

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

LCB File No. R001-08

Effective August 26, 2008

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

AUTHORITY: §§1 and 4-9, NRS 228.470; §§2 and 3, NRS 200.485 and 228.470.

A REGULATION relating to domestic violence; requiring an organization that operates a treatment program for domestic violence offenders to retain records relating to an offender for a certain period; amending the requirements for the certification of such treatment programs; amending the qualifications to become a supervisor of treatment or a provider of treatment; amending provisions concerning the duties of supervisors of treatment and organizations that operate a treatment program; amending the requirements for the conduct of group counseling sessions; and providing other matters properly relating thereto.

Section 1. Chapter 228 of NAC is hereby amended by adding thereto a new section to read as follows:

An organization that operates a program shall retain all records relating to an offender for 7 years after the last date of treatment of that offender.

Sec. 2. NAC 228.100 is hereby amended to read as follows:

228.100 1. Except as otherwise provided in subsection 4, an organization which desires to obtain a certificate for a program must submit an application to the Committee on a form provided by the Committee, including, without limitation:

- (a) Proof that the organization has satisfied the requirements of subsection 3; and
- (b) A copy of the curriculum and the instructional materials that will be used in the program and that satisfy the requirements set forth in NAC 228.185.

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, or retain as an independent contractor, one or more providers of treatment who are qualified pursuant to NAC 228.110 to treat persons who commit domestic violence;

(b) Employ, or retain as an independent contractor, 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) Satisfy the requirements of NAC 228.010 to 228.225, inclusive ~~§~~, *and section 1 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* :

(1) If the offender resides 70 miles or less from the nearest program, weekly counseling sessions which meet not less than 1 1/2 hours per week for not less than 6 months; ~~and~~ *or*

(2) If the offender resides more than 70 miles from the nearest program, counseling sessions which meet once every other week for not less than 6 months and which amount to not less than 6 hours of counseling per month;

(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* :

(1) If the offender resides 70 miles or less from the nearest program, weekly counseling sessions which meet not less than 1 1/2 hours per week for 12 months ~~H~~ ; or

(2) If the offender resides more than 70 miles from the nearest program, counseling sessions which meet once every other week for 12 months and which amount to not less than 6 hours of counseling per month;

(f) Prohibit persons who have been convicted of a first offense that constitutes domestic violence within the immediately preceding 7 years from having more than four unexcused absences within a period of 6 months; and

(g) Prohibit persons who have been convicted of a second offense that constitutes domestic violence within the immediately preceding 7 years from having more than eight unexcused absences within a period of 12 months.

4. In lieu of complying with the provisions of subsections 1 and 2, an organization that operates a program certified pursuant to this section and wishes to obtain a certificate for another program may submit an abbreviated 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. An application submitted pursuant to this subsection 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 additional program.

5. By submitting an application pursuant to subsection 1 or 4, 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.

Sec. 3. NAC 228.104 is hereby amended to read as follows:

228.104 1. The Committee will certify, for 1 year, a program that is located in another state and that provides treatment to an offender who is ~~is a resident of that state and was ordered to participate in the program~~ **authorized** by a court in this **State to participate in a program located in that** state if the program:

- (a) Is certified by and in good standing with a regulatory agency in that state; or
- (b) Is not certified by a regulatory agency in that state but is approved by the court that sentenced the offender.

2. Upon request, the Committee will renew the certification of such a program.

Sec. 4. NAC 228.110 is hereby amended to read as follows:

228.110 1. Except as otherwise provided in subsection ~~2~~ **3**, a person may be employed, or retained as an independent contractor, in the position of a supervisor of treatment at a program if he:

(a) 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~~ **4**, is licensed in good standing in this ~~state~~ **State**:

- (1) As a psychologist pursuant to chapter 641 of NRS;
 - (2) As a marriage and family therapist pursuant to chapter 641A of NRS;
 - (3) As a clinical social worker pursuant to chapter 641B of NRS; or
 - (4) To practice medicine pursuant to chapter 630 of NRS and practices psychiatry;
- (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 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 satisfactorily completed at least 60 hours of in-service training;

(f) Has never ~~been~~ :

(1) Entered a plea of guilty, guilty but mentally ill or nolo contendere to;

(2) Been found guilty or guilty but mentally ill of; or

(3) Been convicted of ,

↳ a crime ~~[involving moral turpitude;]~~ *which demonstrates his unfitness to act as a supervisor of treatment, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal;*

(g) Is free of violence in his life; and

(h) Is not currently an abuser of *prescription* drugs or alcohol ~~H~~ *or a user of illegal drugs.*

2. *The Committee may review the qualifications of a person who may be employed, or retained as an independent contractor, in the position of a supervisor of treatment at a program, to determine whether the person satisfies the requirements of paragraphs (g) and (h) of subsection 1.*

3. The provisions of paragraphs (c) and (e) of subsection 1 do not apply to a person who is employed, or retained as an independent contractor, in the position of a supervisor of treatment at a program on August 1, 2000.

