

**PROPOSED REGULATION OF
THE STATE BOARD OF HEALTH**

LCB File No. R011-20

March 16, 2020

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

AUTHORITY: §§1-4, NRS 433.324, 433A.165, 433A.713 and 439.200; §§5-7, NRS 433.324, 433A.165 and 439.200; §8, NRS 433.324, 433A.713 and 439.200.

A REGULATION relating to mental health; specifying circumstances when a person alleged to be a person in a mental health crisis must be admitted to a hospital; prescribing requirements governing the medical examination of a person alleged to be a person in a mental health crisis before admitting the person to a facility; prescribing the facilities to which a person alleged to be a person in a mental health crisis must be admitted in certain circumstances; requiring a public or private mental health facility to report certain information concerning the emergency admission of a person alleged to be a person in a mental health crisis; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Before a person alleged to be a person in a mental health crisis is admitted to a public or private mental health facility on an emergency basis, existing law requires the person to undergo a medical examination to determine whether the person has a medical condition, other than a psychiatric condition, which requires immediate treatment. If the person is determined to require emergency services or care, existing law requires the person to be admitted to a hospital. Existing law further requires the State Board of Health to adopt regulations defining the term “emergency services or care” for that purpose. (NRS 433A.165) **Section 5** of this regulation defines that term. **Sections 3 and 4** of this regulation define other terms relating to the emergency admission of a person alleged to be a person in a mental health crisis to a public or private mental health facility.

Existing law requires the Board to adopt regulations prescribing a procedure to ensure that a medical examination of a person alleged to be a person in a mental health crisis is performed as required before the person is admitted to a public or private mental health facility on an emergency basis. (NRS 433A.165) **Section 6** of this regulation requires a physician, physician assistant or advanced practice registered nurse who completes a medical examination of such a person to attest on the form for admission to a mental health facility whether the person has a medical condition, other than a psychiatric condition, which requires immediate treatment. **Section 6** also prescribes certain requirements relating to testing a person alleged to be a person in a mental health crisis for the use of alcohol and other drugs and pregnancy as part of the

medical examination. **Section 6** additionally requires an employee or independent contractor of a public or private mental health facility who is not informed about the results of a medical examination to contact the physician, physician assistant or advanced practice registered nurse who conducted the examination to request that information.

Existing law requires the State Board of Health to adopt regulations that prescribe the type of medical facility to which a person alleged to be a person in a mental health crisis may be admitted if the person is determined to have a medical condition, other than a psychiatric condition, which requires immediate treatment but does not require emergency services and care. (NRS 433A.165) **Section 7** of this regulation prescribes the type of medical facility to which a person may be admitted in those circumstances.

Existing law requires each public or private mental health facility or hospital in this State to report to the Division of Public and Behavioral Health of the Department of Health and Human Services: (1) the number of applications for emergency admission received by the mental health facility or hospital during the immediately preceding quarter; and (2) any other information prescribed by regulation of the Board. (NRS 433A.713) **Section 8** of this regulation requires the director of a public or private mental health facility or hospital or a designee thereof to report certain information concerning each application for emergency admission received by the facility and each person discharged from the facility after an emergency admission. **Section 8** also requires the director of a public or private mental health facility or hospital or his or her designee to submit to each regional behavioral health policy board a quarterly summary concerning admissions to the facility or hospital.

Section 1. Chapter 433A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 8, inclusive, of this regulation, the words and terms defined in sections 3 and 4 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Hospital” has the meaning ascribed to it in NRS 449.012.*

Sec. 4. *“Public or private mental health facility” means:*

- 1. A community triage center, as defined in NRS 449.0031;*
- 2. A psychiatric hospital, as defined in NRS 449.0165, including, without limitation, a psychiatric hospital endorsed as a crisis stabilization center pursuant to NRS 449.0915; or*

3. *Any other facility for the diagnosis, care and treatment of persons with mental illness which provides 24-hour care.*

Sec. 5. *As used in NRS 433A.165, “emergency services and care” has the meaning ascribed to it in NRS 439B.410.*

Sec. 6. 1. *An examination conducted pursuant to NRS 433A.165 must include, without limitation, an assessment of whether the person alleged to be a person in a mental health crisis is experiencing the symptoms of intoxication or withdrawal from alcohol or another drug. If so, the physician assistant or advanced practice registered nurse conducting the examination may include in the examination a quantitative measurement of the concentration of alcohol in the blood of the person alleged to be a person in a mental health crisis.*

