

**PROPOSED REGULATION OF THE
NEVADA HEALTH AUTHORITY**

LCB File No. R164-26

July 20, 2026

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

AUTHORITY: §§ 1-64, NRS 233B.050.

A REGULATION relating to the administration of public health; establishing rules of practice and administrative procedures applicable to the appeal of certain actions of the Nevada Health Authority or Health Care Purchasing and Compliance Division of the Authority; revising the applicability of procedures governing the appeal of certain decisions of the Division of Public and Behavioral Health of the Department of Human Services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Senate Bill No. 494 (S.B. 494) of the 2025 Legislative Session: (1) created the Nevada Health Authority; and (2) transferred certain duties and authorities from the former Department of Health and Human Services (now the Department of Human Services) to the Authority. (NRS 232.4993) S.B. 494 also transferred from the Division of Public and Behavioral Health of the Department to the Health Care Purchasing and Compliance Division of the Authority the duty to enforce provisions governing: (1) programs for the treatment of persons who commit domestic violence; (2) health care facilities and certain entities involved in the provision of personal care services; (3) nontransplant anatomical donation organizations; (4) naprapaths; and (5) medical laboratories and the personnel of medical laboratories. (Sections 26, 146, 217-244, 250, 276, 325-327 and 360 of Senate Bill No. 494, chapter 514, Statutes of Nevada 2025, at pages 3591, 3673, 3713-3725, 3728, 3745, 3760-3761 and 3775, respectively) S.B. 494 additionally transferred from the Division of Public and Behavioral Health to the Authority the duty to enforce provisions governing sanitation. (Sections 26 and 206-211 of Senate Bill No. 494, chapter 514, Statutes of Nevada 2025, at pages 3591 and 3710-3711, respectively) Finally, S.B. 494 transferred certain duties relating to the licensure of and the enforcement of provisions governing music therapists and dietitians from the State Board of Health to the Health Care Purchasing and Compliance Division. (Sections 26 and 281-323 of Senate Bill No. 494, chapter 514, Statutes of Nevada 2025, at pages 3591 and 3746-3760, respectively)

Existing law requires each agency of the Executive Department of State Government to adopt rules of practice setting forth the nature and requirements of all formal and informal procedures made available by the agency. (NRS 233B.050) Existing regulations establish rules of practice and procedures pertaining to appeals of disciplinary and certain other adverse actions taken by the Division of Public and Behavioral Health or the Health Care Purchasing and

Compliance Division, including disciplinary actions relating to the former functions and duties of the Division of Public and Behavioral Health which have since been transferred by S.B. 494 to the Authority or Health Care Purchasing and Compliance Division. (NAC 439.300-439.395) **Sections 25-36** of this regulation remove the applicability of those existing regulations to the Health Care Purchasing and Compliance Division, thereby making those existing regulations applicable only to appeals of certain disciplinary and other adverse actions taken by the Division of Public and Behavioral Health. **Sections 4-24** of this regulation establish substantially similar rules of practice and procedures that are applicable to appeals of certain disciplinary actions taken by the Authority and all disciplinary action taken by the Health Care Purchasing and Compliance Division.

Specifically, **sections 5-8** define terms relating to such appeals, and **section 4** establishes the applicability of those definitions to **sections 4-24**. **Section 9** provides that the procedures set forth in **sections 4-24** govern appeals of: (1) disciplinary actions imposed by the Authority where specifically provided (currently disciplinary actions relating to sanitation, as set forth in **sections 37-42** of this regulation); and (2) all proposed disciplinary actions by the Health Care Purchasing and Compliance Division, unless specifically provided otherwise by law or another regulation. **Sections 10 and 11** establish certain rules of construction. **Section 12** provides that the Authority will, upon receipt of a request for an appeal to be heard by a hearing officer, appoint a hearing officer to preside over the appeal. **Section 13** provides for the Authority or Health Care Purchasing and Compliance Division, as applicable, to provide certain notice of its intent to take disciplinary action, with certain exceptions. **Section 14** imposes certain requirements on a person who wishes to file an appeal, and **sections 15 and 16** establish the duties of the hearing officer upon and legal effect of, respectively, the receipt of an appeal. **Section 17**: (1) entitles a party to be represented by counsel in an appeal; and (2) establishes certain requirements relating to the representation of a party by an attorney. **Sections 18 and 19** establish requirements governing pleadings and motions, respectively. **Sections 20-23** establish provisions governing hearings conducted by a hearing officer, including: (1) the order of testimony at a hearing; (2) a requirement that such a hearing be open to the public, with certain exceptions; (3) the types and character of evidence that may be introduced at a hearing, including the materials of which the hearing officer may take official notice; and (4) the duties and authority of a hearing officer during and after a hearing. **Section 24** provides that the decision of a hearing officer is a final decision for purposes of judicial review.

Sections 1 and 2 of this regulation update internal references to indicate the applicability of the procedures set forth in **sections 4-24** to appeals of certain adverse decisions of the Health Care Purchasing and Compliance Division relating to programs for the treatment of persons who commit domestic violence. **Sections 43-64** of this regulation make similar changes pertaining to appeals of adverse decisions made by the Division relating to: (1) health care facilities and certain entities involved in the provision of personal care services; (2) music therapists; (3) dietitians; (4) medical laboratories; and (5) naprapaths. **Sections 37-42** similarly update internal references to establish the applicability of the procedures set forth in **sections 4-24** to appeals of an adverse decision of the Authority relating to provisions governing sanitation, including the denial of an application for or suspension or revocation of a license or permit to operate: (1) an invasive body decoration establishment; (2) certain public bathing or swimming facilities; (3) a public spa; (4) a facility for sanitation for camping spaces; or (5) a labor camp.

Section 1. NAC 228.150 is hereby amended to read as follows:

228.150 1. The Division may:

(a) Refuse to issue a certificate for a program;

(b) Refuse to renew a certificate for a program for failure to comply with the provisions of paragraph (b), (c) or (d) of subsection 2 of NAC 228.130; or

(c) Revoke or suspend a certificate for a program,

↪ only upon written notice provided pursuant to ~~NAC 439.345,~~ *section 13 of this regulation.*

2. If the Division intends to suspend the certificate of a program, the Division will also notify the program of:

(a) The remedial steps that, if completed to the satisfaction of the Division in a timely manner, will result in the Division ending the suspension; and

(b) The date by which such remedial steps must be completed.

3. A written warning issued to a treatment program pursuant to NAC 228.140 must include:

(a) The specific reason for the warning;

(b) A citation to the statute or regulation that the Division has determined to have been violated by the program; and

(c) A statement of any actions that the Division has determined are necessary to remedy the violation.

4. An applicant for or holder of a certificate or provisional certificate who is aggrieved by an action of the Division relating to the denial of an application for or the suspension or revocation of a certificate may appeal the action in accordance with ~~NAC 439.300 to 439.395,~~ *sections 4 to 24, inclusive H, of this regulation.*

Sec. 2. NAC 228.225 is hereby amended to read as follows:

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

- (a) Will be taught by a qualified instructor as demonstrated by his or her educational, professional and teaching experience;
- (b) Contains appropriate educational material concerning domestic violence or the treatment of an offender, or both; and
- (c) Requires the completion of a written evaluation of the content and presentation of the course by each provider of treatment and supervisor of treatment who is enrolled in the course.

2. Within 15 days after the Division renders its decision concerning an application made pursuant to NAC 228.215 or 228.220, it will provide written notice of its decision to the applicant.

3. If the Division approves the course or will award credit for the completion of the course, the notice of approval will set forth:

- (a) The number of hours of continuing education for which the course is approved or for which the applicant will receive credit; and
- (b) If the application was submitted pursuant to NAC 228.215, the number of times the course may be offered.

