographic location where the service will be provided and pay a fee of \$100 for each level of service. Additionally, the operator is required to pay a fee of \$50 for each geographic location that is certified with an endorsement pursuant to the criteria of the Division.

Existing regulations require an operator of a program to notify the Division within 24 hours after the occurrence of an incident that may cause imminent danger to the health or safety of the clients, participants or staff of the program or a visitor to the program. (NAC 458.153) **Section 15** of this regulation requires an operator to instead provide such notification within 1 business

day and also requires an operator to notify the Division of any known death of a client within 1 business day. **Section 26** of this regulation similarly requires an operator to report to the Division within 1 business day certain occurrences for which a record is kept.

Existing regulations require an operator of a program to maintain a manual containing the policies and procedures of the program and the services the program will provide. (NAC 458.158) **Section 16** of this regulation provides that the manual must contain policies and procedures to be: (1) used to conduct background investigations of members of the staff for the purpose of determining whether a member of the staff is disqualified from initial or continuing employment or volunteer work; and (2) followed to control infections. **Section 22** of this regulation revises the additional policies and procedures that must be included in a manual for a treatment program, and **section 27** of this regulation revises the additional policies and procedures that must be included in a manual for a drug court program. (NAC 458.241, 458.291)

Existing regulations impose on an operator of a program certain duties concerning confidentiality and recordkeeping. (NAC 458.163) **Section 17** of this regulation requires an operator to ensure that the program: (1) develops protocols to comply with federal and state laws relating to privacy and establishes how such protocols will be implemented; and (2) identifies patient rights consistent with federal regulations and establishes policies describing the circumstances in which information about a client of or participant in the program may be shared. Existing regulations: (1) require an operator of a program to establish a system for maintaining the records of the members of the staff; and (2) establish requirements concerning such a system. (NAC 458.168) **Section 18** of this regulation revises such requirements.

Existing regulations require the operator of a prevention program to submit a signed written statement to the Division that the prevention program promotes the message to minors not to use alcohol, tobacco or other drugs. (NAC 458.228) **Section 21** of this regulation additionally provides that the written statement must be dated and requires the operator to keep a copy of the statement at each geographic location where the prevention program is providing services and to make the copy available to the Division when the Division inspects the premises.

Existing regulations require an operator of a treatment program to perform an assessment of each client of the program using a method approved by the Division or, alternatively, to obtain the most recent sufficient assessment of the client. (NAC 458.246) **Section 23** of this regulation requires an operator to instead use a method that is nationally recognized if the operator performs an assessment of a client.

Existing regulations require an operator of a treatment program which provides assessments for substance-related and mental health disorders to provide a comprehensive written report concerning such an assessment which includes the findings of each person who conducted the assessment. (NAC 458.252) **Section 24** of this regulation requires that such a report: (1) summarize the assessment of both disorders and how the disorders interact; (2) specify a uniform recommendation; and (3) include certain needs of the client.

Existing regulations require that a treatment program which provides services for co-occurring substance-related and mental health disorders meet the guidelines for treatment set forth in the criteria of the Division for a program described as a co-occurring capable program or co-occurring enhanced program. (NAC 458.255) **Section 25** of this regulation revises the definition of “co-occurring capable program.”

Existing regulations require the operator of a treatment program to ensure that a record containing certain information is maintained for each client. (NAC 458.272) **Section 26** revises the information that must be included in such a record.

Existing regulations require an applicant for certification as a detoxification technician to pass an examination with an average score of at least 70 percent. (NAC 458.345) **Section 29** of this regulation increases the required average score on such an examination to at least 80 percent. Existing regulations also require the Division to mail the results of such an examination to an applicant at his or her last known address within 30 days after the date on which the examination is given. (NAC 458.345) **Section 29** removes this requirement.

