

**PROPOSED REGULATION OF THE
PANEL CREATED PURSUANT TO NRS 213.1214**

LCB File No. R127-12

August 30, 2012

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

AUTHORITY: §§1-17, NRS 213.1214.

A REGULATION relating to parole; establishing procedures for a panel required to evaluate certain prisoners who have committed certain sexual crimes to determine the risk of a prisoner to reoffend in a sexual manner; and providing other matters properly relating thereto.

Section 1. Chapter 213 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 17, 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 of Mental Health and Developmental Services of the Department of Health and Human Services.*

Sec. 4. *“Board” means the State Board of Parole Commissioners.*

Sec. 5. *“Director” means the Director of the Department of Corrections.*

Sec. 6. *“Division of Parole and Probation” means the Division of Parole and Probation of the Department of Public Safety.*

Sec. 7. *“Instrument” means a method or tool designed to determine the likelihood of a prisoner to reoffend in a sexual manner.*

Sec. 8. *“Panel” means a panel created pursuant to subsection 1 of NRS 213.1214 to conduct an evaluation of certain prisoners to determine the prisoners’ likelihood to reoffend in a sexual manner.*

Sec. 9. *“Prisoner” means a person who is evaluated by a panel.*

Sec. 10. *If the Administrator appoints a designee to serve on a panel, that appointment must be made in writing and remains valid until the designee resigns or the appointment is rescinded in writing by the Administrator. Only one such designee may serve on a panel at any one time.*

Sec. 11. *If the Director appoints a designee to serve on a panel, that appointment must be made in writing and remains valid until the designee resigns or the appointment is rescinded in writing by the Director. Only one such designee may serve on a panel at any one time.*

Sec. 12. *The Administrator and the Director shall jointly appoint a psychologist licensed to practice in this State or a psychiatrist licensed to practice medicine in this State to serve as a member of a panel. The Administrator and the Director may appoint more than one psychologist or psychiatrist to serve on such a panel, but only one such appointee may serve on a panel at any one time.*

Sec. 13. *1. A panel will:*

(a) Meet as often as needed to provide evaluations of prisoners as required by NRS 213.1214; and

(b) Conduct its meetings in accordance with chapter 241 of NRS.

2. In conducting a meeting pursuant to this section, the panel may meet with each prisoner to be evaluated in person, via videoconference or by telephone if conducting such a meeting in person or via videoconference is not practicable.

Sec. 14. *A panel will request that the Department of Corrections manage the operations of the panel, including, without limitation:*

1. Scheduling and staffing meetings of the panel, including, without limitation, taking minutes and providing notice of meetings pursuant to chapter 241 of NRS;

2. Determining and scheduling the appearance of prisoners who must be evaluated by the panel pursuant to NRS 213.1214;

3. Preparing an initial risk assessment, using an instrument or instruments approved by the panel pursuant to section 17 of this regulation, of each prisoner who is in the custody of the Department and is scheduled to be evaluated by the panel;

4. Preparing and providing to the panel, in advance of each meeting of the panel, any necessary forms, instruments or other documents, including, without limitation, those documents required pursuant to section 15 of this regulation;

5. Providing the report of each evaluation conducted by the panel pursuant to NRS 213.1214 to the Board; and

6. Conducting or facilitating any training required to ensure compliance with this section.

Sec. 15. *1. The panel will request that the Department provide to each member of the panel, no later than 2 weeks before a scheduled meeting of the panel, information about each prisoner who is scheduled to be evaluated at that meeting, including, without limitation:*

(a) Records of participation in any programs administered by the Department;

(b) Records of any observations made by any psychiatrist or psychologist who treated the prisoner while the prisoner was in the custody of the Department;

(c) The disciplinary history of the prisoner while the prisoner was in the custody of the Department;

(d) The presentence reports prepared when the prisoner was convicted of an offense for which an evaluation is required pursuant to NRS 213.1214, if available;

(e) Police reports related to an offense for which an evaluation is required pursuant to NRS 213.1214, if available;

(f) The results of the initial risk assessment conducted by the Department pursuant to section 14 of this regulation; and

(g) Any other information requested by the panel.