4. Before denying an application to offer or teach a course of continuing education or formal training in domestic violence, the Division will provide notice in accordance with ~~NAC 439.345~~ *section 13 of this regulation*. A person who is aggrieved by an action of the Division relating to the denial of an application may appeal that action in accordance with ~~NAC 439.300 to 439.395~~ *sections 4 to 24*, inclusive ~~H~~, *of this regulation*.

Sec. 3. Chapter 439 of NAC is hereby amended by adding thereto the provisions set forth as sections 4 to 24, inclusive, of this regulation.

Sec. 4. *As used in sections 4 to 24, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 5 to 8, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 5. *“Appellant” means a person who appeals a proposed disciplinary action against him or her by the Authority or the Health Care Purchasing and Compliance Division.*

Sec. 6. *“Applicable disciplinary action” means a disciplinary action for which, pursuant to section 9 of this regulation, a hearing concerning an appeal is governed by the provisions of sections 4 to 24, inclusive, of this regulation.*

Sec. 7. *“Disciplinary action” includes, without limitation:*

- 1. Administrative sanctions; and*
- 2. The denial, suspension or revocation of a license, permit, certificate, endorsement, approval, registration, charter, designation or other similar grant of permission to operate that is issued to a person, facility or governmental entity by the Authority or the Health Care Purchasing and Compliance Division.*

Sec. 8. *“Hearing officer” means a person appointed by the Authority to preside at a hearing conducted pursuant to sections 4 to 24, inclusive, of this regulation.*

Sec. 9. *1. The provisions of sections 4 to 24, inclusive, of this regulation govern:*
(a) All hearings concerning appeals of proposed disciplinary actions by the Health Care Purchasing and Compliance Division, unless the applicable practice or procedure is specifically provided by law or another regulation; and

(b) Hearings concerning appeals of proposed disciplinary actions by the Authority where specifically provided by another regulation.

2. In special cases, where good cause appears, the hearing officer may allow deviation from these provisions if he or she finds compliance with the provisions to be impractical or unnecessary.

Sec. 10. The provisions of sections 4 to 24, inclusive, will be liberally construed to secure the just, speedy and economical determination of all issues presented to the hearing officer.

Sec. 11. The provisions of sections 4 to 24, inclusive, of this regulation are severable. If any provision of these regulations or any application to any person, thing or circumstance is held invalid, the Authority intends that such invalidity not affect the remaining provisions or applications to the extent that they can be given effect.

Sec. 12. 1. Upon receipt of a request for an appeal of an applicable disciplinary action, the Authority will appoint one permanent employee of the Authority to act as a hearing officer in the appeal. The Authority will not appoint as a hearing officer a permanent employee who has a conflict of interest or is otherwise disqualified from hearing the appeal. If a hearing officer appointed to hear an appeal is subsequently disqualified from or is otherwise removed from the appeal, the Authority will appoint an alternate hearing officer to act as a hearing officer in the appeal pursuant to this section.

2. A hearing officer shall perform his or her duties in addition to his or her regularly assigned duties.

3. A hearing officer may not hear requests for variances from the requirements of a regulation.

4. The Authority may revoke the appointment or change the assignment of a hearing officer for good cause.

Sec. 13. 1. Except in the case of an emergency or a summary suspension, if the Authority or the Health Care Purchasing and Compliance Division intends to take an applicable disciplinary action, the Authority will or the Health Care Purchasing and Compliance Division shall, as applicable, notify the applicant for or holder of a license, permit, certificate, endorsement, approval, registration, charter, designation or other similar grant of permission to operate or other affected person of the proposed disciplinary action, in writing, at least 11 business days before the effective date of the disciplinary action. The notice must include, without limitation:

- (a) A citation of the statutory and regulatory authority for the disciplinary action;*
- (b) The facts on which the disciplinary action is based;*
- (c) A description of any circumstances that the Authority or the Health Care Purchasing and Compliance Division, as applicable, considered in taking the disciplinary action;*
- (d) Instructions for responding to the notice, including, without limitation, a statement of the right to any internal informal procedures for appeal, the right to a hearing, the period during which a hearing must be requested and the consequences of waiving a hearing; and*
- (e) The effective date of the disciplinary action.*

2. The Authority will or the Health Care Purchasing and Compliance Division shall, as applicable, serve the notice by personal delivery to the applicant, holder or other affected person or by mailing the notice by registered or certified mail to his or her last known residential or business address.

Sec. 14. 1. *A person who wishes to file an appeal with a hearing officer contesting a proposed applicable disciplinary action must first exhaust all internal informal procedures for appeals.*

2. A request for an appeal must be addressed to the Director of the Authority or the Administrator of the Health Care Purchasing and Compliance Division, as applicable, and must be received by the Director or Administrator, as applicable, not later than 10 business days after the date on which the appellant received notice of the proposed applicable disciplinary action pursuant to section 13 of this regulation. The request must specify:

- (a) The disciplinary action to be contested;*
- (b) The name of the officer or employee of the Authority or the Health Care Purchasing and Compliance Division, as applicable, who proposed the disciplinary action; and*
- (c) The reasons that the appellant believes the disciplinary action is incorrect.*

Sec. 15. *Upon receipt of an appeal, the hearing officer assigned to hear the appeal must provide notice of the hearing to the appellant. The notice must include:*

- 1. The date, time, place and subject matter of the hearing;*
- 2. A citation of the statutory and regulatory authority and jurisdiction pursuant to which the hearing is to be held; and*
- 3. A brief and concise statement of the matters asserted.*

Sec. 16. *Except as otherwise provided in NAC 449.99908 or in the case of an emergency or a summary suspension, the effective date of the applicable disciplinary action is stayed upon receipt of an appeal until the hearing officer renders a decision regarding the appeal.*

Sec. 17. 1. *A party is entitled to be represented by counsel. Counsel for a party must enter an appearance by submitting written notice of the representation to the Director of the*

Authority or the Administrator of the Health Care Purchasing and Compliance Division, as applicable.

2. Following the entry of an appearance by an attorney for a party, all notices, pleadings and orders to be served thereafter upon the party must be served upon his or her attorney, and such service is for all purposes considered valid service upon the party represented.

3. Any attorney of record wishing to withdraw from a proceeding before a hearing officer shall, in writing, immediately notify the hearing officer, the party whom he or she represented and any other parties to the proceeding.

Sec. 18. *1. A pleading before the hearing officer must be styled a “petition” or “response.”*

2. The hearing officer may, when the substantial rights of the parties are not involved, allow a pleading to be amended or corrected or any omission in it to be supplied.

3. All pleadings will be liberally construed to effect justice between the parties, and the hearing officer may, at every stage of any proceeding, disregard errors or defects in the pleadings or proceedings which do not affect the substantial rights of the parties.

Sec. 19. *1. All motions, unless made during a hearing, must be in writing.*

2. Each written motion must set forth the nature of the relief sought, the grounds for the relief and citations of applicable authority.

3. A party desiring to oppose a motion may serve and file a written response to the motion within 10 days after receiving the motion.

4. The moving party may serve and file a written reply within 5 days after a written response to the motion has been served and filed.

5. A decision on a motion will be rendered without oral argument unless the hearing officer requires an oral argument, and in that event the hearing officer shall set a date and time for hearing the argument.

