

Senate Bill No. 44—Committee on
Health and Human Services

CHAPTER.....

AN ACT relating to mental health; requiring the Division of Mental Health and Developmental Services of the Department of Health and Human Services to adopt regulations defining eligibility for services; revising the term used to refer to persons who receive services from the Division; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, the Division of Mental Health and Developmental Services of the Department of Health and Human Services provides mental health services to any person who seeks, on the person’s own or another’s initiative, and can benefit from, such services. (Title 39 of NRS) **Section 1** of this bill requires the Division to adopt regulations: (1) that define when a consumer may receive services from the Division; and (2) that establish policies and procedures for the referral of a consumer to another organization or resource when the Division cannot provide the services that the consumer needs.

Existing law uses “client” as a defined term to refer to a person who seeks, on the person’s own or another’s initiative, and can benefit from, services offered by the Division. **Sections 2-75** of this bill replace the term “client” in certain existing statutes with the term “consumer” to reflect currently acceptable nomenclature within the field of mental health. **Section 76** of this bill requires the Legislative Counsel to make corresponding changes to existing regulations.

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

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 433 of NRS is hereby amended by adding thereto a new section to read as follows:

The Division shall adopt regulations:

1. To define the term “consumer” for the purposes of this title.

2. To specify the circumstances under which a consumer is eligible to receive services from the Division pursuant to this title, including, but not limited to, care, treatment, treatment to competency and training. Regulations adopted pursuant to this subsection must specify that a consumer is eligible to receive services only if the consumer:

(a) Has a documented diagnosis of a mental disorder based on the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; and



(b) Except as otherwise provided in the regulations adopted pursuant to subsection 3, is not eligible to receive services through another public or private entity.

3. To specify the circumstances under which the provisions of paragraph (b) of subsection 2 do not apply, including, without limitation, when the copay or other payment required to obtain services through another public or private entity is prohibitively high.

4. To establish policies and procedures for the referral of each consumer who needs services that the Division is unable to provide to the most appropriate organization or resource who is able to provide the needed services to that consumer.

Sec. 2. NRS 433.003 is hereby amended to read as follows:

433.003 The Legislature hereby declares that it is the intent of this title:

1. To eliminate the forfeiture of any civil and legal rights of any person and the imposition of any legal disability on any person, based on an allegation of mental illness or mental retardation or a related condition, by any method other than a separate judicial proceeding resulting in a determination of incompetency, wherein the civil and legal rights forfeited and the legal disabilities imposed are specifically stated; and

2. To charge the Division of Mental and Developmental Services, and the Division of Child and Family Services, of the Department with recognizing their duty to act in the best interests of their respective ~~clients~~ consumers by placing them in the least restrictive environment.

Sec. 3. NRS 433.094 is hereby amended to read as follows:

433.094 "Division facility" means any unit or subunit operated by the Division for the care, treatment and training of ~~clients~~ consumers.

Sec. 4. NRS 433.264 is hereby amended to read as follows:

433.264 1. Physicians shall be employed within the various division facilities as are necessary for the operation of the facilities. They shall hold degrees of doctor of medicine from accredited medical schools and they shall be licensed to practice medicine in Nevada as provided by law.

2. Except as otherwise provided by law, their only compensation shall be annual salaries, fixed in accordance with the pay plan adopted pursuant to the provisions of NRS 284.175.

3. The physicians shall perform such duties pertaining to the care and treatment of ~~clients~~ consumers as may be required.



Sec. 5. NRS 433.279 is hereby amended to read as follows:

433.279 1. The Division shall carry out a vocational and educational program for the certification of mental health-mental retardation technicians, including forensic technicians:

(a) Employed by the Division, or other employees of the Division who perform similar duties, but are classified differently.

(b) Employed by the Division of Child and Family Services of the Department.

↳ The program must be carried out in cooperation with the Nevada System of Higher Education.

2. A mental health-mental retardation technician is responsible to the director of the service in which his or her duties are performed. The director of a service may be a licensed physician, dentist, podiatric physician, psychiatrist, psychologist, rehabilitation therapist, social worker, registered nurse or other professionally qualified person. This section does not authorize a mental health-mental retardation technician to perform duties which require the specialized knowledge and skill of a professionally qualified person.

3. The Division shall adopt regulations to carry out the provisions of this section.

4. As used in this section, “mental health-mental retardation technician” means an employee of the Division of Mental Health and Developmental Services or the Division of Child and Family Services who, for compensation or personal profit, carries out procedures and techniques which involve cause and effect and which are used in the care, treatment and rehabilitation of persons with mental illness or mental retardation, persons who are emotionally disturbed and persons with related conditions, and who has direct responsibility for:

(a) Administering or carrying out specific therapeutic procedures, techniques or treatments, excluding medical interventions, to enable ~~clients~~ *consumers* to make optimal use of their therapeutic regime, their social and personal resources, and their residential care; or

(b) The application of interpersonal and technical skills in the observation and recognition of symptoms and reactions of ~~clients,~~ *consumers*, for the accurate recording of such symptoms and reactions, and for carrying out treatments authorized by members of the interdisciplinary team that determines the treatment of the ~~clients,~~ *consumers*.



Sec. 6. NRS 433.331 is hereby amended to read as follows:

433.331 The Division shall adopt regulations to:

1. Provide for a more detailed definition of abuse of a **[client]** *consumer* of the Division, consistent with the general definition given in NRS 433.554;
2. Provide for a more detailed definition of neglect of a **[client]** *consumer* of the Division, consistent with the general definition given in NRS 433.554; and
3. Establish policies and procedures for reporting the abuse or neglect of a **[client]** *consumer* of the Division.

Sec. 7. NRS 433.334 is hereby amended to read as follows:

433.334 The Division may, by contract with general hospitals or other institutions having adequate facilities in the State of Nevada, provide for inpatient care of **[clients]** *consumers* with mental illness or mental retardation and **[clients]** *consumers* with related conditions.

Sec. 8. NRS 433.404 is hereby amended to read as follows:

433.404 1. The Division shall establish a fee schedule for services rendered through any program supported by the State pursuant to the provisions of chapters 433 to 436, inclusive, of NRS. The schedule must be submitted to the Commission and the Director of the Department for joint approval before enforcement. The fees collected by facilities operated by the Division pursuant to this schedule must be deposited in the State Treasury to the credit of the State General Fund, except as otherwise provided in NRS 433.354 for fees collected pursuant to contract or agreement and in NRS 435.120 for fees collected for services to **[clients]** *consumers* with mental retardation and related conditions.

2. For a facility providing services for the treatment of persons with mental illness or mental retardation and persons with related conditions, the fee established must approximate the cost of providing the service, but if a **[client]** *consumer* is unable to pay in full the fee established pursuant to this section, the Division may collect any amount the **[client]** *consumer* is able to pay.

Sec. 9. NRS 433.431 is hereby amended to read as follows:

433.431 As used in NRS 433.431 to 433.454, inclusive, unless the context otherwise requires **[**

~~1. "Client" means any person who seeks, on the person's own or another's initiative, and can benefit from, care, treatment, treatment to competency or training in a division facility.~~

~~2. "Division] , "division facility" means any unit or subunit operated by:~~



(a) 1. The Division of Mental Health and Developmental Services of the Department for the care, treatment and training of **[clients] consumers**; or

(b) 2. The Division of Child and Family Services of the Department pursuant to chapter 433B of NRS.

Sec. 10. NRS 433.444 is hereby amended to read as follows:

433.444 1. For the purpose of facilitating the return of nonresident **[clients] consumers** to the state in which they have legal residence, the Administrator may enter into reciprocal agreements, consistent with the provisions of this title, with the proper boards, commissioners or officers of other states for the mutual exchange of **[clients] consumers** confined in, admitted or committed to a mental health or mental retardation facility in one state whose legal residence is in the other, and may give written permission for the return and admission to a division facility of any resident of this state when such permission is conformable to the provisions of this title governing admissions to a division facility.

2. The county clerk and board of county commissioners of each county, upon receiving notice from the Administrator that an application for the return of an alleged resident of this state has been received, shall promptly investigate and report to the Administrator their findings as to the legal residence of the **[client] consumer**.

Sec. 11. NRS 433.454 is hereby amended to read as follows:

433.454 1. All expenses incurred for the purpose of returning a **[client] consumer** to the state in which the **[client] consumer** has legal residence shall be paid from the moneys of the **[client] consumer** or by the relatives or other persons responsible for the **[client's] consumer's** care and treatment under his or her commitment or admission.

2. In the case of indigent **[clients] consumers** whose relatives cannot pay the costs and expenses of returning such **[clients] consumers** to the state in which they have residence, the costs may be assumed by the State. These costs shall be advanced from moneys appropriated for the general support of the division facility wherein the **[client] consumer** was receiving care, treatment or training, if such **[client] consumer** was committed to a division facility at the time of the transfer, and shall be paid out on claims as other claims against the State are paid.

Sec. 12. NRS 433.456 is hereby amended to read as follows:

433.456 As used in NRS 433.456 to 433.536, inclusive, unless the context otherwise requires, the words and terms defined in NRS 433.458 **[to]**, **433.461 and** 433.462 **[, inclusive.]** have the meanings ascribed to them in those sections.