2. *If a person alleged to be a person in a mental health crisis is transferred after receiving acute inpatient care, which may include, without limitation, emergency services and care at a hospital, other than a psychiatric hospital, the examination conducted pursuant to NRS 433A.165 must include, upon the request of the public or private mental health facility:*

(a) *A test of the urine of the person alleged to be a person in a mental health crisis to detect the presence of a drug; and*

(b) *A test to determine whether the person alleged to be a person in a mental health crisis is pregnant, except that such a test is not required if:*

(1) *The person is not capable of becoming pregnant; or*

(2) *The physician, physician assistant or advanced practice registered nurse conducting the examination determines that the test is not medically appropriate.*

3. *After completing the examination of a person alleged to be a person in a mental health crisis pursuant to NRS 433A.165, a physician, physician assistant or advanced practice*

registered nurse shall attest on the form for admission to a mental health facility submitted pursuant to NRS 433A.130 whether the person has a medical condition, other than a psychiatric condition, which requires immediate treatment.

4. Except as otherwise provided in this subsection, a public or private mental health facility shall not refuse to admit a person alleged to be a person in a mental health crisis under an emergency admission based on the results of a medical examination conducted pursuant to NRS 433A.165 or pending the results of a test conducted pursuant to paragraph (a) of subsection 2 if the physician, physician assistant or advanced practice registered nurse who conducted the examination attests on the form completed pursuant to NRS 433A.130 that the person does not have a medical condition, other than a psychiatric condition, which requires immediate treatment. This subsection shall not be construed to require a mental health facility to admit any person who does not meet the criteria established by the facility for admission.

5. An employee or independent contractor of a public or private mental health facility who is not informed whether a person alleged to be a person in a mental health crisis has a medical condition, other than a psychiatric condition, which requires immediate treatment shall contact the physician, physician assistant or advanced practice registered nurse who examined the person pursuant to NRS 433A.165 to request that information.

Sec. 7. If a physician, physician assistant or advanced practice registered nurse determines that a person examined pursuant to NRS 433A.165 has a medical condition, other than a psychiatric condition, which requires immediate treatment but that the person is not in need of emergency services and care, the person may be admitted to:

1. A public or private mental health facility; or

2. A psychiatric hospital or a distinct unit of a hospital that provides acute long-term care to persons who are in a mental health crisis.

Sec. 8. 1. Not later than 48 hours after receiving an application for the emergency admission of a person alleged to be a person in a mental health crisis pursuant to NRS 433A.160, the director of a public or private mental health facility or hospital or his or her designee must submit to the Division in the form prescribed by the Division:

(a) The date and time on which the application was initiated;

(b) The date and time that the person arrived at the public or private mental health facility or hospital;

(c) The manner in which the person arrived at or was transported to the public or private mental health facility or hospital;

(d) Any known source of payment for services provided to the person; and

(e) The gender and age of the person.

2. Not later than 48 hours after discharging a person who has been admitted to a public or private mental health facility or hospital on an emergency admission or 48 hours after the expiration of the period prescribed by subsection 2 of NRS 433A.150, whichever is sooner, the director of the public or private mental health facility or hospital or his or her designee shall submit to the Division in the form prescribed by the Division:

(a) The date and time of the discharge, if applicable;

(b) The final disposition of the application for emergency admission;

(c) Any public or private mental health facility or hospital to which the person was referred, the date and time of the referral, whether the referral was accepted or denied and, if the referral was denied, the reason for the denial;

(d) The final disposition of the emergency admission; and

(e) If applicable, the information described in subsection 3.

3. If a petition for the involuntary court-ordered admission of the person is filed pursuant to NRS 433A.200, the information submitted pursuant to subsection 2 must include, without limitation:

(a) The date and time on which the petition was filed and the determination of the court concerning the petition;

(b) If the petition is denied, whether the admission was converted to voluntary status after the denial; and

(c) If the petition is denied and a new application for the emergency admission of the person based on new evidence is filed within 24 hours of the denial, the date and time of the application and a description of the new evidence.

4. For each calendar quarter, a public or private mental health facility shall submit to each regional behavioral health policy board created by NRS 433.429 a summary of data concerning admissions to the public or private mental health facility which includes, without limitation:

(a) The number of voluntary admissions to the public or private mental health facility during the quarter; and

(b) The combined number of emergency admissions and involuntary court-ordered admissions to the public or private mental health facility during the quarter.

4. As used in this section, "director" means:

(a) The medical director of a division facility; or

(b) The person in charge of the provision of care to patients at any other public or private mental health facility or hospital.