~~{3}~~ 4. A person who does not comply with the requirements of paragraph (b) of subsection 1 may be employed, or retained as an independent contractor, in the position of 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, or retained as an independent contractor, in the position of a supervisor of treatment at a program.

~~{4}~~ 5. Within 120 days after the Committee receives a request pursuant to subsection ~~{3}~~ 4, 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}~~ 6. A person who is employed, or retained as an independent contractor, in the position of a supervisor of treatment at a program pursuant to subsection ~~{3}~~ 4 is qualified as a supervisor of treatment until he is no longer employed, or retained as an independent contractor, by an organization that operates a program if he meets the annual continuing education requirements set forth in NAC 228.210.

~~{6}~~ 7. Except as otherwise provided in subsection ~~{7}~~ 9, a person may be employed, or retained as an independent contractor, in the position of a provider of treatment at a program if he:

(a) Possesses a bachelor's degree or more advanced degree;

(b) Is supervised by a supervisor of treatment who is qualified pursuant to subsection 1, ~~{2}~~ 3 or ~~{3}~~ 4 and that supervision includes, without limitation, meeting with the supervisor of

treatment in person at least once each 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 formal training in domestic violence 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;

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

(e) Has never ~~been~~ :

(1) Entered a plea of guilty, guilty but mentally ill or nolo contendere to;

(2) Been found guilty or guilty but mentally ill of; or

(3) Been convicted of ,

↪ a crime ~~[involving moral turpitude;]~~ *which demonstrates his unfitness to act as a provider of treatment, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal;*

(f) Is free of violence in his life; and

(g) Is not currently an abuser of *prescription* drugs or alcohol ~~;~~
~~—7.]~~ *or a user of illegal drugs.*

8. The Committee may review the qualifications of a person who may be employed, or retained as an independent contractor, in the position of a provider of treatment at a program, to determine whether the person satisfies the requirements of paragraphs (f) and (g) of subsection 7.

9. A person may be employed, or retained as an independent contractor, in the position of a provider of treatment at a program although he does not meet the requirements of paragraph (a)

of subsection ~~{6.}~~ 7, 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 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.}~~ 10. A person who is employed, or retained as an independent contractor, in the position of a provider of treatment at a program pursuant to subsection ~~{7.}~~ 9 is qualified as a provider of treatment for a period which ends on the expiration date of the certificate issued for the program pursuant to NAC 228.100.

~~{9.—One-third}~~

11. *One-half* of the in-service training required by this section may be completed by observing ~~{a videotape of}~~ a group counseling session *via distance media* if:

- (a) The in-service training is completed in a county whose population is less than 50,000 and which is located more than 50 miles from a program;
- (b) The ~~{videotape}~~ *distance media* has been approved by the Committee; and
- (c) The person receiving the in-service training meets in person *or via telephone* with at least one provider of treatment or supervisor of treatment who is familiar with the ~~{contents of the videotape}~~ *group counseling session that was observed* to discuss ~~{the}~~ *that* group counseling session . ~~{that was recorded on the videotape.}~~

~~—10.}~~ 12. As used in this section:

- (a) *“Distance media” means video, computer, television, correspondence, the Internet or other electronic means of communication, or any combination thereof.*

(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.

~~(b)~~ **(c)** “In-service training”:

- (1) Means participation or observation of a group counseling session that:
 - (I) Is conducted for offenders in a program;
 - (II) Complies with the requirements of NAC 228.010 to 228.225, inclusive ~~(f)~~, *and section 1 of this regulation*; and
 - (III) Includes a discussion reviewing the group counseling session that is conducted in person with both providers of treatment or the provider of treatment and the supervisor of treatment acting as a provider of treatment who conducted the group counseling session.
- (2) Does not include the conducting of a group counseling session by a provider of treatment or a supervisor of treatment acting as a provider of treatment.

Sec. 5. NAC 228.115 is hereby amended to read as follows:

228.115 The organization that operates a program shall ensure that each supervisor of treatment:

1. Meets individually at least once each 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 10 percent of the records of the offenders who are receiving treatment from each provider of treatment he supervises ~~and~~

and records on a form approved by the Committee each record he reviews;

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. 6. NAC 228.125 is hereby amended to read as follows:

228.125 1. Except as otherwise provided in subsection 5, an organization that operates a program shall request *, in writing,* approval from the Committee at least ~~15~~ 10 days before making any change to the information submitted pursuant to NAC 228.100, including, without limitation:

(a) An addition of a provider of treatment or supervisor 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. 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 to be held more than 30 days after the Committee receives the request.

