

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

LCB File No. R063-10

October 8, 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.