Sec. 13. NRS 433.461 is hereby amended to read as follows:
433.461 “Facility” means any:

1. Unit or subunit operated by the Division of Mental Health and Developmental Services of the Department for the care, treatment and training of ~~{clients}~~ **consumers**.
2. Unit or subunit operated by the Division of Child and Family Services of the Department pursuant to chapter 433B of NRS.
3. Hospital, clinic or other institution operated by any public or private entity, for the care, treatment and training of ~~{clients}~~ **consumers**.

Sec. 14. NRS 433.462 is hereby amended to read as follows:
433.462 “Rights” includes, without limitation, all rights provided to a ~~{client}~~ **consumer** pursuant to NRS 433.456 to 433.536, inclusive, and any regulations adopted pursuant thereto.

Sec. 15. NRS 433.471 is hereby amended to read as follows:
433.471 **1.** Each client consumer admitted for evaluation, treatment or training to a facility has the following rights concerning admission to the facility, a list of which must be prominently posted in all facilities providing those services and must be otherwise brought to the attention of the ~~{client}~~ **consumer** by such additional means as prescribed by regulation:

~~{1}~~ **(a)** The right not to be admitted to the facility under false pretenses or as a result of any improper, unethical or unlawful conduct by a staff member of the facility to collect money from the insurance company of the ~~{client}~~ **consumer** or for any other financial purpose.

~~{2}~~ **(b)** The right to receive a copy, on request, of the criteria upon which the facility makes its decision to admit or discharge a ~~{client}~~ **consumer** from the facility. Such criteria must not, for emergency admissions or involuntary court-ordered admissions, be based on the availability of insurance coverage or any other financial considerations.

~~{3}~~ **2.** As used in this section, “improper conduct” means a violation of the rules, policies or procedures of the facility.

Sec. 16. NRS 433.472 is hereby amended to read as follows:
433.472 **1.** Each ~~{client}~~ **consumer** admitted for evaluation, treatment or training to a facility has the following rights concerning involuntary commitment to the facility, a list of which must be prominently posted in all facilities providing those services and must be otherwise brought to the attention of the ~~{client}~~ **consumer** by such additional means as prescribed by regulation:



(a) To request and receive a second evaluation by a psychiatrist or psychologist who does not have a contractual relationship with or financial interest in the facility. The evaluation must:

(1) Include, without limitation, a recommendation of whether the **{client} consumer** should be involuntarily committed to the facility; and

(2) Be paid for by the **{client} consumer** if the insurance carrier of the **{client} consumer** refuses to pay for the evaluation.

(b) To receive a copy of the procedure of the facility regarding involuntary commitment and treatment.

(c) To receive a list of the **{client's} consumer's** rights concerning involuntary commitment or treatment.

2. If the results of an evaluation conducted by a psychiatrist or psychologist pursuant to subsection 1 conflict in any manner with the results of an evaluation conducted by the facility, the facility may request and receive a third evaluation of the **{client} consumer** to resolve the conflicting portions of the previous evaluations.

Sec. 17. NRS 433.482 is hereby amended to read as follows:

433.482 Each **{client} consumer** admitted for evaluation, treatment or training to a facility has the following personal rights, a list of which must be prominently posted in all facilities providing those services and must be otherwise brought to the attention of the **{client} consumer** by such additional means as prescribed by regulation:

1. To wear the **{client's} consumer's** own clothing, to keep and use his or her own personal possessions, including toilet articles, unless those articles may be used to endanger the **{client's} consumer's** life or others' lives, and to keep and be allowed to spend a reasonable sum of the **{client's} consumer's** own money for expenses and small purchases.

2. To have access to individual space for storage for his or her private use.

3. To see visitors each day.

4. To have reasonable access to telephones, both to make and receive confidential calls.

5. To have ready access to materials for writing letters, including stamps, and to mail and receive unopened correspondence, but:

(a) For the purposes of this subsection, packages are not considered as correspondence; and

(b) Correspondence identified as containing a check payable to a **{client} consumer** may be subject to control and safekeeping by the administrative officer of that facility or the administrative officer's



designee, so long as the [client's] consumer's record of treatment documents the action.

6. To have reasonable access to an interpreter if the [client] consumer does not speak English or is hearing impaired.

7. To designate a person who must be kept informed by the facility of the [client's] consumer's medical and mental condition, if the [client] consumer signs a release allowing the facility to provide such information to the person.

8. Except as otherwise provided in NRS 439.538, to have access to the [client's] consumer's medical records denied to any person other than:

(a) A member of the staff of the facility or related medical personnel, as appropriate;

(b) A person who obtains a waiver by the [client] consumer of his or her right to keep the medical records confidential; or

(c) A person who obtains a court order authorizing the access.

9. Other personal rights as specified by regulation of the Commission.

Sec. 18. NRS 433.484 is hereby amended to read as follows:

433.484 Each [client] consumer admitted for evaluation, treatment or training to a facility has the following rights concerning care, treatment and training, a list of which must be prominently posted in all facilities providing those services and must be otherwise brought to the attention of the [client] consumer by such additional means as prescribed by regulation:

1. To medical, psychosocial and rehabilitative care, treatment and training including prompt and appropriate medical treatment and care for physical and mental ailments and for the prevention of any illness or disability. All of that care, treatment and training must be consistent with standards of practice of the respective professions in the community and is subject to the following conditions:

(a) Before instituting a plan of care, treatment or training or carrying out any necessary surgical procedure, express and informed consent must be obtained in writing from:

(1) The [client] consumer if he or she is 18 years of age or over or legally emancipated and competent to give that consent, and from the [client's] consumer's legal guardian, if any;

(2) The parent or guardian of a [client] consumer under 18 years of age and not legally emancipated; or

(3) The legal guardian of a [client] consumer of any age who has been adjudicated mentally incompetent;

(b) An informed consent requires that the person whose consent is sought be adequately informed as to:



- (1) The nature and consequences of the procedure;
- (2) The reasonable risks, benefits and purposes of the procedure; and

(3) Alternative procedures available;

(c) The consent of a [client] consumer as provided in paragraph (b) may be withdrawn by the [client] consumer in writing at any time with or without cause;

(d) Even in the absence of express and informed consent, a licensed and qualified physician may render emergency medical care or treatment to any [client] consumer who has been injured in an accident or who is suffering from an acute illness, disease or condition, if within a reasonable degree of medical certainty, delay in the initiation of emergency medical care or treatment would endanger the health of the [client] consumer and if the treatment is immediately entered into the [client's] consumer's record of treatment, subject to the provisions of paragraph (e); and

(e) If the proposed emergency medical care or treatment is deemed by the chief medical officer of the facility to be unusual, experimental or generally occurring infrequently in routine medical practice, the chief medical officer shall request consultation from other physicians or practitioners of healing arts who have knowledge of the proposed care or treatment.

2. To be free from abuse, neglect and aversive intervention.

3. To consent to the [client-s] consumer's transfer from one facility to another, except that the Administrator of the Division of Mental Health and Developmental Services of the Department or the Administrator's designee, or the Administrator of the Division of Child and Family Services of the Department or the Administrator's designee, may order a transfer to be made whenever conditions concerning care, treatment or training warrant it. If the [client] consumer in any manner objects to the transfer, the person ordering it must enter the objection and a written justification of the transfer in the [client's] consumer's record of treatment and immediately forward a notice of the objection to the Administrator who ordered the transfer, and the Commission shall review the transfer pursuant to subsection 3 of NRS 433.534.

4. Other rights concerning care, treatment and training as may be specified by regulation of the Commission.

Sec. 19. NRS 433.494 is hereby amended to read as follows:

433.494 1. An individualized written plan of mental health or mental retardation services or plan of services for a related condition must be developed for each [client] consumer of each facility. The plan must:



(a) Provide for the least restrictive treatment procedure that may reasonably be expected to benefit the **[client] consumer**; and

(b) Be developed with the input and participation of:

(1) The **[client] consumer**, to the extent that he or she is able to provide input and participate; and

(2) To the extent that the **[client] consumer** is unable to provide input and participate, the parent or guardian of the **[client] consumer** if the **[client] consumer** is under 18 years of age and is not legally emancipated, or the legal guardian of a **[client] consumer** who has been adjudicated mentally incompetent.

2. The plan must be kept current and must be modified, with the input and participation of the **[client] consumer**, the parent or guardian of the **[client] consumer** or the legal guardian of the **[client] consumer**, as appropriate, when indicated. The plan must be thoroughly reviewed at least once every 3 months.

3. The person in charge of implementing the plan of services must be designated in the plan.

Sec. 20. NRS 433.504 is hereby amended to read as follows:

433.504 1. A **[client] consumer** or the **[client's] consumer's** legal guardian must be:

(a) Permitted to inspect the **[client's] consumer's** records; and

(b) Informed of the **[client's] consumer's** clinical status and progress at reasonable intervals of no longer than 3 months in a manner appropriate to his or her clinical condition.

