

**ADOPTED REGULATION OF THE ADMINISTRATOR
OF THE AGING AND DISABILITY SERVICES DIVISION
OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

LCB File No. R026-24

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

AUTHORITY: § 1, NRS 435.220, 435.333 and 435.365; §§ 2 and 7-13, NRS 435.365; §§ 3-5 and 14-24, NRS 435.333; §§ 6 and 25-34, NRS 435.220.

A REGULATION relating to disability services; revising requirements governing eligibility for certain assistance for the caregivers of certain persons with disabilities; authorizing a member of the direct support staff of a provider of supported living arrangement services to provide certain skilled care services under certain conditions; making revisions concerning the termination of a written provider contract for the provision of supported living arrangement services or jobs and day training services; revising the person with whom appeals of decisions concerning eligibility for certain assistance for the caregivers of certain persons with disabilities must be filed; revising certain terminology; revising certain processes relating to an application for and the issuance of a provisional certificate to provide supported living arrangement services or jobs and day training services; removing the ability of a provider of such services to obtain a waiver from requirements governing the qualifications of certain staff; revising the date by which a provider of such services must complete a certain assessment of a recipient of such services; revising provisions governing the administration of medication by the direct support staff of such a provider; revising the length of time that such a provider is required to retain certain records; expanding the grounds for the revocation of a provisional certificate to provide supported living arrangement services or jobs and day training services; revising provisions governing an appeal of a decision to revoke a provisional certificate or certificate to provide such services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a parent or other relative caring for a person with a profound or severe intellectual or developmental disability in the home, or a person under 6 years of age who has developmental delays that require support that is equivalent to the support provided to a person with such a disability, may be eligible to receive assistance on a monthly basis. (NRS 435.365) **Sections 2 and 8** of this regulation revise the publications that establish the criteria for diagnosing a person with such a disability or such developmental delays. **Sections 7-12** of this regulation clarify in the Nevada Administrative Code that caregivers for persons with developmental disabilities are eligible to receive assistance to the same extent as caregivers for

persons with intellectual disabilities. **Section 10** of this regulation clarifies that an applicant for such assistance must meet the statutory requirements for eligibility to receive such assistance. **Sections 8 and 10** remove inapplicable statutory references relating to fees.

Existing regulations require an applicant who wishes to appeal a decision that he or she is ineligible for such assistance to file a written appeal with the regional coordinator of the Aging and Disability Services Division of the Department of Health and Human Services. (NAC 435.430) **Section 13** of this regulation requires the applicant to instead file such an appeal with the employee of the Division designated for the filing of such appeals.

Existing law requires the Administrator of the Division to adopt regulations governing: (1) jobs and day training services for persons with intellectual and developmental disabilities; and (2) supported living arrangement services for persons with intellectual and developmental disabilities. (NRS 435.220, 435.333) **Section 4** of this regulation authorizes a member of the direct support staff of a provider of supported living arrangement services, under certain circumstances, to perform certain skilled care services as authorized by a provider of health care. **Section 4** requires a member of the direct support staff to refer a person who receives such services to a provider of health care under certain conditions. **Section 4** further prescribes requirements relating to the recordkeeping for such services. **Section 3** of this regulation defines the term “direct support staff” for that purpose, and **section 21** of this regulation eliminates a duplicative definition for that term.

Existing regulations require a provider of supported living arrangement services or jobs and day training services to enter into a written provider contract with the Division which sets forth the specific requirements governing the provision of services. (NAC 435.518, 435.855) **Sections 5 and 6** of this regulation require such a provider to provide written notice to both the person receiving the services or the parent or guardian of that person, as applicable, and the Division at least 30 days before terminating such a written provider contract. **Sections 5 and 6** further require such a provider to provide ongoing services to the person until the date on which the written provider contract terminates. **Sections 5 and 6** authorize the Division to immediately terminate a written provider contract if the Division or a law enforcement agency substantiates a report of abuse, neglect, exploitation or mistreatment of the person receiving services. Upon the termination of a written provider contract, **sections 5 and 6** require a provider to take certain measures to assist the Division during the transition process and protect the confidentiality of information contained in any records pertaining to the person.

Existing regulations require a provider of supported living arrangement services or jobs and day training services to comply with any individual support plan developed with and agreed to by a person who is receiving services or his or her parent or guardian. (NAC 435.518, 435.523, 435.855, 435.875) Existing regulations also require an individual support team to: (1) initially determine and annually review the need for supported living arrangement services or jobs and day training services; and (2) evaluate the capacity of a provider of supported living arrangement services or jobs and day training services to meet the needs of the person receiving services. (NAC 435.535, 435.555, 435.890, 435.900) **Sections 15, 17-20, 25 and 27-30** of this regulation revise the terminology used to refer to such plans and teams to instead refer to a person-centered plan or person-centered team, as appropriate.

Existing regulations require an application for a provisional certificate to provide supported living arrangement services or jobs and day training services to include written verification that the applicant and each officer or other person who oversees the provision of services has submitted his or her fingerprints to the Central Repository for Nevada Records of

Criminal History for the purpose of conducting a background investigation. (NAC 435.515, 435.845) **Sections 16 and 26** of this regulation revise the process for submitting fingerprints to the Central Repository for that purpose.

Existing regulations require a provider of supported living arrangement services or jobs and day training services to: (1) have at least one supervisor, administrator or manager who satisfies the same or similar criteria as are prescribed in federal regulations for a qualified intellectual disability professional; or (2) obtain a waiver of the criteria from the applicable regional center. (NAC 435.515, 435.845) **Sections 16 and 26** eliminate the option to obtain a waiver, thereby requiring each provider to have at least one supervisor, administrator or manager who meets those criteria under all circumstances. **Sections 17 and 27** provide that the Division will not issue a provisional certificate until the Division verifies: (1) the reports on the background of the applicant and each officer or other person; and (2) that the applicant, and each officer or employee of the applicant or independent contractor of the applicant who oversees the provision of services, is not excluded from participation in certain federal health programs.

Existing regulations require a provider of supported living arrangement services or jobs and day training services to complete an assessment of the skills, interests and recommended level of supervision of a recipient of services not later than 30 days after the provider begins providing services to the person. (NAC 435.555, 435.900) **Sections 20 and 30** instead require the provider to complete such an assessment not later than 90 days after the provider begins providing services to such a person.

Existing regulations authorize a member of the direct support staff of a provider of supported living arrangement services to administer medication to persons receiving supported living arrangement services if the member has successfully completed a program concerning the administration of medication which is approved by the Division. However, existing regulations prohibit a member of the direct support staff of a provider of supported living arrangement services from administering certain types of medication to persons receiving such services. (NAC 435.675) **Section 21** removes from the list of prohibited medications nutrition or any medication to be administered enterally, thereby authorizing a member of the direct support staff to administer such nutrition or medication if he or she has completed the required program. **Section 21** also revises certain terminology to conform with the terminology used in existing law concerning the pharmaceutical agents that an optometrist is authorized to prescribe. (NRS 636.288)

Existing regulations generally prohibit a provider of jobs and day training services from administering medication to a person who is receiving jobs and day training services. (NAC 435.905) **Section 31** of this regulation removes this prohibition and authorizes a member of the direct support staff of a provider of jobs and day training services to administer medication under similar circumstances to those under which a member of the direct support staff of a provider of supported living arrangement services is authorized to administer medication.

Existing regulations require a provider of supported living arrangement services or jobs and day training services to retain original records of each person who receives services from the provider. (NAC 435.705, 435.935) **Sections 22 and 32** of this regulation change the duration of time for which such record retention is required from 6 years after the termination of services to 6 years after the date of payment for such services.

