

**PROPOSED REGULATION OF THE
COMMITTEE ON DOMESTIC VIOLENCE**

LCB File No. R213-99

February 7, 2000

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

AUTHORITY: §§1-18, NRS 228.470; §§19-49, NRS 228.470 and 233B.050.

Section 1. Chapter 228 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 20, inclusive, of this regulation.

Sec. 2. *“Hour of continuing education” means 60 minutes of instruction in a course of continuing education approved by the committee pursuant to section 18 of this regulation.*

Sec. 3. *“Offender” means a person who has been convicted of an offense that constitutes domestic violence and has been ordered by a court of competent jurisdiction in this state to participate in a program.*

Sec. 4. *“Provider of treatment” means a person who is qualified pursuant to NAC 228.110 to:*

- 1. Be retained as an independent contractor at a program;*
- 2. Be employed at a program in a position other than as a supervisor of treatment; and*
- 3. Conduct, with the assistance of another provider of treatment or a supervisor of treatment acting as a provider of treatment, a group counseling session for offenders in a program.*

Sec. 5. 1. The committee may issue a provisional certificate to an organization that operates a program if the organization has substantially complied with the requirements set forth in NAC 228.100.

2. A provisional certificate expires on the date of the next regularly scheduled meeting of the committee unless the committee renews the provisional certificate. If the provisional certificate is renewed, it expires at the next regularly scheduled meeting of the committee.

3. The committee will not renew a provisional certificate more than twice.

Sec. 6. The committee will certify a program that is located in another state and that provides treatment to an offender who is a resident of that state and was ordered to participate in the program by a court in this state if the program:

1. Is certified by a regulatory agency in that state; or

2. Is not certified by a regulatory agency in that state but is approved by the court that sentenced the offender.

Sec. 7. An organization that operates a program shall ensure that:

1. The program accepts an offender regardless of his ability to pay for the program.

2. The fee charged by the program is based on the ability of an offender to pay for the program.

3. The program determines the ability of an offender to pay for the program and charges the offender:

(a) Not more than \$1 for each counseling session if the offender's household income is not more than 150 percent of the federal poverty level; or

(b) A fee that is based on a sliding scale that enables the offender to pay for the program if a fee is charged to an offender other than an offender described in paragraph (a).

4. At least 5 percent of the offenders in the program have a household income that is not more than 150 percent of the federal poverty level.

Sec. 8. *An organization that operates a program shall ensure that each supervisor of treatment it employs:*

- 1. Meets individually at least once a month with each provider of treatment he supervises;*
- 2. Is available by telephone to consult with each provider of treatment he supervises;*
- 3. Reviews, at least once each month, a random sample of at least 5 percent of the records of the offenders who are receiving treatment from each provider of treatment he supervises;*
- 4. Observes, at least once every 3 months, a group counseling session conducted by each team of two providers of treatment he supervises who conduct counseling sessions for the program; and*
- 5. Prepares an annual report concerning the performance of each provider of treatment he supervises.*

Sec. 9. *1. An organization that operates a program shall report a change in the information submitted pursuant to NAC 228.110 to the committee within 15 days after the change occurs, including, without limitation:*

- (a) Any loss or addition of a provider of treatment;*
 - (b) A substantial change in the program;*
 - (c) A relocation of the program;*
 - (d) The discontinuance of the program; or*
 - (e) Any other change that relates to the certification of the program.*
- 2. An organization shall request approval from the committee of each change reported pursuant to subsection 1 at the time it reports the change.*

3. If the committee receives the request at least 30 days before the next regularly scheduled meeting of the committee, the committee will include the request on the agenda for that meeting. If the committee receives the request less than 30 days before its next regularly scheduled meeting, the committee will include the request on the agenda for the first regular meeting that is scheduled more than 30 days after the committee receives the request.

4. Within 15 days after the committee renders its decision concerning the request, it will provide written notice to the organization of its approval or denial of the request. If the committee denies the request, the notice will include the reasons for the denial.

5. The certification of the program remains in effect until the committee provides notice to the organization in the manner prescribed by NAC 228.150.

Sec. 10. *An organization that operates a program shall ensure that:*

1. Except as otherwise provided in chapter 49 of NRS, a provider of treatment, a supervisor of treatment it employs who is acting as a provider of treatment or any other staff member of the program does not disclose any confidential communications made by an offender to him during the course of treatment or acquired through his work at the program, except:

(a) Upon the written consent of the offender;

(b) In response to a request from the court that ordered the offender to participate in the program;

(c) Pursuant to an investigation or on-site inspection by the committee; or

(d) To notify a person who the provider of treatment believes may be at risk of imminent danger because of threats made or behavior exhibited by the offender.

2. Each staff member of the program maintains any record indicating the reason for the treatment of the offender or the course and scope of treatment provided by a provider of treatment.

3. No staff member of the program discloses a confidential record or information contained in such a record to another person except:

(a) Upon the written consent of the offender;

(b) In response to a request from the court that ordered the offender to participate in the program;

(c) Pursuant to an investigation or on-site inspection by the committee;

(d) To notify a person who the provider of treatment believes may be at risk of imminent danger because of threats made or behavior exhibited by the offender; or

(e) As otherwise required by law.

4. A provider of treatment:

(a) Informs each offender of the provisions set forth in subsections 1 and 3; and

(b) Obtains written consent from the offender on a form prescribed by the committee that sets forth the requirements of subsections 1 and 3 before the provider of treatment provides any treatment to the offender.

Sec. 11. *An organization that operates a program shall ensure that:*

1. Except as otherwise provided in subsection 2, the treatment provided to an offender at the program is provided in a group counseling session that:

(a) Is conducted by:

(1) Two providers of treatment, one of whom is male and one of whom is female; or

(2) A provider of treatment and a supervisor of treatment it employs who is acting as a provider of treatment, one of whom is male and one of whom is female;

(b) Is conducted for only one gender; and

(c) Consists of not less than 3 offenders or more than 24 offenders.

2. If a supervisor of treatment it employs determines that it is inappropriate to treat an offender in a group counseling session, the offender is:

(a) Provided with the appropriate treatment, including, without limitation:

(1) Treatment relating to domestic violence that is provided on an individual basis; and

(2) Treatment relating to mental health or the abuse of drugs or alcohol; or

(b) Referred to an appropriate provider of health care or other services.

