

**ADOPTED REGULATION OF THE ADMINISTRATOR
OF THE DIVISION OF MENTAL HEALTH AND
DEVELOPMENTAL SERVICES OF THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

LCB File No. R031-09

Effective October 27, 2009

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

AUTHORITY: §§1-9, NRS 451.080.

A REGULATION relating to Northern Nevada Adult Mental Health Services; providing for the removal of human remains buried at the cemetery located on the grounds of Northern Nevada Adult Mental Health Services under certain circumstances; and providing other matters properly relating thereto.

Section 1. Chapter 433 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 this chapter, unless the context otherwise requires, the words and terms defined in NAC 433.005 and 433.010 and sections 3, 4 and 5 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Cemetery” means the nonfunctioning burial park located on the grounds of Northern Nevada Adult Mental Health Services at 480 Galletti Way, Sparks, Nevada 89431.*

Sec. 4. *“Cemetery authority” means the Administrator of the Division.*

Sec. 5. *“Removal” means the disinterment and removal of human remains from a grave in the cemetery.*

Sec. 6. 1. *The cemetery authority may order the disinterment and removal of human remains interred in all or any part of the cemetery if the cemetery authority determines that the further maintenance of all or part of the cemetery as a burial place for the human dead is not in accordance with the health, safety, comfort or welfare of the public.*

2. The cemetery authority will prescribe a reasonable time of not less than 1 year after which the cemetery authority may proceed with a removal.

Sec. 7. 1. *If the cemetery authority determines that removal is necessary, the cemetery authority will provide notice of the removal in accordance with the provisions of NRS 451.110, 451.130 and 451.140.*

2. If the cemetery authority determines that any of the remains subject to removal may belong to a Native American tribe, notice must be sent to the tribal council of that tribe.

Sec. 8. 1. *Except as otherwise provided in this section, the human remains from a removal will be subject to cremation and inurnment or reinterment elsewhere at the discretion of the cemetery authority.*

2. Upon the written request to the cemetery authority by a family member or the Native American tribe of the person whose remains are interred in the cemetery, the cemetery authority will allow for the removal by the family member or the Native American tribe. All documentation verifying the familial or tribal relationship must be attached to the written request, and the costs related to the removal must be paid by the family member or tribe.

3. Any removal must be conducted in accordance with the laws and ordinances of the constituted authorities of the city, county and State.

4. As used in this section:

(a) *“Cremation” means the technical process that reduces human remains to bone fragments by using heat and evaporation.*

(b) *“Inurnment” means the disposition of cremated human remains by inserting the remains in an urn and placing the urn in a crypt or niche.*

Sec. 9. NAC 433.005 is hereby amended to read as follows:

433.005 ~~{As used in this chapter, unless the context otherwise requires, “director”}~~

“Director” means the director of the service for which a mental health-mental retardation technician performs his duties.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R031-09**

The Administrator of the Division of Mental Health and Developmental Services adopted regulations which pertain to chapter 433 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

The following statement is submitted for adopted amendments to Nevada Administrative Code 433:

1. 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 Workshop to Solicit Comments on Proposed Regulations was sent to approximately 100 individuals and organizations. A workshop was held on October 22, 2009. There was no public comment.

The Notice of Intent to Act Upon a Regulation for public hearing and adoption of proposed new section to NAC 433 was sent to approximately 100 individuals and organizations. The public hearing was conducted on October 23, 2009 to provide the opportunity for comments by affected parties and the public. There was no public comment. The Commission adopted the proposed new section to the regulation on October 26, 2009.

2. The Number of Persons Who:

- a) Attended Each Hearing: First Workshop: 5; First Hearing: 5; Second Hearing: N/A
- b) Testified at Each Hearing: First Workshop: 0; First Hearing: 0; Second Hearing: N/A
- c) Submitted Written Statements: First Workshop: 0; First Hearing: 0; Second Hearing: N/A

A copy of any written comments may be obtained by contacting Karen Hayes, Executive Assistant to the Director of Mental Health and Developmental Services, 4126 Technology Way, 2nd Floor, Carson City, Nevada 89706.

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

Comments were solicited through the workshop notice of September 22, 2009; and the public hearing notice of September 22, 2009. At the October 22, 2009 Workshop to Solicit Comments, there were no public comments to the proposed regulation language. At the October 23, 2009 public hearing there were no public comments to the proposed regulation language.

Summary of Comments:
Workshop/Public Hearing Comments:

Workshop comments:

There were no workshop public comments.

Public Hearing comments:

There were no public comments.

A copy of the summary and/or minutes of the public hearing may be obtained by contacting Karen Hayes, Executive Assistant to the Director of Mental Health and Developmental Services, 4126 Technology Way, 2nd Floor, Carson City, Nevada 89706.

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

The Commission on Mental Health and Developmental Services adopted the proposed regulation language at a meeting held October 26, 2009. The reason for adopting the new section is to grant approval for the removal of human remains buried at the cemetery located on the grounds of Northern Nevada Adult Mental Health Services under certain circumstances.

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

There is no beneficial economic, long-term, or immediate effect on teachers, schools, or school districts.

There is no estimated economic effect on the public, either adversely or beneficially, nor immediate or long term.

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 governmental 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.

No other state or governmental agency regulations will be overlapped or duplicated by the above noted regulation. There is no duplication or overlap of federal regulations.

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

There are none.

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.

This regulation does not provide for a new fee or increase an existing fee.