Existing regulations list certain acts and omissions as grounds for revocation of a provisional certificate or a certificate to provide supported living arrangement services or jobs and day training services. (NAC 435.725, 435.950) **Sections 23 and 33** of this regulation expand

the list of acts and omissions to include the failure of a provider to accept a written service authorization or deliver services within 12 months after issuance of a provisional certificate.

When a certificate holder receives from the Division a notice of intent to revoke a provisional certificate or certificate to provide supported living arrangement services or jobs and day training services, existing regulations authorize the holder to request a hearing regarding the revocation. (NAC 435.740, 435.965) **Sections 24 and 34** of this regulation eliminate the authorization to request such a hearing while preserving the process for appealing the revocation to the Administrator. **Sections 24 and 34** also: (1) establish a process for the provider to submit supporting documentation to the Administrator; and (2) clarify that an appeal does not delay or hinder any action taken by the Division to protect the health and welfare of persons receiving services.

Sections 8, 10-14, 18, 23, 28 and 33 of this regulation make conforming changes to indicate the proper placement of **sections 2-6** in the Nevada Administrative Code.

Section 1. Chapter 435 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this regulation.

Sec. 2. 1. *The Division hereby adopts by reference:*

(a) Intellectual Disability: Definition, Diagnosis, Classification, and Systems of Support, 12th Edition, published by the American Association on Intellectual and Developmental Disabilities. A copy of the manual may be obtained from the American Association on Intellectual and Developmental Disabilities at 8403 Colesville Road, Suite 900, Silver Spring, MD 20910, at the Internet address <http://www.aaidd.org> or by telephone at (202) 387-1968, at a price of \$60 for members and \$75 for nonmembers.

(b) The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association. A copy of the manual may be obtained from American Psychiatric Association Publishing at 800 Maine Avenue SW, Suite 900, Washington D.C. 20024, at the Internet address <http://www.appi.org> or by telephone at (800) 368-5777, at a price of \$136 for members and \$170 for nonmembers.

2. The Division will review each revision of the publications adopted by reference in subsection 1 to ensure its suitability for this State. If the Division determines that a revision is

not suitable for this State, the Division will hold a public hearing to review its determination within 6 months after the date of publication of the revision and give notice of that hearing. If, after the hearing, the Division does not revise its determination, the Division will give notice within 30 days after the hearing that the revision is not suitable for this State. If the Division does not give such notice, the revision becomes part of the publication adopted by reference in subsection 1.

Sec. 3. *“Direct support staff” means any member of the staff of a provider of supported living arrangement services who works directly with a person with an intellectual disability or a person with a developmental disability to provide supported living arrangement services.*

Sec. 4. 1. *Except as otherwise provided in subsection 5, a provider of health care may authorize a member of the direct support staff of a provider of supported living arrangement services who does not hold a professional license or certificate as a provider of health care to perform specific skilled care services for a person who is receiving supported living arrangement services if:*

(a) The skilled care services to be performed are usual and customary services that a person without an intellectual or developmental disability would personally perform without the assistance of a provider of health care;

(b) The provider of health care determines that:

(1) The member of the direct support staff has the knowledge, skill and ability to competently perform the skilled care services;

(2) The skilled care services are simple and the performance of the skilled care services by the member of the direct support staff does not increase the risk of harm to the person receiving the skilled care services; and

(3) The condition of the person receiving the skilled care services is stable and predictable;

(c) The member of the direct support staff agrees to comply with subsection 2; and

(d) A professional license or certificate is not required by law to perform the skilled care services.

2. A member of the direct support staff of a provider of supported living arrangement services who is providing the skilled care services pursuant to subsection 1 to a person who is receiving supported living arrangement services shall refer the person to a provider of health care if:

(a) The medical condition of the person changes or the person develops a new medical condition;

(b) The skilled care services provided to the person do not accomplish the expected objectives of the skilled care services;

(c) An emergency situation develops; or

(d) Any other occurrence designated by the provider of health care who authorized the services as requiring such referral occurs.

3. A provider of health care who authorizes a member of the direct support staff of a provider of supported living arrangement services to perform skilled care services in accordance with this section shall include in the medical records of the person to whom services are provided:

(a) The specific skilled care services that the provider of health care has authorized the member of the direct support staff to perform; and

(b) Notations evidencing compliance with the requirements of this section.

4. After a provider of health care authorizes a member of the direct support staff of a provider of supported living arrangement services to perform skilled care services in accordance with this section, no further authorization or supervision by the provider of health care is required for the member of the direct support staff to continue providing those skilled care services.

5. A member of the direct support staff of a provider of supported living arrangement services who performs skilled care services in accordance with this section shall not:

(a) Perform any skilled care services for a person who resides in a medical facility; or

(b) Perform any skilled care services that have not been specifically authorized by a provider of health care pursuant to this section.

6. As used in this section:

(a) "Provider of health care" means:

(1) A physician licensed pursuant to chapter 630, 630A or 633 of NRS;

(2) An advanced practice registered nurse certified pursuant to chapter 632 of NRS; or

(3) A physician assistant licensed pursuant to chapter 630 or 633 of NRS.

(b) "Skilled care services" include, without limitation, administering medication, wound care, gastronomy, jejunostomy tube feeding, ostomy care, catheter care and other similar services.

Sec. 5. 1. At least 30 days before terminating a written provider contract entered into with the Division pursuant to NAC 435.518, a provider of supported living arrangement services shall provide written notice to the person who is receiving such services, or to the parent or guardian of the person, as applicable, and the Division.

2. A provider of supported living arrangement services who provides notice pursuant to subsection 1 shall continue to provide ongoing services to the person to whom the written provider contract pertains until the date on which the contract terminates.

3. The Division may immediately terminate a written provider contract if the Division or a law enforcement agency substantiates a report of abuse, neglect, exploitation or mistreatment of the person receiving supported living arrangement services to whom the contract pertains.

4. Upon the termination of a written provider contract, the provider of supported living arrangement services shall:

(a) Assist the Division during the transition away from the provision of services by the provider; and

(b) Provide to the Division:

(1) A current written summary of the status of services provided to the person to whom the written provider contract pertains; and

(2) If applicable:

(I) An inventory of the property of the person; and

(II) A log and inventory of the medication that the person is receiving.

5. If a written provider contract is terminated, the provider of supported living arrangement services shall protect the confidentiality of information contained in any records relating to the person to whom the written provider contract pertains.

Sec. 6. 1. *At least 30 days before terminating a written provider contract entered into with the Division pursuant to NAC 435.855, a provider of jobs and day training services shall provide written notice to the person who is receiving such services, or to the parent or guardian of the person, as applicable, and the Division.*

2. A provider of jobs and day training services who provides notice pursuant to subsection 1 shall continue to provide ongoing services to the person to whom the written provider contract pertains until the date on which the written provider contract terminates.

3. The Division may immediately terminate a written provider contract if the Division or a law enforcement agency substantiates a report of abuse, neglect, exploitation or mistreatment of the person receiving the jobs and day training services to whom the written provider contract pertains.

4. Upon the termination of a written provider contract, the provider of jobs and day training services shall:

(a) Assist the Division during the transition away from the provision of services by the provider; and

(b) Provide to the Division:

(1) A current written summary of the status of services provided to the person to whom the written provider contract pertains; and

(2) If applicable:

(I) An inventory of the property of the person; and

(II) A log and inventory of the medication that the person is receiving.

5. If a written provider contract is terminated, the provider of jobs and day training services shall protect the confidentiality of information contained in any records relating to the person to whom the written provider contract pertains.