2. Unless a psychiatrist has made a specific entry to the contrary in a **[client's] consumer's** records, a **[client] consumer** or the **[client's] consumer's** legal guardian is entitled to obtain a copy of the **[client's] consumer's** records at any time upon notice to the administrative officer of the facility and payment of the cost of reproducing the records.

Sec. 21. NRS 433.514 is hereby amended to read as follows:

433.514 1. The attending psychiatrist or physician shall be responsible for all medication given or administered to a **[client] consumer**.

2. Each administrative officer shall establish a policy for the review of the administration, storage and handling of medications by nurses and nonprofessional personnel.

Sec. 22. NRS 433.524 is hereby amended to read as follows:

433.524 1. A **[client] consumer** may perform labor which contributes to the operation and maintenance of the facility for which the facility would otherwise employ someone only if:

(a) The **[client] consumer** voluntarily agrees to perform the labor;



(b) Engaging in the labor is not inconsistent with and does not interfere with the plan of services for the **[client:] consumer;**

(c) The person responsible for the **[client's] consumer's** treatment agrees to the plan of labor; and

(d) The amount of time or effort necessary to perform the labor is not excessive.

↳ In no event may discharge or privileges be conditioned upon the performance of such labor.

2. A **[client] consumer** who performs labor which contributes to the operation and maintenance of the facility for which the facility would otherwise employ someone must be adequately compensated and the compensation must be in accordance with applicable state and federal labor laws.

3. A **[client] consumer** who performs labor other than that described in subsection 2 must be compensated an adequate amount if an economic benefit to another person or agency results from the **[client's] consumer's** labor.

4. The administrative officer of the facility may provide for compensation of a resident when the resident performs labor not governed by subsection 2 or 3.

5. This section does not apply to labor of a personal housekeeping nature or to labor performed as a condition of residence in a small group living arrangement.

6. One-half of any compensation paid to a **[client] consumer** pursuant to this section is exempt from collection or retention as payment for services rendered by the Division of Mental Health and Developmental Services of the Department or its facilities, or by the Division of Child and Family Services of the Department or its facilities. Such an amount is also exempt from levy, execution, attachment, garnishment or any other remedies provided by law for the collection of debts.

Sec. 23. NRS 433.531 is hereby amended to read as follows:

433.531 Each **[client] consumer** admitted for evaluation, treatment or training to a facility has the following rights concerning the suspension or violation of his or her rights, a list of which must be prominently posted in all facilities providing those services and must be otherwise brought to the attention of the **[client] consumer** by such additional means as prescribed by regulation:

1. To receive a list of the **[client's] consumer's** rights.
2. To receive a copy of the policy of the facility that sets forth the clinical or medical circumstances under which the **[client's] consumer's** rights may be suspended or violated.



3. To receive a list of the clinically appropriate options available to the **[client] consumer** or the **[client's] consumer's** family to remedy an actual or a suspected suspension or violation of his or her rights.

4. To have all policies of the facility regarding the rights of **[clients] consumers** prominently posted in the facility.

Sec. 24. NRS 433.533 is hereby amended to read as follows:

433.533 Each facility shall, within a reasonable time after a **[client] consumer** is admitted to the facility for evaluation, treatment or training, ask the **[client] consumer** to sign a document that reflects that the **[client] consumer** has received a list of the **[client's] consumer's** rights and has had those rights explained to him or her.

Sec. 25. NRS 433.534 is hereby amended to read as follows:

433.534 1. The rights of a **[client] consumer** enumerated in this chapter must not be denied except to protect the **[client's] consumer's** health and safety or to protect the health and safety of others, or both. Any denial of those rights in any facility must be entered in the **[client's] consumer's** record of treatment, and notice of the denial must be forwarded to the administrative officer of the facility. Failure to report denial of rights by an employee may be grounds for dismissal.

2. If the administrative officer of a facility receives notice of a denial of rights as provided in subsection 1, the officer shall cause a full report to be prepared which must set forth in detail the factual circumstances surrounding the denial. Except as otherwise provided in NRS 239.0115, such a report is confidential and must not be disclosed. A copy of the report must be sent to the Commission.

3. The Commission:

(a) Shall receive reports of and may investigate apparent violations of the rights guaranteed by this chapter;

(b) May act to resolve disputes relating to apparent violations;

(c) May act on behalf of **[clients] consumers** to obtain remedies for any apparent violations; and

(d) Shall otherwise endeavor to safeguard the rights guaranteed by this chapter.

4. Pursuant to NRS 241.030, the Commission may close any portion of a meeting in which it considers the character, alleged misconduct or professional competence of a person in relation to:

(a) The denial of the rights of a **[client:] consumer;** or

(b) The care and treatment of a **[client:] consumer.**

➔ The provisions of this subsection do not require a meeting of the Commission to be closed to the public.



Sec. 26. NRS 433.538 is hereby amended to read as follows:

433.538 As used in NRS 433.538 to 433.543, inclusive, unless the context otherwise requires:

1. “Administrative officer” means a person with overall executive and administrative responsibility for a division facility.

2. ~~“Client” means any person who seeks, on the person’s own or another’s initiative, and can benefit from, care, treatment, treatment to competency or training in a division facility.~~

~~—3.—~~ “Division facility” means any unit or subunit operated by:

(a) The Division of Mental Health and Developmental Services of the Department for the care, treatment and training of ~~[clients;]~~ *consumers*; or

(b) The Division of Child and Family Services of the Department pursuant to chapter 433B of NRS.

Sec. 27. NRS 433.539 is hereby amended to read as follows:

433.539 1. There may be maintained as a trust fund at each division facility a ~~[clients’]~~ *consumers’* personal deposit fund.

2. Money coming into the possession of the administrative officer of a division facility which belongs to a ~~[client]~~ *consumer* must be credited in the fund in the name of that ~~[client.]~~ *consumer*.

3. When practicable, individual credits in the fund must not exceed the sum of \$300.

4. Any amounts to the credit of a ~~[client]~~ *consumer* may be used for purchasing personal necessities, for expenses of burial or may be turned over to the ~~[client]~~ *consumer* upon the ~~[client’s]~~ *consumer’s* demand, except that when the ~~[client]~~ *consumer* is adjudicated mentally incompetent the guardian of the ~~[client’s]~~ *consumer’s* estate has the right to demand and receive the money.

5. An amount accepted for the benefit of a ~~[client]~~ *consumer* for a special purpose must be reserved for that purpose regardless of the total amount to the credit of the ~~[client.]~~ *consumer*.

6. Except as otherwise provided in subsection 7, the administrative officers shall deposit any money received for the funds of their respective facilities in commercial accounts with one or more banks or credit unions of reputable standing. When deposits in a commercial account exceed \$15,000, the administrative officer may deposit the excess in a savings account paying interest in any reputable commercial bank, or in any credit union or savings and loan association within this state that is federally insured or insured by a private insurer approved pursuant to NRS 678.755. The savings account must be in the name of the fund. Interest paid on deposits in the savings account may be used for recreational purposes at the division facility.



7. The administrative officers may maintain at their respective division facilities petty cash of not more than \$400 of the money in the ~~{clients'}~~ *consumers'* personal deposit fund to enable ~~{clients}~~ *consumers* to withdraw small sums from their accounts.

Sec. 28. NRS 433.541 is hereby amended to read as follows:

433.541 Whenever any person admitted to a division facility dies, the administrative officer shall send written notice to the decedent's legally appointed representative, listing the personal property remaining in the custody or possession of the facility. If there is no demand made upon the administrative officer of the facility by the decedent's legally appointed representative, all personal property of the decedent remaining in the custody or possession of the administrative officer must be held by the officer for a period of 1 year from the date of the decedent's death for the benefit of the heirs, legatees or successors of the decedent. At the end of this period, another notice must be sent to the decedent's representative, listing the property and specifying the manner in which the property will be disposed of if not claimed within 15 business days. After 15 business days, all personal property and documents of the decedent, other than cash, remaining unclaimed in the possession of the administrative officer must be disposed of as follows:

1. All documents must be filed by the administrative officer with the public administrator of the county from which the ~~{client}~~ *consumer* was admitted.

2. All other personal property must be sold at a public auction or by sealed bids. The proceeds of the sale must be applied to the decedent's unpaid balance for costs incurred at the division facility.

Sec. 29. NRS 433.542 is hereby amended to read as follows:

433.542 If a person admitted to a division facility is discharged or leaves and the person fails to recover personal property worth more than \$100 in the custody of the administrative officer of the facility, the administrative officer shall notify the former ~~{client}~~ *consumer* or the ~~{client's}~~ *consumer's* legal representative in writing that personal property remains in the custody of the facility. The property must be held in safekeeping for the ~~{client}~~ *consumer* for a period of 1 year from the date of discharge. If upon the expiration of the 1-year period no claim has been made upon the administrative officer by the person or the person's legal representative, another notice must be sent to the person or the person's legal representative, stating the fact that personal property remains in the custody of the facility, and specifying the manner in which the property will be disposed of if not claimed within



15 business days. After 15 business days, the property may be considered unclaimed property and be disposed of in the manner provided for unclaimed property of deceased persons under the provisions of NRS 433.541.