Existing law requires the Legislative Counsel to ensure, to the extent practicable, that terms relating to persons who are affected by addictive disorders are referred to in the Nevada Revised Statutes using language that is commonly viewed as respectful and sentence structure that refers to the person before referring to his or her disorder. Words and terms that are not preferred for use in the Nevada Revised Statutes include, without limitation, “alcohol abuse,” “alcohol abuser,” “alcohol and drug abuser,” “drug abuse,” “substance abuse” and “substance abuser.” (NRS 220.125) **Sections 3, 10, 12, 19, 24, 28 and 30** of this regulation accordingly revise various terms in chapter 458 of the Nevada Administrative Code that include the words “abuse” or “abuser” in relation to alcohol and substance use, disorders and programs. (NAC 458.034, 458.103, 458.118, 458.173, 458.252, 458.341, 458.349)

Section 1. NAC 458.0235 is hereby amended to read as follows:

458.0235 “Coalition program” ~~means a program that is operated by a nonprofit organization consisting of individuals, organizations and agencies to develop strategies and identify programs which address the needs of a community or of a racial, ethnic, religious or social group regarding the use of, misuse of and dependence on alcohol and other drugs in that community or group.~~ *has the meaning ascribed to “substance use disorder prevention coalition” in NRS 458.033.*

Sec. 2. NAC 458.029 is hereby amended to read as follows:

458.029 “Detoxification” has the meaning ascribed to ~~fit in NAC 449.034.~~ *“withdrawal management,” as that term is defined in the most current version of the ASAM Criteria: Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions, which is adopted by reference pursuant to NAC 458.095.*

Sec. 3. NAC 458.034 is hereby amended to read as follows:

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

1. An alcohol and drug ~~abuse~~ counselor who is licensed or certified, or a clinical alcohol and drug ~~abuse~~ counselor who is licensed, pursuant to chapter 641C of NRS to conduct such evaluations; ~~or~~

2. A physician who is certified to conduct such evaluations by the Board of Medical Examiners ~~H~~; *or*

3. *An advanced practice registered nurse who is certified to conduct such evaluations by the State Board of Nursing.*

Sec. 4. NAC 458.043 is hereby amended to read as follows:

458.043 “Operator” means:

1. The owner of a private entity which operates a program;

2. The governing body of a corporation which operates a program;

3. The governing body of a nonprofit organization which is responsible for a program, or a designee authorized by the governing body in writing to be responsible for a program; ~~or~~

4. *The governing body of a coalition program; or* *A Substance Use Prevention Coalition; or*

5. A governmental entity which operates a program.

Sec. 5. NAC 458.045 is hereby amended to read as follows:

458.045 “Participant” means a person *other than a client* who receives or participates in a service provided by a ~~prevention~~ program.

Sec. 6. NAC 458.054 is hereby amended to read as follows:

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

1. An administrative program;
2. A coalition program;
3. A drug court program;
4. An evaluation center program;
5. A prevention program; ~~and~~
6. A treatment program ~~and~~; *and*
7. *A program included in the criteria of the Division.*

Sec. 7. NAC 458.063 is hereby amended to read as follows:

458.063 “Service” means an activity that is:

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

Sec. 8. NAC 458.077 is hereby amended to read as follows:

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

1. The existence of a substance-related disorder ~~and~~ *or co-occurring substance-related and mental health disorder;*
2. The appropriate services to be provided; and
3. The appropriate plan of treatment based on the criteria of the Division.

Sec. 9. NAC 458.095 is hereby amended to read as follows:

458.095 1. The Division hereby adopts by reference the:

(a) *Diagnostic and Statistical Manual of Mental Disorders*, 5th Edition, published by the American Psychiatric Association. A copy of the manual may be obtained from American Psychiatric *Association* Publishing at ~~1000 Wilson Boulevard, Suite 1825, Arlington, Virginia 22209-3901,~~ *800 Maine Avenue, S.W., Suite 900, Washington, D.C. 20024*, at the Internet address <http://www.appi.org> or by telephone at (800) 368-5777, for the price of ~~(\$119.20)~~ *\$127.50 for resident-fellow members, \$136.00* for members and ~~(\$149.00)~~ *\$170.00* for nonmembers.

(b) *ASAM Criteria: Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions*, published by the American Society of Addiction Medicine. A copy of the publication may be obtained from the Change Companies at 5221 Sigstrom Drive, Carson City, Nevada 89706, at the Internet address <http://www.changecompanies.net> or by telephone at (888) 889-8866, for the price of ~~(\$85 for members and)~~ \$95 . ~~{for nonmembers.}~~

2. The Division will periodically review the publications adopted by reference pursuant to subsection 1 and determine within 30 days after the review whether any change made to that publication is appropriate for application in this State. If the Division does not disapprove a change to the adopted publication within 30 days after the review, the change is deemed to be approved by the Division.