3. If an offender does not receive treatment relating to domestic violence at the program because of a determination made pursuant to subsection 2, the supervisor of treatment advises the offender to notify the court that sentenced him of that fact.

4. A group counseling session is provided for an offender who is under the age of 18 years and for whom an adult session is not suitable.

5. As used in this section, “provider of health care or other services” includes:

(a) A person who is:

(1) Certified as an alcohol and drug abuse counselor by the bureau of alcohol and drug abuse in the department of human resources; or

(2) Licensed or certified as an alcohol and drug abuse counselor by the board of examiners for alcohol and drug abuse counselors pursuant to chapter 641C of NRS;

(b) A physician or a physician’s assistant who is licensed pursuant to chapter 630 of NRS;

(c) A psychologist who is licensed pursuant to chapter 641 of NRS; and

(d) A clinical social worker who is licensed pursuant to chapter 641B of NRS.

Sec. 12. *An organization that operates a program shall ensure that:*

1. A provider of treatment:

(a) Evaluates individually each offender for whom he will provide treatment upon his admission to the program;

(b) Develops a written plan of treatment for the offender that includes, without limitation, treatment relating to a history of domestic violence, child abuse, sexual abuse or the abuse of drugs or alcohol by the offender and treatment relating to the mental health of the offender; and

(c) Develops a written plan of control for the offender to prevent the offender from engaging in violent behavior.

2. Upon the admission of an offender to the program, the program requires a written contract that sets forth the responsibilities of the offender and the provider of treatment. The contract must be signed by:

(a) The offender in the presence of a provider of treatment; and

(b) The provider of treatment who witnessed the signature pursuant to paragraph (a).

Sec. 13. *An organization that operates a program shall ensure that:*

1. No staff member of the program:

(a) Blames a person who is a victim of domestic violence for the domestic violence; or

(b) Places a person who is a victim of domestic violence in danger as a result of any statement he makes or action he takes.

2. If a provider of treatment receives a request from a person who is a victim of domestic violence or who he determines is at risk of becoming a victim of domestic violence, the

provider of treatment assists the person in developing and carrying out a plan for the safety and protection of that person.

Sec. 14. *An organization that operates a program shall ensure that:*

1. The treatment provided to an offender at the program is not:

(a) Based on the premise that domestic violence is a disease or an addictive behavior; and

(b) Provided as a counseling session with a person who was a victim of domestic violence

by the offender unless:

(1) The person who was a victim of domestic violence feels safe and a provider of treatment has developed a plan to ensure the safety of that person; and

(2) The offender has completed the treatment ordered by the court.

2. The program does not credit any treatment sessions an offender completed for the abuse of drugs or alcohol toward the completion of the treatment ordered by the court.

Sec. 15. *1. An organization that operates a program shall ensure that:*

(a) The program issues a certificate of completion to an offender who:

(1) Successfully completes the program; and

(2) Complies with the provisions of the contract required by section 12 of this regulation.

(b) The program issues a discharge to an offender who is unable to complete the program because he has moved from the area of service of the program or has been referred to another program.

(c) The program terminates the treatment of an offender who violates any of the provisions of the contract required by section 12 of this regulation.

2. If the program issues a discharge to an offender or terminates the treatment of an offender, the organization that operates the program shall:

(a) If the treatment of the offender is terminated, notify the court that sentenced the offender of the termination and provide to the court a written summary concerning the behavior of the offender in the program;

(b) Notify the offender that he is required to make a request to the court that sentenced him to:

(1) Reassign him to another program; and

(2) Determine the number of the treatment sessions he completed, if any, that will be credited toward the completion of the treatment ordered by the court; and

(c) If the court declines a request made pursuant to paragraph (b), ensure that a supervisor of treatment it employs determines the number of treatment sessions the offender completed, if any, that will be credited toward the completion of the treatment ordered by the court.

3. An organization that operates a program shall ensure that if, at the time that a discharge or termination of an offender is considered, the offender exhibits signs of violent behavior and resists treatment, a provider of treatment:

(a) Notifies any person who is known to be a victim of domestic violence by the offender, if possible;

(b) Provides a statement of the progress of the offender and his recommendation concerning whether the treatment of the offender should be continued or terminated to each of the following persons he determines is necessary:

(1) The court that sentenced the offender;

(2) The parole and probation officer of the offender;

(3) The prosecuting attorney; and

(4) An agency which provides protective services; and

(c) Requests that the offender increase his participation in the program or refers the offender to another program.

4. As used in this section, “agency which provides protective services” has the meaning ascribed to it in NRS 432B.030.

Sec. 16. *If the certification of a program is not renewed, the organization that operates the program shall notify each:*

1. Court that refers offenders to the program that its certification was not renewed; and

2. Offender who has been referred to the program that he is required to make a request to the court that sentenced him to:

(a) Reassign him to another program; and

(b) Determine the number of treatment sessions he completed, if any, that will be credited toward the completion of the treatment ordered by the court.

Sec. 17. *An organization that operates a program shall:*

1. Ensure that each supervisor of treatment it employs and each provider of treatment completes annually at least 15 hours of continuing education approved by the committee.

2. Maintain proof of the content and completion of the hours of continuing education required pursuant to subsection 1 for each supervisor of treatment it employs and each provider of treatment for at least 2 years after the hours of continuing education are completed.

Sec. 18. *1. The committee will approve a course of continuing education if the course:*

- (a) Will be taught by a qualified instructor as demonstrated by his educational, professional and teaching experience;*
- (b) Contains appropriate educational material concerning domestic violence and the treatment of an offender; and*
- (c) Requires the completion of a written evaluation of the content and presentation of the course by each provider of treatment and supervisor of treatment who is enrolled in the course.*

2. A person who wishes to offer or teach a course of continuing education must submit an application to the committee that includes, without limitation:

- (a) The name and address of the instructor of the course;*
- (b) The resume of the instructor;*
- (c) The syllabus for the course;*
- (d) Instructional materials that will be distributed in the course; and*
- (e) A statement of:*
 - (1) The purpose of the course;*
 - (2) The requirements for attendance; and*
 - (3) Whether the course requires the completion of a written evaluation of the content and presentation of the course by each provider of treatment and supervisor of treatment who is enrolled in the course.*

3. If the committee receives the application 30 days or more before its next regularly scheduled meeting, the committee will include the application on the agenda for that meeting. If the committee receives the application less than 30 days before its next regularly scheduled

meeting, the committee will include the application on the agenda for the first regular meeting of the committee that is scheduled more than 30 days after the committee receives the request.

