

LCB File No. T013-98

TEMPORARY REGULATION OF THE STATE BOARD OF HEALTH

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the State Health Division will hold public hearing and act on amendments to Nevada Administrative Code (NAC) 445A, 449, and 652. **The hearing is scheduled to begin at 9:00 a.m. on Friday, December 11, 1998, at the Washoe County District Health Department, Ninth and Wells Street, Reno, Nevada.**

RESIDENTIAL FACILITIES FOR GROUPS

In September of 1997 the Temporary Regulations for Residential Facilities for Groups were presented to the Board of Health as a Legislative Counsel Bureau file, for permanent adoption. Between the changes bureau staff proposed to the temporary regulations (after using them for almost one year) and changes that LCB made to the temporary regulations (during their preparation for permanent adoption) some language mistakes occurred and became evident during the past year. In addition the BOH has requested that we modify language at NAC 449.226.4 concerning call systems in large facilities in order to eliminate the need for variances to this particular requirement. The bureau decided it would wait until the regulations were codified by LCB before attempting to change any language.

We have established new language and modifications to existing language in the following areas: NAC 449.0168, NAC 449.193, NAC 449.200, NAC 449.209, NAC 449.226, NAC 449.229, NAC 449.2704, NAC 449.2742, NAC 449.2744, NAC 449.2746, NAC 449.2749, NAC 449.275, NAC 449.2756, and NAC 449.2764

The changes are not substantial and are designed to clarify issues rather than create more requirements.

The changes present no anticipated effect to the public.

There is no anticipated additional cost to the agency for enforcement of the proposed regulation changes.

The regulations proposed for change will not effect changes to other governmental agencies and do not overlap/duplicate other regulations.

The regulations proposed for change do not overlap/duplicate federal regulations.

The regulations do not have a counterpart in the code of federal regulations.

The regulations will add two new fees to the fee schedule at NAC 449.0168.1, 1) one for addition or change of facility type endorsements on a license and 2) one for change to the category on a license.

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RESIDENTIAL FACILITIES FOR GROUPS**

EXPLANATION – Underlined material is new; material in brackets [] is to be deleted

NOTE: Only those sections being changed are provided in this document.

NAC 449.193 Renewal of license: Form; fee; required information. (NRS 449.037)

1. An applicant for the renewal of a license to operate a residential facility must submit to the bureau a completed application on a form prescribed by the bureau and the fee for renewal required pursuant to NAC 449.016.

2. The applicant for renewal must submit with the application required pursuant to subsection 1:

[(a) The names and social security numbers of the residents of the facility and such other information as the bureau may require concerning the residents;

(b) The names of the administrator and the caregivers of the facility and such other information relating to those persons as the bureau may require;]

(a) Evidence of compliance with NRS 449.065 through 449.067 concerning surety bonds.

(d) A copy of the current administrator's license.

(c) A certificate of insurance stating that the facility has purchased a policy of liability insurance for the facility; and

(d) A copy of the current business license issued to the facility or proof that the facility has complied with local zoning ordinances.

[3. The information required pursuant to paragraphs (a) and (b) of subsection 2 will not be disclosed to any person other than an employee of the division.]

NAC 449.200 Personnel files. (NRS 449.037)

1. A separate personnel file must be kept for each member of the staff, including the administrator of a residential facility and must include:

[2. The personnel file for a member of the staff of the facility, other than a caregiver or the administrator of the facility, must include:]

- (a) The name, address, telephone number and social security number of the employee;
- (b) Proof that the employee is not less than 18 years of age;
- (c) The date on which the employee began his employment at the facility;
- (d) Records relating to the training received by the employee; and
- (e) The health certificates required pursuant to chapter 441A of NAC for the employee.
- (f) Evidence that references were checked by the facility; and
- (g) Evidence of compliance with NRS 449.173 through 449.188 (Check of criminal history).

2. [3.] The personnel file for a caregiver of a residential facility must include, in addition to the information required pursuant to subsection [2] 1:

(a) A certificate stating that the caregiver is currently certified to perform first aid and cardiopulmonary resuscitation[;].