Sec. 10. NAC 458.103 is hereby amended to read as follows:

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

Sec. 11. NAC 458.108 is hereby amended to read as follows:

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

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

2. An operator may apply for recertification of the program by submitting to the Division, within 60 days before the expiration of the initial certification or any previous recertification:

- (a) A completed application for recertification on a form provided by the Division;
- (b) Documentation evidencing that the applicant is in compliance with *the criteria of the Division and* all applicable local, state and federal laws, regulations and ordinances;
- (c) All names used by the applicant in the operation of the program or practice of business;
- (d) If any changes were made to the manual which was submitted with the initial application for certification pursuant to paragraph (d) of subsection 1 or any previous application for recertification, a copy of the manual containing the policies and procedures of the program, including, without limitation, documentation that:

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

(2) Specifies in writing whether the changes were:

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

(II) Initiated by the operator;

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

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

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

Sec. 12. NAC 458.118 is hereby amended to read as follows:

458.118 1. Except as otherwise provided in subsection ~~5~~ 4, the Division may only certify and provide funding for programs that provide services in accordance with the criteria of the Division.

2. The Division may amend the criteria of the Division if:

(a) The staff of the Division submits a written proposed amendment to the Division to change the criteria of the Division based upon:

(1) A review by the staff of the Division of any changes made to:

(I) Any nationally recognized criteria for the prevention or treatment of substance-related disorders ~~;~~ *and or co-occurring substance-related and mental health disorders;*

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

(III) Any new evidence-based practice for the prevention or treatment of substance-related disorders or co-occurring substance-related and mental health disorders; or

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

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

(c) *The staff of the Division sends notice of the meeting of the Advisory Board to hear the proposed amendment to each program which operates in this State and to each person or organization requesting such notification;*

(d) The Advisory Board approves the amendment proposed by the staff of the Division and recommends to the Administrator that he or she amend the criteria of the Division; and

~~[(d)]~~ (e) The Administrator approves the amendment recommended by the Advisory Board.

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

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

(a) Published in the *Administrative Manual* of the Division;

(b) Posted on the Internet at <http://dpbh.nv.gov/>; and

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

~~—5.†~~ 4. If the Division amends the criteria of the Division in accordance with this section before an operator is required to recertify a program, the Division shall not require the operator to recertify the program to comply with the amended criteria of the Division before the date required for recertification of the program. The Division may require the operator to:

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

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

~~†6.†~~ 5. As used in this section, “Advisory Board” means the board created by the Administrator to advise the Division concerning services for the treatment and prevention of substance ~~†abuse.†~~ *use disorders.*

Sec. 13. NAC 458.123 is hereby amended to read as follows:

458.123 *1.* An operator shall notify the Division of any anticipated change which will affect the certification of the program not later than 60 days before the change will occur or as soon as the operator is aware of the change if the operator is not aware of the change at least 60 days before the change will occur. *A change which will affect the certification of the program includes, without limitation:*

(a) A sale or transfer of ownership of the program;

(b) A reorganization or change in the ownership interests of the program;

(c) A change in the name of the program or the name of the owners of the program; and

(d) Any other material change in the information submitted in the application for certification pursuant to NAC 458.108.

2. The Division shall notify the operator of any actions the operator must take to maintain the certification of the program or whether the operator will be required to apply for a new certification as a result of the change.

Sec. 14. NAC 458.138 is hereby amended to read as follows:

458.138 1. The Division shall charge and collect nonrefundable fees *, in the amount of \$100 for each level of service,* for the initial certification and recertification of programs and services in accordance with the ~~following schedule:~~

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

application for certification or recertification provided by the Division. An operator must apply for certification or recertification for each service that will be provided by a program at each geographic location where the service will be provided.

2. In addition to the fees ~~listed in~~ *charged pursuant to* subsection 1, the Division shall charge and collect a nonrefundable fee in the amount of \$50 for each ~~program that treats co-~~

~~occurring substance-related and mental health disorders.~~ *geographic location that is certified with an endorsement pursuant to the criteria of the Division.*

Sec. 15. NAC 458.153 is hereby amended to read as follows:

458.153 1. A program must have a specified operator who is responsible for the program. The operator may designate another responsible party to implement and supervise the responsibilities of the operator pursuant to this chapter. The operator remains responsible for any actions of his or her designee.