Sec. 7. NAC 435.395 is hereby amended to read as follows:

435.395 As used in NRS 435.365, the Division will interpret “parent or other relative” to mean:

1. A biological parent or relative of a person with an intellectual *disability or developmental* disability; or

2. A person who has legally adopted or is the legal guardian of such a person.

Sec. 8. NAC 435.400 is hereby amended to read as follows:

435.400 1. A parent or other relative of a person with an intellectual *disability or developmental* disability is eligible for assistance pursuant to NAC 435.400 to 435.430, inclusive, *and section 2 of this regulation* if the person with an intellectual *disability or developmental* disability:

(a) Has a ~~[severe or]~~ profound *or severe* intellectual *disability or a profound or severe developmental* disability or is under 6 years of age and has developmental delays requiring support equivalent to the support required by a person with a ~~[severe or]~~ profound *or severe* intellectual *disability or a profound or severe developmental* disability; and

(b) Meets the financial requirements for fee reduction established by the Division pursuant to NRS ~~[433.404 and]~~ 435.115.

2. The Division will consider the person to have a profound or severe intellectual *disability or a profound or severe developmental* disability within the meaning of NRS 435.365 if:

(a) A psychological examiner diagnoses the person as having a profound or severe intellectual *disability or a profound or severe developmental* disability based on the results obtained by generally accepted methods for assessing the intellectual capability and coping or adaptive skills of the person; or

(b) The person is under 6 years of age and a multidisciplinary team identifies him or her as having developmental delays that require support that is equivalent to the support required by a

person with a profound or severe intellectual *disability or a profound or severe developmental* disability.

3. The diagnosis required by subsection 2 must be made in accordance with the criteria set forth in ~~[Mental Retardation: Definition, Classification and Systems of Support, 9th edition, 1992. A copy of the publication may be obtained from the American Association on Mental Retardation, 444 North Capitol Street, N.W., Washington, D.C. 20001-1512, for the price of \$65, plus \$4 for shipping and handling.]~~ *the publications adopted by reference in section 2 of this regulation.*

4. As used in this section:

(a) “Multidisciplinary team” means a psychological examiner and one or more other persons, including a parent, legal guardian, clinician, educator, physician, social worker, therapist, case manager or nurse of a person with an intellectual *disability or developmental* disability, who, because of personal or specialized knowledge, are qualified to provide or interpret information relating to the person’s cognitive, physical, psychological, language, speech and social development or self-help skills.

(b) “Psychological examiner” means a psychologist who is licensed in this State or any other person who, because of specialized training and knowledge, including any training and knowledge required to assess the intellectual *or developmental* capabilities or an impairment of the adaptive behavior of a person, is qualified to diagnose a person as having:

- (1) A profound or severe intellectual disability; ~~for~~
- (2) *A profound or severe developmental disability; or*

(3) Developmental delays that require support that is equivalent to the support required by a person with a profound or severe intellectual *disability or a profound or severe developmental disability*.

Sec. 9. NAC 435.405 is hereby amended to read as follows:

435.405 1. An application for financial assistance from the Division for care provided by a parent or other relative of a person with an intellectual *disability or developmental disability* must be submitted to the Division on a form which, upon request, will be provided by the Division.

2. Upon receipt of the application, a staff member of the Division will:

(a) Conduct an interview with the applicant;

(b) Request any additional information required for the applicant to complete the application;

and

(c) Inform the applicant of the services available from the Division.

Sec. 10. NAC 435.410 is hereby amended to read as follows:

435.410 1. To be eligible for assistance pursuant to NAC 435.400 to 435.430, inclusive, *and section 2 of this regulation*, an applicant must reside in this State ~~and~~ *and meet the requirements established by NRS 435.365. For the purposes of that section, an applicant lives with a person with an intellectual disability or a person with a developmental disability if they live together in the same household.*

2. In determining whether the applicant or his or her relative with an intellectual *disability or developmental disability* is reasonably able to pay for the care and support of the relative, the Division will consider:

(a) The adequacy of the financial resources of those persons; and

(b) Whether the applicant or his or her relative with an intellectual *disability or developmental* disability is eligible in accordance with the schedules of fees established pursuant to NRS ~~[433.404 and]~~ 435.115 for a reduction of fees for services other than services provided by the Division pursuant to NAC 435.400 to 435.430, inclusive ~~[]~~, *and section 2 of this regulation.*

3. To determine the adequacy of the care that the applicant will provide for the relative with an intellectual *disability or developmental* disability, the Division will consider whether the relative will be provided care in accordance with a plan approved by the Division.

4. Eligibility for continued assistance will be reviewed with the applicant at least annually.

Sec. 11. NAC 435.415 is hereby amended to read as follows:

435.415 1. The Division will:

(a) Determine whether an applicant is eligible for assistance and the amount of that assistance, if any; and

(b) Provide the applicant written notice of the decision.

2. If an applicant becomes eligible for assistance, he or she is entitled to retroactive assistance from the first day of the month after the date on which the Division received the completed application.

3. If the relative with an intellectual *disability or developmental* disability for whose care assistance is provided pursuant to NAC 435.400 to 435.430, inclusive, *and section 2 of this regulation* dies while eligible for the assistance, the applicant is entitled to receive 1 additional month of assistance pursuant to those sections.

Sec. 12. NAC 435.425 is hereby amended to read as follows:

435.425 1. If a change occurs in the home of a person who is receiving assistance for providing care to a relative with an intellectual *disability or developmental* disability pursuant to the provisions of NAC 435.400 to 435.430, inclusive, *and section 2 of this regulation* and that change affects the adequacy of that care or the eligibility of the person to receive the assistance as specified in a form provided to the person by the Division, the person shall report the change to the Division within 30 days after the change occurs.

2. If a change occurs in the diagnosis of an intellectual *disability or developmental* disability of a relative specified in subsection 1, the person receiving assistance for the relative shall report the change to the Division on or before the end of the month in which the change occurs. The report must include any materials for testing used to conduct the diagnosis.

3. A report specified in this section must be submitted on a form provided by the Division.

Sec. 13. NAC 435.430 is hereby amended to read as follows:

435.430 1. An applicant may appeal from:

(a) A decision by the Division that he or she is ineligible for assistance pursuant to NAC 435.400 to 435.430, inclusive ~~[;]~~, *and section 2 of this regulation*; or

(b) An award or denial of assistance to the applicant by the Division.

↪ If the applicant wishes to appeal the decision or award or denial of assistance, he or she must file a written appeal with the ~~[regional coordinator]~~ *designated employee* of the Division ~~in whose region the decision or award or denial was made]~~ within 15 days after the applicant received notice of the decision.

2. The ~~[regional coordinator]~~ *designated employee of the Division* with whom an appeal is filed pursuant to subsection 1 may require documentary evidence to support the appeal. The

~~[regional coordinator]~~ *designated employee* shall complete his or her review of the appeal within 30 days after receiving the written appeal.

3. An applicant may appeal a decision of ~~[a regional coordinator issued pursuant to subsection 2]~~ *the designated employee of the Division concerning an appeal filed pursuant to subsection 1* by filing a written appeal with the Administrator or a person designated by the Administrator. The appeal must be filed within 15 days after the applicant receives written notice of the decision . ~~[of the regional coordinator.]~~ The decision of the Administrator or the person designated by him or her concerning an appeal filed pursuant to this section is a final decision for the purposes of judicial review.

Sec. 14. NAC 435.505 is hereby amended to read as follows:

435.505 As used in NAC 435.500 to 435.740, inclusive, *and sections 3, 4 and 5 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 435.5054 to 435.509, inclusive, *and section 3 of this regulation* have the meanings ascribed to them in those sections.