4. Within 15 days after the committee renders its decision concerning the application, it will provide written notice of its decision to the applicant.

5. If the committee approves the course, the notice of approval will set forth:

(a) The number of hours of continuing education for which the course is approved; and

(b) The number of times the course may be offered or the date the approval for the course expires.

6. If the committee does not approve the course, the notice will include the reasons for the disapproval of the course. The applicant may, within 30 days after receiving the notice, submit a written request to the committee for reconsideration of its decision.

Sec. 19. *1. Any person may petition the committee to appear and be heard on any matter within the jurisdiction of the committee if:*

(a) He submits a petition in writing that contains a brief summary of the subject matter and the reason for bringing the matter before the committee; and

(b) Except as otherwise provided in subsection 2, the committee receives the petition at least 30 days before the meeting of the committee at which the petitioner wishes to be heard.

2. The committee may waive the requirement set forth in paragraph (b) of subsection 1.

Sec. 20. *Matters which do not affect the substantial rights of the parties may be considered and resolved by the committee or a person designated by the committee through informal conferences, meetings, agreements, stipulations or other informal action as may be appropriate under the circumstances. Such informal action is held without prejudice to the committee and formal proceedings may be instituted subsequently by the committee, or a*

person designated by the committee, for the same or related matters. If new evidence is discovered, the matter may at any time be opened again and investigated further if the circumstances so require.

Sec. 21. NAC 228.040 is hereby amended to read as follows:

228.040 “Program” means a program for the treatment of persons who commit domestic violence ~~[.]~~ *that is certified pursuant to NAC 228.100.*

Sec. 22. NAC 228.100 is hereby amended to read as follows:

228.100 1. ~~[A.]~~ *Except as otherwise provided in subsection 5, an* organization which desires to obtain a certificate for a program must submit ~~[a-written]~~ *an* application to the committee on a form provided by the committee, including, without limitation ~~[, proof that it:]~~ :

(a) Proof that the organization has satisfied the requirements of subsection ~~[2. —2.]~~ *3; and*

(b) A copy of the curriculum and the instructional materials used in the program.

2. *The application must be signed by:*

(a) The person who will manage and control the organization; and

(b) The person who will be the supervisor of treatment for the program.

3. To obtain a certificate, an organization which operates a program must:

~~(a) [Employ its personnel pursuant to the provisions of NAC 228.110;~~
~~—(b)]~~ *Employ one or more providers of [qualified treatment for] treatment who are qualified pursuant to NAC 228.110 to treat* persons who commit domestic violence;

(b) Employ at least one supervisor of treatment who is qualified pursuant to NAC 228.110 to supervise the treatment of persons who commit domestic violence;

~~(c) [Conduct counseling sessions that focus primarily on ending physical, sexual and psychological violence and hold the person who committed domestic violence accountable for his violence and for changing his violent behavior;~~

~~—(d) Satisfactorily use a safety plan, a control plan, a client contract, an intake evaluation and discharge criteria;~~

~~—(e) Provide treatment program for] Satisfy the requirements of NAC 228.010 to 228.150, inclusive, and sections 2 to 18, inclusive, of this regulation.~~

(d) Provide treatment to persons who have been convicted of a first offense that constitutes domestic violence within the immediately preceding 7 years which includes, at a minimum, weekly counseling sessions which ~~[are conducted for only one gender and which]~~ meet not less than 1 1/2 hours per week for not less than 6 months;

~~[(f) Provide a treatment program for] and~~

(e) Provide treatment to persons who have been convicted of a second offense that constitutes domestic violence within the immediately preceding 7 years which includes, at a minimum, weekly counseling sessions which ~~[are conducted for only one gender and which]~~ meet not less than 1 1/2 hours per week for 12 months . ~~;~~

~~—(g) Provide a separate group counseling session for persons under the age of 18 who have committed domestic violence and are not suitable for an adult session; and~~

~~—(h) Adopt the “State of Nevada Standards of Treatment Programs for Domestic Violence Perpetrators” dated August 1997, which may be obtained from Temporary Assistance for Domestic Crisis, 2915 W. Charleston, Suite 12, Las Vegas, Nevada 89102, for the price of \$15.~~

~~—3. The committee will appoint at least one member of the committee to conduct at least annually an on-site inspection of each program that has been certified by the committee and its~~

~~facility to determine whether the organization which operates the program is complying with NAC 228.010 to 228.150, inclusive, and with the “State of Nevada Standards of Treatment Programs for Domestic Violence Perpetrators” adopted pursuant to NAC 228.120. The member appointed by the committee pursuant to this subsection will recommend, at a public meeting of the committee, whether to renew the certification of each program he inspects.]~~

4. By submitting an application pursuant to subsection 1, an applicant authorizes the committee to investigate as it determines is necessary to verify the information set forth in the application. Upon the request of the committee, the applicant must submit verification of that information.