Sec. 30. NRS 433.544 is hereby amended to read as follows:

433.544 1. Upon the death of a **[elient.] consumer**, any known relatives or friends of the **[elient.] consumer** shall be notified immediately of the fact of death.

2. The Administrator or the Administrator's designee shall cause a decent burial to be provided for the **[elient.] consumer** outside division facility grounds. The Administrator or the designee may enter into a contract with any person or persons, including governmental agencies or other instrumentalities, as the Administrator or the designee deems proper, for a decent burial. Where there are known relatives, and they are financially able, the cost of burial shall be borne by the relatives. Where there are no known relatives, the cost of burial shall be a charge against the State of Nevada, but the cost thereof shall not exceed the amount charged for the burial of indigents in the county in which the burial takes place.

3. When a **[elient.] consumer** has income from a pension payable through a division facility, and has no guardian, the Division may obligate operating funds for funeral expenses in the amount due under the pension benefits.

Sec. 31. NRS 433.5483 is hereby amended to read as follows:

433.5483 A person employed by a facility or any other person shall not use any aversive intervention on a person with a disability who is a **[elient.] consumer**.

Sec. 32. NRS 433.5486 is hereby amended to read as follows:

433.5486 Notwithstanding the provisions of NRS 433.549 to 433.5503, inclusive, to the contrary, a facility may use or authorize the use of physical restraint, mechanical restraint or chemical restraint on a person with a disability who is a **[elient.] consumer** if the facility is:

1. Accredited by a nationally recognized accreditation association or agency; or

2. Certified for participation in the Medicaid or Medicare Program,

↳ only to the extent that the accreditation or certification allows the use of such restraint.

Sec. 33. NRS 433.549 is hereby amended to read as follows:

433.549 A person employed by a facility or any other person shall not:



1. Except as otherwise provided in NRS 433.5493, use physical restraint on a person with a disability who is a **[client] consumer**.

2. Except as otherwise provided in NRS 433.5496 and 433.5499, use mechanical restraint on a person with a disability who is a **[client] consumer**.

3. Except as otherwise provided in NRS 433.5503, use chemical restraint on a person with a disability who is a **[client] consumer**.

Sec. 34. NRS 433.5493 is hereby amended to read as follows:

433.5493 1. Except as otherwise provided in subsection 2, physical restraint may be used on a person with a disability who is a **[client] consumer** only if:

(a) An emergency exists that necessitates the use of physical restraint;

(b) The physical restraint is used only for the period that is necessary to contain the behavior of the **[client] consumer** so that the **[client] consumer** is no longer an immediate threat of causing physical injury to himself or herself or others or causing severe property damage; and

(c) The use of force in the application of physical restraint does not exceed the force that is reasonable and necessary under the circumstances precipitating the use of physical restraint.

2. Physical restraint may be used on a person with a disability who is a **[client] consumer** and the provisions of subsection 1 do not apply if the physical restraint is used to:

(a) Assist the **[client] consumer** in completing a task or response if the **[client] consumer** does not resist the application of physical restraint or if the **[client's] consumer's** resistance is minimal in intensity and duration;

(b) Escort or carry a **[client] consumer** to safety if the **[client] consumer** is in danger in his or her present location; or

(c) Conduct medical examinations or treatments on the **[client] consumer** that are necessary.

3. If physical restraint is used on a person with a disability who is a **[client] consumer** in an emergency, the use of the procedure must be reported as a denial of rights pursuant to NRS 433.534, regardless of whether the use of the procedure is authorized by statute. The report must be made not later than 1 working day after the procedure is used.

Sec. 35. NRS 433.5496 is hereby amended to read as follows:

433.5496 1. Except as otherwise provided in subsections 2 and 4, mechanical restraint may be used on a person with a disability who is a **[client] consumer** only if:



(a) An emergency exists that necessitates the use of mechanical restraint;

(b) A medical order authorizing the use of mechanical restraint is obtained from the [client's] consumer's treating physician before the application of the mechanical restraint or not later than 15 minutes after the application of the mechanical restraint;

(c) The physician who signed the order required pursuant to paragraph (b) or the attending physician examines the [client] consumer not later than 1 working day immediately after the application of the mechanical restraint;

(d) The mechanical restraint is applied by a member of the staff of the facility who is trained and qualified to apply mechanical restraint;

(e) The [client] consumer is given the opportunity to move and exercise the parts of his or her body that are restrained at least 10 minutes per every 60 minutes of restraint;

(f) A member of the staff of the facility lessens or discontinues the restraint every 15 minutes to determine whether the [client] consumer will stop or control his or her inappropriate behavior without the use of the restraint;

(g) The record of the [client] consumer contains a notation that includes the time of day that the restraint was lessened or discontinued pursuant to paragraph (f), the response of the [client] consumer and the response of the member of the staff of the facility who applied the mechanical restraint;

(h) A member of the staff of the facility continuously monitors the [client] consumer during the time that mechanical restraint is used on the [client] consumer; and

(i) The mechanical restraint is used only for the period that is necessary to contain the behavior of the [client] consumer so that the [client] consumer is no longer an immediate threat of causing physical injury to himself or herself or others or causing severe property damage.

2. Mechanical restraint may be used on a person with a disability who is a [client] consumer and the provisions of subsection 1 do not apply if the mechanical restraint is used to:

(a) Treat the medical needs of a [client] consumer;

(b) Protect a [client] consumer who is known to be at risk of injury to himself or herself because the [client] consumer lacks coordination or suffers from frequent loss of consciousness;

(c) Provide proper body alignment to a [client] consumer; or

(d) Position a [client] consumer who has physical disabilities in a manner prescribed in the [client's] consumer's plan of services.



3. If mechanical restraint is used on a person with a disability who is a **[client] consumer** in an emergency, the use of the procedure must be reported as a denial of rights pursuant to NRS 433.534, regardless of whether the use of the procedure is authorized by statute. The report must be made not later than 1 working day after the procedure is used.

4. The provisions of this section do not apply to a forensic facility, as that term is defined in subsection 5 of NRS 433.5499.

Sec. 36. NRS 433.5499 is hereby amended to read as follows:

433.5499 1. Except as otherwise provided in subsection 3, mechanical restraint may be used on a person with a disability who is a **[client] consumer** of a forensic facility only if:

(a) An emergency exists that necessitates the use of the mechanical restraint;

(b) The **[client's] consumer's** behavior presents an imminent threat of causing physical injury to himself or herself or to others or causing severe property damage and less restrictive measures have failed to modify the **[client's] consumer's** behavior;

(c) The **[client] consumer** is in the care of the facility but not on the premises of the facility and mechanical restraint is necessary to ensure security; or

(d) The **[client] consumer** is in the process of being transported to another location and mechanical restraint is necessary to ensure security.

2. If mechanical restraint is used pursuant to subsection 1, the forensic facility shall ensure that:

(a) The mechanical restraint is applied by a member of the staff of the facility who is trained and qualified to apply mechanical restraint;

(b) A member of the staff of the facility continuously monitors the **[client] consumer** during the time that mechanical restraint is used on the **[client]; consumer;**

(c) The record of the **[client] consumer** contains a notation that indicates the time period during which the restraint was used and the circumstances warranting the restraint; and

(d) The mechanical restraint is used only for the period that is necessary.

3. Mechanical restraint may be used on a person with a disability who is a **[client] consumer** of a forensic facility, and the provisions of subsections 1 and 2 do not apply if the mechanical restraint is used to:

(a) Treat the medical needs of a **[client]; consumer;**



(b) Protect a **[client] consumer** who is known to be at risk of injury to himself or herself because the **[client] consumer** lacks coordination or suffers from frequent loss of consciousness;

(c) Provide proper body alignment to a **[client;] consumer;** or

(d) Position a **[client] consumer** who has physical disabilities in a manner prescribed in the **[client's] consumer's** plan of services.

4. If mechanical restraint is used in an emergency on a person with a disability who is a **[client] consumer** of a forensic facility, the use of the procedure must be reported as a denial of rights pursuant to NRS 433.534, regardless of whether the use of the procedure is authorized by statute. The report must be made not later than 1 working day after the procedure is used.

5. As used in this section, "forensic facility" means a secure facility of the Division for offenders and defendants with a mental disorder who are ordered to the facility pursuant to chapter 178 of NRS.

Sec. 37. NRS 433.5503 is hereby amended to read as follows:

433.5503 1. Chemical restraint may only be used on a person with a disability who is a **[client] consumer** if:

(a) The **[client] consumer** has been diagnosed as mentally ill, as defined in NRS 433A.115, and is receiving mental health services from a facility;

(b) The chemical restraint is administered to the **[client] consumer** while he or she is under the care of the facility;

(c) An emergency exists that necessitates the use of chemical restraint;

(d) A medical order authorizing the use of chemical restraint is obtained from the **[client's] consumer's** attending physician or psychiatrist;

(e) The physician or psychiatrist who signed the order required pursuant to paragraph (d) examines the **[client] consumer** not later than 1 working day immediately after the administration of the chemical restraint; and

(f) The chemical restraint is administered by a person licensed to administer medication.

2. If chemical restraint is used on a person with a disability who is a **[client;] consumer,** the use of the procedure must be reported as a denial of rights pursuant to NRS 433.534, regardless of whether the use of the procedure is authorized by statute. The report must be made not later than 1 working day after the procedure is used.



