

Joe Lombardo
Governor



Richard Whitley,
MS
Director



Cody Phinney,
MPH
Administrator

Ihsan Azzam,
Ph.D., M.D.
Chief Medical Officer

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Amendment of Regulations by the Division of Public and Behavioral Health

LCB File No. R073-24 relating to Domestic Violence Treatment Programs

NOTICE IS HEREBY GIVEN that the Division of Public and Behavioral Health will hold a public hearing to consider amendments to Chapter 228 of Nevada Administrative Code (NAC). This public hearing is to be held on December 6, 2024, at 2:00 PM.

The public hearing will be conducted via videoconference beginning at 2:00 PM on December 6, 2024, at the following locations:

- Microsoft Teams
[Join the meeting now](#)
Meeting ID: 234 907 445 502
Passcode: k5xLNe
- Join By Phone
[+1 775-321-6111,,349378110#](#) United States, Reno
[Find a local number](#)
Phone conference ID: 349 378 110#
- Join in Person
Division of Public and Behavioral Health
Hearing Room 303
4150 Technology Way
Carson City, NV 89706

LCB File No. R073-24 seeks to amend NAC Chapter 228 to:

1. Clarify that only persons that provide domestic violence treatment services to persons ordered by a court must be certified by the Division of Public and Behavioral Health (DPBH) to provide such services. Others, such as licensed counselors, that provide domestic violence counseling to individuals not ordered by the court to receive such services, may provide such counseling without being certified, but have the option to receive such certification if all regulatory and statutory requirements are met.

2. Require proof that the program has the permission to utilize its curriculum and instructional materials for the duration of its operations.
3. Require a person who has submitted an incomplete application to submit missing information within 90 days after the date on which the applicant is notified. If the Division does not receive the additional information within the 90 days, the Division will deny the application.
4. Remove the prohibition to issue a provisional certificate due to not receiving a written recommendation of the Committee on Domestic Violence.
5. Remove the requirement that the form used to conduct a random sample of at least 10 percent of records of offenders receiving treatment and the group counseling session observations be on a form approved by DPBH.
6. Add an alcohol and drug counselor or a clinical alcohol and drug counselor pursuant to Chapter 641C of NRS and an advanced practice registered nurse who practices psychiatry as one of the licensee types that would qualify as a supervisor of treatment.
7. Eliminate certain exceptions to the qualifications to be a person who was employed, or retained as an independent contractor in the position of a supervisor of treatment or provider of treatment on the effective date of LCB File No. R071-20 (July 28, 2021).
8. Remove the requirement that the director of a program attest in writing that a person meets the requirements to be a supervisor or provider of treatment upon hire or for the purpose of retaining such persons.
9. Define the term “field of clinical human services” for the purposes of being employed, or retained as an independent contractor, in the position of a supervisor of treatment.
10. Remove the requirement that certain documents be included with the renewal application.
11. Removes individual counseling as a sole source of counseling that can be included in the written plan of treatment. Note: NAC 228.165 (1) (2) (c) addresses offenders in which a supervisor of treatment determines an offender cannot be treated in group counseling sessions.
12. Provides additional provisions which allows the Division to approve a course of continuing education or formal training in domestic violence without the requirement to submit an application for approval pursuant to subsection 1 of NAC 228.215.
13. Repeal NAC 228.101 – Application: Provision to Committee, meeting of Committee to consider; transmittal of Committee’s recommendation to DPBH.

1. Anticipated effects on the business which NAC 228 regulates:

- A. *Adverse effects:* An adverse effect may occur if an applicant for a certificate for a program submits an incomplete application and does not submit the additional information requested by the Division within 90 days of the request as this would result in the denial of the application. This would result in the potential for an applicant having to reapply for an initial certificate for a program and pay the associated fee of \$598 (if LCB Draft R121-24 becomes effective). Currently there is no application fee.
- B. *Beneficial:* Indirect beneficial effects may include being able to continue to operate with their Division approved curriculum and instructional materials if the “author” of the curriculum decides to leave the program. Under the current regulations, if the

“author” of the curriculum leaves the program and does not allow the program to continue its use, it may result in disruption to the program and possible loss of revenue. Adding additional types of licensed personnel that can serve as a supervisor of treatment may allow programs more flexibility in staffing their programs. Increased efficiencies with the renewal application process may lead to a beneficial effect by reducing the amount of staff time required to submit a program renewal application. Allowing additional avenues for approvals of continuing education and formal training without having to submit all of the application contents noted in NAC 228.215 (1) thus reducing the burden for those looking to have courses approved or providers or supervisors of treatment taking courses that have not been approved. This may result in an indirect beneficial financial effect as courses may be approved quicker which would allow those providing courses to begin giving them sooner and potentially prevent providers or supervisors of treatment from taking and paying for an additional course because of an inability to meet all of the criteria in NAC 228.215 (1) to get a course which they have taken approved.

- C. *Immediate*: There are no immediate beneficial or adverse effects anticipated. An applicant can avoid any potential negative impacts by ensuring any missing information for an incomplete application is submitted within 90 days of being requested.
- D. *Long-term*: There are no long-term beneficial or adverse effects anticipated.

2. Anticipated effects on the public:

- A. *Adverse*: There are no anticipated adverse effects on the public.
- B. *Beneficial*: One individual testified during the July 31, 2024, public workshop that she was in support of adding an advanced practice registered nurse who practices psychiatry as one of the license types that would qualify to become a supervisor of treatment. She noted that this may be beneficial to clients with mental health issues.
- C. *Immediate*: There are no anticipated immediate effects on the public.
- D. *Long-term*: There are no anticipated long-term effects on the public.

3. The Division of Public and Behavioral Health determined the impact on small business by conducting a public workshop on April 2, 2024, and a second public workshop on July 31, 2024. For both public workshops the Division sent an email containing a link to the proposed regulations, the small-business impact statement and the applicable public workshop notice.

In addition, a small business impact questionnaire was sent to certified programs for the treatment of domestic violence on January 30, 2024. One response was received out of 25 small business impact questionnaires distributed related to the director of a program attesting that a person meets the requirements to be a supervisor or provider of treatment upon hire. It was explained that the attestation statement being removed does not eliminate any requirements to become a supervisor; it only notes that upon hire the director no longer has to attest that they meet all of the requirements. This is no longer needed because new supervisors or providers need to apply and obtain approval by the Division before they can work as a supervisor or provider.

4. There should be no additional costs to the agency to enforce the proposed regulations.
5. The proposed regulations do not overlap or duplicate any other Nevada State or federal regulations.
6. The proposed regulations do not impose a new fee.

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 Division's Administrator, Cody Phinney, to be received no later than September 10, 2024, at the following address:

Cody Phinney, Administrator
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 the Division 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://dpbh.nv.gov/Reg/HealthFacilities/State_of_Nevada_Health_Facility_Regulation_Public_Workshops/

A copy of the public hearing notice can also be found at Nevada Legislature's web page:

<https://www.leg.state.nv.us/App/Notice/A/>

Copies may be obtained in person, by mail, or by calling the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health
727 Fairview Drive, Suite E
Carson City, NV 89701
(775) 684-1030
(775) 684-1045
lmetherell@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.