3. 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.

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

5. If an organization that operates a program loses a provider of treatment or supervisor of treatment, the organization:

(a) Shall notify the Committee , *in writing*, of the loss within 10 days after losing the provider of treatment or supervisor of treatment; and

(b) May replace the provider of treatment or supervisor of treatment immediately if the organization requests , *in writing*, approval from the Committee within 10 days after replacing the provider of treatment or supervisor of treatment.

6. If an organization that operates a program is no longer in compliance with the provisions of NAC 228.010 to 228.225, inclusive, and section 1 of this regulation, because the only supervisor of treatment, or the only male or female provider of treatment, employed or retained at the program is no longer employed or retained at the program, the organization shall submit, within 10 days after the person ceases to be employed or retained, a written plan describing the actions the organization will take to regain compliance with the provisions of NAC 228.010 to 228.225, inclusive, and section 1 of this regulation, within 45 days after submission of the written plan.

Sec. 7. 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, revoke or suspend a certificate or place a program on probation with specified conditions for a specified period if:

1. The organization that operates the program has not complied with NAC 228.010 to 228.225, inclusive ~~[H]~~, *and section 1 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 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 *has:*
 - (a) Entered a plea of guilty, guilty but mentally ill or nolo contendere to;*
 - (b) Been found guilty or guilty but mentally ill of; or*
 - (c) Been convicted of,*

↪ a crime ~~[involving moral turpitude;]~~ *which demonstrates his unfitness to act as a staff member of the program, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal;*
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 request approval of a change in the program as required by NAC 228.125 ; ~~H~~

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; or

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.

Sec. 8. NAC 228.165 is hereby amended to read as follows:

228.165 1. An organization that operates a program shall ensure that:

(a) The treatment provided to an offender by the program is provided in a group counseling session that:

(1) Is conducted by:

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

(II) A provider of treatment and a supervisor of treatment who is acting as a provider of treatment, one of whom is male and one of whom is female; *or*

(III) One provider of treatment only if an emergency exists which prevents a group counseling session from being conducted pursuant to sub-subparagraph (I) or (II) and not more than four group counseling sessions in a period of 26 weeks, or eight group counseling sessions in a period of 52 weeks, are conducted by one provider of treatment only;

(2) Is conducted for the gender of the offenders in the group counseling session; and

(3) Except as otherwise provided in subsection 2, consists of not less than 3 offenders or more than 24 offenders.

(b) If a supervisor of treatment determines that an offender cannot be treated in a group counseling session because the offender has a physical or mental limitation that is not related to the abuse of drugs or alcohol, the offender is referred to an appropriate provider of health care or other services.

(c) A supervisor of treatment who is making a determination pursuant to paragraph (b) has provided reasonable accommodation to the known physical or mental limitations of an offender with a disability who is otherwise eligible to obtain treatment in a group counseling session, unless the supervisor of treatment can demonstrate that such accommodation would result in a fundamental alteration of the program or an undue financial or administrative burden.

(d) If an offender does not receive treatment by the program because of a determination made pursuant to paragraph (b), the supervisor of treatment notifies the court that sentenced the offender of that fact and advises the offender to do the same.

(e) Except as otherwise provided in subsection 2, a separate 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.

2. The Chairman of the Committee may waive the requirements set forth in subparagraph (3) of paragraph (a) of subsection 1 or paragraph (e) of subsection 1 if he determines that it would be impracticable or impossible for an organization that operates a program to comply with those requirements.

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

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

- (b) A psychologist who is licensed pursuant to chapter 641 of NRS;
- (c) A marriage and family therapist who is licensed pursuant to chapter 641A of NRS; and
- (d) A clinical social worker who is licensed pursuant to chapter 641B of NRS.

Sec. 9. NAC 228.170 is hereby amended to read as follows:

228.170 An organization that operates a program shall ensure that:

1. The program holds an offender accountable for accepting responsibility for his violence and for changing his violent behavior, including, without limitation, developing concern and empathy for a person who is a victim of domestic violence.

