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December 16, 2010

Jennifer Kandt
Office of the Attorney General
5420 Kietzke Lane, Suite 202
Reno, Nevada 89511

Re: LCB File No. R105-10

Dear Ms. Kandt:

A regulation adopted by the Committee on Domestic Violence has been filed today with the Secretary of State pursuant to NRS 233B.067. As provided in NRS 233B.070, this regulation becomes effective upon filing, unless otherwise indicated.

Enclosed are two copies of the regulation bearing the stamp of the Secretary of State which indicates that it has been filed. One copy is for your records and the other is for delivery to the State Library and Archives Administrator pursuant to subsection 6 of NRS 233B.070.

Very truly yours,

Brenda J. Erdoes
Legislative Counsel

By Matthew S. Nichols
Matthew S. Nichols
Principal Deputy Legislative Counsel

MSN/slj
Enclosure

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Form For Filing
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Agency Committee on
Domestic Violence

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REGULATIONS ONLY

Effective date _____

Expiration date _____

Governor's signature

Classification: PROPOSED ADOPTED BY AGENCY EMERGENCY

Brief description of action

The proposed changes to NAC 228 include language added to accept the licensure of clinical

professional counselors, to require observations on a Committee approved form, to allow for transfer of counselors without being

placed on agenda, to lay out site review process, and to change training requirements.

Authority citation other than 233B

NRS 228.470

Notice date

July 23, 2010

Date of Adoption by Agency

Hearing date

November 18, 2010

November 18, 2010

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

LCB File No. R105-10

Effective December 16, 2010

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

AUTHORITY: §§1-11, NRS 228.470.

A REGULATION relating to domestic violence; revising qualifications and duties for supervisors of treatment and providers of treatment; revising provisions relating to the approval and inspection of programs for the treatment of domestic violence; revising requirements for group counseling sessions; revising provisions relating to continuing education and formal training; 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:

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

Sec. 2. NAC 228.110 is hereby amended to read as follows:

228.110 1. Except as otherwise provided in subsection 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 4, is licensed in good standing in this 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 professional counselor pursuant to chapter 641A of NRS;*
- (4) As a clinical social worker pursuant to chapter 641B of NRS; or

~~[(4)]~~ (5) 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 15 hours of the training in domestic violence required by paragraph (d) during the 2 years immediately preceding the date on which the person is employed, or retained as an independent contractor, in the position of a supervisor of treatment at the program;

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

~~[(f)]~~ (g) Has never:

- (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 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)}~~ (h) Is free of violence in his life; and

~~{(h)}~~ (i) Is not currently an abuser of prescription drugs or alcohol 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)}~~ (f) 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.

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.

5. Within 120 days after the Committee receives a request pursuant to subsection 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.

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 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.

7. Except as otherwise provided in subsection 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, 3 or 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 15 hours of the training in domestic violence required by paragraph (c) during the 2 years immediately preceding the date on which the person is employed, or retained as an independent contractor, in the position of a provider of treatment at the program;

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

~~(e)~~ (f) Has never:

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

~~{(g)}~~ (h) Is not currently an abuser of prescription drugs or alcohol 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 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.

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 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.

11. One-half of the in-service training required by this section may be completed by observing 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 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 group counseling session that was observed to discuss that group counseling session.

12. *Not more than one-half of the formal training in the provision of services to victims of domestic violence and one-half of the formal training in the provision of treatment to persons who commit domestic violence required by paragraph (d) of subsection 1 and paragraph (c) of subsection 7 may be completed via distance media.*

13. 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.

~~{(e)}~~ (b) "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, and section 1 of *LCB File No. R001-08 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. 3. 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 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 *records on a form approved by the Committee each group counseling session he or she observes; and*

5. Prepares an annual report concerning the performance of each provider of treatment he supervises.

Sec. 4. NAC 228.125 is hereby amended to read as follows:

228.125 1. Except as otherwise provided in subsection ~~{5;}~~ 6, an organization that operates a program shall request, in writing, approval from the Committee at least 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 an organization that operates a program seeks to employ, or retain as an independent contractor, in the position of a provider of treatment or supervisor of treatment, a person who is not currently employed, or retained as an independent contractor, in the position of a provider of treatment or supervisor of treatment at another program, the organization shall request approval from the Committee, on a form approved by the Committee which includes proof that the person is qualified pursuant to NAC 228.110.*

3. *Except as otherwise provided in subsection 7, if the Committee receives ~~the~~ a request ~~at~~ submitted pursuant to subsection 1 or 2:*