Sec. 20. *1. The hearing officer shall call the hearing to order, state the appearances of the parties and their respective counsel and act upon any pending motions, stipulations and preliminary matters.*

2. All testimony must be under oath administered by the hearing officer. Unless otherwise indicated by the hearing officer, the hearing must proceed in the following manner:

- (a) Opening statement for the Authority or Division, as applicable;*
- (b) Opening statement for appellant;*
- (c) Presentation of the case of the Authority or Division, as applicable, followed by cross-examination;*
- (d) Responsible presentation by appellant, followed by cross-examination;*
- (e) Rebuttal testimony for the Authority or Division, as applicable;*
- (f) Rebuttal testimony for appellant;*
- (g) Surrebuttal testimony for the Authority or Division, as applicable;*
- (h) Closing argument for the Authority or Division, as applicable;*
- (i) Closing argument for appellant;*
- (j) Rebuttal closing argument for the Authority or Division, as applicable; and*
- (k) Submission of case to the hearing officer.*

3. At the conclusion of the hearing, the hearing officer shall take the case under submission and shall notify the parties in writing of his or her findings of fact, conclusions of law and decision in the matter.

4. As used in this section, “Division” means the Health Care Purchasing and Compliance Division.

Sec. 21. 1. Except as otherwise provided in this subsection, hearings on appeals must be open to the public. Upon the motion of a party, the hearing officer, in his or her discretion, may exclude from the hearing room any witnesses in the matter not at the time under examination except a party or parties to the proceeding or his or her counsel.

2. The hearing officer shall determine the evidence upon the charges and specifications as set forth by the Authority or the Health Care Purchasing and Compliance Division, as applicable, in its letter of notice of violation describing the nature of the violation and the action taken or to be taken, or as contained in other appropriate documents, and must not consider any additional evidence beyond the scope of the charges.

3. The technical rules of evidence do not apply. All testimony and exhibits offered must be relevant and bear upon the matter in contention. Any testimony or exhibits considered by the hearing officer as not meeting this criterion may properly be excluded. The hearing officer shall also consider the objection of either side to the introduction of evidence, whether oral testimony or exhibit. Competence and relevance are the primary test in ruling on such objections.

4. The hearing officer shall base his or her decision on the weight of the evidence presented at the hearing. Findings of fact, conclusions of law and decisions must be based on substantial evidence.

5. At the beginning of his or her testimony, each witness who has not previously testified in the hearing shall be required to state his or her name and business, employment or position.

6. *Any letter, paper or object offered in evidence must be properly authenticated and, if received, must be marked by the hearing reporter with a distinguishing number or letter, such as “Division’s Exhibit 1” or “Licensee’s Exhibit A.”*

7. *Testimony may be presented in statement or question and answer form.*

8. *Good cause appearing, hearings may be continued beyond the period originally scheduled or recessed until a future date agreeable to the hearing officer and the parties.*

9. *Witnesses may be subpoenaed by either party to the hearing and must receive the fees and mileage allowed a witness in a civil case.*

10. *A record of the proceedings must be kept but need not be transcribed unless the decision is appealed or a transcript is requested by an interested party, who shall bear the cost of transcription.*

Sec. 22. 1. *If a party fails to appear at a hearing scheduled by the hearing officer and no continuance has been granted, the hearing officer may hear the evidence and proceed to consider the matter and dispose of it on the basis of the evidence before the hearing officer. If the subject matter of the hearing is a proposed applicable disciplinary action and the appellant fails to appear at the hearing and fails to reply to the notice, the charges specified in the proposed finding are presumed to be true.*

2. *With the approval of the hearing officer, the parties may stipulate as to any fact at issue, either by a written stipulation introduced in evidence as an exhibit or by oral statements shown upon the record. Any such stipulation is binding upon all parties so stipulating and may be regarded by the hearing officer as evidence at the hearing.*

3. *The hearing officer may, before or during a hearing, upon a proper showing, grant a continuance for submission of additional proof or other reasonable purpose.*

4. In addition to the facts mentioned in subsection 5 of NRS 233B.123, the hearing officer may take official notice of:

(a) Regulations, official reports and decisions and orders of any other regulatory agency of the State of Nevada.

(b) Contents of certificates and permits issued by the Authority or the Health Care Purchasing and Compliance Division, as applicable.

(c) Any provision of the Nevada Revised Statutes.

Sec. 23. *1. The hearing officer shall render an order or decision with separately stated findings of fact and conclusions of law after the completion of the hearing.*

2. A proceeding stands submitted for decision by the hearing officer after the taking of evidence, the filing of briefs or the presentation of such oral or written arguments as may have been allowed by the hearing officer.

Sec. 24. *The decision of a hearing officer made pursuant to the procedures set forth in sections 4 to 24, inclusive, of this regulation is a final decision in a contested case. Any person aggrieved by such a decision is entitled to judicial review of the decision pursuant to NRS 233B.130.*

Sec. 25. NAC 439.301 is hereby amended to read as follows:

439.301 “Appellant” means a person who appeals proposed disciplinary action against him or her by the Division of Public and Behavioral Health . ~~for the Health Care Purchasing and Compliance Division.~~

Sec. 26. NAC 439.304 is hereby amended to read as follows:

439.304 “Disciplinary action” includes, without limitation:

1. Administrative sanctions; and

2. The denial, suspension or revocation of a license, permit, certificate, endorsement, approval, registration, charter, designation or other similar grant of permission to operate that is issued to a person, facility or governmental entity by the Division ~~of Public and Behavioral Health~~ *of Public and Behavioral Health*.

Sec. 27. NAC 439.307 is hereby amended to read as follows:

439.307 “Hearing officer” means a person appointed by the Administrator of the Division of Public and Behavioral Health ~~for the Administrator of the Health Care Purchasing and Compliance Division~~ to preside at a hearing conducted pursuant to NAC 439.300 to 439.395, inclusive.

Sec. 28. NAC 439.310 is hereby amended to read as follows:

439.310 1. All hearings concerning appeals of proposed disciplinary actions by the Division of Public and Behavioral Health ~~for the Health Care Purchasing and Compliance Division~~ are governed by the provisions of NAC 439.300 to 439.395, inclusive, unless the applicable practice or procedure is specifically provided by law or another regulation of the Board.

2. In special cases, where good cause appears, the hearing officer may allow deviation from these provisions if he or she finds compliance with the provisions to be impractical or unnecessary.

Sec. 29. NAC 439.341 is hereby amended to read as follows:

439.341 1. The Administrator of the Division of Public and Behavioral Health ~~and the Administrator of the Health Care Purchasing and Compliance Division~~ shall appoint three permanent employees of the Division ~~of Public and Behavioral Health or three permanent employees of the Health Care Purchasing and Compliance Division, as applicable,~~ to act as

hearing officers. The hearing officers shall perform their duties in addition to their regularly assigned duties.

2. An employee appointed as a hearing officer must be appointed for a term of 2 years.

3. The Administrator of the Division of Public and Behavioral Health ~~and the Administrator of the Health Care Purchasing and Compliance Division~~ shall rotate the assignment of appeals among the hearing officers. Upon receipt of a request for an appeal to be heard by a hearing officer, the Administrator of the Division of Public and Behavioral Health ~~for the Administrator of the Health Care Purchasing and Compliance Division, as applicable,~~ shall assign the appeal to the next hearing officer in the rotation unless that hearing officer has a conflict of interest or is otherwise disqualified from hearing the appeal.

4. A hearing officer shall not hear requests for variances from the requirements of a regulation.

5. The Administrator of the Division of Public and Behavioral Health ~~for the Administrator of the Health Care Purchasing and Compliance Division, as applicable,~~ may revoke the appointment or change the assignment of a hearing officer for good cause.