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

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

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

(1) The date of the meeting;

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

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

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

(5) The review and approval of budgets by the governing body; and

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

3. An operator shall:

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

(b) Review any changes to the manual containing the policies and procedures of the program and have those changes approved by the Division as required pursuant to NAC 458.108;

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

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

(e) Notify the Division within ~~{24 hours}~~ *1 business day* after the occurrence of *any known death of a client or* an incident that may cause imminent danger to the health or safety of the clients, participants or staff of the program, or a visitor to the program;

(f) Establish a plan for:

(1) Improving the quality of the services provided by the program which addresses, without limitation, operational services, human resources, fiscal services , ~~and~~ clinical outcome measures ~~{}~~ *and evidence of implementation*; and

(2) Ensuring that the integrity of the program will be maintained;

(g) Make a copy of the plan established pursuant to paragraph (f) available to the Division at the time of an inspection by the Division of the premises where the program is providing services;

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

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

(j) If the operator receives a report from a governmental agency or certifying agency relating to the program, the physical plant on the premises where the program is providing services or the operations of the program, provide a copy of the report to the Division:

(1) At the time of an inspection by the Division of the premises where the program is providing services; or

(2) If the report requires the operator to take corrective action, not more than 30 days after the operator receives the report.

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

Sec. 16. NAC 458.158 is hereby amended to read as follows:

458.158 An operator shall maintain a manual containing the policies and procedures of the program and the services to be provided by the program, including, without limitation, the policies and procedures:

1. To be followed in the event of a medical emergency.
2. For the registration and disposition of complaints by clients, participants and staff and the right to appeal without threat of reprisal.
3. For the staff, including, without limitation, an accurate job description, signed by the applicable employee, for each position held by an employee of the program that describes:
 - (a) The title of the position;
 - (b) The duties and responsibilities of the position; and
 - (c) The qualifications for the position.

4. To be used by the operator to:

- (a) Claim funds or bill for services;
- (b) Receive and record funds;
- (c) Record expenditures;
- (d) Prepare financial reports;
- (e) Maintain information for the support of claims for funds or to bill for services; and
- (f) Implement internal controls and audits, as necessary.

5. To be used to maintain financial records of clients or participants when a client or participant is billed for services. The policies and procedures must include, without limitation, requirements that an operator shall:

(a) Inform prospective clients and participants of financial arrangements concerning a service before providing the service;

(b) Maintain accurate records of:

- (1) Any fees charged to a client or participant; and
- (2) Any payments made by a client or participant; and

(c) Make the records required pursuant to paragraph (b) available to the client or participant for review upon request.

6. To be followed to meet the requirements set forth in this section and NAC 458.163 to 458.177, inclusive.

7. To be used to conduct any type of background investigation of a member of the staff and to determine whether any conviction or condition would disqualify the member of the staff from initial or continuing employment or volunteer work.

8. To be followed to control infections, including, without limitation, communicable diseases.

Sec. 17. NAC 458.163 is hereby amended to read as follows:

458.163 An operator shall ensure that ~~the~~ *the program:*

1. ~~The program complies~~ *Complies* with all applicable confidentiality and recordkeeping provisions set forth in 42 C.F.R. Part 2, 45 C.F.R. Parts 160, 162 and 164, NRS 458.055 and any other applicable confidentiality laws pertaining to the services provided by the program. In the event of a conflict in the confidentiality requirements set forth in 42 C.F.R. Part 2, 45 C.F.R. Parts 160, 162 and 164, NRS 458.055 and any other applicable confidentiality laws, the more restrictive law will apply.

2. ~~A client or participant provides separate and explicit consent to allow the operator or a designee thereof to release information which identifies the client or participant and his or her human immunodeficiency virus seropositive status.~~ *Develops protocols to comply with federal and state laws relating to privacy and establishes how the program will implement such protocols in practice.*

3. ~~The program allows~~ *Identifies patient rights consistent with 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164 and establishes policies that describe the:*

(a) Circumstances in which information about a client or participant may be shared; and
(b) Exceptions that allow for the sharing of information about a client or participant in additional circumstances, along with a brief description of what each exception allows.

4. *Allows* a consultant to have access to confidential information concerning clients or participants only if the confidentiality agreements required by 42 C.F.R. Part 2 and 45 C.F.R.

Parts 160, 162 and 164 are satisfied. Such agreements must be maintained in the personnel file of the consultant.