Sec. 15. NAC 435.509 is hereby amended to read as follows:

435.509 “Written service authorization” means a document issued by a regional center authorizing a provider of supported living arrangement services to provide supported living arrangement services pursuant to ~~[an individual support]~~ *a person-centered* plan.

Sec. 16. NAC 435.515 is hereby amended to read as follows:

435.515 A completed application for a provisional certificate must be submitted to the Division, on a form furnished by the Division, and must include, without limitation:

1. For a provider of supported living arrangement services who is a natural person:
 - (a) Proof that the applicant is 18 years of age or older;

- (b) Three or more letters of professional reference;
- (c) Proof that the applicant has successfully completed a classroom course in cardiopulmonary resuscitation according to the guidelines of the American Red Cross or American Heart Association;
- (d) Proof that the applicant is currently certified in standard first aid through:
 - (1) A course from the American Red Cross;
 - (2) A course from the American Heart Association; or
 - (3) An equivalent course in standard first aid, if the applicant submits proof that such course meets or exceeds the requirements of the American Red Cross or American Heart Association;
- (e) ~~Written verification, on a form prescribed by the Division, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means~~ *A set of fingerprints submitted to the applicable regional center for submission* to the Central Repository for Nevada Records of Criminal History and ~~that the applicant has given~~ written permission ~~to the law enforcement agency or other authorized entity taking the fingerprints~~ *for the regional center* to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary;
- (f) Proof that the applicant has sufficient working capital to ensure that the applicant would be financially capable of providing supported living arrangement services for a period of at least 3 months without compensation;

(g) Proof that the applicant satisfies the same or similar criteria of a qualified intellectual disability professional set forth in 42 C.F.R. § 483.430 or has obtained a waiver of the criteria from the applicable regional center;

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

(i) Proof of industrial insurance in compliance with chapters 616A to 616D, inclusive, of NRS or an affidavit stating that the applicant has elected not to be included within the terms, conditions and provisions of chapters 616A to 616D, inclusive, of NRS pursuant to NRS 616B.659; and

(j) Any other information required by the Division.

2. For a provider of supported living arrangement services that is an organization consisting of a partnership, firm, corporation, association, state or local government or agency thereof:

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

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

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

(d) A list of the members of the governing body of the organization which includes the terms of office of those members;

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

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

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

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

(g) Proof that at least one supervisor, administrator or manager of the provider satisfies the same or similar criteria of a qualified intellectual disability professional set forth in 42 C.F.R. § 483.430 ; ~~for has obtained a waiver of the criteria from the applicable regional center;~~

(h) *Verification that the applicant has established an account with the Central Repository for Nevada Records of Criminal History pursuant to NRS 179A.325;*

(i) For each officer or other person who oversees the provision of supported living arrangement services:

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

(2) ~~Written verification, on a form prescribed by the Division, stating~~ *Verification* that ~~the~~ :

(I) The fingerprints of the officer or other person were taken and directly forwarded electronically or by another means to the Central Repository ; ~~for Nevada Records of Criminal History~~ and ~~that the~~

(II) The officer or other person has given written permission to the ~~law enforcement agency or other authorized~~ entity taking the fingerprints to submit the fingerprints to the Central

Repository for submission to the Federal Bureau of Investigation for a report on the background of the officer or other person and to such other law enforcement agencies as the Division deems necessary;

~~(j)~~ *(j)* Proof that the applicant has sufficient working capital to ensure that the provider is financially capable of providing supported living arrangement services for a period of at least 3 months without compensation;

~~(k)~~ *(k)* Copies of any policies and procedures of the organization relating to the provision of supported living arrangement services;

~~(l)~~ *(l)* Proof that the applicant has an office independent of the location where supported living arrangement services are provided;

~~(m)~~ *(m)* Proof of industrial insurance in compliance with chapters 616A to 616D, inclusive, of NRS; and

~~(n)~~ *(n)* Such other information as may be required by the Division.

Sec. 17. NAC 435.518 is hereby amended to read as follows:

435.518 1. After the Division has determined that an application for a provisional certificate is complete, the Division shall establish a screening panel composed of employees of the Division to interview the applicant.

2. Upon successful completion of the interview, except as otherwise provided in subsection 3, the Division shall:

(a) If the applicant has secured a physical site, schedule an inspection of the physical site at which the applicant will provide supported living arrangement services; and

(b) Upon approval of the physical site, schedule the applicant for training concerning the provision of supported living arrangement services.

3. If the Division does not schedule the inspection described in paragraph (a) of subsection 2, the Division shall schedule the applicant for training concerning the provision of supported living arrangement services.

4. The Division shall issue a provisional certificate to the applicant upon:

(a) Successful completion of the training described in subsection 2 or 3;

(b) ~~Receipt~~ *Verification* of all reports on the background of an applicant, officer or other person required pursuant to NAC 435.515;

(c) *Verification that the applicant, each officer or employee of the applicant and each independent contractor of the applicant who oversees the provision of supported living arrangement services are not persons described in paragraph (f) of subsection 1 of NAC 435.520;*

(d) If applicable, approval of the physical site at which the applicant will provide supported living arrangement services; and

~~(d)~~ (e) The provider of supported living arrangement services:

(1) Entering into a written provider contract with the Division which sets forth specific requirements concerning the provision of supported living arrangement services; and

(2) Receiving a written service authorization from the applicable regional center for each person who will receive supported living arrangement services from the provider. The written service authorization must conform with any ~~individual support~~ *person-centered* plan developed with and agreed to by the person who will receive supported living arrangement services or his or her parent or guardian.

5. After the provider of supported living arrangement services enters into the written provider contract and receives the written service authorization, the provider must provide each

person receiving supported living arrangement services with the level of supervision required pursuant to his or her written service authorization to ensure that the health and welfare needs of the person are met.

6. A provisional certificate is valid until the Division or applicable regional center completes the initial quality assurance review.

Sec. 18. NAC 435.523 is hereby amended to read as follows:

435.523 A provider of supported living arrangement services must comply with the following standards for the provision of quality care concerning supported living arrangement services:

1. Compliance with any state or federal statute or regulation required for the Division to receive state or federal funding concerning the provision of supported living arrangement services, including, without limitation, any standards of care set forth in:

(a) The State Plan for Medicaid;

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

(c) The home and community-based services waiver granted pursuant to 42 U.S.C. § 1396n by the Secretary of the United States Department of Health and Human Services;

2. Compliance with any state or federal requirements concerning fiscal management, reporting and employment law;

3. Conformance to the delivery of services required pursuant to any ~~individual support~~ *person-centered* plan developed with and agreed to by a person who is receiving supported living arrangement services or his or her parent or guardian;

4. Assurance of the health and welfare of persons receiving supported living arrangement services;
5. Establishment of procedures for internal quality assurance;
6. Compliance with the requirements of:
 - (a) Chapter 435 of NRS concerning the provision of supported living arrangement services;
 - (b) NAC 435.500 to 435.740, inclusive, ~~§~~ and *sections 3, 4 and 5 of this regulation; and*
 - (c) The written provider contract entered into and the written service authorizations received pursuant to NAC 435.518;
7. Prompt reporting of any change in the officers or ownership of the provider of supported living arrangement services to the applicable regional center; and
8. Cooperation with any investigation by the Division or a regional center.