Sec. 30. NAC 439.345 is hereby amended to read as follows:

439.345 1. Except as otherwise provided by specific statute or regulation or in the case of an emergency or a summary suspension, if the Division of Public and Behavioral Health ~~for the Health Care Purchasing and Compliance Division~~ intends to take disciplinary action, the Division of Public and Behavioral Health ~~for the Health Care Purchasing and Compliance Division, as applicable,~~ shall notify the applicant for or holder of a license, permit, certificate, endorsement, approval, registration, charter, designation or other similar grant of permission to operate or other affected person of the proposed disciplinary action, in writing, at least 11

business days before the effective date of the disciplinary action. The notice must include, without limitation:

- (a) A citation of the statutory and regulatory authority for the disciplinary action;
- (b) The facts on which the disciplinary action is based;
- (c) A description of any circumstances that the Division of Public and Behavioral Health ~~for the Health Care Purchasing and Compliance Division, as applicable,~~ considered in taking the disciplinary action;
- (d) Instructions for responding to the notice, including, without limitation, a statement of the right to any internal informal procedures for appeal, the right to a hearing, the period during which a hearing must be requested and the consequences of waiving a hearing; and
- (e) The effective date of the disciplinary action.

2. The Division of Public and Behavioral Health ~~for the Health Care Purchasing and Compliance Division, as applicable,~~ shall serve the notice by personal delivery to the applicant, holder or other affected person or by mailing the notice by registered or certified mail to his or her last known residential or business address.

Sec. 31. NAC 439.346 is hereby amended to read as follows:

439.346 1. A person who wishes to file an appeal with a hearing officer contesting proposed disciplinary action by the Division of Public and Behavioral Health ~~for the Health Care Purchasing and Compliance Division,~~ must first exhaust all internal informal procedures for appeals.

2. A request for an appeal must be addressed to the Administrator of the Division of Public and Behavioral Health ~~for the Health Care Purchasing and Compliance Division, as applicable,~~ and must be received by the Administrator not later than 10 business days after the date on which

the appellant received notice of the proposed disciplinary action pursuant to NAC 439.345. The request must specify:

- (a) The disciplinary action to be contested;
- (b) The name of the officer or employee of the Division of Public and Behavioral Health ~~for the Health Care Purchasing and Compliance Division, as applicable,~~ who proposed the disciplinary action; and
- (c) The reasons that the appellant believes the disciplinary action is incorrect.

Sec. 32. NAC 439.348 is hereby amended to read as follows:

439.348 Except ~~as otherwise provided in NAC 449.99908 or~~ in the case of an emergency or a summary suspension, the effective date of the disciplinary action is stayed upon receipt of an appeal until the hearing officer renders a decision regarding the appeal.

Sec. 33. NAC 439.350 is hereby amended to read as follows:

439.350 1. A party is entitled to be represented by counsel. Counsel for a party must enter an appearance by submitting written notice of the representation to the Administrator of the Division of Public and Behavioral Health . ~~for the Administrator of the Health Care Purchasing and Compliance Division, as applicable.~~

2. Following the entry of an appearance by an attorney for a party, all notices, pleadings and orders to be served thereafter upon the party must be served upon his or her attorney, and such service is for all purposes considered valid service upon the party represented.

3. Any attorney of record wishing to withdraw from a proceeding before a hearing officer shall, in writing, immediately notify the hearing officer, the party whom he or she represented and any other parties to the proceeding.

Sec. 34. NAC 439.375 is hereby amended to read as follows:

439.375 1. The hearing officer shall call the hearing to order, state the appearances of the parties and their respective counsel and act upon any pending motions, stipulations and preliminary matters.

2. All testimony must be under oath administered by the hearing officer. Unless otherwise indicated by the hearing officer, the hearing must proceed in the following manner:

- (a) Opening statement for Division;
- (b) Opening statement for appellant;
- (c) Presentation of Division's case, followed by cross-examination;
- (d) Responsible presentation by appellant, followed by cross-examination;
- (e) Rebuttal testimony for Division;
- (f) Rebuttal testimony for appellant;
- (g) Surrebuttal testimony for Division;
- (h) Closing argument for Division;
- (i) Closing argument for appellant;
- (j) Rebuttal closing argument for Division; and
- (k) Submission of case to the hearing officer.

3. At the conclusion of the hearing, the hearing officer shall take the case under submission and shall notify the parties in writing of his or her findings of fact, conclusions of law and decision in the matter.

4. As used in this section, "Division" means the Division of Public and Behavioral Health .
~~for the Health Care Purchasing and Compliance Division, as applicable to the hearing at issue.~~

Sec. 35. NAC 439.378 is hereby amended to read as follows:

439.378 1. ~~{All requests for an appeal must be addressed to the Administrator of the Division of Public and Behavioral Health or the Administrator of the Health Care Purchasing and Compliance Division, as applicable.}~~

~~—2.†~~ Except as otherwise provided in this subsection, hearings on appeals must be open to the public. Upon the motion of a party, the hearing officer, in his or her discretion, may exclude from the hearing room any witnesses in the matter not at the time under examination except a party or parties to the proceeding or his or her counsel.

~~{3.†~~ 2. The hearing officer shall determine the evidence upon the charges and specifications as set forth by the Division of Public and Behavioral Health ~~{for the Health Care Purchasing and Compliance Division, as applicable,}~~ in its letter of notice of violation describing the nature of the violation and the action taken or to be taken, or as contained in other appropriate documents, and must not consider any additional evidence beyond the scope of the charges.

~~{4.†~~ 3. The technical rules of evidence do not apply. All testimony and exhibits offered must be relevant and bear upon the matter in contention. Any testimony or exhibits considered by the hearing officer as not meeting this criterion may properly be excluded. The hearing officer shall also consider the objection of either side to the introduction of evidence, whether oral testimony or exhibit. Competence and relevance are the primary test in ruling on such objections.

~~{5.†~~ 4. The hearing officer shall base his or her decision on the weight of the evidence presented at the hearing. Findings of fact, conclusions of law and decisions must be based on substantial evidence.

~~{6.†~~ 5. At the beginning of his or her testimony, each witness who has not previously testified in the hearing shall be required to state his or her name and business, employment or position.

~~17-1~~ 6. Any letter, paper or object offered in evidence must be properly authenticated and, if received, must be marked by the hearing reporter with a distinguishing number or letter, such as “Division’s Exhibit 1” or “Licensee’s Exhibit A.”

~~18-1~~ 7. Testimony may be presented in statement or question and answer form.

~~19-1~~ 8. Good cause appearing, hearings may be continued beyond the period originally scheduled or recessed until a future date agreeable to the hearing officer and the parties.

~~110-1~~ 9. Witnesses may be subpoenaed by either party to the hearing and shall receive the fees and mileage allowed a witness in a civil case.

~~111-1~~ 10. A record of the proceedings must be kept but need not be transcribed unless the decision is appealed or a transcript is requested by an interested party, who shall bear the cost of transcription.

Sec. 36. NAC 439.380 is hereby amended to read as follows:

439.380 1. If a party fails to appear at a hearing scheduled by the hearing officer and no continuance has been granted, the hearing officer may hear the evidence and proceed to consider the matter and dispose of it on the basis of the evidence before the hearing officer. If the subject matter of the hearing is proposed disciplinary action and the appellant fails to appear at the hearing and fails to reply to the notice, the charges specified in the proposed finding are presumed to be true.

2. With the approval of the hearing officer, the parties may stipulate as to any fact at issue, either by a written stipulation introduced in evidence as an exhibit or by oral statements shown upon the record. Any such stipulation is binding upon all parties so stipulating and may be regarded by the hearing officer as evidence at the hearing.

3. The hearing officer may, before or during a hearing, upon a proper showing, grant a continuance for submission of additional proof or other reasonable purpose.

4. In addition to the facts mentioned in subsection 5 of NRS 233B.123, the hearing officer may take official notice of:

(a) Regulations, official reports and decisions and orders of the Board or any other regulatory agency of the State of Nevada.