Sec. 18. NAC 458.168 is hereby amended to read as follows:

458.168 1. An operator must establish a system for maintaining the records of the members of the staff which:

(a) Maintains the confidentiality and safekeeping of the records.

(b) Contains the application or resume of each member of the staff, any employment contract signed by a member of the staff and the operator or a designee thereof, and any document containing the job performance standards which is signed by a member of the staff and the operator or the designee.

(c) Includes, for each member of the staff who serves clients who are under 16 years of age, documentation of the results of an inquiry made pursuant to ~~NRS 179A.180 to 179A.240,~~ *inclusive,* any applicable federal law or regulation governing the dissemination of information relating to offenses committed by persons who work with children.

(d) Includes a copy of the certification, registration or license of each member of the staff who provides treatment or another service requiring certification, registration or licensure of the member of the staff ~~and,~~ *and, if the member of the staff is an intern, the license of his or her supervisor and the supervision agreement.*

(e) Includes a verification signed by each member of the staff indicating that the member of the staff has participated in a course of orientation regarding the policies and procedures which govern the service that the member of the staff provides.

(f) Includes, for each member of the staff, ~~who is not a citizen of the United States,~~ a copy of Form I-9, Employment Eligibility Verification, of the United States Citizenship and

Immigration Services of the Department of Homeland Security . ~~†, which verifies that the member of the staff is lawfully entitled to remain and work in the United States.~~

~~(g) Includes a copy of any report of criminal history that is obtained pursuant to NRS 641C.260 or 641C.530 for each member of the staff working with any person who is less than 18 years of age.†~~

2. If a record of a member of the staff includes an employment contract or a document containing job performance standards, the contract or standards must clearly specify the nature and amount of the service to be provided by the member of the staff.

3. A record of a member of the staff must be made available only to the member of the staff upon submission of a request to review the records and to persons who are:

- (a) Authorized by the policies and procedures of the program;
- (b) Inspecting the program; and
- (c) Authorized by the member of the staff.

Sec. 19. NAC 458.173 is hereby amended to read as follows:

458.173 An operator shall ensure that the program is insured:

1. For liability in an amount sufficient to protect the clients, participants and staff of the program, and the visitors to the program. The policy of insurance must, at a minimum, provide coverage for professional liability and, if the operator receives state or federal money for ~~†an~~ *a program for* alcohol or ~~†drug abuse program~~ *other substance use disorders* and is the governing body of a corporation or of a nonprofit organization, the policy of insurance must include liability insurance for directors and officers. The operator shall submit a copy of the policy of insurance to the Division with any application for initial certification or recertification. The policy of insurance must provide that notice be given to the Division not later than 30 days after

cancellation of the policy or after an operator does not renew the policy. Upon request, an operator shall make a copy of the policy of insurance available to the Division for review.

2. For all liabilities arising out of the acts or omissions of a consultant while providing a service for the program. The policy of insurance may be provided by the program or the consultant. If the policy of insurance is provided by the consultant, the operator must obtain a copy of the policy and place the copy in the personnel file of the consultant.

Sec. 20. NAC 458.203 is hereby amended to read as follows:

458.203 The operator of a coalition program shall:

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

2. Meet the applicable requirements of NAC 458.103 to 458.183, inclusive.

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

Sec. 21. NAC 458.228 is hereby amended to read as follows:

458.228 The operator of a prevention program shall:

1. Submit to the Division a written statement signed *and dated* by the operator of the prevention program assuring the Division that the prevention program promotes the message to minors not to use alcohol, tobacco or other drugs. *The operator must keep a copy of the written statement at each geographic location where the prevention program is providing services and*

make the copy available to the Division at the time of an inspection by the Division of the premises where the prevention program is providing services.

2. Meet the applicable requirements of NAC 458.103 to 458.183, inclusive.
3. In accordance with the criteria of the Division, include in the manual containing the policies and procedures of the prevention program a written process for evaluating the outcomes of the program and for participating in an evaluation of the program.