Sec. 38. NRS 433.5506 is hereby amended to read as follows:

433.5506 1. Each facility shall develop a program of education for the members of the staff of the facility to provide instruction in positive behavioral interventions and positive behavioral supports that:

(a) Includes positive methods to modify the environment of **[clients] consumers** to promote adaptive behavior and reduce the occurrence of inappropriate behavior;

(b) Includes methods to teach skills to **[clients] consumers** so that **[clients] consumers** can replace inappropriate behavior with adaptive behavior;

(c) Includes methods to enhance a **[client's] consumer's** independence and quality of life;

(d) Includes the use of the least intrusive methods to respond to and reinforce the behavior of **[clients:] consumers;** and

(e) Offers a process for designing interventions based upon the **[client] consumer** that are focused on promoting appropriate changes in behavior as well as enhancing the overall quality of life for the **[client:] consumer.**

2. Each facility shall provide appropriate training for the members of the staff of the facility who are authorized to carry out and monitor physical restraint, mechanical restraint and chemical restraint to ensure that those members of the staff are competent and qualified to carry out the procedures in accordance with NRS 433.545 to 433.551, inclusive.

Sec. 39. NRS 433.554 is hereby amended to read as follows:

433.554 1. An employee of a public or private mental health facility or any other person, except a **[client:] consumer,** who:

(a) Has reason to believe that a **[client] consumer** of the Division or of a private facility offering mental health services has been or is being abused or neglected and fails to report it;

(b) Brings intoxicating beverages or a controlled substance into any division facility occupied by **[clients] consumers** unless specifically authorized to do so by the administrative officer or a staff physician of the facility;

(c) Is under the influence of liquor or a controlled substance while employed in contact with **[clients:] consumers,** unless in accordance with a lawfully issued prescription;

(d) Enters into any transaction with a **[client] consumer** involving the transfer of money or property for personal use or gain at the expense of the **[client:] consumer;** or

(e) Contrives the escape, elopement or absence of a **[client:] consumer,**



↳ is guilty of a misdemeanor, in addition to any other penalties provided by law.

2. In addition to any other penalties provided by law, an employee of a public or private mental health facility or any other person, except a **{client,} consumer**, who willfully abuses or neglects a **{client,} consumer**:

(a) For a first violation that does not result in substantial bodily harm to the **{client,} consumer**, is guilty of a gross misdemeanor.

(b) For a first violation that results in substantial bodily harm to the **{client,} consumer**, is guilty of a category B felony.

(c) For a second or subsequent violation, is guilty of a category B felony.

↳ A person convicted of a category B felony pursuant to this section shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

3. A person who is convicted pursuant to this section is ineligible for 5 years for appointment to or employment in a position in the state service and, if the person is an officer or employee of the State, the person forfeits his or her office or position.

4. A conviction pursuant to this section is, when applicable, grounds for disciplinary action against the person so convicted and the facility where the violation occurred. The Division may recommend to the appropriate agency or board the suspension or revocation of the professional license, registration, certificate or permit of a person convicted pursuant to this section.

5. For the purposes of this section:

(a) "Abuse" means any willful and unjustified infliction of pain, injury or mental anguish upon a **{client,} consumer**, including, but not limited to:

(1) The rape, sexual assault or sexual exploitation of the **{client,} consumer**;

(2) The use of any type of aversive intervention;

(3) Except as otherwise provided in NRS 433.5486, a violation of NRS 433.549; and

(4) The use of physical, chemical or mechanical restraints or the use of seclusion in violation of federal law.

↳ Any act which meets the standard of practice for care and treatment does not constitute abuse.

(b) **{Client,} "Consumer"** includes any person who seeks, on the person's own or others' initiative, and can benefit from, care, treatment and training in a public or private institution or facility



offering mental health services, or from treatment to competency in a public or private institution or facility offering mental health services. The term includes a ~~{client}~~ *consumer* of the Division of Child and Family Services of the Department.

(c) "Neglect" means any omission to act which causes injury to a ~~{client}~~ *consumer* or which places the ~~{client}~~ *consumer* at risk of injury, including, but not limited to, the failure to follow:

- (1) An appropriate plan of treatment to which the ~~{client}~~ *consumer* has consented; and
- (2) The policies of the facility for the care and treatment of ~~{clients.}~~ *consumers*.

↳ Any omission to act which meets the standard of practice for care and treatment does not constitute neglect.

(d) "Standard of practice" means the skill and care ordinarily exercised by prudent professional personnel engaged in health care.

Sec. 40. NRS 433A.016 is hereby amended to read as follows:
433A.016 "Division facility" means:

1. Except as otherwise provided in subsection 2, any unit or subunit operated by the Division of Mental Health and Developmental Services of the Department for the care, treatment and training of ~~{clients.}~~ *consumers*.

2. Any unit or subunit operated by the Division of Child and Family Services of the Department pursuant to chapter 433B of NRS.

Sec. 41. NRS 433A.030 is hereby amended to read as follows:

433A.030 The administrative officers have the following powers and duties, subject to the administrative supervision of the Administrator:

1. To exercise general supervision of and establish regulations for the government of the facilities designated by the Administrator;
2. To be responsible for and supervise the fiscal affairs and responsibilities of the facilities designated by the Administrator;
3. To appoint such medical, technical, clerical and operational staff as the execution of his or her duties, the care and treatment of ~~{clients}~~ *consumers* and the maintenance and operation of the facilities designated by the Administrator may require;
4. To make reports to the Administrator, and to supply the Administrator with material on which to base proposed legislation;
5. To keep complete and accurate records of all proceedings, record and file all bonds and contracts, and assume responsibility for the custody and preservation of all papers and documents pertaining to his or her office;



6. To inform the public in regard to the activities and operation of the facilities;

7. To invoke any legal, equitable or special procedures for the enforcement of his or her orders or the enforcement of the provisions of this title and other statutes governing the facilities;

8. To submit an annual report to the Administrator on the condition, operation, functioning and anticipated needs of the facilities; and

9. To assume responsibility for the nonmedical care and treatment of ~~clients~~ consumers if that responsibility has not been delegated.

Sec. 42. NRS 433A.080 is hereby amended to read as follows:

433A.080 1. A coordinator of medical programs is the medical head of any division facility designated by the Administrator. The coordinator of medical programs:

(a) Must be a psychiatrist licensed to practice medicine or, in the case of a treatment facility authorized by paragraph (b) of subsection 1 of NRS 433B.290, a psychiatrist or a pediatrician licensed to practice medicine.

(b) May be a psychiatrist or pediatrician in private practice under contract to the Division.

(c) Must have such additional qualifications as are in accordance with criteria prescribed by the Department of Personnel and must be in the unclassified service of the State.

2. A coordinator of medical programs shall:

(a) Cause to be kept a fair and full account of all medical affairs;

(b) Have standard medical histories currently maintained on all ~~clients,~~ consumers, and administer or have administered the accepted and appropriate medical treatments to all ~~clients,~~ consumers under his or her care, and may, by delegation of the administrative officer, be responsible for the nonmedical care and treatment of ~~clients;~~ consumers; and

(c) Undertake any diagnostic, medical or surgical procedure in the interest of the ~~client,~~ consumer, but only in accordance with the provisions of subsection 1 of NRS 433.484.

Sec. 43. NRS 433A.110 is hereby amended to read as follows:

433A.110 1. The administrative officer of a division mental health facility which provides treatment for inpatients may cause to be established a canteen operated for the benefit of ~~clients~~ consumers and employees of the facility. So far as practical within good business practices, the prices of commodities sold must approximate costs. The administrative officer shall cause to be kept a record of transactions in the operation of the canteen.



2. The Administrator may designate money from budgeted resources in appropriate amounts to each such facility for the establishment and operation of canteens. The money must be used to supplement the financial operation of the canteens, if required, to provide money for needy ~~{clients}~~ *consumers*' canteen privileges, and to provide for such other expenditures benefiting the ~~{clients}~~ *consumers* of such division facilities as the respective administrative officers may deem necessary. All proceeds of sale collected must be deposited with the State Treasurer for credit to the appropriate operating account of the mental health facility. The operating account must separately identify in the record of transactions the proceeds of sale collected, the amount of budgeted resources used, and the total amount expended for the operations of the canteen. All proceeds of sale collected must be used for the operation of the canteen. Proceeds of sale collected which exceed the amount necessary to maintain the operation of the canteens must be used to benefit the ~~{clients}~~ *consumers*.

3. An appropriate sum may be maintained as petty cash at each canteen.

4. The respective administrative officers may cause to be appointed such staff as are necessary for the proper operation of the canteens.

Sec. 44. NRS 433A.140 is hereby amended to read as follows:
433A.140 1. Any person may apply to:

(a) A public or private mental health facility in the State of Nevada for admission to the facility; or

(b) A division facility to receive care, treatment or training provided by the Division,

↳ as a voluntary ~~{client}~~ *consumer* for the purposes of observation, diagnosis, care and treatment. In the case of a person who has not attained the age of majority, application for voluntary admission or care, treatment or training may be made on his or her behalf by the person's spouse, parent or legal guardian.