Sec. 19. NAC 435.535 is hereby amended to read as follows:

435.535 1. A provider of supported living arrangement services shall ensure adequate:

- (a) Development and implementation of ~~individual support~~ *person-centered* plans for persons receiving supported living arrangement services;
- (b) Training of the provider, if the provider is a natural person, and the employees and independent contractors of the provider;
- (c) Coordination of the provision of supported living arrangement services between multiple providers of supported living arrangement services to the same person who is receiving supported living arrangement services and between providers of supported living arrangement services and the persons described in paragraph (b) of subsection 2; and
- (d) Monitoring of the provision of supported living arrangement services.

2. A provider of supported living arrangement services shall make arrangements for obtaining services from:

(a) Qualified persons, with sufficient experience as determined by the Division, to provide oversight to the provider to ensure that the provider is complying with the requirements of subsection 1; and

(b) Professionally qualified or other specially trained persons, including, without limitation, nurses, behavior specialists and dietitians, as needed to assist in program development and planning, carrying out and monitoring the provision of supported living arrangement services.

3. The need for the services described in subsection 2 must be determined initially by ~~an individual support~~ *a person-centered* team and be reviewed by the team on a regular basis, but not less frequently than annually.

Sec. 20. NAC 435.555 is hereby amended to read as follows:

435.555 1. A provider of supported living arrangement services may not provide supported living arrangement services to a person until the ~~individual support~~ *person-centered* team has evaluated the capacity of the provider to meet the needs of the person for support, except as otherwise provided in subsection 4.

2. The evaluation must include an interim plan for habilitation to support the needs of the person relating to health and welfare.

3. Not later than ~~30~~ *90* days after a provider of supported living arrangement services begins providing supported living arrangement services to a person, the provider shall complete an assessment for the purpose of developing an individualized plan for habilitation for the person. The assessment must describe the interests and skills of the person who is receiving supported living arrangement services and recommend a level of supervision for the person.

4. In an urgent situation, a provider of supported living arrangement services may accept a person for the provision of supported living arrangement services for a period of not more than 5 working days before completing the evaluation, if the Division approves the acceptance of the person under such urgent circumstances.

Sec. 21. NAC 435.675 is hereby amended to read as follows:

435.675 1. A member of the direct support staff of a provider of supported living arrangement services may administer medication to persons receiving supported living arrangement services if the member has successfully completed a program concerning the administration of medication which is approved by the Division.

2. A person who is receiving supported living arrangement services may have his or her medication administered by:

(a) A provider of health care; or

(b) A member of the direct support staff of a provider of supported living arrangement services who has successfully completed a program concerning the administration of medication which is approved by the Division if:

(1) The member of the direct support staff administers the medication according to the instructions of a provider of health care;

(2) The person, or his or her parent or guardian, as applicable, provides written authorization to receive medication from a member of the direct support staff of the provider of supported living arrangement services in accordance with NRS 453.375 and 454.213; and

(3) The person submits to a physical examination by his or her provider of health care on an annual basis and the provider of health care determines that the person is medically cleared to receive medication from the member of the direct support staff.

3. A member of the direct support staff of a provider of supported living arrangement services who has successfully completed a program concerning the administration of medication which is approved by the Division:

(a) May administer medication pursuant to this section;

(b) Must refer a person who is receiving supported living arrangement services to a provider of health care if:

(1) The medical condition of the person changes or the person develops a new or additional medical condition;

(2) The medication prescribed by the person authorized to prescribe medication does not accomplish the objectives of the medication, as identified by the person authorized to prescribe medication, after the medication has been administered according to the prescription;

(3) Any emergency situation develops; or

(4) The provider of health care of the person instructs the member of the direct support staff to refer the person to the provider of health care;

(c) Shall not administer:

(1) Any medication to a person who has been admitted to a medical facility;

(2) Any medication which requires dose titration or an assessment of the needs of the person who is receiving supported living arrangement services concerning the medication;

(3) Except as otherwise provided in paragraph (d), any medication required to be administered by injection; *or*

(4) Any extended release medication which must be crushed, cut or otherwise altered before the administration of the medication; ~~for~~

~~—(5) Any nutrition or medication which is prescribed by a provider of health care or a person authorized to prescribe medication to be administered enterally;]~~ and

(d) May administer auto-injectable epinephrine for acute or emergent anaphylactic response if prescribed by a person authorized to prescribe medication and the member of the direct support staff has documentation that he or she has been trained in the use of auto-injectable epinephrine and monitoring persons who have received auto-injectable epinephrine for side effects.

4. As used in this section:

(a) ~~["Direct support staff" means any member of the staff of a provider of supported living arrangement services who works directly with a person with an intellectual disability or a person with a developmental disability to provide supported living arrangement services.~~

~~—(b)]~~ "Person authorized to prescribe medication" means:

(1) A physician, dentist or podiatric physician who holds a license to practice his or her profession in this State;

(2) A hospital, pharmacy or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer drugs in the course of professional practice or research in this State;

(3) An advanced practice registered nurse who has been authorized to prescribe controlled substances, poisons, dangerous drugs and devices;

(4) A physician assistant who:

(I) Holds a license issued by the Board of Medical Examiners; and

(II) Is authorized by the Board of Medical Examiners to possess, administer, prescribe or dispense controlled substances, poisons, dangerous drugs or devices under the supervision of a physician as required by chapter 630 of NRS;

(5) A physician assistant who:

(I) Holds a license issued by the State Board of Osteopathic Medicine; and

(II) Is authorized by the State Board of Osteopathic Medicine to possess, administer, prescribe or dispense controlled substances, poisons, dangerous drugs or devices under the supervision of an osteopathic physician as required by chapter 633 of NRS; or

(6) An optometrist who is certified by the Nevada State Board of Optometry to prescribe and administer ~~therapeutic~~ pharmaceutical agents pursuant to NRS 636.288, when the optometrist prescribes or administers ~~therapeutic~~ pharmaceutical agents within the scope of his or her certification.

~~(e)~~ (b) “Provider of health care” means:

(1) A physician licensed pursuant to chapter 630, 630A or 633 of NRS;

(2) A dentist licensed pursuant to chapter 631 of NRS;

(3) A registered nurse licensed pursuant to chapter 632 of NRS;

(4) An advanced practice registered nurse certified pursuant to chapter 632 of NRS; or

(5) A physician assistant licensed pursuant to chapter 630 or 633 of NRS.

Sec. 22. NAC 435.705 is hereby amended to read as follows:

435.705 1. A provider of supported living arrangement services must retain:

(a) The original records of each person who receives supported living arrangement services from the provider pursuant to NAC 435.695, or photographic reproductions of such records, for

at least 6 years after ~~termination of~~ *the date of payment for* the provision of the supported living arrangement services; and

(b) Administrative and fiscal records as provided in the written provider contract entered into and the written service authorizations received pursuant to NAC 435.518.

2. All such records must be complete, current and readily available for review by representatives of the Division.

Sec. 23. NAC 435.725 is hereby amended to read as follows:

435.725 Each of the following acts and omissions constitutes a ground for the revocation of a provisional certificate or a certificate:

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

2. A lack of personnel in sufficient number or qualifications to provide proper training and support for persons receiving supported living arrangement services.

3. A provider of supported living arrangement services has any deficiency concerning the provision of supported living arrangement services that may cause imminent risk of harm or which poses a probable risk of harm to the health or welfare of persons receiving supported living arrangement services.

4. A violation of any requirement set forth in NAC 435.500 to 435.740, inclusive ~~§~~, *and sections 3, 4 and 5 of this regulation.*

5. An accumulation or pattern of minor violations of the provisions of NAC 435.500 to 435.740, inclusive, *and sections 3, 4 and 5 of this regulation,* if the violations taken as a whole

endanger the health or welfare of any person who is receiving supported living arrangement services.

