

**ADOPTED REGULATION OF THE
AGING AND DISABILITY SERVICES DIVISION OF THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

LCB File No. R013-12

Effective September 14, 2012

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

AUTHORITY: §§1-10, NRS 427A.872.

A REGULATION relating to autism spectrum disorders; establishing provisions relating to the measurement of outcomes and the assessment and evaluation of certain persons with autism spectrum disorders; and providing other matters properly relating thereto.

Section 1. Chapter 427A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 9, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Autism spectrum disorder” has the meaning ascribed to it in NRS 427A.875.*

Sec. 4. *“Norm-referenced instrument” means an instrument that is administered to a reference group and allows for a comparison of the trait of a person to whom the instrument is administered to traits of the reference group.*

Sec. 5. *“Public agency providing autism services” means the State or a local government or an agency thereof that provides, either directly or through a grant, contract or other agreement, assessments, interventions and diagnoses of persons with autism spectrum*

disorders or who are suspected of having autism spectrum disorders through the age of 21 years.

Sec. 6. 1. *Except as otherwise provided in subsection 2, when determining whether a person is a person with autism spectrum disorder pursuant to NRS 427A.872, a public agency providing autism services shall:*

(a) Use the module of the Autism Diagnostic Observation Schedule, adopted by reference in subsection 3, that is appropriate to the person;

(b) Use a diagnostic tool approved by the Division that includes a formal interview with the parents of the person or, if found to be appropriate by the professional making the determination, a different relative or caregiver of the person; and

(c) Ensure that any professional making the determination is fully trained in the use of the Autism Diagnostic Observation Schedule and the diagnostic tool.

2. *If a public agency providing autism services wishes to use a diagnostic tool other than the tools listed in subsection 1 to determine whether a person is a person with autism spectrum disorder, the public agency providing autism services must obtain a waiver from the Division before using the alternative diagnostic tool. The Division may grant such a waiver if the public agency providing autism services demonstrates that the alternative diagnostic tool includes, without limitation:*

(a) Direct observation of the person by the professional conducting the assessment;

(b) A review of the person's developmental history; and

(c) Components to:

(1) Determine the person's cognitive level;

(2) Measure the person's adaptive, social and emotional behavior; and

(3) Assess the person's receptive and expressive language levels.

3. The most recently published version of the Autism Diagnostic Observation Schedule by Western Psychological Services is hereby adopted by reference and is effective unless, within 30 days after its publication, the Administrator gives written notice that all or part of the revisions to the Autism Diagnostic Observation Schedule are not suitable for this State. If the Administrator gives notice pursuant to this subsection, any part deemed unsuitable is not effective in this State beginning 30 days after the notice is published. This publication is available by mail from Western Psychological Services, 625 Alaska Avenue, Torrance, California 90503-5124, or at the Internet address <http://www.wpspublish.com/> for the price of \$1,995.

Sec. 7. 1. A public agency providing autism services shall conduct an assessment, as described in subsection 3, of a person with autism spectrum disorder or who is suspected of having autism spectrum disorder:

(a) Before providing services to the person or, if a diagnosis of autism spectrum disorder is made after the public agency providing autism services begins to provide services to the person, after the diagnosis is made.

(b) Except as otherwise provided in subsection 2, at the time the person ceases to receive services from the public agency providing autism services.

2. The requirements of paragraph (b) of subsection 1 do not apply if the person with autism spectrum disorder began receiving early intervention services from the Health Division of the Department not more than 90 days before the person reached the age of 3 years.

3. An assessment conducted pursuant to this section must include, without limitation, an assessment of the:

(a) Physical health of the person, including, without limitation, the vision and hearing of the person;

(b) Cognitive ability of the person using a norm-referenced instrument;

(c) Receptive and expressive language levels of the person using a norm-referenced instrument; and

(d) Adaptive behavior of the person in multiple settings using a standardized measure of adaptive behavior.

4. As used in this section, “early intervention services” has the meaning ascribed to it in 20 U.S.C. § 1432.

Sec. 8. 1. *On or before August 31 of each year, in addition to the information required to be reported pursuant to NRS 442.760, the Health Division of the Department shall report to the Aging and Disability Services Division data concerning each person with autism spectrum disorder who receives services through a program operated by the Health Division or through a grant, contract or other agreement with the Health Division. Such data must include, without limitation, as appropriate to the age of the person, the:*

(a) Generalized imitation skills of the person;

(b) Ability of the person to visually discriminate;

(c) Ability of the person to follow a two-step instruction;

(d) Ability of the person to express wants and needs;

(e) Ability of the person to play appropriately with at least five toys;

(f) Cognitive level of the person;

(g) Adaptive, social and emotional behavior of the person; and

(h) Receptive and expressive language levels of the person at intake and, if available, when services ceased.