2. If the application is for admission to a division facility, or for care, treatment or training provided by the Division, the applicant must be admitted or provided such services as a voluntary ~~{client}~~ *consumer* if an examination by personnel of the facility qualified to make such a determination reveals that the person needs and may benefit from services offered by the mental health facility.

3. Any person admitted to a public or private mental health facility as a voluntary ~~{client}~~ *consumer* must be released immediately after the filing of a written request for release with the responsible physician or that physician's designee within the normal



working day, unless, within 24 hours after the request, the facility changes the status of the person to an emergency admission pursuant to NRS 433A.145. When a person is released pursuant to this subsection, the facility and its agents and employees are not liable for any debts or contractual obligations, medical or otherwise, incurred or damages caused by the actions of the person.

4. Any person admitted to a public or private mental health facility as a voluntary ~~{client}~~ *consumer* who has not requested release may nonetheless be released by the medical director of the facility when examining personnel at the facility determine that the ~~{client}~~ *consumer* has recovered or has improved to such an extent that the ~~{client}~~ *consumer* is not considered a danger to himself or herself or others and that the services of that facility are no longer beneficial to the ~~{client}~~ *consumer* or advisable.

5. A person who requests care, treatment or training from the Division pursuant to this section must be evaluated by the personnel of the Division to determine whether the person is eligible for the services offered by the Division. The evaluation must be conducted:

(a) Within 72 hours if the person has requested inpatient services; or

(b) Within 72 regular operating hours, excluding weekends and holidays, if the person has requested community-based or outpatient services.

6. This section does not preclude a public facility from making decisions, policies, procedures and practices within the limits of the money made available to the facility.

Sec. 45. NRS 433A.145 is hereby amended to read as follows:

433A.145 1. If a person with mental illness is admitted to a public or private mental health facility or hospital as a voluntary ~~{client,}~~ *consumer*, the facility or hospital shall not change the status of the person to an emergency admission unless the hospital or facility receives, before the change in status is made, an application for an emergency admission pursuant to NRS 433A.160 and the certificate of a psychiatrist, psychologist or physician pursuant to NRS 433A.170.

2. A person whose status is changed pursuant to subsection 1 must not be detained in excess of 48 hours after the change in status is made unless, before the close of the business day on which the 48 hours expires, a written petition is filed with the clerk of the district court pursuant to NRS 433A.200.

3. If the period specified in subsection 2 expires on a day on which the office of the clerk of the district court is not open, the



written petition must be filed on or before the close of the business day next following the expiration of that period.

Sec. 46. NRS 433A.350 is hereby amended to read as follows:

433A.350 1. Upon admission to any public or private mental health facility, each **[client]** *consumer* of the facility and the **[client's]** *consumer's* spouse and legal guardian, if any, must receive a written statement outlining in simple, nontechnical language all procedures for release provided by this chapter, setting out all rights accorded to such a **[client]** *consumer* by this chapter and chapters 433 and 433B of NRS and, if the **[client]** *consumer* has no legal guardian, describing procedures provided by law for adjudication of incompetency and appointment of a guardian for the **[client.]** *consumer.*

2. Written information regarding the services provided by and means of contacting the local office of an agency or organization that receives money from the Federal Government pursuant to 42 U.S.C. §§ 10801 et seq., to protect and advocate the rights of persons with mental illnesses must be posted in each public and private mental health facility and provided to each **[client]** *consumer* of such a facility upon admission.

Sec. 47. NRS 433A.360 is hereby amended to read as follows:

433A.360 1. A clinical record for each **[client]** *consumer* must be diligently maintained by any division facility or private institution or facility offering mental health services. The record must include information pertaining to the **[client's]** *consumer's* admission, legal status, treatment and individualized plan for habilitation. The clinical record is not a public record and no part of it may be released, except:

(a) If the release is authorized or required pursuant to NRS 439.538.

(b) The record must be released to physicians, attorneys and social agencies as specifically authorized in writing by the **[client,]** *consumer,* the **[client's]** *consumer's* parent, guardian or attorney.

(c) The record must be released to persons authorized by the order of a court of competent jurisdiction.

(d) The record or any part thereof may be disclosed to a qualified member of the staff of a division facility, an employee of the Division or a member of the staff of an agency in Nevada which has been established pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ 15001 et seq., or the Protection and Advocacy for Mentally Ill Individuals Act of 1986, 42 U.S.C. §§ 10801 et seq., when the Administrator deems it necessary for the proper care of the **[client.]** *consumer.*



(e) Information from the clinical records may be used for statistical and evaluative purposes if the information is abstracted in such a way as to protect the identity of individual ~~{client}~~ *consumers*.

(f) To the extent necessary for a ~~{client}~~ *consumer* to make a claim, or for a claim to be made on behalf of a ~~{client}~~ *consumer* for aid, insurance or medical assistance to which the ~~{client}~~ *consumer* may be entitled, information from the records may be released with the written authorization of the ~~{client}~~ *consumer* or the ~~{client}'s}~~ *consumer's* guardian.

(g) The record must be released without charge to any member of the staff of an agency in Nevada which has been established pursuant to 42 U.S.C. §§ 15001 et seq. or 42 U.S.C. §§ 10801 et seq. if:

(1) The ~~{client}~~ *consumer* is a ~~{client}~~ *consumer* of that office and the ~~{client}~~ *consumer* or the ~~{client}'s}~~ *consumer's* legal representative or guardian authorizes the release of the record; or

(2) A complaint regarding a ~~{client}~~ *consumer* was received by the office or there is probable cause to believe that the ~~{client}~~ *consumer* has been abused or neglected and the ~~{client}~~ *consumer*:

(I) Is unable to authorize the release of the record because of the ~~{client}'s}~~ *consumer's* mental or physical condition; and

(II) Does not have a guardian or other legal representative or is a ward of the State.

(h) The record must be released as provided in NRS 433.332 or 433B.200 and in chapter 629 of NRS.

2. As used in this section, ~~{“client”}~~ *“consumer”* includes any person who seeks, on the person's own or others' initiative, and can benefit from, care, treatment and training in a private institution or facility offering mental health services, or from treatment to competency in a private institution or facility offering mental health services.

Sec. 48. NRS 433A.370 is hereby amended to read as follows:

433A.370 1. When a ~~{client}~~ *consumer* committed by a court to a division facility on or before June 30, 1975, or a ~~{client}~~ *consumer* who is judicially admitted on or after July 1, 1975, or a person who is involuntarily detained pursuant to NRS 433A.145 to 433A.300, inclusive, escapes from any division facility, or when a judicially admitted ~~{client}~~ *consumer* has not returned to a division facility from conditional release after the administrative officer of the facility has ordered the ~~{client}~~ *consumer* to do so, any peace officer shall, upon written request of the administrative officer or the administrative officer's designee and without the necessity of a



warrant or court order, apprehend, take into custody and deliver the person to such division facility or another state facility.

2. Any person appointed or designated by the Director of the Department to take into custody and transport to a division facility persons who have escaped or failed to return as described in subsection 1 may participate in the apprehension and delivery of any such person, but may not take the person into custody without a warrant.

Sec. 49. NRS 433A.390 is hereby amended to read as follows:

433A.390 1. When a **{client,} consumer**, involuntarily admitted to a mental health facility by court order, is released at the end of the time specified pursuant to NRS 433A.310, written notice must be given to the admitting court and to the **{client's} consumer's** legal guardian at least 10 days before the release of the **{client,} consumer**. The **{client} consumer** may then be released without requiring further orders of the court. If the **{client} consumer** has a legal guardian, the facility shall notify the guardian before discharging the **{client} consumer** from the facility. The legal guardian has discretion to determine where the **{client} consumer** will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the legal guardian does not inform the facility as to where the **{client} consumer** will be released within 3 days after the date of notification, the facility shall discharge the **{client} consumer** according to its proposed discharge plan.

2. An involuntarily court-admitted **{client} consumer** may be unconditionally released before the period specified in NRS 433A.310 when:

(a) An evaluation team established under NRS 433A.250 or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, determines that the **{client} consumer** has recovered from his or her mental illness or has improved to such an extent that the **{client} consumer** is no longer considered to present a clear and present danger of harm to himself or herself or others; and

(b) Under advisement from the evaluation team or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, the medical director of the mental health facility authorizes the release and gives written notice to the admitting court and to the **{client's} consumer's** legal guardian at least 10 days before the release of the **{client,} consumer**. If the **{client} consumer** has a legal guardian, the facility shall notify the guardian before discharging the **{client} consumer**



from the facility. The legal guardian has discretion to determine where the {client} consumer will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the legal guardian does not inform the facility as to where the {client} consumer will be released within 3 days after the date of notification, the facility shall discharge the {client} consumer according to its proposed discharge plan.

Sec. 50. NRS 433A.420 is hereby amended to read as follows:

433A.420 The medical director of a division facility may order the transfer to a hospital of the Department of Veterans Affairs or other facility of the United States Government any admitted {client} consumer eligible for treatment therein. If the {client} consumer in any manner objects to the transfer, the medical director of the facility shall enter the objection and a written justification of the transfer in the {client's} consumer's record and forward a notice of the objection to the Administrator, and the Commission shall review the transfer pursuant to subsections 2 and 3 of NRS 433.534.