(b) Contents of certificates and permits issued by the Division of Public and Behavioral Health . ~~for the Health Care Purchasing and Compliance Division, as applicable.~~

(c) Any provision of the Nevada Revised Statutes.

Sec. 37. NAC 444.00939 is hereby amended to read as follows:

444.00939 1. A person who has reason to believe that an action taken by the health authority pursuant to NAC 444.00701 to 444.00939, inclusive, is incorrect or based on inadequate knowledge may, within 10 business days after receiving notice of the action, request an informal discussion with the employee responsible for the action and the immediate supervisor of the employee.

2. If the informal discussion does not resolve the problem, the aggrieved person may, within 10 business days after the date of the informal discussion, submit a written request to the health authority for an informal conference. The informal conference must be scheduled for a date, time and place mutually agreed upon by the aggrieved person and the health authority, except that the informal conference must be held not later than 60 days after the date on which the health authority received the written request.

3. Except as otherwise provided in subsection 4, the determination of the health authority resulting from an informal conference cannot be appealed and is the final remedy available to the aggrieved person.

4. An applicant for or holder of a permit issued pursuant to NAC 444.00701 to 444.00939, inclusive, who is aggrieved by an action of the health authority relating to the denial of an application for or the renewal of a permit or the suspension or revocation of a permit may appeal that action with the ~~{Division}~~ *Nevada Health Authority* in accordance with ~~{NAC 439.300 to 439.395}~~ *sections 4 to 24*, inclusive, *of this regulation*, after exhausting the informal procedures set forth in this section, except that the health authority may waive the informal procedures, or any portion thereof, by giving written notice to the aggrieved person.

Sec. 38. NAC 444.305 is hereby amended to read as follows:

444.305 1. A person who has reason to believe that an action taken by the ~~{Division}~~ *Nevada Health Authority* pursuant to NAC 444.010 to 444.306, inclusive, is incorrect or based on inadequate knowledge may, within 10 business days after receiving notice of the action, request an informal discussion with the employee responsible for the action and the immediate supervisor of the employee.

2. If the informal discussion does not resolve the problem, the aggrieved person may, within 10 business days after the date scheduled for the informal discussion, submit a written request to the ~~{Bureau}~~ *Nevada Health Authority* for an informal conference. The informal conference must be scheduled for a date, place and time mutually agreed upon by the aggrieved person and the ~~{Bureau}~~ *Nevada Health Authority*, except that the informal conference must be held no later than 60 days after the date on which the ~~{Bureau}~~ *Nevada Health Authority* received the written request.

3. Except as otherwise provided in subsection 4, the determination of the ~~{Bureau}~~ *Nevada Health Authority* resulting from the informal conference cannot be appealed and is the final remedy available to the aggrieved person.

4. An applicant for or holder of a permit or license issued pursuant to NAC 444.010 to 444.306, inclusive, who is aggrieved by an action of the ~~{Division}~~ *Nevada Health Authority* relating to the denial of an application for or renewal of such a permit or license or the suspension or revocation of such a permit or license may appeal that action in accordance with ~~{NAC 439.300 to 439.395,}~~ *sections 4 to 24*, inclusive, *of this regulation* after exhausting the informal procedures set forth in this section, except that the ~~{Bureau}~~ *Nevada Health Authority* may waive the informal procedures, or any portion thereof, by giving written notice to the aggrieved person.

~~{5. —As used in this section, “Bureau” means the Bureau of Health Protection Services of the Division or its successor.}~~

Sec. 39. NAC 444.545 is hereby amended to read as follows:

444.545 1. A person who has reason to believe that an action taken by the ~~{Division}~~ *Nevada Health Authority* pursuant to NAC 444.310 to 444.546, inclusive, is incorrect or based on inadequate knowledge may, within 10 business days after receiving notice of the action, request an informal discussion with the employee responsible for the action and the immediate supervisor of the employee.

2. If the informal discussion does not resolve the problem, the aggrieved person may, within 10 business days after the date scheduled for the informal discussion, submit a written request to the ~~{Bureau}~~ *Nevada Health Authority* for an informal conference. The informal conference must be scheduled for a date, place and time mutually agreed upon by the aggrieved person and

the ~~{Bureau,}~~ *Nevada Health Authority*, except that the informal conference must be held no later than 60 days after the date on which the ~~{Bureau}~~ *Nevada Health Authority* received the written request.

3. Except as otherwise provided in subsection 4, the determination of the ~~{Bureau}~~ *Nevada Health Authority* resulting from the informal conference cannot be appealed and is the final remedy available to the aggrieved person.

4. An applicant for or holder of a permit or license issued pursuant to NAC 444.310 to 444.546, inclusive, who is aggrieved by an action of the ~~{Division}~~ *Nevada Health Authority* relating to the denial of an application for or renewal of such a permit or license or the suspension or revocation of such a permit or license may appeal that action in accordance with ~~{NAC 439.300 to 439.395,}~~ *sections 4 to 24*, inclusive, *of this regulation* after exhausting the informal procedures set forth in this section, except that the ~~{Bureau}~~ *Nevada Health Authority* may waive the informal procedures, or any portion thereof, by giving written notice to the aggrieved person.

~~{5. As used in this section, "Bureau" means the Bureau of Health Protection Services of the Division or its successor.}~~

Sec. 40. NAC 444.54675 is hereby amended to read as follows:

444.54675 1. Whenever the health authority finds unsanitary or other conditions or violations of NAC 444.5461 to 444.54675, inclusive, in the operation and maintenance of facilities for camping spaces, the health authority shall:

(a) In the case where the health authority determines that a substantial and immediate hazard to public health or safety exists, take any of the following actions:

(1) Revoke the permit;

(2) Remove or abate such hazards;

(3) Take necessary steps to protect persons from such hazards; or

(4) Notify the permit holder or operator and any person who might be affected by such hazardous conditions, require specific corrective action and specify the time period within which such action must be taken.

(b) In all other cases, issue a notice of violation to the permit holder or operator citing such conditions, specifying the corrective action to be taken, and specifying the time period within which action must be taken.

2. If the permit holder or operator fails to comply with a notice of violation, the permit must be revoked.

3. A permit may be revoked without notice if the health authority determines that a substantial and immediate hazard to public health and safety exists.

4. A person who has reason to believe that an action taken by the ~~{Division}~~ *Nevada Health Authority* pursuant to NAC 444.5461 to 444.54675, inclusive, is incorrect or based on inadequate knowledge may, within 10 business days after receiving notice of the action, request an informal discussion with the employee responsible for the action and the immediate supervisor of the employee.

5. If the informal discussion does not resolve the problem, the aggrieved person may, within 10 business days after the date scheduled for the informal discussion, submit a written request to the ~~{Bureau}~~ *Nevada Health Authority* for an informal conference. The informal conference must be scheduled for a date, place and time mutually agreed upon by the aggrieved person and the ~~{Bureau,}~~ *Nevada Health Authority*, except that the informal conference must be held no

later than 60 days after the date on which the ~~{Bureau}~~ *Nevada Health Authority* received the written request.

6. Except as otherwise provided in subsection 7, the determination of the ~~{Bureau}~~ *Nevada Health Authority* resulting from the informal conference cannot be appealed and is the final remedy available to the aggrieved person.

7. An applicant for or holder of a permit issued pursuant to NAC 444.5461 to 444.54675, inclusive, who is aggrieved by an action of the ~~{Division}~~ *Nevada Health Authority* relating to the denial of an application for or the suspension or revocation of such a permit may appeal that action in accordance with ~~{NAC 439.300 to 439.395.}~~ *sections 4 to 24*, inclusive, *of this regulation* after exhausting the informal procedures set forth in this section, except that the ~~{Bureau}~~ *Nevada Health Authority* may waive the informal procedures, or any portion thereof, by giving written notice to the aggrieved person.