5. An organization that operates a program certified pursuant to this section and wishes to obtain a certificate for another program may submit an application to the committee if the curriculum and instructional materials for the additional program are substantially similar to the curriculum and instructional materials used in the certified program. The application must be on a form provided by the committee and be signed by:

- (a) The person who will manage and control the organization; and*
- (b) The person who will be the supervisor of treatment for the program.*

Sec. 23. NAC 228.110 is hereby amended to read as follows:

~~228.110 1. [Except as otherwise provided in subsection 4, a person may be employed as a supervisor of treatment at a program before November 1, 1999, if he:~~

~~—(a) Possesses a master’s or doctorate degree in a field of clinical human services from an accredited college or university;~~

~~—(b) Has satisfactorily completed at least 60 hours of formal training in domestic violence which includes at least 30 hours of training in providing services to victims of domestic violence~~

~~and at least 30 hours of training in providing treatment for persons who commit domestic violence;~~

~~—(c) Has never been convicted of a crime involving moral turpitude;~~

~~—(d) Is free of violence in his own life; and~~

~~—(e) Is not currently an abuser of drugs or alcohol.~~

~~—2.—~~ Except as otherwise provided in subsection ~~[4,] 2~~, a person may be employed as a supervisor of treatment at a program ~~[on or after November 1, 1999,]~~ if he:

(a) ~~[Hs]~~ *Possesses a master's or doctorate degree in a field of clinical human services from an accredited college or university;*

(b) *Except as otherwise provided in subsection 3, is licensed in good standing in [the State of Nevada in psychology] this state:*

(1) *As a psychologist* pursuant to chapter 641 of NRS ~~[]~~;

(2) *As a marriage and family [therapy] therapist* pursuant to chapter 641A of NRS ~~[or]~~;

(3) *As a clinical social [work] worker* pursuant to chapter 641B of NRS ~~[, or is licensed in good standing to]~~; *or*

(4) *To practice medicine* pursuant to chapter 630 of NRS and practices psychiatry;

~~[(b) Possesses a master's or doctorate degree in a field of clinical human services from an accredited college or university;]~~

(c) *Has at least 2 years of experience in a supervisory capacity in the provision of services to victims of domestic violence or in the treatment of persons who commit domestic violence;*

(d) Has satisfactorily completed at least 60 hours of formal training in domestic violence which includes at least 30 hours of training in ~~[providing]~~ *the provision of* services to victims of

domestic violence and at least 30 hours of training in ~~providing treatment for~~ *the provision of treatment to* persons who commit domestic violence;

(e) Has satisfactorily completed at least 60 hours of in-service training;

~~(d)~~ *(f) Has never been convicted of a crime involving moral turpitude;*

~~(e)~~ *(g) Is free of violence in his ~~own~~ life; and*

~~(f)~~ *(h) Is not currently an abuser of drugs or alcohol.*

2. The provisions of paragraphs (c) and (e) of subsection 1 do not apply to a person who is employed as a supervisor of treatment at a program on the effective date of this regulation.

3. A person who does not comply with the requirements of paragraph (b) of subsection 1 may be employed as a supervisor of treatment at a program if:

(a) He submits a written request to the committee that includes, without limitation, a statement concerning his work history, education and experience;

(b) He participates in an interview with the committee; and

(c) The committee determines that he is qualified to be employed as a supervisor of treatment at a program.

4. Within 120 days after the committee receives a request pursuant to subsection 3, the committee will provide written notice of its approval or denial of the request to the person who submitted the request. If the committee denies the request, the notice will include the reasons for the denial of the request.

5. A person who is qualified as a supervisor of treatment pursuant to subsection 3 remains qualified as a supervisor of treatment until he is no longer employed by an organization that operates a program.

6. Except as otherwise provided in subsection ~~[4,]~~ 7, a person ~~[may be employed at a program as]~~ *is qualified as* a provider of treatment ~~[in a position other than supervisor]~~ if he:
- (a) Possesses a ~~[bachelor's degree or more advanced degree in a field of human resources from an accredited college or university;]~~ *high school diploma or general equivalency diploma;*
 - (b) Is supervised by a supervisor of treatment who is qualified pursuant to subsection 1 ~~[or 2, and such],~~ *2 or 3 and that* supervision includes, without limitation, meeting with the supervisor *of treatment* in person at least once a month and having the supervisor *of treatment* submit annual reports of satisfactory performance to the committee;
 - (c) Has satisfactorily completed at least 60 hours of in-service training in domestic violence, including at least 30 hours of training in ~~[providing]~~ *the provision of* services and treatment to victims of domestic violence;
 - (d) ~~[On or after July 1, 1998, has;]~~ *Has* satisfactorily completed at least 60 hours of approved formal training in domestic violence ~~[, in addition to the training required pursuant to paragraph (e) of this subsection;~~
~~—(e)]~~ *that includes, without limitation, at least 30 hours of training in the provision of services to victims of domestic violence and at least 30 hours of training in the provision of treatment to persons who commit domestic violence;*
 - (e) Has never been convicted of a crime involving moral turpitude;
 - ~~[(f)]~~ (f) Is free of violence in his ~~[own]~~ life; and
 - ~~[(g)]~~ (g) Is not currently an abuser of drugs or alcohol.

~~[4,]~~ 7. A person ~~[may be employed at a program although]~~ *is qualified as a provider of treatment even though* he does not meet the requirements of paragraph (a) of subsection ~~[1, paragraph (b) of subsection 2 or paragraph (a) of subsection 3, whichever is applicable,]~~ 6, if the

program is located in a county whose population is less than 50,000 and the person proves, to the satisfaction of the committee, that:

- (a) There is not ~~[more than one]~~ *another* program located within a 50-mile radius of the program, or within the city or county in which the program is located;
- (b) He possesses the necessary skills and training to perform his job; and
- (c) He has satisfied all other requirements of this section.

8. A person who is retained as an independent contractor or employed at a program pursuant to subsection 7 is qualified as a provider of treatment for 1 year after the committee approves his employment pursuant to that subsection.

9. As used in this section:

(a) "Formal training in domestic violence" means a course that is related to domestic violence and approved by the committee.

(b) "Free of violence in his life" means that a person:

- (1) Does not engage in acts of physical violence;*
- (2) Does not verbally abuse, threaten, coerce or intimidate other persons on a regular basis;*
- (3) Does not deny personal responsibility for his actions or blame other persons for his mistakes on a regular basis; and*

(4) Lives his life in a manner that is capable of serving as a model of nonviolent behavior.

(c) "In-service training":

(1) Means participation or observation of a group counseling session that:

(I) Is conducted for offenders in a program; and

(II) Complies with the requirements of NAC 228.010 to 228.150, inclusive, and sections 2 to 18, inclusive, of this regulation.

(2) Does not include participation by a provider of treatment or a supervisor of treatment acting as a provider of treatment who conducts the group counseling session.