Sec. 22. NAC 458.241 is hereby amended to read as follows:

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

1. Concerning ~~the control of infections, including, without limitation, communicable diseases, and concerning~~ universal precautions against bloodborne pathogens.
2. Describing the manner in which the treatment program will satisfy the requirements set forth in NAC 458.246 and 458.272.
3. *Describing the exceptions to client rights to privacy as set forth in NAC 458.163.*
4. For releasing information about a client which satisfies the requirements set forth in 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164 and which reveals:
 - (a) That the client has abused , ~~or~~ neglected *or abandoned* a child or *abused, neglected, exploited, isolated or abandoned* an ~~elderly~~ *older person or vulnerable* person;
 - (b) That the client presents a danger to other people; *or*
 - (c) That the client has a communicable disease . ~~;~~ ~~or~~
 - ~~—(d) The identity of the client and his or her human immunodeficiency virus seropositive status.~~

~~4.1~~ 5. Describing the criteria which the treatment program will use to satisfy and comply with the criteria of the Division for admission, continued stay and discharge.

Sec. 23. NAC 458.246 is hereby amended to read as follows:

458.246 The operator of a treatment program shall:

1. Perform an assessment of each client using a method ~~{approved by the Division}~~ that *is nationally recognized and* addresses both substance-related and mental health disorders or obtain the most recent assessment of the client which is found to be sufficient to:

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

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

2. Identify the staff which provide the services set forth in subsection 1 and require such staff to develop a plan of treatment, not including detoxification, on or before the third contact of the client with the program or on or before the third day on which the client receives services from the program, whichever occurs first. For the purposes of this subsection, any contact that a client has with the program for the sole purpose of receiving medication does not constitute contact or receiving services. The plan of treatment must specify:

(a) Time-specific behavioral goals and action steps within the six dimensions set forth in the *ASAM Criteria: Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions*, which is adopted by reference pursuant to NAC 458.095, as specified in the criteria of the Division to be achieved by the client in response to the problems identified by the treatment assessment;

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

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

3. Review and, as applicable, revise the plan of treatment of a client based on the criteria of the Division for continuing the provision of services to and transferring a client.

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

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

6. If the treatment program provides residential detoxification services, ensure that a detoxification technician or qualified practitioner monitors each client who receives residential detoxification services from the treatment program during the provision of those services. As used in this subsection, “qualified practitioner” includes, without limitation, a licensed physician, a physician assistant licensed pursuant to chapter 630 or 633 of NRS, an advanced practice registered nurse, a registered nurse and a licensed practical nurse.

Sec. 24. NAC 458.252 is hereby amended to read as follows:

458.252 The operator of a treatment program which provides an assessment for substance-related disorders and mental health disorders shall:

1. Require that such an assessment be conducted by:

(a) One person who is both:

(1) Licensed or certified as an alcohol and drug ~~abuse~~ counselor pursuant to chapter 641C of NRS, or the intern of such a counselor; and

(2) A mental health professional, or the intern of such a professional, who is licensed as a psychologist pursuant to chapter 641 of NRS, a marriage and family therapist pursuant to chapter 641A of NRS or a clinical social worker pursuant to chapter 641B of NRS, or who is a medical physician with a certification in addiction medicine from a nationally accepted board; or

(b) Two persons:

(1) One of whom is licensed or certified as an alcohol and drug ~~abuse~~ counselor pursuant to chapter 641C of NRS, or the intern of such a counselor; and

(2) The other of whom is a mental health professional, or the intern of such a professional, who is licensed as a psychologist pursuant to chapter 641 of NRS, a marriage and family therapist pursuant to chapter 641A of NRS or a clinical social worker pursuant to chapter 641B of NRS, or who is a medical physician with a certification in addiction medicine from a nationally accepted board.

2. Determine whether the person being assessed has a co-occurring substance-related and mental health disorder and, if so, determine the appropriate treatment for the disorders.

3. Provide a comprehensive written report concerning such an assessment which ~~includes,~~

:

(a) Includes, without limitation, the findings of each person who conducted the assessment.

(b) Summarizes the assessment of the substance-related disorder and mental health disorder and how the disorders interact.

(c) Specifies a uniform recommendation, regardless of whether the assessment is conducted by one person or two persons in accordance with subsection 1.

(d) Includes the following needs:

(1) Medication management;

(2) Case management;

(3) Psychosocial rehabilitation;

(4) Basic skills training; and

(5) Any other related services the person being assessed might need to manage a co-occurring diagnosis.