2. If applicable, the panel will request that the Division of Parole and Probation provide the panel with a copy of:

(a) The most recent risk assessment conducted, using an instrument approved by the panel pursuant to section 17 of this regulation, on a prisoner who has been returned for parole violation proceedings; and

(b) If available, police reports related to the parole violation of the prisoner.

Sec. 16. *1. For each prisoner evaluated by a panel pursuant to NRS 213.1214, the panel will:*

(a) Assign an initial risk assessment of low, moderate or high risk to reoffend in a sexual manner, based upon the panel's review of the risk assessment provided to the panel by the Department of Corrections or the Division of Parole and Probation pursuant to section 15 of this regulation, as applicable.

(b) Assign a final risk assessment of low, moderate or high risk to reoffend in a sexual manner, based upon the panel's meeting with the prisoner and the panel's review of all the information provided to the panel pursuant to section 15 of this regulation. The final risk assessment must be agreed to by at least a majority of the members of the panel. A member of

the panel who disagrees with the final risk assessment may include in the report prepared pursuant to paragraph (c) his or her reasons for dissenting with the final risk assessment. If the members of the panel cannot reach a final risk assessment pursuant to this paragraph, the Director and the Administrator will create a new panel to conduct another evaluation of the prisoner. The Director and the Administrator:

(1) May each serve on the new panel if he or she did not participate as a member of the panel that could not reach a final risk assessment, or will each appoint an alternate designee to serve on the new panel; and

(2) Will jointly appoint an alternate psychologist or psychiatrist to serve on the new panel.

(c) Prepare a report of each evaluation conducted by the panel pursuant to NRS 213.1214 for submission to the Board pursuant to NRS 213.1214 and subsection 5 of section 14 of this regulation. The report must be provided to the Board not more than 5 business days after the meeting at which the evaluation was conducted.

2. If the final risk assessment assigned by the panel for the prisoner differs from the initial risk assessment assigned by the panel for the prisoner, the panel shall indicate in its report made to the Board the reasons for the difference. Such reasons may include, without limitation:

- (a) Sexual preoccupation or deviant sexual interests by the prisoner;*
- (b) Statements made by the prisoner which support sexually offending behaviors;*
- (c) An attitude by the prisoner which suggests emotional congruence with children;*
- (d) Indications that the prisoner exhibits:*
 - (1) Adult intimate relationship deficits;*

- (2) A pattern of general self-regulation deficits;*
- (3) Poor cognitive problem solving; or*
- (4) Resistance to rules and supervision;*
- (e) Inadequate treatment of the prisoner for substance abuse;*
- (f) The age of the prisoner limits his or her ability to reoffend or sexual desire;*
- (g) Successful completion by the prisoner of a treatment program which has been determined to reduce the risk of a reoffending in a sexual manner;*
- (h) Any medical condition of the prisoner that would normally reduce a person's physical or psychological ability or desire to engage in sexual activities;*
- (i) Living arrangements planned by or for the prisoner that would limit contact with potential victims and provide supportive persons who may mitigate the risk of the prisoner to reoffend in a sexual manner; and*
- (j) Any additional factor which may:*
 - (1) Aggravate the low or moderate initial risk of a prisoner to reoffend in a sexual manner; or*
 - (2) Mitigate the moderate or high initial risk of a prisoner to reoffend in a sexual manner.*

Sec. 17. 1. *Any instrument used pursuant to sections 2 to 17, inclusive, of this regulation by a panel, the Department of Corrections or the Division of Parole and Probation must be approved by a panel.*

2. *At least every 3 years, a panel will review any instrument used pursuant to sections 2 to 17, inclusive, of this regulation to determine if the instrument meets the currently accepted standards of risk assessment. The panel may include in the review any other instrument that*

the panel wishes to review, including, without limitation, an instrument designed specifically for use in creating a risk assessment for a person who has been returned for parole violation proceedings. The panel shall make a list of the instruments which meet the currently accepted standards of assessment and are approved for use pursuant to sections 2 to 17, inclusive, of this regulation.

3. A panel will develop a written policy for the resolution of conflicts occurring when the use of more than one instrument results in the assessment of differing levels of risk for a prisoner to reoffend in a sexual manner.