Sec. 51. NRS 433A.480 is hereby amended to read as follows:

433A.480 1. The medical director of a division mental health facility shall have all persons adjudicated as persons with mental incompetence of that facility automatically evaluated no less than once every 6 months to determine whether or not there is sufficient cause to believe that the {client} consumer remains unable to exercise rights to dispose of property, marry, execute instruments, make purchases, enter into contractual relationships, vote or hold a driver's license.

2. If the medical director has sufficient reason to believe that the {client} consumer remains unable to exercise these rights, such information shall be documented in the {client's} consumer's treatment record.

3. If there is no such reason to believe the {client} consumer is unable to exercise these rights, the medical director shall immediately initiate proper action to cause to have the {client} consumer restored to legal capacity.

Sec. 52. NRS 433A.580 is hereby amended to read as follows:

433A.580 No person may be admitted to a private hospital or division mental health facility pursuant to the provisions of this chapter unless mutually agreeable financial arrangements relating to the costs of treatment are made between the private hospital or division facility and the {client} consumer or person requesting his or her admission.



Sec. 53. NRS 433A.590 is hereby amended to read as follows:

433A.590 1. Fees for the cost of treatment and services rendered through any division facility must be established pursuant to the fee schedule established under NRS 433.404 or 433B.250, as appropriate.

2. The maximum fee established by the schedule must approximate the actual cost per **[client] consumer** for the class of **[client] consumer** care provided.

3. The fee schedule must allow for a **[client] consumer** to pay a portion of the actual cost if it is determined that the **[client] consumer** and his or her responsible relatives pursuant to NRS 433A.610 are unable to pay the full amount. That determination must be made pursuant to NRS 433A.640 and 433A.650.

4. Any reduction pursuant to subsection 3 of the amount owed must not be calculated until all of the benefits available to the **[client] consumer** from third-party sources, other than Medicaid, have been applied to pay the actual cost for the care provided.

Sec. 54. NRS 433A.630 is hereby amended to read as follows:

433A.630 1. The administrative officers of the respective division facilities may enter into special agreements secured by properly executed bonds with the relatives, guardians or friends of **[clients] consumers** who are adjudicated to be **[clients] consumers** with mental incompetence for subsistence, care or other expenses of such **[clients.] consumers**. Each agreement and bond must be to the State of Nevada and any action to enforce the agreement or bond may be brought by the administrative officer.

2. Financially responsible relatives pursuant to NRS 433A.610 and the guardian of the estate of a **[client] consumer** may, from time to time, pay money to the division facility for the future personal needs of the **[client] consumer** with mental incompetence and for the **[client's] consumer's** burial expenses. Money paid pursuant to this subsection must be credited to the **[client] consumer** in the **[clients'] consumers'** personal deposit fund established pursuant to NRS 433.539.

Sec. 55. NRS 433A.650 is hereby amended to read as follows:

433A.650 Determination of ability to pay pursuant to NRS 433A.640 shall include investigation of whether the **[client] consumer** has benefits due and owing to the **[client] consumer** for the cost of his or her treatment from third-party sources, such as Medicare, Medicaid, social security, medical insurance benefits, retirement programs, annuity plans, government benefits or any other financially responsible third parties. The administrative officer of a division mental health facility may accept payment for the cost



of a **[elient's] consumer's** treatment from the **[elient's] consumer's** insurance company, Medicare or Medicaid and other similar third parties.

Sec. 56. NRS 433A.660 is hereby amended to read as follows:

433A.660 1. If the **[elient.] consumer**, his or her responsible relative pursuant to NRS 433A.610, guardian or the estate neglects or refuses to pay the cost of treatment to the division facility rendering service pursuant to the fee schedule established under NRS 433.404 or 433B.250, as appropriate, the State is entitled to recover by appropriate legal action all sums due, plus interest.

2. Before initiating such legal action, the division facility shall demonstrate efforts at collection, which may include contractual arrangements for collection through a private collection agency.

Sec. 57. NRS 433A.680 is hereby amended to read as follows:

433A.680 The expense of diagnostic, medical and surgical services furnished to a **[elient] consumer** admitted to a division facility by a person not on the staff of the facility, whether rendered while the **[elient] consumer** is in a general hospital, an outpatient of a general hospital or treated outside any hospital, must be paid by the **[elient.] consumer**, the guardian or relatives responsible pursuant to NRS 433A.610 for the **[elient's] consumer's** care. In the case of an indigent **[elient] consumer** or a **[elient] consumer** whose estate is inadequate to pay the expenses, the expenses must be charged to the county from which the admission to the division facility was made, if the **[elient] consumer** had, before admission, been a resident of that county. The expense of such diagnostic, medical and surgical services must not in any case be a charge against or paid by the State of Nevada, except when in the opinion of the administrative officer of the division mental health facility to which the **[elient] consumer** is admitted payment should be made for nonresident indigent **[elients] consumers** and money is authorized pursuant to NRS 433.374 or 433B.230 and the money is authorized in approved budgets.

Sec. 58. NRS 433A.690 is hereby amended to read as follows:

433A.690 Claims by a division mental health facility against the estates of deceased **[elients] consumers** may be presented to the executor or Administrator in the manner required by law, and shall be paid as preferred claims equal to claims for expenses of last illness. When a deceased person has been maintained at a division mental health facility at a rate less than the maximum usually charged, or the facility has incurred other expenses for the benefit of the person for which full payment has not been made, the estate of



the person shall be liable if the estate is discovered within 5 years after the person's death.

Sec. 59. NRS 433B.070 is hereby amended to read as follows:

433B.070 "Division facility" means any unit or subunit operated by the Division for the care and treatment of ~~clients~~ *consumers*.

Sec. 60. NRS 433B.130 is hereby amended to read as follows:

433B.130 1. The Administrator shall:

(a) Administer, in accordance with the policies established by the Commission, the programs of the Division for the mental health of children.

(b) Establish appropriate policies to ensure that children in division facilities have timely access to clinically appropriate psychotropic medication that are consistent with the policies established pursuant to NRS 432B.197.

2. The Administrator may:

(a) Appoint the administrative personnel necessary to operate the programs of the Division for the mental health of children.

(b) Delegate to the administrative officers the power to appoint medical, technical, clerical and operational staff necessary for the operation of any division facilities.

3. If the Administrator finds that it is necessary or desirable that any employee reside at a facility operated by the Division or receive meals at such a facility, perquisites granted or charges for services rendered to that person are at the discretion of the Director of the Department.

4. The Administrator may accept children referred to the Division for treatment pursuant to the provisions of NRS 458.290 to 458.350, inclusive.

5. The Administrator may enter into agreements with the Administrator of the Division of Mental Health and Developmental Services of the Department for the care and treatment of ~~clients~~ *consumers* of the Division of Child and Family Services at any facility operated by the Division of Mental Health and Developmental Services.

Sec. 61. NRS 433B.150 is hereby amended to read as follows:

433B.150 1. The Division shall employ such physicians within the various division facilities as are necessary for the operation of the facilities. The physicians must hold degrees of doctor of medicine from accredited medical schools and be licensed to practice medicine in Nevada.

2. Except as otherwise provided by law, the only compensation allowed such a physician is an annual salary, fixed in accordance



with the pay plan adopted pursuant to the provisions of NRS 284.175.

3. The physicians shall perform such duties pertaining to the care and treatment of **[elient.] consumers** as may be required.

Sec. 62. NRS 433B.190 is hereby amended to read as follows:

433B.190 1. The Division shall adopt regulations to:

(a) Provide for a more detailed definition of abuse of a **[elient.] consumer**, consistent with the general definition given in NRS 433B.340;

(b) Provide for a more detailed definition of neglect of a **[elient.] consumer**, consistent with the general definition given in NRS 433B.340; and

(c) Establish policies and procedures for reporting the abuse or neglect of a **[elient.] consumer**.

2. The regulations adopted pursuant to this section must, to the extent possible and appropriate, be consistent with the regulations adopted by the Division of Mental Health and Developmental Services of the Department pursuant to NRS 433.331.

Sec. 63. NRS 433B.200 is hereby amended to read as follows:

433B.200 1. If a **[elient] consumer** in a division facility is transferred to another division facility or to a medical facility, a facility for the dependent or a physician licensed to practice medicine, the division facility shall forward a copy of the medical records of the **[elient.] consumer**, on or before the date the **[elient] consumer** is transferred, to the facility or physician. Except as otherwise required by 42 U.S.C. ~~§§ 290dd-3 and 290ee-3,~~ § **290dd-2**, the division facility is not required to obtain the oral or written consent of the **[elient] consumer** to forward a copy of the medical records.

2. As used in this section, “medical records” includes a medical history of the **[elient.] consumer**, a summary of the current physical condition of the **[elient] consumer** and a discharge summary which contains the information necessary for the proper treatment of the **[elient.] consumer**.