(a) *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~~*

(b) *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.*

~~3-4~~ 4. *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.*

~~4-4~~ 5. *The certification of the program remains in effect until the Committee provides notice to the organization in the manner prescribed by NAC 228.150.*

~~5-4~~ 6. *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.*

~~6-4~~ 7. *If an organization that operates a program seeks to employ, or retain as an independent contractor, in the position of a provider of treatment or supervisor of treatment, a*

person who is currently employed, or retained as an independent contractor, in the position of a provider of treatment or supervisor of treatment at another program, the organization shall request approval from the Committee pursuant to subsection 1. The Committee may approve the request without placing the request on an agenda for a meeting of the Committee.

8. 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 *LCB File No. R001-08 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 *LCB File No. R001-08 and section 1 of this regulation*, within 45 days after submission of the written plan.

Sec. 5. NAC 228.130 is hereby amended to read as follows:

228.130 1. The Committee ~~{will, at least once}~~ *may*, each year, conduct an on-site inspection of each program to determine whether the organization that operates the program is in compliance with the provisions of NAC 228.010 to 228.225, inclusive ~~{}~~, *and section 1 of this regulation. If the Committee finds a violation of NAC 228.010 to 228.225, inclusive, and section 1 of this regulation during the on-site inspection of the program, the Committee may require the organization that operates the program to complete a plan detailing the action necessary to remedy the violation within 45 days after the date of the inspection. The Committee will review the plan to determine compliance at the first subsequent meeting of the Committee after the plan is completed and will determine whether to approve the plan.*

2. An organization that has obtained a certificate for a program pursuant to NAC 228.100 must renew its certification within 1 year after obtaining the certificate. If the organization was issued a provisional certificate pursuant to NAC 228.102 before it obtained a certificate for a program pursuant to NAC 228.100, the certificate obtained pursuant to NAC 228.100 expires 1 year after the Committee first issued the provisional certificate.

3. An organization that wishes to renew its certification must submit a completed application for renewal to the Committee at least 60 days before the certificate expires.

4. The certificate will be renewed if the Committee determines that:

(a) The application for renewal is complete;

(b) The organization which operates the program has satisfied the requirements of subsection 3 of NAC 228.100;

(c) The program has passed the inspection of the Committee conducted pursuant to subsection 1 ~~4~~, *if one is conducted*; and

(d) The organization which operates the program has submitted:

(1) Proof of completion of the hours of continuing education required by NAC 228.210;

and

(2) The annual reports required by NAC 228.115.

5. If a completed application and the documents described in paragraph (d) of subsection 4 are received by the Committee on or before the expiration date of the certificate, the certificate remains in effect after the expiration date of the certificate unless the Committee provides notice to the organization in the manner prescribed by NAC 228.150.

6. If a completed application and the documents described in paragraph (d) of subsection 4 are not received by the Committee on or before the expiration date of the certificate, the certificate becomes delinquent and the Committee will, within 30 days after the certificate becomes delinquent, send a notice to that effect by certified mail, return receipt requested, to the last known address of the organization as indicated in the records of the Committee.

7. If a completed application or a document described in paragraph (d) of subsection 4 is deposited with the United States Postal Service, it shall be deemed received by the Committee on the date indicated on the post office cancellation mark stamped upon the envelope containing the document if:

- (a) The envelope is properly addressed to the Committee; and
- (b) That date is earlier than the actual receipt of that document.

8. The organization may renew the certificate within 90 days after the certificate becomes delinquent if the organization complies with the requirements set forth in subsection 4.

9. If a certificate is not renewed within 90 days after the certificate becomes delinquent, the certificate expires without further notice or a hearing and the Committee will remove the program from the list of programs that it provides to the courts of this state.

10. If a certificate expires pursuant to subsection 9, the organization which operated the program may reapply for certification of the program pursuant to NAC 228.100.

Sec. 6. 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;

(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;

(d) A clinical professional counselor who is licensed pursuant to chapter 641A of NRS;

and

~~{(d)}~~ (e) A clinical social worker who is licensed pursuant to chapter 641B of NRS.

Sec. 7. NAC 228.195 is hereby amended to read as follows:

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

(a) The program issues a certificate of completion to an offender who:

(1) Successfully completes the program; and

(2) Complies with the provisions of the agreement set forth in NAC 228.175.

(b) The program issues a discharge to an offender who is unable to complete the program because he has moved from the area of service of the program or has been referred to another program.

