

**PROPOSED REGULATION OF THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

LCB FILE NO. R004-24I

**The following document is the initial draft regulation proposed
by the agency submitted on 01/22/2024**

Agency Draft, Proposed Regulations Regarding Cultural Competency Training For Implementation
Of AB267 Of The 2023 Legislature

EXPLANATION – Matter in *italics* is new

Section 1. Chapter 449 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 19, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 19, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Agent or employee” has the definition as set forth in NRS 608.010.*

Sec. 4. *“Cultural competency training” means the training required by NRS 449.103(1).*

Sec. 5. *“Department” means the Department of Health and Human Services.*

Sec. 6. *“Director” means the Director of the Department.*

Sec. 7. *“Facility” means a facility identified in subsection 1 of NRS 449.103.*

Sec. 8. *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 respect 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, resident or client or any person with whom the patient, resident or client associates.

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

3. *Discrimination which is based wholly or partially on a person's:*

(a) Actual or perceived race, color, religion, national origin, ancestry, age, gender, sexual orientation, gender identity or expression or human immunodeficiency virus status; or

(b) Actual or perceived physical or mental disability.

4. *Harassment or bullying of any kind of a person because of their 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. *A facility shall adopt and maintain policies and procedures for the transfer and discharge of, and the provision of services to, patients, residents or clients in the facility which do not discriminate against a patient, resident or client based on the source of payment for the services provided.*

Sec. 10. *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, must:*

(a) 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

(b) Be written using a single typeface in not less than 22-point type.

Sec. 11. *A facility shall develop and adopt a written policy on how to file a complaint regarding discriminatory practices with the facility. The facility must include in such policy how complaints are documented, investigated and resolved and maintain a log that lists:*

(a) All complaints with the facility that are filed pursuant to this section;

(b) The actions taken by the facility to investigate and resolve the complaint; and

(c) If no action was taken, an explanation as to why no action was taken.

Sec. 12. *To provide express permission pursuant to subsection 2 of NRS 449.102, a patient, resident or client or the authorized representative of the patient, resident or client must provide permission in writing.*

Sec. 13. *1. Pursuant to section 1 of NRS 449.103, subsection 1, within 90 days after the date of contract or hire of any agent or employee, as described in section 1 of NRS 449.103, subsection 2, except for those described in section 1 NRS 449.103, subsection 3, being contracted or hired, the agent or employee must receive not less than 2 total hours of cultural competency training from an approved course, and must receive at least an additional 2 hours of cultural competency training from an approved course biennially thereafter. Agents or employees may receive the required training either as modules taken over time or at a single sitting, but the hours of instruction and the entire contents of a course and completion certificate must be received, within these timeframes.*

2. The facility shall keep documentation in the personnel file, or electronic learning management system, of any agent or employee as described in section 1 of NRS 449.103, subsection 2, of the completion of the cultural competency training required pursuant to subsection 1. For employees or agents as described in section 1 of NRS 449.103, subsection 3, the facility must maintain proof of a valid professional license, registration or certificate as applicable in the personnel file.

Sec. 14. *1. A course or program submitted to the Department for approval, must include:*

(a) All course materials to be used by the course or program and any materials deemed appropriate by the Department;

- (b) The name and contact information of a person who can discuss the course or program;*
- (c) Evidence that the subjects covered by the course or program include, without limitation, the instruction and materials required by section 13 of this regulation;*
- (d) A selection by the applicant designating whether they are seeking approval of a course for use by a specific facility, specific facility type or types, or by all facility types.*
- (e) A sample certificate the course or program will issue to participants upon completion of all course content that contains:*
 - (1) A place for the name of the participant and the date the course or program was completed by the participant;*
 - (2) A place for the approved course number assigned by the Department; and*
 - (3) The total time required for a participant to complete the course curriculum.*
- (f) 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) The content of the course or program;*
 - (2) The instructor of the course or program; and*
 - (3) The manner in which the course or program is presented to the participant.*

Sec. 15. **1.** *A course or program subject to the requirements of section 13 of this regulation must include, without limitation, the following:*

- (a) Instruction regarding implicit bias, indirect discrimination and prevention of discriminatory practices and language;*
- (b) Instruction including the voice, perspective or experience of those receiving care and preferred methods in providing care when interacting with persons who fall within one or more of the categories in paragraphs (a) to (f), inclusive, of subsection 1 of NRS 449.103 and any*

other demographic represented by a significant portion of the facility's community.