2. In addition to the data reported pursuant to subsection 1, the Health Division shall include in the report submitted to the Aging and Disability Services Division the number of persons who:

(a) Are determined to be persons with autism spectrum disorders through the use of the Autism Diagnostic Observation Schedule, adopted by reference in section 6 of this regulation, as one of the tools required to be used when making a determination pursuant to section 6 of this regulation; and

(b) Receive services through a program operated by the Health Division or through a grant, contract or other agreement with the Health Division.

Sec. 9. 1. On or before August 31 of each year, in addition to the information required to be reported pursuant to NRS 615.205, the Department of Employment, Training and Rehabilitation shall report to the Division data about each person with autism spectrum disorder receiving vocational rehabilitation services through the Department of Employment, Training and Rehabilitation. To the extent applicable, such information must include, without limitation, the:

(a) Types of support or training needed by the person to obtain employment or remain employed;

(b) Amount of money spent on support or training for the person by the Department of Employment, Training and Rehabilitation since August 31 of the previous year;

(c) Number of hours worked by the person since August 31 of the previous year;

(d) Average hourly rate of compensation received by the person since August 31 of the previous year;

(e) Number of times the person has returned to the Department of Employment, Training and Rehabilitation for supplemental vocational rehabilitation services;

(f) Date on which the person began working and the job title of the position;

(g) Date on which the person stopped receiving vocational rehabilitation services; and

(h) Reason for which the person stopped receiving vocational rehabilitation services.

2. As used in this section, “vocational rehabilitation services” has the meaning ascribed to it in NRS 615.140.

Sec. 10. Notwithstanding the provisions of sections 8 and 9 of this regulation to the contrary, the Health Division of the Department of Health and Human Services and the Department of Employment, Training and Rehabilitation shall satisfy the requirements of sections 8 and 9 of this regulation by not later than August 31, 2013.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R013-12**

The Aging and Disability Services Division of the Department of Health and Human Services adopted regulations assigned LCB File No. R013-12 which pertain to chapter 427A of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

1. Statement of need for and purpose of the proposed regulation.

AB 316 of the 2011 Nevada Legislature requires standardized diagnostic tools, assessments and data tracking for public agencies that serve Nevadans with autism. These regulations address that requirement.

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

Notice of public workshop was posted on February 7, 2012 and the public workshop was held on February 29, 2012. Notice of public hearing was posted on May 4, 2012 and the public hearing was held on June 4, 2012. Posting included e-mailing notices to public libraries in all counties in which Aging and Disability Services Division does not have an office, to all Division offices, and to a list of other public places where interested parties would see the notice. They were also posted on the Division workshop.

Public comment was solicited at the workshop and the hearing, and written comment was solicited through the posted notices. At the workshop, the attendees commented on several provisions of the proposed regulations including the diagnostic tools, screening, assessments, parental consent, timelines, and whether the bill will protect and maintain the meaning of autism. A summary of the testimony at the workshop can be obtained from the Nevada Commission on Autism Spectrum Disorders, and a summary of the testimony at the hearing can be obtained from the Division for Aging and Disability Services.

3. The number of persons who: (a) attended each hearing; (b) testified at each hearing; and (c) submitted to the agency written statements.

At the public workshop, there were nine people attending in Carson City, 15 people in Las Vegas, and four people in Elko. Testimony was received from six members of the public. No written comments were received.

Attending the public hearing were fourteen people in Carson City, four people in Las Vegas and three people in Elko. One person provided public comment and there was one written comment which was read into the minutes at the public hearing.

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

An impact questionnaire was sent to eight providers of early intervention services. Two responses were received. A summary of the responses may be obtained from the Aging and Disability Services Division.

- 5. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**
Changes were made to the original proposed regulations based on the comments made at the public workshop.
- 6. 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;**
 - b. Both immediate and long-term effects**
There will be no economic effect on businesses or persons.
- 7. The estimated cost to the agency for enforcement of the adopted regulation.**
There will be no additional cost to the agency for enforcement of the proposed regulation, as these duties are assigned to a position created by the 2011 Nevada Legislature.
- 8. A description of any regulation of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**
None
- 9. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**
Not applicable
- 10. 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.**
There will be no new or increased fees as a result of these regulations.