8. Nothing in this section prevents the health authority from extending the time allowed for corrective action when the permit holder provides a written response within 10 days after receiving a notice of violation setting forth the nature and time needed for corrective action. The health authority shall require periodic reports as may be necessary to demonstrate reasonable progress toward final compliance.

~~{9. As used in this section, "Bureau" means the Bureau of Health Protection Services of the Division or its successor.}~~

Sec. 41. NAC 444.565 is hereby amended to read as follows:

444.565 1. A person who has reason to believe that an action taken by the ~~{Division}~~ *Nevada Health Authority* pursuant to NAC 444.550 to 444.566, inclusive, is incorrect or based on inadequate knowledge may, within 10 business days after receiving notice of the action,

request an informal discussion with the employee responsible for the action and the immediate supervisor of the employee.

2. If the informal discussion does not resolve the problem, the aggrieved person may, within 10 business days after the date scheduled for the informal discussion, submit a written request to the ~~{Bureau,}~~ *Nevada Health Authority* for an informal conference. The informal conference must be scheduled for a date, place and time mutually agreed upon by the aggrieved person and the ~~{Bureau,}~~ *Nevada Health Authority*, except that the informal conference must be held no later than 60 days after the date on which the ~~{Bureau,}~~ *Nevada Health Authority* received the written request.

3. Except as otherwise provided in subsection 4, the determination of the ~~{Bureau,}~~ *Nevada Health Authority* resulting from the informal conference cannot be appealed and is the final remedy available to the aggrieved person.

4. An applicant for or holder of a permit or license issued pursuant to NAC 444.550 to 444.566, inclusive, who is aggrieved by an action of the ~~{Division,}~~ *Nevada Health Authority* relating to the denial of an application for or the renewal of such a permit or license or the suspension or revocation of such a permit or license may appeal that action in accordance with ~~{NAC 439.300 to 439.395,}~~ *sections 4 to 24*, inclusive, *of this regulation* after exhausting the informal procedures set forth in this section, except that the ~~{Bureau,}~~ *Nevada Health Authority* may waive the informal procedures, or any portion thereof, by giving written notice to the aggrieved person.

~~{5. As used in this section, "Bureau" means the Bureau of Health Protection Services of the Division or its successor.}~~

Sec. 42. NAC 444.786 is hereby amended to read as follows:

444.786 1. Except as otherwise provided in this subsection, an application for a permit for an individual sewage disposal system submitted to the health authority must be denied in writing and the reasons specified therefor if:

(a) The health authority determines that the proposed installation will not comply with NAC 444.750 to 444.8396, inclusive;

(b) A community sewerage system is available and passes through or is in physical contact with the property line or is located adjacent to the property in a street or right-of-way that abuts the property line; or

(c) The proposed individual sewage disposal system is within the service area of a sewer company which provides sewage services that are subject to the jurisdiction of the Public Utilities Commission of Nevada or any local governmental entity, including, without limitation, a general improvement district, that has jurisdiction over the sewer services in that geographical area. A permit may be granted by the health authority if the sewer company approves in writing the construction of the individual sewage disposal system within its service area or jurisdiction.

2. A person who has reason to believe that an action taken by the health authority pursuant to NAC 444.750 to 444.8396, inclusive, is incorrect or based on inadequate knowledge may, within 10 business days after receiving notice of the action, request an informal discussion with the employee responsible for the action and the immediate supervisor of the employee.

3. If the informal discussion does not resolve the problem, the aggrieved person may, within 10 business days after the date scheduled for the informal discussion, submit a written request to the ~~{Bureau}~~ *Nevada Health Authority* for an informal conference. The informal conference must be scheduled for a date, place and time mutually agreed upon by the aggrieved person and the ~~{Bureau}~~ *Nevada Health Authority*, except that the informal conference must be held no

later than 60 days after the date on which the ~~{Bureau}~~ *Nevada Health Authority* received the written request.

4. Except as otherwise provided in subsection 5, the determination of the ~~{Bureau}~~ *Nevada Health Authority* resulting from the informal conference cannot be appealed and is the final remedy available to the aggrieved person.

5. An applicant for or holder of a permit issued pursuant to NAC 444.750 to 444.8396, inclusive, who is aggrieved by an action of the health authority relating to the denial of an application for, or the suspension or revocation of, such a permit may appeal that action in accordance with ~~{NAC 439.300 to 439.395,}~~ *sections 4 to 24*, inclusive, *of this regulation* after exhausting the informal procedures set forth in this section, except that the ~~{Bureau}~~ *Nevada Health Authority* may waive the informal procedures, or any portion thereof, by giving written notice to the aggrieved person.

6. A permit is void 12 months after the date of issuance if the proposed construction, alteration or extension of the individual sewage disposal system is not completed within that period. Upon the request of the holder of the permit, an extension of the permit may be granted in increments of 1 year if the appropriate fees are paid and the proposed plans meet the requirements of NAC 444.750 to 444.8396, inclusive.

~~{7. As used in this section, "Bureau" means the Bureau of Health Protection Services of the Division or its successor.}~~

Sec. 43. NAC 449.0119 is hereby amended to read as follows:

449.0119 An applicant or licensee who is aggrieved by an action of the Division relating to the denial, suspension or revocation of a license or an endorsement may appeal pursuant to the

procedures set forth in ~~NAC 439.300 to 439.395,~~ *sections 4 to 24*, inclusive ~~H~~, *of this regulation.*

Sec. 44. NAC 449.15323 is hereby amended to read as follows:

449.15323 1. As a condition of the issuance of a license to a facility, the facility shall provide proof that it is certified by the Division.

2. If the Division revokes or does not renew the certification of a facility, the Division shall revoke the license of the facility subject to the appeals procedure set forth in ~~NAC 439.300 to 439.395,~~ *sections 4 to 24*, inclusive ~~H~~, *of this regulation.*

Sec. 45. NAC 449.61256 is hereby amended to read as follows:

449.61256 1. The Division may deny, suspend or revoke its approval because of the failure of the hospital affected to comply with any provision of NAC 449.612 to 449.61256, inclusive.

2. The Division shall advise the hospital affected in writing whenever it intends:

- (a) To deny an application for approval or for renewal of approval;
- (b) To revoke approval; or
- (c) To order a hospital to cease and desist providing services for open-heart surgery.

3. The hospital affected may request a hearing on the proposed action of the Division. The hearing must be conducted in accordance with the procedures set forth in ~~NAC 439.300 to 439.395,~~ *sections 4 to 24*, inclusive ~~H~~, *of this regulation.*

Sec. 46. NAC 449.6127 is hereby amended to read as follows:

449.6127 1. If the Division intends to deny an application for approval or to revoke its approval, it shall so advise the hospital affected in writing.

2. The hospital may request a hearing on the proposed action of the Division. The hearing must be conducted in accordance with the procedures set forth in ~~NAC 439.300 to 439.395,~~ *sections 4 to 24*, inclusive ~~H~~, *of this regulation*.

Sec. 47. NAC 449.822 is hereby amended to read as follows:

449.822 1. Each of the following constitutes a ground for denial of an application for a provisional license:

(a) Failure by the applicant to submit a complete application for a provisional license within the time required by NAC 449.819.

(b) Inability of the applicant to provide proper care for the number and types of intended recipients of services.

(c) Misrepresentation or failure by the applicant to disclose any material fact in the application submitted to the Division or in any financial record or other document requested by the Division.

