

**ADOPTED REGULATION OF THE DIVISION OF MENTAL  
HEALTH AND DEVELOPMENTAL SERVICES OF THE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**LCB File No. R063-10**

Effective December 16, 2010

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

AUTHORITY: §§1-3, NRS 433.331.

A REGULATION relating to mental health; providing detailed definitions of “abuse” and “neglect” as those terms apply to a client of the Division of Mental Health and Developmental Services of the Department of Health and Human Services; requiring certain persons to report the abuse or neglect of such a client under certain circumstances; and providing other matters properly relating thereto.

**Section 1.** Chapter 433 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

**Sec. 2. 1.** *As used in NRS 433.554, the term:*

*(a) “Abuse” includes, without limitation, physical abuse, sexual abuse, verbal and mental abuse, and financial exploitation.*

*(b) “Neglect” includes, without limitation:*

*(1) Failure to provide the degree of care or other service to a client that a person is legally required or contractually obligated to provide, which may include, without limitation, the provision of adequate medical care, nutrition, hydration, clothing or assistance with personal hygiene; and*

*(2) Failure to act to prevent another person from abusing or neglecting a client.*

*2. As used in this section:*

*(a) “Financial exploitation” means the illegal or improper use of the money, property or other assets of a client. The term includes, without limitation:*

*(1) Using a client’s social security number to obtain a benefit or other financial gain for a person other than the client; and*

*(2) Diverting money or property that is intended to be used for the benefit of the client, including, without limitation, money provided by the State.*

*(b) “Physical abuse” includes, without limitation, intentionally causing physical pain to a client, whether or not the action results in an observable injury to the client, by burning, cutting, hitting, kicking, punching, pushing, scratching, slapping, or pulling the hair of the client.*

*(c) “Sexual abuse” includes, without limitation:*

*(1) Engaging or attempting to engage in sexual conduct with a client, including, without limitation, the intimate touching or fondling of a client;*

*(2) Encouraging a client or another person to engage in sexual conduct with a client;*

*(3) Encouraging a client to solicit for, or engage in, prostitution;*

*(4) Exposing a person’s genitals to a client or encouraging a client to expose his or her genitals to another person;*

*(5) Encouraging a client to view obscene or pornographic materials; and*

*(6) Using sexually degrading language or gestures toward a client.*

*(d) “Verbal and mental abuse” includes, without limitation:*

*(1) Cursing, insulting, mocking, ridiculing or taunting a client;*

*(2) Threatening a client with any kind of harm or with the deprivation of any right, privilege or benefit;*

*(3) Making a hostile or offensive gesture toward a client; and*

*(4) Engaging in any action that is intended to humiliate a client,*

*↳ whether or not the client understands the meaning of the words, gestures or actions.*

**Sec. 3. 1.** *An employee or contractor who knows or reasonably believes that a client has been or is being abused or neglected shall report the abuse or neglect of the client:*

*(a) Verbally, not later than 1 hour after the employee or contractor becomes aware of the abuse or neglect; and*

*(b) In writing, not later than 24 hours after the employee or contractor becomes aware of the abuse or neglect.*

*2. A report required pursuant to subsection 1 must be made to the person and in the manner prescribed by the Administrator.*

*3. An employee or contractor may reasonably believe that a client has been or is being abused or neglected based solely on the statement of a client.*

*4. As used in this section:*

*(a) “Contractor” means a person who provides care or other services to a client pursuant to a contract with the Division.*

*(b) “Employee” means an employee of the Division.*

**NEVADA MENTAL HEALTH AND DEVELOPMENTAL SERVICES**  
**COMMISSION ON MENTAL HEALTH AND DEVELOPMENTAL SERVICES**  
**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED**  
**BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066**

**LCB File No. R063-10**

**New Section to NAC 433 – Definition of “Abuse” and “Neglect” as those terms pertain to a client of the Division of Mental Health and Developmental Services and to Require Certain Person to Report such Abuse or Neglect**

**INFORMATIONAL STATEMENT**

The following statement is submitted for adopted new regulation to Nevada Administrative Code 433:

1. A description of how public comment was solicited, a summary of public response, and explanation how other interested persons may obtain a copy of the summary.

Notice of Workshop to Solicit Comments on Proposed Regulations was sent to approximately 100 individuals. A workshop was held on November 17, 2010. There was no public comment.

The Notice of Intent to Act Upon a Regulation for public hearing and adoption of proposed new regulation to NAC 433 was sent to approximately 100 individuals. The public hearing was conducted on November 19, 2010 to provide the opportunity for comments by affected parties and the public. There was public comment. The Commission adopted the proposed new regulation to NAC 433.

2. The Number of Persons Who:

a) Attended Each Hearing: First Workshop: 5; First Hearing: 14; Second Hearing: N/A  
b) Testified at Each Hearing: First Workshop: 0; First Hearing: 1; Second Hearing: N/A  
c) Submitted Written Statements: First Workshop: 0; First Hearing: 0; Second Hearing: N/A

A copy of any written comments may be obtained by contacting Cody Phinney, Mental Health and Developmental Services, 775-684-5964, or by writing to Nevada Mental Health and Developmental Services, 4126 Technology Way, 2<sup>nd</sup> Floor, Carson City, Nevada 89706.

3. A description of how comment was solicited from affected businesses, a summary of the response and an explanation how other interested parties may obtain a copy of the summary.

Comments were solicited through the workshop notice of October 14, 2010; and the public hearing notice of October 15, 2010. At the November 17, 2010 Workshop to Solicit Comments, there was no public comment to the proposed new regulation language. At the November 19, 2010 public hearing there was public comment to the proposed new regulation language.

Workshop comments:

There were no comments.

Public Hearing comments:

- a) Barry Lovgren expressed support for the proposed new regulation and questioned if a SAPTA client is consider an “MHDS client” within the proposed new regulation. Mr. Lovgren stated that it appears that the proposed new regulation include SAPTA clients and would like this clarified. MHDS staff clarified that SAPTA clients are included within the definition of MHDS clients.

A copy of the summary and/or minutes of the public hearing may be obtained by contacting Cody Phinney, Mental Health and Developmental Services, 775-684-5964, or by writing to Nevada Mental Health and Developmental Services, 4126 Technology Way, 2<sup>nd</sup> Floor, Carson City, Nevada 89706.

4. If the regulation was adopted with or without change to any part of the proposed regulation, a summary of the reasons for adopting.

The Commission on Mental Health and Developmental Services adopted the proposed new regulation language at the public hearing held November 19, 2010. The reason for adopting the new regulation is needed to allow the Division of Mental Health and Developmental Services to enforce the prohibition against such abuse and neglect of the clients of the Division.

5. The estimated economic effect of the adopted regulation on the business that it is to regulate and on the public. These must be stated separately and each case must include:

There is no economic effect of the regulation on the business that it regulates.

There is no estimated economic effect on the public, either adversely or beneficially, nor immediate or long term.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for enforcement of this regulation.

7. A description of any regulations of other state or governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the

duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

No other state or governmental agency regulations will be overlapped or duplicated by the above noted regulation. There is no duplication or overlap of federal regulations.

8. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

There are none.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

This regulation does not provide for a new fee or increase an existing fee.