2. A provider of treatment:

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

(b) Develops a written plan of treatment for the offender that includes, without limitation:

(1) 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 evaluation of the offender by the provider of treatment; and

(2) A mechanism for measuring the progress of the offender in the program, including, without limitation, his attendance and participation in group counseling sessions, completion of assignments, and behavior and attitudinal changes;

(c) ~~Reviews, at least once each month, the written plan of treatment of each offender for whom he is providing treatment;~~

~~—(d)~~ Develops, in consultation with the offender, a written plan of control for the offender to deter the offender from engaging in violent behavior or behavior that is harmful to himself or other persons;

~~(e)~~ (d) Reports evidence of child abuse or neglect to an agency which provides child welfare services or to a law enforcement agency; and

~~(f)~~ (e) Reports evidence of abuse, neglect, exploitation or isolation of an older person to an entity described in NRS 200.5093.

3. A provider of treatment prepares a written report of the results of the evaluation conducted pursuant to subsection 2 that includes, without limitation:

(a) A profile of information relating to the violent behavior of the offender that includes, without limitation, descriptions of the violent behavior obtained from a victim of domestic violence by the offender, an agency of criminal justice or another provider of treatment, if applicable;

(b) Observations regarding the mental status of the offender, if the provider of treatment determines that it is appropriate to include those observations in the evaluation;

(c) An assessment of the degree to which the offender is likely to harm himself or other persons;

(d) The medical and psychological history of the offender, if the provider of treatment determines that it is appropriate to include that information in the evaluation;

(e) A description of any abuse of drugs or alcohol by the offender and the effect that the abuse had on the offender and his family; and

(f) The social and cultural history of the offender as it relates to domestic violence.

4. Upon the admission of an offender to the program, the program requires a written agreement that sets forth the responsibilities of the offender and the provider of treatment and includes the provisions set forth in NAC 228.175. The agreement 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).

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R001-08

The Committee on Domestic Violence adopted regulations assigned LCB File No. R001-08 which pertain to chapter 228 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

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

Copies of the proposed regulations, notices of workshop and notices of intent to act upon the regulation were sent by U.S. mail and email to persons who were known to have an interest in the Committee on Domestic Violence as well as any persons who had specifically requested such notice. These documents were also made available at the website of the Committee on Domestic Violence, www.cdv.state.nv.us, mailed to all county libraries in Nevada and posted at the following locations:

Office of the Attorney General, 5420 Kietzke Lane, Suite 202, Reno, NV 89511
Grant Sawyer State Office Building, 555 E. Washington Ave., Las Vegas, NV 89101
Office of the Attorney General, 100 N. Carson Street, Carson City, NV 89701
University of Nevada-Las Vegas, 4505 Maryland Parkway, Las Vegas, NV 89154
Reno City Hall, 490 S. Center Street, Reno, NV 89501
SafeNest, 2915 W. Charleston Blvd., #12, Las Vegas, NV 89102

Workshops were held on August 19, 2004, November 18, 2004, and April 4, 2006, regarding possible changes to NAC 228. A meeting was held November 6, 2007 to finalize changes to be submitted to LCB for pre-adoption review. Thereafter, on or about April 7, 2008, the Committee on Domestic Violence issued a Notice of Intent to Act Upon a Regulation. A public hearing was held in conjunction with a public meeting on May 9, 2008. Individuals attended the workshops and submitted written comments during the workshop process. One member of the public attended the hearing, but did not provide written or oral testimony.

A copy of the summary of the public response to the proposed regulation may be obtained from the Committee on Domestic Violence, 5420 Kietzke Lane, Suite 202, Reno, Nevada, 89511, 775-688-1960 or email to jkandt@ag.nv.gov

2. The number persons who:

- (a) Attended each hearing:** May 9, 2008-1;
- (b) Testified at each hearing:** May 9, 2008 – 0;
- (c) Submitted to the agency written comments:** No written comments were submitted.

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

Comments were solicited from affected businesses in the same manner as they were solicited from the public. The summary may be obtained as instructed in the response to question #1.

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

The permanent regulation was adopted on May 9, 2008 as proposed. The regulation was adopted without change as there was no opposition to the proposed changes.

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

(a) Both adverse and beneficial effects; and

(b) Both immediate and long-term effects.

(a) Both adverse and beneficial effects;

There are no economic effects on businesses.

(b) Both immediate and long-term effects.

There are no immediate or long-term economic effects on businesses.

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 government agencies which the proposed regulation overlaps or duplicates.

There are no other state or government agency regulations that the proposed amendments duplicate.

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

N/A

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.

N/A

10. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small

business? What methods did the agency use in determining the impact of the regulation on a small business.

This Committee initially considered proposing a regulation to reduce class size. A small business impact questionnaire was distributed to all affected agencies. The agencies were concerned with the financial impact of reducing class size; subsequently, this Committee decided not to move forward with a regulation to reduce class sizes. The proposed regulations do not appear to impose any economic burden or restriction of formation, operation, or expansion of a small business.