Sec. 24. NAC 228.130 is hereby amended to read as follows:

228.130 1. *The committee will, at least once each year, conduct an on-site inspection of each program to determine whether the organization that operates the program is in compliance with the provisions of NAC 228.010 to 228.150, inclusive, and sections 2 to 18, inclusive, of this regulation.*

2. An organization that has obtained a certificate for a program pursuant to NAC 228.100 must renew its certification each year. *If the organization was issued a provisional certificate pursuant to section 5 of this regulation before it obtained a certificate for a program pursuant to NAC 228.100, the certificate obtained pursuant to NAC 228.100 expires 1 year after the committee first issued the provisional certificate.*

3. An organization that wishes to renew its certification must submit a ~~form~~ *completed application* for renewal to the committee ~~;~~
~~—2.] at least 30 days before the certificate expires.~~

4. The certificate ~~must~~ *will* be renewed if the committee determines that:

(a) *The application for renewal is complete;*

(b) The organization which operates the program has satisfied the requirements of subsection ~~2]~~ *3* of NAC 228.100; ~~and~~

~~—(b)] (c)~~ The program has passed the inspection of the committee conducted pursuant to subsection ~~[3 of NAC 228.100.]~~ *1;*

(d) The organization which operates the program has submitted:

(1) Proof of completion of the hours of continuing education required by section 17 of this regulation; and

(2) The annual report required by section 8 of this regulation.

5. If the documents described in paragraphs (a) and (d) of subsection 4 are not received by the committee on or before the expiration date of the certificate, the certificate becomes delinquent and the committee will, within 30 days after the certificate becomes delinquent, send a notice to that effect by certified mail, return receipt requested, to the last known address of the organization as indicated in the records of the committee.

6. If a document described in paragraph (a) or (d) of subsection 4 is deposited with the United States Postal Service, it shall be deemed received by the committee on the date indicated on the post office cancellation mark stamped upon the envelope containing the document if:

(a) The envelope is properly addressed to the committee; and

(b) That date is earlier than the actual receipt of that document.

7. The organization may renew the certificate within 90 days after the certificate becomes delinquent if the organization complies with the requirements set forth in subsection 4.

8. If a certificate is not renewed within 90 days after the certificate becomes delinquent, the certificate expires without further notice or a hearing and the committee will remove the program from the list of programs that it provides to the courts of this state.

9. If a certificate expires pursuant to subsection 8, the organization which operated the program may reapply for certification of the program pursuant to NAC 228.100.

Sec. 25. NAC 228.140 is hereby amended to read as follows:

228.140 The committee may refuse to issue or renew a certificate ~~[,]~~ *for a program* or may revoke or suspend a certificate or place a ~~[certified]~~ program on probation for a specified period if:

1. The organization that operates the program has not complied with NAC 228.010 to 228.150, inclusive, ~~[or with the “State of Nevada Standards of Treatment Programs for Domestic Violence Perpetrators” adopted pursuant to NAC 228.120;]~~ *and sections 2 to 18, inclusive, of this regulation;*
2. The organization that operates the program has obtained a certificate or any other license by fraudulent misrepresentation;
3. A staff member of the program has committed gross malpractice in his actions or omissions related to the program;
4. A staff member of the program, while ~~[on]~~ *at* a facility of the program or while performing any work for the program, has been intoxicated or has used or possessed a controlled substance without a prescription;
5. A staff member of the program has engaged in violent behavior or a crime involving moral turpitude;
6. A state or other regulatory board has taken disciplinary action against a staff member of the program;
7. The organization that operates the program or a staff member of the program has engaged in unethical practice in the treatment of persons who commit domestic violence;
8. *The organization that operates the program fails to report a change in the program as required by section 9 of this regulation;*

9. The organization that operates the program or a staff member of the program fails to comply with a stipulation, agreement, order, advisory opinion or declaratory order issued by the committee;

10. The program provides treatment to an offender after its certificate has expired;

~~9.~~ *11. The organization that operates the program or a staff member of the program has engaged in any other unjust practice, method or treatment which the committee determines warrants such an action; or*

~~10.~~ *12. Any combination of the above actions set forth in subsections 1 to 11, inclusive.*

Sec. 26. NAC 228.150 is hereby amended to read as follows:

228.150 *1.* The committee may ~~refuse to issue or renew~~:

(a) Refuse to issue a certificate ~~or may revoke~~ *for a program;*

(b) Refuse to renew a certificate for a program for failure to comply with the provisions of paragraph (b) or (c) of subsection 4 of NAC 228.130; or

(c) Revoke or suspend a certificate ~~or~~ *for a program,*

FLUSH only upon 20 days' written notice provided to any person who may be affected by such an action.

2. The notice ~~must~~ *will* contain a brief statement of the reasons for the contemplated action of the committee and designate the time and place of a hearing to be held before any final action is taken by the committee.

Sec. 27. NAC 228.300 is hereby amended to read as follows:

228.300 The provisions of NAC 228.300 to 228.640, inclusive, *and sections 19 and 20 of this regulation* govern all practice and procedure before the committee whenever the committee

is acting as an agency, as that term is defined in NRS 233B.031, including, without limitation, whenever the committee is authorized by law to make regulations or to determine contested cases.

Sec. 28. NAC 228.320 is hereby amended to read as follows:

228.320 1. Parties to proceedings before the committee must be styled ~~["applicant,"]~~ "petitioner," "complainant," "respondent," "intervener" or "interested party," according to the nature of the proceedings and the relationship of the parties.

2. ~~["Any person who applies or petitions for any certificate from the committee must be styled "applicant."]~~

~~—3.]~~ Any person who petitions for affirmative relief, other than a complainant, must be styled "petitioner."

~~4.]~~ 3. A person who complains to the committee of any act or of any person must be styled "complainant."

~~5.]~~ 4. Any person against whom ~~any~~ *a formal* complaint is filed or investigation is initiated must be styled "respondent."

~~6.]~~ 5. Any person, other than the original parties to the proceeding, who may be directly and substantially affected by the proceeding must, upon securing an order from the committee or presiding officer granting leave to intervene, be styled "intervener." The granting of leave to intervene, or otherwise appear, in any matter or proceeding, is not construed to be a finding or determination of the committee that the party will or may be a party aggrieved by any ruling, order or decision of the committee for purposes of a court review or appeal.