(d) Conviction of the applicant, an officer or employee of the applicant, an independent contractor of the applicant who oversees the provision of services or an adult who will be present during the provision of services of a crime relevant to any aspect of the provision of services, including, without limitation:

- (1) Murder, voluntary manslaughter or mayhem;
- (2) Assault or battery with intent to kill or to commit sexual assault or mayhem;
- (3) Sexual assault, statutory sexual seduction, incest or lewdness or indecent exposure that is punished as a felony, or any other sexually related felony;
- (4) A felony involving domestic violence;

- (5) A misdemeanor involving domestic violence, within the immediately preceding 7 years;
- (6) A misdemeanor involving assault or battery, within the immediately preceding 7 years;
- (7) Abuse or neglect of a child or contributory delinquency;
- (8) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS, within the immediately preceding 7 years;
- (9) Abuse, neglect, exploitation, isolation or abandonment of an older person or vulnerable person, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;
- (10) A violation of any law relating to the State Plan for Medicaid or a law of any other jurisdiction that prohibits the same or similar conduct, within the immediately preceding 7 years;
- (11) A violation of any provision of NRS 422.450 to 422.590, inclusive;
- (12) A criminal offense under the laws governing Medicaid or Medicare, within the immediately preceding 7 years;
- (13) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property, within the immediately preceding 7 years;
- (14) Any felony involving the use or threatened use of force or violence against the victim or the use of a firearm or other deadly weapon; or
- (15) An attempt or conspiracy to commit any of the offenses listed in this paragraph, within the immediately preceding 7 years.

(e) Exclusion of the applicant, an officer or employee of the applicant or an independent contractor of the applicant who oversees the provision of services from participation in Medicare, Medicaid or any other federal health care program pursuant to federal law.

(f) The existence of any major deficiency in the proposed services to be provided by the applicant which would preclude compliance with any provision of this chapter or chapter 449 of NRS.

2. If an application is denied, the Division shall give the applicant a written notice of the denial in the manner provided by ~~NAC 439.345.~~ *section 13 of this regulation.*

Sec. 48. NAC 449.858 is hereby amended to read as follows:

449.858 The Division shall give a provider written notice of any intended action to revoke the provisional license or license of the provider as prescribed by ~~NAC 439.345.~~ *section 13 of this regulation.*

Sec. 49. NAC 449.861 is hereby amended to read as follows:

449.861 1. If a provider is aggrieved by any sanction imposed pursuant to NAC 449.855 or any decision concerning the denial, suspension or revocation of a provisional license or license, the provider may submit a request for an appeal to the Administrator of the Division pursuant to the procedures set forth in ~~NAC 439.300 to 439.395.~~ *sections 4 to 24, inclusive* ~~1.~~, *of this regulation.*

2. Except in the case of an immediate termination of the provision of services pursuant to NAC 449.859, the effective date of a revocation is stayed upon receipt of a request for appeal until the hearing officer renders a decision regarding the appeal.

Sec. 50. NAC 449.99855 is hereby amended to read as follows:

449.99855 1. If necessary to protect the public health and safety, the Bureau may impose such sanctions as are necessary without notice to the facility or by oral notice to the facility.

2. If there is an immediate and serious threat to the health and safety of recipients served by a facility, the Bureau may appoint a temporary manager to remove the threat. A temporary manager may also be appointed without prior written notice on an emergency basis if a facility violates any ban on admissions. If there is an immediate and serious threat to the health and safety of recipients, the times provided for notice contained in this subsection govern. In all other respects, the provisions governing temporary management found in NAC 449.99915 to 449.99921, inclusive, apply.

3. The Bureau may, in an emergency, impose a ban on admissions, a limitation on occupancy of a residential facility or may suspend the license of a facility without notice or upon oral notice as provided in this section.

4. In any case where sanctions are imposed without written notice, the Bureau shall provide written notice that complies with the requirements of ~~NAC 439.345~~ *section 13 of this regulation* within 48 hours after the imposition of the sanctions.

Sec. 51. NAC 449.99911 is hereby amended to read as follows:

449.99911 1. If the facility fails to pay a monetary penalty and the Bureau has not approved the use of the penalty for corrections pursuant to NAC 449.998995, the Division may suspend the license of the facility.

2. The Division shall, in accordance with the requirements of ~~NAC 439.345~~ *section 13 of this regulation*, provide notice of its intention to suspend the license of the facility.

3. If the facility fails to pay the monetary penalty, including any additional costs incurred in collection of the penalty, within 10 days after receipt of the notice and the Bureau has not

approved the use of the penalty for corrections pursuant to NAC 449.998995, the Division shall suspend the license of the facility. The suspension must not be stayed during the pendency of any administrative appeal.

Sec. 52. NAC 449.99915 is hereby amended to read as follows:

449.99915 1. If a temporary manager is to be appointed, the Bureau shall orally notify the facility of the appointment. Written notice that complies with the requirements of ~~NAC 439.345~~ *section 13 of this regulation* must be mailed within 48 hours after the oral notice.

2. If the facility does not accept the temporary manager or a temporary manager is not available within 10 days after the date of the deficiency, and the immediate and serious threat is not removed, the Bureau shall deny, suspend or revoke the license of the facility and, if applicable, shall recommend to the *Medicaid* Division ~~{of Health Care Financing and Policy}~~ termination or suspension of the Medicaid provider agreement of the facility.

3. If the facility accepts the temporary manager, the Bureau shall:

(a) Notify the facility that, unless it removes the immediate and serious threat, its license will be denied, suspended or revoked pursuant to NRS 449.160; and

(b) If applicable, recommend to the *Medicaid* Division ~~{of Health Care Financing and Policy}~~ that the Medicaid provider agreement of the facility be terminated, effective on the 23rd day after the date of appointment of the temporary manager.

4. If the immediate and serious threat is not removed on or before the 23rd day after the appointment of the temporary manager, the Bureau shall deny, suspend or revoke the license of the facility and, if applicable, recommend to the *Medicaid* Division ~~{of Health Care Financing and Policy}~~ that the Medicaid provider agreement be terminated.

Sec. 53. NAC 449.99916 is hereby amended to read as follows:

449.99916 Appointment of a temporary manager where there is not an immediate and serious threat must be made in conformity with the provisions for notice contained in ~~NAC 439.345~~ *section 13 of this regulation.*

Sec. 54. NAC 449.99946 is hereby amended to read as follows:

449.99946 An applicant or holder of a permit who is aggrieved by an action of the Division relating to the denial, suspension or revocation of a permit or any other sanction assessed pursuant to NAC 449.99945 to 449.999489, inclusive, may appeal pursuant to the procedures set forth in ~~NAC 439.300 to 439.395~~ *sections 4 to 24*, inclusive ~~+~~ *, of this regulation.*

Sec. 55. NAC 449.999463 is hereby amended to read as follows:

449.999463 1. Except as otherwise provided in this section, the Bureau shall give notice pursuant to the provisions of ~~NAC 439.300 to 439.395~~ *sections 4 to 24*, inclusive, *of this regulation*, before taking disciplinary action against an outpatient facility.

2. If necessary to protect the public health and safety, the Bureau may impose such sanctions as are necessary without notice to the outpatient facility or by oral notice to the outpatient facility.

3. If there is an immediate and serious threat to the health and safety of patients served by an outpatient facility, the provisions concerning notice contained in this section govern.

4. The Bureau may suspend the permit of an outpatient facility without notice or upon oral notice if the Bureau finds that an emergency has caused a deficiency with a severity and scope score of five or more which places one or more patients in immediate jeopardy. For purposes of this subsection, “emergency” means any situation in which an outpatient facility is unable to operate in a safe manner, including, without limitation, due to a fire, flood, contagious infection, loss of utilities or inappropriate transfer of patients.