Sec. 64. NRS 433B.210 is hereby amended to read as follows:

433B.210 The Division may:

1. By contract with general hospitals or other institutions having adequate facilities in this State, provide for inpatient care of **[elients] consumers** with mental illness.

2. Contract with appropriate persons professionally qualified in the field of psychiatric mental health to provide inpatient and outpatient care for children with mental illness when it appears that they can be treated best in that manner.



Sec. 65. NRS 433B.250 is hereby amended to read as follows:

433B.250 1. The Division shall establish a fee schedule for services rendered through any program supported by the State pursuant to the provisions of this chapter. The schedule must be submitted to the Commission and the Director of the Department for joint approval before enforcement. The fees collected by facilities operated by the Division pursuant to this schedule must be deposited in the State Treasury to the credit of the State General Fund, except as otherwise provided in NRS 433B.220 for fees collected pursuant to contract or agreement.

2. For a facility providing services for the treatment of children with mental illness, the fee established must approximate the cost of providing the service, but if a [client] consumer, or the parent or legal guardian of the [client] consumer, is unable to pay in full the fee established pursuant to this section, the Division may collect any amount the [client] consumer, parent or legal guardian is able to pay.

Sec. 66. NRS 433B.280 is hereby amended to read as follows:

433B.280 1. Upon the death of a [client] consumer in a division facility, any known relatives or friends of the [client] consumer must be notified immediately of the fact of death.

2. The Administrator or the Administrator's designee shall cause a decent burial to be provided for the [client] consumer outside the grounds of a division facility. The Administrator or the designee may enter into a contract with any person or persons, including governmental agencies or other instrumentalities, as the Administrator or the designee deems proper, for a decent burial. Where there are known relatives, and they are financially able, the cost of burial must be borne by the relatives. Where there are no known relatives, the cost of burial is a charge against the State of Nevada, except that the cost must not exceed the amount charged for the burial of indigents in the county in which the burial takes place.

Sec. 67. NRS 433B.340 is hereby amended to read as follows:

433B.340 1. An employee of the Division or other person who:

(a) Has reason to believe that a [client] consumer has been or is being abused or neglected and fails to report it;

(b) Brings intoxicating beverages or a controlled substance into any building occupied by [clients] consumers unless specifically authorized to do so by the administrative officer or a staff physician of the facility;



(c) Is under the influence of liquor or a controlled substance while employed in contact with **[client:] consumer**, unless in accordance with a lawfully issued prescription;

(d) Enters into any transaction with a **[client] consumer** involving the transfer of money or property for personal use or gain at the expense of the **[client:] consumer**; or

(e) Contrives the escape, elopement or absence of a **[client:] consumer**,

↳ is guilty of a misdemeanor.

2. An employee of the Division or other person who willfully abuses or neglects any **[client:] consumer**:

(a) If no substantial bodily harm to the **[client] consumer** results, is guilty of a gross misdemeanor.

(b) If substantial bodily harm to the **[client] consumer** results, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

3. A person who is convicted pursuant to this section is ineligible for 5 years for appointment to or employment in a position in the state service and, if he or she is an officer or employee of the State, the person forfeits his or her office or position.

4. For the purposes of this section:

(a) "Abuse" means any willful or reckless act or omission to act which causes physical or mental injury to a **[client:] consumer**, including, but not limited to:

(1) The rape, sexual assault or sexual exploitation of the **[client:] consumer**;

(2) Striking the **[client:] consumer**;

(3) The use of excessive force when placing the **[client] consumer** in physical restraints; and

(4) The use of physical or chemical restraints in violation of state or federal law.

↳ Any act or omission to act which meets the standard practice for care and treatment does not constitute abuse.

(b) "Neglect" means any act or omission to act which causes injury to a **[client] consumer** or which places the **[client] consumer** at risk of injury, including, but not limited to, the failure to:

(1) Establish or carry out an appropriate plan of treatment for the **[client:] consumer**;

(2) Provide the **[client] consumer** with adequate nutrition, clothing or health care; and

(3) Provide a safe environment for the **[client:] consumer**.



↳ Any act or omission to act which meets the standard practice for care and treatment does not constitute neglect.

(c) "Standard practice" is the skill and care ordinarily exercised by prudent medical personnel.

Sec. 68. NRS 435.007 is hereby amended to read as follows:

435.007 As used in this chapter, unless the context otherwise requires:

1. "Child" means any person under the age of 18 years who may be eligible for mental retardation services or services for a related condition.

2. "Parent" means the parent of a child. The term does not include the parent of a person who has attained the age of 18 years.

3. "Person" includes a child and any other ~~client~~ **consumer** with mental retardation or a related condition who has attained the age of 18 years.

4. "Residential facility for groups" means a structure similar to a private residence which will house a small number of persons in a homelike atmosphere.

Sec. 69. NRS 435.122 is hereby amended to read as follows:

435.122 1. Any person with mental retardation or a person with a related condition may apply to any mental retardation center for admission as a voluntary ~~client~~ **consumer**. The person's parent or guardian or another responsible person may submit the application on his or her behalf.

2. If the person or a responsible party on behalf of the person objects to voluntary admission, the procedure for involuntary admission may be followed.

Sec. 70. NRS 435.128 is hereby amended to read as follows:

435.128 1. Upon completion of the proceedings for involuntary admission of a person to a mental retardation center, if the court finds:

(a) That the person is a person with mental retardation or a person with a related condition, has demonstrated that the person is a clear and present danger to himself or herself or others and is in need of institutional training and treatment;

(b) That appropriate space and programs are available at the mental retardation center to which it is proposed that the person be admitted; and

(c) That there is no less restrictive alternative to admission to a mental retardation center which would be consistent with the best interests of the person,

↳ the court shall by written order certify that the person is eligible for involuntary admission to a mental retardation center.



2. A certificate of eligibility for involuntary admission expires 12 months after the date of issuance if the **[client] consumer** has not been discharged earlier by the procedure provided in NRS 435.129. At the end of the 12-month period, the administrative officer of the mental retardation center may petition the court to renew the certificate for an additional period of not more than 12 months. Each petition for renewal must set forth the specific reasons why further treatment is required. A certificate may be renewed more than once.

Sec. 71. NRS 435.129 is hereby amended to read as follows:

435.129 1. If the administrative officer of a mental retardation center finds that a **[client] consumer** is no longer in need of the services offered at the center, the administrative officer shall discharge that **[client] consumer**.

2. A written notice of the discharge must be given to the **[client] consumer** and the **[client's] consumer's** representatives at least 10 days before the discharge.

3. If the **[client] consumer** was admitted involuntarily, the Administrator shall, at least 10 days before the discharge, notify the district court which issued the certificate of eligibility for the person's admission.

Sec. 72. NRS 435.350 is hereby amended to read as follows:

435.350 1. Each person with mental retardation and each person with a related condition admitted to a division facility is entitled to all rights enumerated in NRS 433.482, 433.484 and 433.545 to 433.551, inclusive.

2. The Administrator shall designate a person or persons to be responsible for establishment of regulations relating to denial of rights of persons with mental retardation and persons with related conditions. The person designated shall file the regulations with the Administrator.

3. **[Clients'] Consumers'** rights specified in NRS 433.482 and 433.484 may be denied only for cause. Any denial of such rights must be entered in the **[client's] consumer's** treatment record, and notice of the denial must be forwarded to the Administrator's designee or designees as provided in subsection 2. Failure to report denial of rights by an employee may be grounds for dismissal.

4. Upon receipt of notice of a denial of rights as provided in subsection 3, the Administrator's designee or designees shall cause a full report to be prepared which sets forth in detail the factual circumstances surrounding the denial. A copy of the report must be sent to the Administrator and the Commission.



5. The Commission has such powers and duties with respect to reports of denial of rights as are enumerated in subsection 3 of NRS 433.534.

Sec. 73. NRS 435.360 is hereby amended to read as follows:

435.360 1. The relatives of a **[client] consumer** with mental retardation or a **[client] consumer** with a related condition who is 18 years of age or older are not responsible for the costs of the **[client's] consumer's** care and treatment within a division facility.

2. The **[client] consumer** or the **[client's] consumer's** estate, when able, may be required to contribute a reasonable amount toward the costs of the **[client's] consumer's** care and treatment. Otherwise, the full costs of the services must be borne by the State.

Sec. 74. NRS 435.390 is hereby amended to read as follows:

435.390 1. The administrative officer of any division facility where persons with mental retardation or persons with related conditions reside may establish a canteen operated for the benefit of **[clients] consumers** and employees of the facility. The administrative officer shall keep a record of transactions in the operation of the canteen.

2. Each canteen must be self-supporting. No money provided by the State may be used for its operation.

3. The respective administrative officers shall deposit the money used for the operation of the canteen in one or more banks or credit unions of reputable standing, except that an appropriate sum may be maintained as petty cash at each canteen.

Sec. 75. NRS 433.044, 433.459, 433A.014 and 433B.050 are hereby repealed.

Sec. 76. The Legislative Counsel shall, in preparing supplements to the Nevada Administrative Code, appropriately change, move or remove any words and terms in the Nevada Administrative Code in a manner that the Legislative Counsel determines necessary to ensure consistency with the provisions of this act.

Sec. 77. This act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.