~~7.]~~ 6. Any person who believes that he may be affected by a proceeding, but who does not seek to participate in a proceeding, must be styled "interested party."

Sec. 29. NAC 228.370 is hereby amended to read as follows:

228.370 ~~{A person}~~

1. *An attorney appearing in a ~~[proceeding shall conform to the recognized standards of ethical and courteous conduct.]~~ hearing before the committee shall ensure that his conduct complies with the Nevada Rules of Professional Conduct.*
2. *All persons appearing in a hearing before the committee shall conform to the standards of ethical and courteous conduct required in the courts of this state.*
3. *If a person fails to conform his conduct to the standards required by this section, the committee may:*
 - (a) *Limit the evidence presented by that person; or*
 - (b) *Exclude that person or his representative from the hearing.*
4. *Any action taken by the committee pursuant to this section and the reasons for that action will be stated on the record.*

Sec. 30. NAC 228.380 is hereby amended to read as follows:

- 228.380 1. Pleadings before the committee ~~[must be styled “applications,” “petitions,” “accusations” and “answers.”]~~, including, without limitation, a request for a declaratory order, an advisory opinion or the adoption, filing, amendment or repeal of a regulation, must:
- (a) *Bear the caption “Before the Committee on Domestic Violence in the matter of”; and*
 - (b) *Be signed by the party who submits the pleading or his legal representative.*
2. *A request for action by the committee, other than for an action set forth in subsection 1, must include the full name and mailing address of the person who makes the request and be signed by that person.*

3. The committee may, ~~[when]~~ *if* substantial rights of the parties are not violated, allow any pleading to be amended or corrected, or allow any omission to be supplied.

~~[3.]~~ 4. All pleadings ~~[must]~~ *will* be liberally construed with a view to effect justice between the parties. The committee or presiding officer will, at every stage of any proceeding, disregard errors or defects in the pleadings or proceedings that do not affect the substantial rights of the parties.

Sec. 31. NAC 228.420 is hereby amended to read as follows:

228.420 1. A motion is a request directed at the authority of the committee to act on a given subject.

2. All motions, unless made during a hearing, must be in writing.

3. All written motions must ~~[set]~~ :

(a) *Set* forth the nature of relief sought and the grounds for the relief requested ~~[~~

~~—4.— A party desiring to oppose a motion may serve and file a written response to the motion.]~~
; and

(b) *Be served on the opposing party and the committee at least 10 days before the time set for the hearing on the motion.*

4. An opposing party may file a written response to a motion within 7 days after the receipt of the motion by serving the written response on all parties and the committee, but in no case may a written response be filed less than 3 days before the time set for the hearing on the motion except for good cause shown and with the permission of the committee.

5. The moving party may serve and file a written reply only if an opposition to the motion has been served and filed.

6. A decision ~~[must]~~ *will* be rendered without oral argument unless oral argument is ~~[requested]~~ *ordered* by the committee . ~~[, in which event the committee will set a date and time for]~~ *If oral argument is so ordered, the parties must be prepared to present oral argument at the time of the* hearing.

Sec. 32. NAC 228.430 is hereby amended to read as follows:

228.430 An original and two legible copies of all pleadings, motions or other papers must be filed with the committee. The committee , *its counsel or the chairman of the committee* may direct that a copy of all pleadings and motions be made available by the party filing them to any other person who ~~[the committee determines]~~ may be affected by the proceeding and who desires copies.

Sec. 33. NAC 228.440 is hereby amended to read as follows:

228.440 1. All notices, documents, advisory opinions and declaratory orders required to be served by the committee will be served *in person or* by mail . ~~[, and]~~ *If the service is by mail, the service is* complete when a true copy of the document, properly addressed and stamped, is deposited ~~[in] with~~ the United States ~~[mail. Parties will be notified either personally or by certified mail of any adverse decision or order.]~~ *Postal Service. The notice, document, advisory opinion or declaratory order must be addressed to the last known address of the party as indicated in the records of the committee.*

2. All documents required to be served by parties must be served *in person or* by mail . ~~[, and]~~ *If the service is by mail, the* service is complete when a true copy of the document, properly addressed and stamped, is deposited ~~[in] with~~ the United States ~~[mail.]~~ *Postal Service.*

Sec. 34. NAC 228.450 is hereby amended to read as follows:

228.450 ~~[There must appear on all documents required to be served by the committee, other than decisions or orders, an acknowledgment of service or the following certificate:~~

~~—I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding (by delivering a copy in person to) (by mailing a copy, properly addressed, with postage prepaid, to):~~

~~—Dated at this day of, 19.....~~

.....
Signature]

Each document served by the committee or any party to a proceeding of the committee must include an acknowledgement of service or proof of service.

Sec. 35. NAC 228.460 is hereby amended to read as follows:

228.460 1. ~~[Upon its own initiative, or following receipt of a verified complaint, the committee may cause an accusation to be filed]~~ *The committee will initially consider any claim of misconduct relating to a program as an informal complaint.*

2. Following the receipt of an informal complaint, a person designated by the committee shall provide written notice of the informal complaint to the organization that operates the program and any staff member of the program identified in the informal complaint. The notice must include:

(a) A summary of the allegations stated in the informal complaint; and

(b) A statement that the organization may file a written response to the allegations in the informal complaint with the committee within 30 days after receipt of the notice.

3. If after an investigation and a review of any information received by the committee concerning the informal complaint, the person designated by the committee determines that the informal complaint alleges sufficient facts to warrant further proceedings, that person shall:

(a) Cause a formal complaint to be prepared for consideration by the committee; and

(b) Set the formal complaint for hearing.

4. A formal complaint must contain a statement of facts alleging one or more grounds for action arising pursuant to NAC 228.140. Facts constituting grounds for action must be stated with such particularity as to enable the respondent to identify the actions in question.

~~[2.]~~ *5.* All applicable citations, statutes, regulations or orders of the committee must be stated together with the dates on which the acts or omissions *are alleged to have* occurred.

~~[3.]~~ *6.* If more than one cause of action is alleged, each cause of action must be stated and numbered separately.

7. A formal complaint may be amended at any time. The committee will grant a continuance if the amendment materially alters the formal complaint or a respondent demonstrates an inability to prepare for the case in a timely manner.