4. If such an assessment is conducted by an intern, require that the assessment be supervised and reviewed by the appropriate licensed or certified alcohol and drug ~~abuse~~ counselor or mental health professional who is licensed as a psychologist pursuant to chapter 641 of NRS, a marriage and family therapist pursuant to chapter 641A of NRS or a clinical social worker pursuant to chapter 641B of NRS, or who is a medical physician with a certification in addiction medicine from a nationally accepted board.

Sec. 25. NAC 458.255 is hereby amended to read as follows:

458.255 1. A treatment program which provides services for co-occurring substance-related and mental health disorders must, at a minimum, meet the guidelines for treatment set forth in the criteria of the Division for a program described as a co-occurring capable program or a co-occurring enhanced program.

2. As used in this section:

(a) “Co-occurring capable program” means a program:

(1) That addresses co-occurring substance-related and mental health disorders in its policies and procedures, assessments, treatment planning, program content and discharge planning; ~~and~~

(2) *That has the ability, at a minimum, to screen and refer, if clinically indicated, to another provider with appropriate credentials for additional assessment and care, if necessary, when services cannot be provided in-house; and*

(3) In which the staff is able to address the interaction between substance-related and mental health disorders.

(b) “Co-occurring enhanced program” means a program that:

(1) Has a higher level of integration of services for co-occurring substance-related and mental health disorders than a co-occurring capable program; and

(2) Is able to provide unified treatment of the symptoms of substance-related and mental health disorders in addition to addressing the interaction between substance-related and mental health disorders.

Sec. 26. NAC 458.272 is hereby amended to read as follows:

458.272 The operator of a treatment program shall:

1. Ensure that a record is maintained for each client. The record must include:

(a) The name, age, gender, race, ethnicity and permanent address of the client.

(b) If services are funded by the Division, an evaluation of the financial status of the client sufficient to determine eligibility for such services.

(c) ~~A statement from the client, signed within 24 hours after intake or upon enrollment in the treatment program, explaining that he or she is seeking service, unless the client is being provided a service related to civil protective custody.~~

~~—(d) A~~ *Except as otherwise provided in chapter 129 of NRS, a* consent form for treatment services signed by the client or the parent or guardian of the client within 24 hours after intake or upon enrollment in the treatment program, unless the client is being provided a service related to civil protective custody.

~~{(e)}~~ *(d)* Any consent to release information which satisfies the requirements set forth in 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164.

~~{(f)}~~ *(e)* The source of any referral to the treatment program.

~~{(g)}~~ *(f)* Documentation of the treatment assessment performed by the operator or obtained by the operator pursuant to subsection 1 of NAC 458.246.

~~{(h)}~~ *(g)* The original plan of ~~{eare}~~ *treatment* for the client and all revisions to the plan of ~~{eare}~~.

~~—(i)~~ *treatment.*

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

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

~~—(k)~~ *(i)* The date, type and duration of any contact with the client, and any services provided to the client.

~~{(j)}~~ *(j)* Documentation of any ~~{:}~~ *of the following, which must be reported to the Division within 1 business day after the event occurs:*

(1) ~~{Incident}~~ *An incident* that may cause imminent danger to the health and safety of the client, other clients or staff, or persons outside the treatment program;

- (2) ~~{Problem}~~ *A problem* involving the client;
- (3) ~~{Infraction}~~ *An infraction* of the rules of the treatment program by the client; ~~{and}~~
- (4) ~~{Sign}~~ *A sign* or symptom of illness or injury of the client ~~{~~

~~{(m)}~~ ; and

(5) *The death of the client.*

(k) Documentation in support of services that the treatment program provides to the client, including, without limitation, any:

- (1) Correspondence concerning the client; and
- (2) Results of a test conducted on the client, including, without limitation, any test conducted by a laboratory.

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

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

~~{(o)}~~ (m) After the client is discharged from the treatment program:

(1) Documentation that a copy of the plan for continuing care of the client, including, without limitation, any *ongoing treatment or additional community resources that the client might need*, referrals given to the client, *personal goals relating to recreation, leisure, self-fulfillment and social support, and areas in the client's life that require ongoing support*,

including, without limitation, transportation or employment, was provided to the client before discharge, if possible; and

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

~~(p)†~~ , *which includes, without limitation, the:*

(I) Diagnosis of the client at the time of admission or intake;

(II) Response of the client to treatment; and

(III) Diagnosis of the client at the time of discharge.

