

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

LCB File No. R228-03

January 14, 2004

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

AUTHORITY: §§1-13, Section 23.5 of Assembly Bill No. 156 of the 72nd Session of the Nevada Legislature, chapter 284, Statutes of Nevada 2003, at page 1469 (NRS 178.417).

Section 1. Chapter 178 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this act.

Sec. 2. *As used in sections 2 to 13, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Administrator” means the Administrator of the Division.*

Sec. 4. *“Certificate” means a certificate issued by the Division to provide a report or an evaluation concerning the competency of a defendant to stand trial.*

Sec. 5. *“Clinical social worker” means a person who is licensed to engage in social work as a clinical social worker pursuant to the provisions of chapter 641B of NRS.*

Sec. 6. *“Division” means the Division of Mental Health and Development Services of the Department of Human Resources.*

Sec. 7. *“Evaluator of competency” means a person who has been issued a certificate.*

Sec. 8. *“Psychiatrist” means a person who is:*

1. Licensed to practice medicine in this state pursuant to the provisions of chapter 630 of NRS; and

2. Certified by the American Board of Psychiatry and Neurology, Inc.

Sec. 9. “Psychologist” means a person who is licensed to engage in the practice of psychology pursuant to the provisions of chapter 641 of NRS.

Sec. 10. 1. Each person desiring a certificate must make application to the Division upon a form, and in a manner, prescribed by the Division.

2. The application must be accompanied by:

(a) Evidence satisfactory to the Division that the applicant:

(1) Is a clinical social worker, psychiatrist or psychologist;

(2) Attended and completed the course of training established pursuant to section 11 of this regulation; and

(3) Passed the examination administered by the Division pursuant to the provisions of subsection 4 of section 23.5 of Assembly Bill No. 156 of the 72nd Session of the Nevada Legislature, chapter 284, Statutes of Nevada 2003, at page 1469 (NRS 178.417); and

(b) An application fee of \$25.

3. After receiving an application and the accompanying evidence from an applicant, the Division will:

(a) Evaluate the application and accompanying evidence and determine whether the applicant is qualified pursuant to this section to be issued a certificate; and

(b) Issue a written statement to the applicant of its determination.

4. If the Division determines that the applicant is not qualified to be issued a certificate pursuant to subsection 3, the applicant may appeal the decision of the Division to the Administrator.

5. A certificate issued pursuant to the provisions of this section must be renewed every 2 years.

Sec. 11. 1. *The Division will establish a course of training for persons desiring the initial issuance of a certificate.*

2. The course of training must include instruction on:

(a) The statutes and case law relevant to providing a report or an evaluation concerning the competency of a defendant to stand trial;

(b) The elements of conducting a clinical interview or clinical testing relating to providing a report or an evaluation concerning the competency of a defendant to stand trial;

(c) The elements of preparing an evaluation report relating to providing a report or an evaluation concerning the competency of a defendant to stand trial;

(d) The ethical standards and considerations relevant to providing a report or an evaluation concerning the competency of a defendant to stand trial; and

(e) The potential impact on the defendant, the court and the treatment system of a recommendation concerning the competency of a defendant to stand trial.

Sec. 12. 1. *To renew a certificate, an evaluator of competency shall submit an application for the renewal of a certificate to the Division upon a form, and in a manner, prescribed by the Division.*

2. The application for the renewal of a certificate must be accompanied by:

(a) Evidence satisfactory to the Division that the evaluator of competency completed the requirements for the renewal of a certificate established pursuant to section 13 of this regulation; and

(b) A renewal fee of \$25.

3. After receiving an application for the renewal of a certificate and the accompanying evidence from an evaluator of competency, the Division will:

(a) Evaluate the application for the renewal of a certificate and accompanying evidence and determine whether the evaluator of competency has met the requirements for the renewal of a certificate established pursuant to section 13 of this regulation; and

(b) Issue a written statement to the applicant of its determination.

4. If the Division determines that the evaluator of competency has not met the requirements for the renewal of a certificate, the evaluator of competency may appeal the decision of the Division to the Administrator.

Sec. 13. 1. *On or before December 31 of each year, the Division will establish the requirements for the renewal of a certificate for the following year.*

2. The requirements for renewal of a certificate may include:

(a) Attending and completing a course of instruction relating to providing a report or an evaluation concerning the competency of a defendant to stand trial;

(b) Attending courses of continuing education;

(c) Conducting a review of sample evaluations concerning the competency of a defendant to stand trial; or

(d) Passing an examination relating to providing a report or an evaluation concerning the competency of a defendant to stand trial.