Sec. 36. NAC 228.470 is hereby amended to read as follows:

228.470 1. All proceedings and investigations after the filing of ~~[a]~~ *an informal* complaint are confidential, except to the extent necessary for the conduct of an investigation, until the committee determines to proceed with ~~[disciplinary action.]~~ *a formal complaint*. If the committee dismisses the *informal* complaint, the proceedings remain confidential. If the

committee proceeds with ~~[disciplinary action,]~~ *a formal complaint*, confidentiality concerning the proceedings is ~~[no longer]~~ *not* required, except that any information which may establish the identify of a victim of domestic violence, including, without limitation, his address or telephone number, the address or telephone number of his employer, the address or location of his child, or the school attended by his child is confidential and may not be disclosed by the committee.

2. If the committee conducts an investigation upon ~~[a]~~ *an informal* complaint against a ~~[certified]~~ program, the committee will not limit the scope of its investigation to the matters set forth in the *informal* complaint but may extend the investigation to any additional matters that appear to constitute a violation of any provision of this chapter.

3. If, after its investigation, the committee dismisses the *informal* complaint, the dismissal does not operate as a limitation on or a deterrent to any subsequent investigation or other action by the committee.

4. ~~[Whenever]~~ *If* the committee directs that an investigation be conducted into a matter for which the committee may take action pursuant to NAC 228.140, the results of the investigation or any information relating to the investigation will not be examined by, and must not be disclosed to, the members of the committee who will hear the matter before the hearing of the committee on the matter.

Sec. 37. NAC 228.490 is hereby amended to read as follows:

228.490 1. Hearings must be held before the committee. A quorum of the committee is sufficient to convene any hearing.

2. ~~[Notice]~~ *Except as otherwise provided in subsection 3, notice* of the hearing will include:

(a) A statement of the time, place and nature of the hearing;

- (b) A statement of the legal authority and jurisdiction under which the hearing is to be held;
- (c) A reference to the particular sections of the statutes and regulations involved; and
- (d) A short and plain statement of the matters asserted.

3. *If a notice of hearing and a formal complaint are served at the same time, the notice and complaint may be considered together to satisfy the requirements of subsection 2.*

4. Notice of the hearing will be served at least 20 days before the time set for ~~it~~ *the hearing*. A hearing that has previously been continued may be reset on notice of not less than 10 days.

~~4~~ 5. Hearings will be held at such place in ~~the~~ *this* state as may be designated by the committee in the notice of hearing.

Sec. 38. NAC 228.500 is hereby amended to read as follows:

228.500 1. The committee will grant a continuance upon a joint stipulation of the parties or the existence of emergency conditions or for good cause shown upon a written request filed with the committee not later than 10 days before the hearing and physically served upon the opposing party at least 10 days before the hearing. "Good cause shown" will be narrowly construed. ~~[Any party requesting a continuance for good cause shown shall appear on the date set for the hearing and be prepared to proceed.]~~

2. The chairman of the committee may grant a request for a continuance or for an extension of time if he determines that to do so would not substantially prejudice the rights of any other party.

Sec. 39. NAC 228.510 is hereby amended to read as follows:

228.510 1. If a party fails to appear at a hearing scheduled by the committee and no continuance has been requested or granted, the committee may hear the evidence of such

witnesses as may have appeared and the committee may proceed to consider the matter and dispose of it on the basis of the evidence before it.

2. If, because of accident, sickness or other reasonable cause, a person fails to appear for a hearing scheduled by the committee or fails to request a continuance, the person may, within a reasonable time not to exceed 15 days after the date of the hearing, apply to the ~~{secretary of the}~~ committee to reopen the proceedings. The committee, upon finding *sufficient* cause, ~~{sufficient and reasonable,}~~ will immediately fix a *new* time and place for hearing and give the ~~{person}~~ *respondent* notice thereof. At the time and place fixed, a hearing must be held at which the ~~{person}~~ *respondent* may testify in his own behalf or present such other evidence as may be beneficial to his cause.

3. Witnesses who have previously testified are not required to appear at the second hearing unless so directed by the committee.

Sec. 40. NAC 228.550 is hereby amended to read as follows:

228.550 1. ~~{Evidence}~~ *Unless otherwise ordered by the committee, evidence* will be received in the following order:

(a) Upon ~~{applications and petitions:}~~

~~—(1) Applicant or petitioner.~~

~~—(2) Staff of a petition:~~

(1) The petitioner.

(2) A person designated by the committee.

(3) ~~{Intervener:}~~ *The intervener.*

(4) Rebuttal by ~~{applicant or petitioner:}~~

~~—(b) Upon accusations:~~

~~(1) The committee.~~

~~(2) Respondent.] the petitioner.~~

(b) Upon a formal complaint:

(1) The counsel for the committee.

(2) The respondent.

(3) Rebuttal by *the counsel for the* committee.

(4) Surrebuttal by the respondent.

2. This procedure may be modified by the committee or *its* presiding member.

3. Closing statements by the parties may be allowed at the discretion of the presiding member of the committee.

Sec. 41. NAC 228.570 is hereby amended to read as follows:

228.570 ~~{With the approval of the presiding member, the}~~ *The* parties may stipulate as to any fact at issue ~~{, either}~~ by written stipulation introduced in evidence as an exhibit or by oral statement shown upon the record. Any stipulation is binding upon all parties to the stipulation, and it may be treated as evidence at the hearing. The presiding member *of the committee* may require proof by evidence of the facts stipulated to, notwithstanding the stipulation of the parties.

Sec. 42. NAC 228.580 is hereby amended to read as follows:

228.580 The committee may take official notice of judicially cognizable facts and of recognized technical or scientific facts within the specialized knowledge of the committee, including, without limitation, the following matters:

1. Regulations, official reports, decisions, orders, standards or records of the committee , ~~{and}~~ any *other* regulatory agency of this state or any court of record.

2. Matters of common knowledge and technical or scientific facts of established character ~~{~~

~~—3.— Official documents, if pertinent, when properly introduced into the record of formal proceedings by reference. Reference to the documents must be made by the party offering them. The documents must be published and generally circulated so that an opportunity is given to all the parties of interest to the hearing to examine them and present rebuttal evidence.] *if their authenticity and correctness cannot be reasonably questioned.*~~

Sec. 43. NAC 228.590 is hereby amended to read as follows:

228.590 The committee may request briefs to be filed within such time as may be allowed by the committee. ~~[The]~~ A brief must be accompanied by *an acknowledgement of service or* proof of service in accordance with NAC 228.450.