2. All course materials, must include, without limitation:

(a) Evidence-based, or 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;

(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:

(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 upon request to an applicant requesting approval of a course or program.

Sec. 16. *1. The Department shall review the course or program information submitted pursuant to section 14 and section 15 of this regulation.*

2. If the information that is provided to the Department meets the requirements set forth in sections 14 and 15, of this regulation, the Director or their designee shall approve the course or program and assign an approved course number. If the information that is provided to the Department does not meet the requirements set forth in sections 14 and 15, of this regulation, the Director or their designee shall not approve the course or program.

3. Within 10 business days after receipt of the information pursuant to subsection 1, the

Director or their designee shall:

(a) Notify the applicant that submitted the information whether the course or program is approved or not approved; and

(b) If the Director or their designee does not approve the course or program, inform the applicant of any missing or incomplete information that needs to be submitted for the course or program to be approved.

4. An applicant may resubmit the course or program with the additional information pursuant to paragraph (b) of subsection 3 after being notified that the course or program is not approved. Within 10 business days after receiving a resubmittal, the Director or their designee shall notify the applicant whether the course or program is approved or not approved. If the additional information fails to include all of the information that the Director or their designee informed the applicant was missing or incomplete, the Director or their designee shall not approve the course or program and the applicant has the option of submitting a new course or program for initial review.

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. Any approved course or program must submit for reapproval no more than 3 years after initially being approved. Any approved course or program approved prior to the enactment of this regulation is deemed approved for continued usage after the effective date of this regulation, but must submit for reapproval no more than 3 years after enactment of this regulation.

7. Approved courses or programs may be audited at any time by the Director or their designee.

Approved course or program coordinators must make course materials and/or attendance for

auditing available at no cost to the auditor.

8. If it is determined during an audit, that an approved course or program has been substantially changed and no longer meets the standards for approval, the approval may be revoked and the course or program will be removed from the list of approved courses and programs maintained on the Internet website as required in NRS 449.103, subsection 5.

Sec. 17. **1. A facility shall:**

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

(b) To the extent practicable and available within the systems in use at the facility, adapt electronic records and any paper records the facility has, to reflect the preferred name, pronoun(s) and gender identity or expression of a patient, resident or client and integrate information concerning gender identity or expression into ancillary electronic systems for maintaining health records.

2. If a patient, resident or client chooses to provide the following information, the health records adapted pursuant to subparagraph (b) of subsection (1) must include, without limitation:

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

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

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

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

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

of the patient, resident or client:

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

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

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

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

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

3. While ensuring privacy, a medical facility that has adapted health records pursuant to subparagraph (b) of subsection 1 shall develop a method to lead patients, residents or clients through a series of questions to help obtain thorough and medically relevant information regarding the patients, residents or clients to accurately reflect the diverse gender identities or expressions of patients, residents or clients with diverse gender identities or expression to be used in providing care to the patient, resident or client.. A patient, resident or client may decline to answer any such questions.

Sec. 18. *1. Except as otherwise provided in subsection 2, the statements, notices and information required by sections 2 to 19, inclusive, of this regulation and NRS 449.101 to 449.104, inclusive, must be in English and, as appropriate for a facility, in any other language the Department determines is appropriate based on the demographic characteristics of this State. In addition to the notices and information provided in English and any other language the Department determines is appropriate based on the demographic characteristics of this State, a facility may provide the statements, notices and information in any other language the*

facility may desire.

2. A facility must make reasonable accommodations in providing the statements, notices and information described in subsection 1 for patients, residents or clients who:

(a) Are unable to read;

(b) Are blind or visually impaired;

(c) Have communication impairments; or

(d) Do not read or speak English or any other language in which the statements, notices and information are written pursuant to subsection 1.

Sec. 19. *Upon request from the Department, a facility shall make available to the Department documentation for the Department to determine if the facility is complying with sections 2 to 19, inclusive, of this regulation and NRS 449.101 to 449.104, inclusive. If the Department obtains personally identifiable information of a patient, resident or client through such a request, the Department shall maintain the confidentiality of such information.*

Sec. 20. Sections 1 to 22 of LCB File #R016-20, are hereby repealed.