6. Any fraudulent activity by a provider of supported living arrangement services or an employee or independent contractor of the provider, including, without limitation, any fraudulent billing, falsification of records or misuse of the funds of a person who is receiving supported living arrangement services.

7. Failure to comply with any obligations or with the policies and procedures of the Division set forth in the written provider contract entered into and the written service authorizations received pursuant to NAC 435.518.

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

9. The failure or refusal of the provider of supported living arrangement services to implement or maintain any actions required by the Division or a regional center to correct a deficiency identified during a quality assurance review or any other review or investigation by the Division or a regional center.

10. The failure or refusal of a provider of supported living arrangement services to return an adequate plan of improvement within 15 days after receiving a statement of deficiencies as required pursuant to NAC 435.719.

11. Misappropriation of the property of a person who is receiving supported living arrangement services.

12. Abuse, neglect, exploitation or coercion of a person who is receiving supported living arrangement services.

13. Harassing, coercive, intimidating, insulting, abusive or disruptive language or behavior directed at:

- (a) An employee of a regional center;
- (b) An employee or independent contractor of a provider of supported living arrangement services;
- (c) Another provider of supported living arrangement services or other services; or
- (d) A person who is receiving supported living arrangement services or a family member or guardian of such a person.

14. The provider of supported living arrangement services, an officer or employee of the provider or an independent contractor of the provider who oversees the provision of supported living arrangement services is excluded from participation in Medicare, Medicaid and other federal health care programs pursuant to 42 U.S.C. §§ 1320a-7 et seq. or any regulations adopted pursuant thereto.

15. The provider of supported living arrangement services has failed to accept a written service authorization or deliver services within 12 months after the issuance of a provisional certificate pursuant to NAC 435.518.

Sec. 24. NAC 435.740 is hereby amended to read as follows:

435.740 1. ~~[To be afforded a hearing on an intended revocation of a provisional certificate or a certificate, the provider of supported living arrangement services must, within 15 calendar days after receiving notice of the intent to revoke, file with the Division a written request for a hearing.~~

~~—2.]~~ When a decision to revoke a provisional certificate or a certificate is rendered by the Division, the provider of supported living arrangement services may appeal that decision to the

Administrator or a designee thereof if the provider files with the Division a written notice of appeal within 15 calendar days after receiving notice of the decision of the Division. *The provider must submit any supporting documentation relating to his or her appeal with the written notice of appeal.*

2. The submission of a written notice of appeal or any process associated with an appeal will not delay or hinder any action taken by the Division to protect the health and welfare of persons receiving services from the provider of supported living arrangement services.

3. The Division shall submit to the Administrator all documentation received from the provider of supported living arrangement services relating to his or her appeal.

~~[3.]~~ 4. The Administrator or a designee thereof will consider an appeal and render his or her decision on the appeal within 30 calendar days after a notice of the appeal is filed with the Division.

~~[4.]~~ 5. The decision of the Administrator or a designee thereof concerning an appeal filed pursuant to this section is a final decision for the purposes of judicial review.

Sec. 25. NAC 435.838 is hereby amended to read as follows:

435.838 “Written service authorization” means a document issued by a regional center authorizing a provider of jobs and day training services to provide jobs and day training services pursuant to ~~[an individual support]~~ *a person-centered* plan.

Sec. 26. NAC 435.845 is hereby amended to read as follows:

435.845 A completed application for a provisional certificate must be submitted to the Division, on a form furnished by the Division, and must include, without limitation:

1. For a provider of jobs and day training services who is a natural person:
 - (a) Proof that the applicant is 18 years of age or older;

- (b) Three or more letters of professional reference;
- (c) Proof that the applicant has successfully completed a classroom course in cardiopulmonary resuscitation according to the guidelines of the American Red Cross or American Heart Association;
- (d) Proof that the applicant is currently certified in standard first aid through:
 - (1) A course from the American Red Cross;
 - (2) A course from the American Heart Association; or
 - (3) An equivalent course in standard first aid, if the applicant submits proof that such course meets or exceeds the requirements of the American Red Cross or American Heart Association;
- (e) ~~Written verification, on a form prescribed by the Division, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means~~ *A set of fingerprints submitted to the applicable regional center for submission* to the Central Repository for Nevada Records of Criminal History and ~~that the applicant has given~~ written permission ~~to the law enforcement agency or other authorized entity taking the fingerprints~~ *for the regional center* to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary;
- (f) Proof that the applicant has sufficient working capital to ensure that the applicant is financially capable of providing jobs and day training services for a period of at least 3 months without compensation;

(g) Proof that the applicant satisfies the same or similar criteria of a qualified intellectual disability professional set forth in 42 C.F.R. § 483.430 or has obtained a waiver of the criteria from the applicable regional center;

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

(i) Proof of industrial insurance in compliance with chapters 616A to 616D, inclusive, of NRS or an affidavit stating that the applicant has elected not to be included within the terms, conditions and provisions of chapters 616A to 616D, inclusive, of NRS pursuant to NRS 616B.659; and

(j) Any other information required by the Division.

2. For a provider of jobs and day training services that is an organization consisting of a partnership, firm, corporation or association, including, without limitation, a nonprofit organization, or a state or local government or agency thereof:

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

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

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

(d) A list of the members of the governing body of the organization which includes the terms of office of those members;

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

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

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

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

(g) Proof that at least one supervisor, administrator or manager of the provider satisfies the same or similar criteria of a qualified intellectual disability professional set forth in 42 C.F.R. § 483.430 ; ~~for has obtained a waiver of the criteria from the applicable regional center;~~

(h) *Verification that the applicant has established an account with the Central Repository for Nevada Records of Criminal History pursuant to NRS 179A.325;*

(i) For each officer or other person who oversees the provision of jobs and day training services:

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

(2) ~~Written verification, on a form prescribed by the Division, stating~~ *Verification* that ~~the~~ :

(I) The fingerprints of the officer or other person were taken and directly forwarded electronically or by another means to the Central Repository ; ~~for Nevada Records of Criminal History~~ and ~~that the~~

(II) The officer or other person has given written permission to the ~~law enforcement agency or other authorized~~ entity taking the fingerprints to submit the fingerprints to the Central

Repository for submission to the Federal Bureau of Investigation for a report on the background of the officer or other person and to such other law enforcement agencies as the Division deems necessary;

~~(j)~~ (j) Proof that the applicant has sufficient working capital to ensure that the provider is financially capable of providing jobs and day training services for a period of at least 3 months without compensation;

~~(k)~~ (k) Copies of any policies and procedures of the organization relating to the provision of jobs and day training services;

~~(l)~~ (l) If the applicant will provide jobs and day training services in a facility-based setting, proof that the appropriate local or state fire officials or other qualified persons have conducted an annual inspection of each physical site at which the applicant will provide jobs and day training services;

~~(m)~~ (m) If applicable, proof that the organization has a certificate authorizing special minimum wages as provided for in the Fair Labor Standards Act of 1938, 29 U.S.C. § 214, and the regulations adopted pursuant thereto, 29 C.F.R. Part 525;

~~(n)~~ (n) Proof of industrial insurance in compliance with chapters 616A to 616D, inclusive, of NRS; and

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

Sec. 27. NAC 435.855 is hereby amended to read as follows:

435.855 1. After the Division has determined that an application for a provisional certificate is complete, the Division shall establish a screening panel composed of employees of the Division to interview the applicant.

2. Upon successful completion of the interview, the Division shall:

(a) If the applicant has secured a physical site, schedule an inspection of the physical site at which the applicant will provide jobs and day training services; or

(b) If the Division does not schedule the inspection described in paragraph (a), schedule the applicant for training concerning the provision of jobs and day training services.