Sec. 44. NAC 228.600 is hereby amended to read as follows:

228.600 1. A decision or order that is adverse to a party in any hearing will be in writing or stated in the record and will include findings of fact and conclusions of law.

2. Orders or decisions will be rendered within 90 days after the completion of the hearing unless a shorter time is required by statute.

3. A proceeding stands as submitted for decision by the committee after the taking of evidence, the filing of *any* briefs or the presentation of any oral argument ~~[permitted]~~ *authorized* by the committee ~~[-~~

~~—4.— Decisions and orders], *whichever occurs last.*~~

4. *An adverse decision or order* of the committee will be served by sending a copy of the decision or order by certified mail to the parties of record or their representatives, or by personal service. Additional copies of orders may be obtained upon written request.

Sec. 45. NAC 228.610 is hereby amended to read as follows:

228.610 1. Within 15 days after ~~[the rendering of a decision or order by]~~ the committee ~~[,]~~ *has rendered a decision or issued an order*, the aggrieved party may apply for a rehearing by filing a written petition for *a* rehearing setting forth the grounds for the petition. *The committee will consider the following grounds for a rehearing:*

(a) *A material mistake or fraud affecting the decision; or*

(b) *The discovery of material evidence that was previously unavailable.*

2. The committee will act upon the petition ~~[within 30 days after the effective date of the order or decision upon which the rehearing is requested.]~~ *at the next regularly scheduled meeting which occurs 30 days or more after the petition is filed.* If no action is taken by the committee within the time specified, the petition shall be deemed denied and the decision of the committee is final.

3. The committee, on its ~~[own]~~ motion, may order a rehearing within ~~[30 days]~~ *6 months* after its decision if mistake, fraud or misconception of facts existed in the forming of its original decision.

4. Rehearings ~~[must]~~ *will* be conducted in accordance with the procedure for hearings.

5. The filing of a petition for rehearing does not excuse compliance with the order or decision, or suspend the effectiveness of the order unless otherwise ordered by the committee.

Sec. 46. NAC 228.620 is hereby amended to read as follows:

NAC 228.620 1. Upon the filing of a petition for judicial review of a final decision in a contested case, the committee will cause a record to be made in accordance with subsection 6 of NRS 233B.121.

2. Persons desiring copies of the record may obtain ~~[them]~~ *the copies* from the office of the committee upon payment of ~~[the fees assessed by the committee.]~~ *the cost to copy the record.*

Sec. 47. NAC 228.630 is hereby amended to read as follows:

228.630 1. The committee will consider petitions for declaratory orders or advisory opinions relating to the applicability of any statutory provision, regulation or decision of the committee.

2. All petitions for declaratory orders and advisory opinions must be in writing ~~using substantially the format of Form No. 1.*~~

~~—3.—Upon] and include a statement of the reasons for the request.~~

3. *Within 60 days after the* submission of a petition for a declaratory order or advisory opinion, the committee will ~~[, within 30 days, either]~~ deny the petition in writing, stating its reasons, or ~~[initiate proceedings in accordance with NRS 233B.060.~~

~~—*See adopting agency for form.] grant the petition. If the petition is granted, the chairman of the committee, its counsel or a member of the committee designated by the committee shall prepare a draft of the declaratory order or advisory opinion for adoption by the committee at its next regularly scheduled meeting.~~

Sec. 48. NAC 228.640 is hereby amended to read as follows:

228.640 1. Any interested person may petition the committee *in writing* requesting the adoption, amendment or repeal of any regulation. The petition must include relevant data, views and arguments.

2. ~~[All petitions]~~ *A petition* requesting the adoption, amendment or repeal of ~~[any regulation must be in writing using the format of Form No. 2.*]~~ *a regulation shall be deemed to be submitted to the committee 30 days after the petition is first placed on the agenda of a meeting of the committee.*

3. Within 30 days after the submission of the petition, the committee will ~~either~~ deny the petition in writing, stating its reasons, or initiate proceedings in accordance with NRS 233B.060.

~~[*See adopting agency for form.]~~

Sec. 49. NAC 228.120, 228.390, 228.400, 228.410, 228.480 and 228.520 are hereby repealed.

TEXT OF REPEALED SECTIONS

228.120 Adoption by reference of provisions of “State of Nevada Standards of Treatment Programs for Domestic Violence Perpetrators.” (NRS 228.470) The provisions set forth in the “State of Nevada Standards of Treatment Programs for Domestic Violence Perpetrators” dated August 1997, are hereby adopted by reference and incorporated herein. A copy of the publication may be obtained from Temporary Assistance for Domestic Crisis, 2915 W. Charleston, Suite 12, Las Vegas, Nevada 89102, for the price of \$15.

228.390 Applications. (NRS 228.470) All pleadings requesting a certificate from the committee must be styled “applications.” The full name and address of the applicant and such facts or exhibits as may be required by statute or this chapter must be contained in an application. The application must be signed by the applicant.

228.400 Petitions. (NRS 228.470) All pleadings praying for affirmative relief, other than applications, accusations or answers, including requests for declaratory orders, advisory opinions and requests for the adoption, filing, amendment or repeal of any regulation, must be styled

“petitions.” All petitions must set forth the full name and post office address of the petitioner and must be signed by the petitioner.

228.410 Verification. (NRS 228.470) All pleadings must be verified.

228.480 Request for hearing; filing of answer. (NRS 228.470)

1. A party or parties against whom an accusation is filed must, within 15 days after receipt of the accusation, notify the committee in writing as to whether a hearing on the accusation is requested. Failure to request a hearing is a waiver of the right to hearing. The committee may allow a hearing notwithstanding the fact that it was not requested within 15 days.

2. If a hearing is requested, the respondent shall file an answer within 20 days after receipt thereof.

228.520 Conduct at hearings. (NRS 228.470) All parties to hearings, their counsel and spectators shall conduct themselves in a respectful manner.