(c) The program terminates the treatment of an offender who violates any of the provisions of the agreement set forth in NAC 228.175.

2. If the program issues a discharge to an offender or terminates the treatment of an offender, the organization that operates the program shall notify:

(a) The court that sentenced the offender of the discharge or termination and provide to the court a written summary concerning the behavior of the offender in the program and the number of treatment sessions the offender successfully completed, if any; and

(b) The offender that he is required to make a request to the court that sentenced him to reassign him to another program.

3. An organization that operates a program shall ensure that if, at the time that a discharge or termination of an offender is considered, the offender exhibits signs of violent behavior and resists treatment, a provider of treatment:

(a) Notifies each person who is known to be a victim of domestic violence by the offender, if possible;

(b) Provides to the court that sentenced the offender, and to each of the following persons he determines is necessary, a statement of the progress of the offender and the recommendation of the provider of treatment concerning whether the treatment of the offender should be continued or terminated:

(1) The parole and probation officer of the offender;

(2) The prosecuting attorney; and

(3) An agency which provides child welfare services; and

(c) Requests that the offender continue his participation in the program or refers the offender to another program.

4. An organization that operates a program shall ensure that any documentation of actions taken under this section is placed in the file of the offender.

Sec. 8. NAC 228.210 is hereby amended to read as follows:

228.210 1. An organization that operates a program shall:

(a) Ensure that each supervisor of treatment and each provider of treatment complete annually at least 15 hours of continuing education approved by the Committee ~~and~~, of which:

(1) Not more than 10 hours may be completed via distance media if the supervisor of treatment or provider of treatment provides services to offenders anywhere in this State other than in Boulder City, Carson City, Henderson, Las Vegas, North Las Vegas, Reno or Sparks.

(2) Not more than 7.5 hours may be completed via distance media if the supervisor of treatment or provider of treatment provides services to offenders in Boulder City, Carson City, Henderson, Las Vegas, North Las Vegas, Reno or Sparks.

(b) Maintain proof of the content and completion of the hours of continuing education required pursuant to paragraph (a) for each supervisor of treatment and each provider of treatment for at least 2 years after the 15 hours of continuing education are completed.

(c) Maintain proof of the content and completion of the hours of formal training required pursuant to NAC 228.110 for each supervisor of treatment and each provider of treatment

until the supervisor of treatment or provider of treatment is no longer employed, or retained as an independent contractor, by the organization.

2. A provider of treatment or supervisor of treatment may not receive credit for continuing education for completing a course of continuing education if he has already completed the course within the immediately preceding 2 years.

Sec. 9. NAC 228.215 is hereby amended to read as follows:

228.215 1. A person who wishes to offer or teach a course of continuing education or formal training in domestic violence must submit to the Committee an application that includes, without limitation:

(a) The name and address of the instructor of the course;

(b) The resume of the instructor;

(c) The syllabus for the course;

(d) The instructional materials that will be distributed in the course;

(e) A written evaluation of the content and presentation of the course that will be completed by each person who is enrolled in the course; *and*

(f) ~~Any materials that will be used to test each provider of treatment and supervisor of treatment who is enrolled in the course concerning his knowledge of the content of the course;~~
and

~~(g)~~ A statement describing:

(1) The purpose of the course; and

(2) The requirements for attendance.

2. *The Committee may request additional information or documentation from an applicant as the Committee deems necessary.*

3. The Committee will consider the materials and information submitted pursuant to ~~paragraphs~~ *paragraph* (d) ~~and (f)~~ of subsection 1 to be proprietary information and will not release that information without the consent of the applicant.

Sec. 10. NAC 228.220 is hereby amended to read as follows:

228.220 1. A provider of treatment or supervisor of treatment who wishes to obtain credit for a course of continuing education or approval for formal training in domestic violence that has not been approved by the Committee must submit to the Committee an application that includes the information set forth in ~~paragraphs (a) to (d), inclusive, and (f) of~~ subsection 1 of NAC 228.215.

2. *The Committee may request additional information or documentation from an applicant as the Committee deems necessary.*

Sec. 11. NAC 228.225 is hereby amended to read as follows:

228.225 1. The Committee will approve a course of continuing education or formal training in domestic violence or award credit for completion of a course of continuing education if the course:

(a) Will be taught by a qualified instructor as demonstrated by his educational, professional and teaching experience;

(b) Contains appropriate educational material concerning domestic violence or the treatment of an offender, or both; and