5. In any case where sanctions are imposed without written notice, the Bureau shall provide written notice that complies with the requirements of ~~NAC 439.345,~~ *section 13 of this regulation* within 48 hours after the imposition of the sanctions.

Sec. 56. NAC 449.999488 is hereby amended to read as follows:

449.999488 1. If the outpatient facility fails to pay a monetary penalty, the Division may suspend the permit of the outpatient facility.

2. The Division shall, in accordance with the requirements of ~~NAC 439.345,~~ *section 13 of this regulation,* provide notice of its intention to suspend the permit of the outpatient facility.

3. If the outpatient facility fails to pay the monetary penalty, including any expenses set forth in NAC 449.999487, in collection of the penalty, within 10 days after receipt of the notice, the Division shall suspend the permit of the outpatient facility. The suspension must not be stayed during the pendency of any administrative appeal.

Sec. 57. NAC 640D.260 is hereby amended to read as follows:

640D.260 1. If a person is aggrieved by a decision of the Executive Officer pursuant to this chapter or chapter 640D of NRS relating to the denial, suspension, refusal to renew or revocation of a license, the imposition of an administrative sanction or any other disciplinary action, the aggrieved person may file an appeal of the decision with the Board.

2. In any appeal filed with the Board pursuant to subsection 1, unless otherwise provided by the Board:

(a) The procedures set forth in ~~NAC 439.300 to 439.395,~~ *sections 4 to 24,* inclusive, *of this regulation* apply; and

(b) For the purposes of ~~NAC 439.300 to 439.395,~~ *sections 4 to 24, inclusive, of this regulation,* the decision of the Executive Officer that is the basis of the appeal shall be deemed

to be the decision of the Division . ~~{of Public and Behavioral Health of the Department of Health and Human Services.}~~

3. As used in this section, “disciplinary action” has the meaning ascribed to it in ~~NAC 439.304.~~ *section 7 of this regulation.*

Sec. 58. NAC 640E.270 is hereby amended to read as follows:

640E.270 1. If a person is aggrieved by a decision of the Executive Officer pursuant to this chapter or chapter 640E of NRS relating to the denial, suspension, refusal to renew or revocation of a license, the imposition of an administrative sanction or any other disciplinary action, the aggrieved person may file an appeal of the decision with the Board.

2. In any appeal filed with the Board pursuant to subsection 1, unless otherwise provided by the Board:

(a) The procedures set forth in ~~NAC 439.300 to 439.395,~~ *sections 4 to 24*, inclusive, *of this regulation* apply; and

(b) For the purposes of ~~NAC 439.300 to 439.395,~~ *sections 4 to 24, inclusive, of this regulation*, the decision of the Executive Officer that is the basis of the appeal shall be deemed to be the decision of the Division . ~~{of Public and Behavioral Health of the Department of Health and Human Services.}~~

3. As used in this section, “disciplinary action” has the meaning ascribed to it in ~~NAC 439.304.~~ *section 7 of this regulation.*

Sec. 59. NAC 652.493 is hereby amended to read as follows:

652.493 1. If a person is aggrieved by a decision of the Division relating to the denial, suspension or revocation of a license or certificate based upon any of the grounds set forth in subsections 1 to 6, inclusive, of NRS 652.220 or NAC 652.461 or 652.491, or any disciplinary

action imposed pursuant to NAC 652.157, 652.320, 652.530, 652.550 or 652.580, the aggrieved person may appeal the decision pursuant to the procedures set forth in ~~NAC 439.300 to 439.395,~~ *sections 4 to 24*, inclusive ~~H~~, *of this regulation.*

2. Except as otherwise provided in subsection 1 of NAC 652.570 or in the case of an emergency or a summary suspension pursuant to NAC 652.530, the effective date of the disciplinary action is stayed upon receipt of an appeal until the hearing officer renders a decision regarding the appeal.

Sec. 60. NAC 652.530 is hereby amended to read as follows:

652.530 1. If necessary to protect the public health and safety, the Division may impose such disciplinary action as it deems necessary without notice to the laboratory or with verbal notice to the laboratory.

2. The Division may suspend the license of a laboratory without notice or upon verbal notice if the Division finds a violation with a severity level of four where corrective action within 48 hours is necessary because the violation has caused, or if uncorrected is likely to cause, serious injury or harm or death to a patient.

3. Within 48 hours after the Division imposes disciplinary actions without written notice, the Division shall provide written notice in the manner set forth in ~~NAC 439.345,~~ *section 13 of this regulation.*

Sec. 61. NAC 652.540 is hereby amended to read as follows:

652.540 1. Except as otherwise provided in NAC 652.530, the Division shall, in addition to providing the statement of violations required pursuant to NAC 652.320, give notice in the manner set forth in ~~NAC 439.345,~~ *section 13 of this regulation* before taking disciplinary action.

2. If the Division imposes a monetary penalty pursuant to NAC 652.157 or 652.550, the notice provided to the laboratory pursuant to subsection 1 must state:

- (a) The amount of each penalty;
- (b) Whether the violation was a first, second, third or greater than third violation;
- (c) The date on which payment is due;
- (d) A statement that the Division will reduce the total amount due by 25 percent if the laboratory meets the requirements set forth in NAC 652.560; and
- (e) The total amount due for all penalties and the amount that would be due if each penalty were reduced pursuant to NAC 652.560.

Sec. 62. NAC 652.580 is hereby amended to read as follows:

652.580 1. If the laboratory fails to pay a monetary penalty on or before the date on which the penalty is due, the Division may suspend the license of the laboratory.

2. If the Division determines to suspend the license of a laboratory pursuant to subsection 1, the Division must, in accordance with the requirements of ~~NAC 439.345,~~ *section 13 of this regulation*, provide notice of its intention to suspend the license of the laboratory.

3. If the laboratory fails to pay the monetary penalty, including any additional costs incurred in collection of the penalty, within 10 days after receipt of the notice described in subsection 2, the Division must suspend the license of the laboratory. The suspension must not be stayed during the pendency of any administrative appeal.

Sec. 63. Section 16 of LCB File No. R043-22 is hereby amended to read as follows:

Sec. 16. 1. The Division may revoke the approval of a course or an instructor upon a determination that the course or instructor, as applicable, has:

(a) Failed to comply with the requirements of sections 9 to 16, inclusive, of LCB File No. R043-22;

(b) Presented false, misleading or materially incomplete information to the Division; or

(c) Engaged in other unlawful conduct relating to a course or the ability to offer or teach, as applicable, such a course.

2. Before denying an application for the approval of a course or instructor or revoking such approval, the Division shall notify the person or entity that offers the course or the instructor, as applicable, in accordance with ~~NAC 439.345.~~ *section 13 of this regulation.* A person or entity that is aggrieved by the denial or revocation of approval may appeal the denial or revocation in accordance with ~~NAC 439.346.~~ *section 14 of this regulation.*

Sec. 64. Section 37 of LCB File No. R108-24 is hereby amended to read as follows:

Sec. 37. 1. If a person is aggrieved by a decision of the Division pursuant to this chapter or chapter 634B of NRS relating to the denial, suspension, refusal to renew or revocation of a license, the imposition of an administrative sanction or any other disciplinary action, the aggrieved person may file an appeal of the decision with the Division.

2. In any appeal filed with the Division pursuant to subsection 1, unless otherwise provided by law or the Division, the procedures set forth in ~~NAC 439.300 to 439.395,~~ *sections 4 to 24,* inclusive, *of this regulation* apply.

3. As used in this section, “disciplinary action” means any disciplinary action taken pursuant to this chapter and chapter 634B of NRS.