3. If the Division conducts an inspection of the physical site pursuant to subsection 2, the Division must, upon approval of the physical site, schedule the applicant for training concerning the provision of jobs and day training services.

4. The Division shall issue a provisional certificate to the applicant upon:

(a) Successful completion of the training described in subsection 2 or 3;

(b) ~~Receipt~~ *Verification* of all reports on the background of an applicant, officer or other person required pursuant to NAC 435.845;

(c) *Verification that the applicant, each officer or employee of the applicant and each independent contractor of the applicant who oversees the provision of jobs and day training services are not persons described in paragraph (f) of subsection 1 of NAC 435.860;*

(d) If applicable, approval of the physical site at which the applicant will provide jobs and day training services; and

~~(d)~~ (e) The provider of jobs and day training services:

(1) Entering into a written provider contract with the Division which sets forth specific requirements concerning the provision of jobs and day training services; and

(2) Receiving a written service authorization from the applicable regional center for each person who will receive jobs and day training services from the provider. The written service authorization must conform with any ~~individual support~~ *person-centered* plan developed with

and agreed to by the person who will receive jobs and day training services or his or her parent or guardian.

5. After the provider of jobs and day training services enters into the written provider contract and receives the written service authorization, the provider must provide each person receiving jobs and day training services with the level of supervision required pursuant to his or her written service authorization to ensure the health and welfare needs of the person are met.

6. A provisional certificate is valid until the Division or applicable regional center completes the initial quality assurance review.

Sec. 28. NAC 435.875 is hereby amended to read as follows:

435.875 A provider of jobs and day training services must comply with the following standards for the provision of quality care concerning jobs and day training services:

1. Compliance with any state or federal statute or regulation required for the Division to receive state or federal funding concerning the provision of jobs and day training services, including, without limitation, any standards of care set forth in:

(a) The State Plan for Medicaid;

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

(c) The home and community-based services waiver granted pursuant to 42 U.S.C. § 1396n by the Secretary of the United States Department of Health and Human Services;

2. Compliance with any state or federal requirements concerning fiscal management, reporting and employment law;

3. Conformance to the delivery of services required pursuant to any ~~individual support~~ *person-centered* plan developed with and agreed to by a person who is receiving jobs and day training services or his or her parent or guardian;
4. Assurance of the health and welfare of persons receiving jobs and day training services;
5. Establishment of procedures for internal quality assurance;
6. Compliance with the requirements of:
 - (a) Chapter 435 of NRS concerning the provision of jobs and day training services;
 - (b) NAC 435.775 to 435.965, inclusive, ~~§~~ and *section 6 of this regulation*; and
 - (c) The written provider contract entered into and the written service authorizations received pursuant to NAC 435.855;
7. Prompt reporting of any change in the officers or ownership of the provider of jobs and day training services to the applicable regional center;
8. Cooperation with any investigation by the Division or a regional center; and
9. Obtaining the approval of the Division:
 - (a) For any additional physical sites at which jobs and day training services will be provided before providing such services at those physical sites; and
 - (b) Before remodeling or expanding any existing physical sites at which jobs and day training services are provided.

Sec. 29. NAC 435.890 is hereby amended to read as follows:

435.890 1. A provider of jobs and day training services shall ensure adequate:

- (a) Development and implementation of ~~individual support~~ *person-centered* plans for persons receiving jobs and day training services;

(b) Training of the provider, if the provider is a natural person, and the employees and independent contractors of the provider;

(c) Coordination of the provision of jobs and day training services between multiple providers of jobs and day training services to the same person who is receiving jobs and day training services and between providers of jobs and day training services and the persons described in paragraph (b) of subsection 2; and

(d) Monitoring of the provision of jobs and day training services.

2. A provider of jobs and day training services shall make arrangements for obtaining services from:

(a) Qualified persons, with sufficient experience as determined by the Division, to provide oversight to the provider to ensure that the provider is complying with the requirements of subsection 1; and

(b) Professionally qualified or other specially trained persons, including, without limitation, employment specialists, nurses and behavior specialists, as needed to assist in program development and planning, carrying out and monitoring the provision of jobs and day training services.

3. The need for the services described in subsection 2 must be determined initially by ~~an individual support~~ *a person-centered* team and be reviewed by the team on a regular basis, but not less frequently than annually.

Sec. 30. NAC 435.900 is hereby amended to read as follows:

435.900 1. A provider of jobs and day training services may not provide jobs and day training services to a person until the ~~individual support~~ *person-centered* team has evaluated

the capacity of the provider to meet the needs of the person for support, except as otherwise provided in subsection 4.

2. The evaluation must include an interim plan for habilitation to support the needs of the person relating to health and welfare.

3. Not later than ~~30~~ 90 days after a provider of jobs and day training services begins providing jobs and day training services to a person, the provider shall complete an assessment for the purpose of developing an individualized plan for habilitation for the person. The assessment must describe the interests and skills of the person who is receiving jobs and day training services and recommend a level of supervision for the person.

4. In an urgent situation, a provider of jobs and day training services may accept a person for the provision of jobs and day training services for a period of not more than 5 working days before completing the evaluation, if the Division approves the acceptance of the person under such urgent circumstances.

Sec. 31. NAC 435.905 is hereby amended to read as follows:

435.905 1. ~~[Except as otherwise provided in subsection 2,]~~ *A member of the direct support staff of* a provider of jobs and day training services ~~[who is a natural person or an employee or independent contractor of a provider of jobs and day training services shall not administer medication to any person who is receiving jobs and day training services from the provider pursuant to a written service authorization received pursuant to NAC 435.855.~~

~~—2.— The provisions of subsection 1 do not apply to an employee, independent contractor or subcontractor of a provider of jobs and day training services who is authorized to administer medication pursuant to the employee's, independent contractor's or subcontractor's licensure or certification as a health care professional.~~

~~—3. As used in this section, “health care professional” means any person who engages in acts related to the treatment of human ailments or conditions and who is subject to licensure, certification or regulation by any provision of title 54 of NRS.] may administer medication to persons receiving jobs and day training services if the member has successfully completed a program concerning the administration of medication which is approved by the Division.~~

2. A person who is receiving jobs and day training services may have his or her medication administered by:

(a) A provider of health care; or

(b) A member of the direct support staff of a provider of jobs and day training services who has successfully completed a program concerning the administration of medication which is approved by the Division if:

(1) The member of the direct support staff administers the medication according to the instructions of a provider of health care;

(2) The person, or his or her parent or guardian, as applicable, provides written authorization to receive medication from a member of the direct support staff of the provider of jobs and day training services in accordance with NRS 453.375 and 454.213; and

(3) The person submits to a physical examination by his or her provider of health care on an annual basis and the provider of health care determines that the person is medically cleared to receive medication from the member of the direct support staff.

3. A member of the direct support staff of a provider of jobs and day training services who has successfully completed a program concerning the administration of medication which is approved by the Division:

(a) May administer medication pursuant to this section;

(b) Must refer a person who is receiving jobs and day training services to a provider of health care if:

(1) The medical condition of the person changes or the person develops a new or additional medical condition;

(2) The medication prescribed by the person authorized to prescribe medication does not accomplish the objectives of the medication, as identified by the person authorized to prescribe the medication, after the medication has been administered according to the prescription;

(3) Any emergency situation develops; or

(4) The provider of health care of the person instructs the member of the direct support staff to refer the person to the provider of health care;

(c) Shall not administer:

(1) Any medication to a person who has been admitted to a medical facility;

(2) Any medication which requires dose titration or an assessment of the needs of the person who is receiving jobs and day training services concerning the medication;

(3) Except as otherwise provided in paragraph (d), any medication required to be administered by injection;

(4) Any extended release medication which must be crushed, cut or otherwise altered before the administration of the medication; or

(5) Any nutrition or medication which is prescribed by a provider of health care or a person authorized to prescribe medication to be administered enterally; and

(d) May administer auto-injectable epinephrine for acute or emergent anaphylactic response if prescribed by a person authorized to prescribe medication and the member of the direct support staff has documentation that he or she has been trained in the use of auto-

injectable epinephrine and monitoring persons who have received auto-injectable epinephrine for side effects.