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

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

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

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

~~(q)†~~ *(o)* Documentation to support any claims for services or data reported to the Division.

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

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

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

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

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

(a) Adequate provisions to prevent unauthorized access or theft of any form of a record of a client ~~†~~, *including, without limitation, having electronic health records that are double password protected;*

(b) The locked storage of paper records;

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

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

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

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

Sec. 27. NAC 458.291 is hereby amended to read as follows:

458.291 The operator of a drug court program shall maintain a manual containing the policies and procedures of the drug court program which includes, without limitation, the

policies and procedures required pursuant to NAC 458.158. The policies and procedures of the drug court program must include, without limitation ~~{, evidence}~~ :

1. *Evidence* of implementation of:

~~{1.}~~ (a) A restorative justice model of treatment for criminal justice clients;

~~{2.}~~ (b) Incentives ~~{and sanctions}~~;

~~—3.}~~ ;

(c) Motivation enhancement approaches;

~~{4.}~~ (d) Activities that encourage behavior that is designed to benefit other persons;

~~{5.}~~ and

(e) Phasing of programs; and

~~{6. — Modeling of behavior by staff.}~~

2. *Formal coordination with the courts regarding how implementation should be maintained.*

Sec. 28. NAC 458.341 is hereby amended to read as follows:

458.341 To be eligible for certification by the Division as a detoxification technician, an applicant must:

1. Have:

(a) A high school diploma; or

(b) A general equivalency diploma or equivalent document;

2. ~~{Be certified}~~ *Hold current certification* in the techniques of administering cardiopulmonary resuscitation;

3. Have completed 6 hours of training approved by the Division, including, without limitation, training in:

- (a) Acute withdrawal symptoms from alcohol and drug ~~abuse;~~ *use;*
 - (b) The requirements for the confidentiality of client information set forth in the provisions of 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164;
 - (c) The control of infections and communicable diseases;
 - (d) Measuring and monitoring vital signs of clients; and
 - (e) The ethical requirements and standards of practice for detoxification technicians; and
4. Pass an examination for certification as a detoxification technician as required by NAC 458.345.

Sec. 29. NAC 458.345 is hereby amended to read as follows:

458.345 1. The Division must approve an application for certification as a detoxification technician pursuant to NAC 458.343 before the applicant is eligible to take the examination for certification as a detoxification technician.

2. An applicant for certification as a detoxification technician must pass the examination with an average score of at least ~~70~~ *80* percent.

3. The examination for certification as a detoxification technician will be administered at least twice each year on dates selected by the Division.

4. ~~Within 30 days after the date on which the examination is given, the Division will mail the results of the examination taken by an applicant for certification as a detoxification technician to the applicant at his or her last known address.~~

~~5.~~ An applicant for certification as a detoxification technician who fails the examination may retake the examination when it is next offered if the applicant submits a nonrefundable fee to the Division in an amount which is equal to the amount established by the Division to recover

the cost for the materials necessary to test the applicant, except that the fee may not be more than \$25.

~~16.1~~ 5. An applicant for certification as a detoxification technician who fails an examination and who does not retake the examination when it is next offered must submit a new application for certification as a detoxification technician pursuant to NAC 458.342 if the applicant wishes to take the examination again.

~~17.1~~ 6. An applicant for certification as a detoxification technician who fails the examination two times must wait 1 year after the date of his or her last examination before reapplying for certification as a detoxification technician pursuant to NAC 458.342.

Sec. 30. NAC 458.349 is hereby amended to read as follows:

458.349 1. To maintain and renew his or her certification as a detoxification technician, a detoxification technician must:

(a) Comply with the applicable requirements set forth in this chapter and chapter 458 of NRS;

(b) Maintain current certification in the techniques of administering cardiopulmonary resuscitation; and

(c) Attend at least 6 hours of continuing education during the 2-year period of certification.

2. The courses of continuing education required by subsection 1 must be approved by the Division and must include, without limitation, courses that pertain to:

(a) Acute withdrawal symptoms from alcohol and drug ~~abuse;~~ *use;*

(b) The requirements for the confidentiality of client information set forth in the provisions of 42 C.F.R. Part 2 and 45 C.F.R. Parts 160, 162 and 164;

(c) The control of infections and communicable diseases;

- (d) Monitoring vital signs of clients; and
- (e) The ethical requirements and standards of practice for detoxification technicians.