4. As used in this section:

(a) "Direct support staff" means any member of the staff of a provider of jobs and day training services who works directly with a person with an intellectual disability or a person with a developmental disability to provide jobs and day training services.

(b) "Person authorized to prescribe medication" means:

(1) A physician, dentist or podiatric physician who holds a license to practice his or her profession in this State;

(2) A hospital, pharmacy or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer drugs in the course of professional practice or research in this State;

(3) An advanced practice registered nurse who has been authorized to prescribe controlled substances, poisons, dangerous drugs and devices;

(4) A physician assistant who:

(I) Holds a license issued by the Board of Medical Examiners; and

(II) Is authorized by the Board of Medical Examiners to possess, administer, prescribe or dispense controlled substances, poisons, dangerous drugs or devices under the supervision of a physician, as required by chapter 630 of NRS;

(5) A physician assistant who:

(I) Holds a license issued by the State Board of Osteopathic Medicine; and

(II) Is authorized by the State Board of Osteopathic Medicine to possess, administer, prescribe or dispense controlled substances, poisons, dangerous drugs or devices under the supervision of an osteopathic physician, as required by chapter 633 of NRS; or

(6) An optometrist who is certified by the Nevada State Board of Optometry to prescribe and administer pharmaceutical agents pursuant to NRS 636.288, when the optometrist prescribes or administers pharmaceutical agents within the scope of his or her certification.

(c) "Provider of health care" means:

(1) A physician licensed pursuant to chapter 630, 630A or 633 of NRS;

(2) A dentist licensed pursuant to chapter 631 of NRS;

(3) A registered nurse licensed pursuant to chapter 632 of NRS;

(4) An advanced practice registered nurse pursuant to chapter 632 of NRS; or

(5) A physician assistant licensed pursuant to chapter 630 or 633 of NRS.

Sec. 32. NAC 435.935 is hereby amended to read as follows:

435.935 1. A provider of jobs and day training services must retain:

(a) The original records of each person who receives jobs and day training services from the provider pursuant to NAC 435.930, or photographic reproductions of such records, for at least 6 years after ~~termination of~~ *the date of payment for* the provision of the jobs and day training services to the person; and

(b) Administrative and fiscal records as provided in the written provider contract entered into and the written service authorizations received pursuant to NAC 435.855.

2. The administrative and fiscal records of the provider of jobs and day training services must include, without limitation:

(a) Records of the attendance of persons receiving jobs and day training services;

(b) If the provider provides jobs and day training services in a facility-based setting, proof that the appropriate local or state fire officials or other qualified persons have conducted an annual inspection of each physical site at which the provider provides jobs and day training services;

(c) Records of evaluations or studies used in determining the rate of pay for persons receiving jobs and day training services;

(d) Computations for determining the rate of pay for persons receiving jobs and day training services; and

(e) If applicable, proof that the organization has a certificate authorizing special minimum wages as provided for in the Fair Labor Standards Act of 1938, 29 U.S.C. § 214, and the regulations adopted pursuant thereto, 29 C.F.R. Part 525.

3. All such records must be complete, current and readily available for review by representatives of the Division.

Sec. 33. NAC 435.950 is hereby amended to read as follows:

435.950 Each of the following acts and omissions constitutes a ground for the revocation of a provisional certificate or a certificate:

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

2. A lack of personnel in sufficient number or qualifications to provide proper training and support for persons receiving jobs and day training services.

3. A provider of jobs and day training services has any deficiency concerning the provision of jobs and day training services that may cause imminent risk of harm or which poses a probable risk of harm to the health or welfare of persons receiving jobs and day training services.

4. A violation of any requirement set forth in NAC 435.775 to 435.965, inclusive ~~§~~, *and section 6 of this regulation.*

5. An accumulation or pattern of minor violations of the provisions of NAC 435.775 to 435.965, inclusive, *and section 6 of this regulation,* if the violations taken as a whole endanger the health or welfare of any person who is receiving jobs and day training services.

6. Any fraudulent activity by a provider of jobs and day training services or an employee or independent contractor of the provider, including, without limitation, any fraudulent billing, a violation of any law pertaining to wage and hour standards, falsification of records or misuse of the funds of a person who is receiving jobs and day training services.

7. Failure to comply with any obligations or with the policies and procedures of the Division set forth in the written provider contract entered into and the written service authorizations received pursuant to NAC 435.855.

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

9. The failure or refusal of the provider of jobs and day training services to implement or maintain any actions required by the Division or a regional center to correct a deficiency identified during a quality assurance review or any other review or investigation by the Division or a regional center.

10. The failure or refusal of a provider of jobs and day training services to return an adequate plan of improvement within 15 days after receiving a statement of deficiencies as required pursuant to NAC 435.945.

11. Misappropriation of the property of a person who is receiving jobs and day training services.

12. Abuse, neglect, exploitation or coercion of a person who is receiving jobs and day training services.

13. Harassing, coercive, intimidating, insulting, abusive or disruptive language or behavior directed at:

(a) An employee of a regional center;

(b) An employee or independent contractor of a provider of jobs and day training services;

(c) Another provider of jobs and day training services or other services; or

(d) A person who is receiving jobs and day training services or a family member or guardian of such a person.

14. The provider of jobs and day training services, an officer or employee of the provider or an independent contractor of the provider who oversees the provision of jobs and day training services is excluded from participation in Medicare, Medicaid and other federal health care programs pursuant to 42 U.S.C. §§ 1320a-7 et seq., or any regulations adopted pursuant thereto.

15. The provider of jobs and day training services has failed to accept a written service authorization or deliver services within 12 months after the issuance of a provisional certificate pursuant to NAC 435.855.

Sec. 34. NAC 435.965 is hereby amended to read as follows:

435.965 1. ~~[To be afforded a hearing on an intended revocation of a provisional certificate or a certificate, the provider of jobs and day training services must, within 15 calendar days after receiving notice of the intent to revoke, file with the Division a written request for a hearing.~~

~~—2.]~~ When a decision to revoke a provisional certificate or a certificate is rendered by the Division, the provider of jobs and day training services may appeal that decision to the Administrator or a designee thereof if the provider files with the Division a written notice of appeal within 15 calendar days after receiving notice of the decision of the Division. *The provider must submit any supporting documentation relating to his or her appeal with the written notice of appeal.*

2. The submission of a written notice of appeal or any process associated with an appeal will not delay or hinder any action taken by the Division to protect the health and welfare of the persons receiving services from the provider of jobs and day training services.

3. The Division shall submit to the Administrator all documentation received from the provider of jobs and day training services relating to his or her appeal.

~~[3.]~~ 4. The Administrator or a designee thereof will consider an appeal and render his or her decision on the appeal within 30 calendar days after a notice of the appeal is filed with the Division.

~~[4.]~~ 5. The decision of the Administrator or a designee thereof concerning an appeal filed pursuant to this section is a final decision for the purposes of judicial review.