[(b) Evidence that the references supplied by the caregiver were checked; and

(c) Proof that the facility did not find any evidence that the caregiver has been convicted of a crime listed in NRS 449.188.]

[4. The personnel file for the administrator of a residential facility must include, in addition to the information required pursuant to subsection 2, a certificate stating that the administrator is currently certified to perform first aid and cardiopulmonary resuscitation.]

3. [5.] The administrator may keep the personnel files for the facility in a locked cabinet and may, except as otherwise provided in this subsection, restrict access to this cabinet by other employees of the facility. Copies of the documents which are evidence that an employee has been certified to perform first aid and cardiopulmonary resuscitation and that the employee has been tested for tuberculosis must be available for review at all times. The administrator shall make the personnel files available for inspection by the bureau within 72 hours after the bureau requests to review the files.

NAC 449.209 Health and sanitation. (NRS 449.037)

1. A residential facility must:

(a) Have a safe and sufficient supply of water, adequate drainage and an adequate system for the disposal of sewage; and

(b) Comply with all local ordinances and state and federal laws and regulations relating to zoning, sanitation, accessibility and safety.

2. Containers used to store garbage outside of the facility must be kept reasonably clean and must be covered in such a manner that rodents are unable to get inside the containers. At least once each week, the containers must be emptied and the contents of the containers must be removed from the premises of the facility.

3. Containers used to store garbage in the kitchen and laundry room of the facility must be covered with a lid unless the containers are kept in an enclosed cupboard that is clean and prevents infestation by rodents or insects. Containers used to store garbage in bedrooms and

bathrooms are not required to be covered unless they are used for food, bodily waste or medical waste.

4. To the extent practicable, the premises of the facility must be kept free from:

(a) Offensive odors;

(b) Hazards, including obstacles that impede the free movement of residents within and outside the facility;

(c) Insects and rodents; and

(d) Accumulations of dirt, garbage and other refuse.

5. The administrator of a residential facility shall ensure that the premises are clean and that the interior, exterior and landscaping of the facility are well maintained.

6. All windows that are capable of being opened in the facility and all doors that are left open to provide ventilation for the facility must be screened to prevent the entry of insects.

7. The facility must maintain electrical lighting as necessary to ensure the comfort and safety of the residents of the facility.

8. The temperature in the facility must be maintained at a level that is not less than 68 degrees Fahrenheit and not more than 82 degrees Fahrenheit.

9. If the door of a bathroom opens into any room in which food or utensils for eating are handled or stored, the door must close automatically.

NAC 449.226 Safety requirements for residents with restricted mobility or poor eyesight; water hazards; auditory systems for bathrooms and bedrooms; access by vehicles. (NRS 449.037)

1. A resident of a residential facility who uses a wheelchair or a walker may not be required to use a bedroom on a floor other than the first floor of the facility that is entirely

above the level of the ground, unless the facility is designed and equipped in such a manner that the resident can move between floors without assistance [**in an emergency**].

2. Stairways, inclines, ramps, open porches and other areas that are potentially hazardous for residents who have poor eyesight must be adequately lighted.

3. If a residential facility with a resident who is mentally or physically disabled has a fishpond, pool, hot tub, jacuzzi or other body of water on the premises of the facility, the body of water must be fenced, covered or blocked in some other manner at all times when it is not being used by a resident.

4. Each [**bathroom**] resident or their bedroom and bathroom in a residential facility with more than 10 residents must be [**equipped**] provided with an auditory system that is [**connected to the area around the central desk or an area in which a member of the staff of the facility is available.**] monitored by a member of the staff. The auditory system in a resident's bathroom of a residential facility with more than 10 residents that was issued its initial license on or after January 14, 1997, must be [**constructed**] available so that a resident needing assistance can alert a member of the staff of the facility of that fact from the toilet and the shower. [**Each bedroom in a residential facility with more than 10 residents must be equipped with an auditory system which is connected to the area around the central desk or an area in which a member of the staff is available.**] All bathrooms in common areas must be provided with an auditory system which is monitored by a member of the staff.

5. Residential facilities must be easily accessible by vehicle in the case of an emergency.

NAC 449.229 Protection from fire; plans for evacuation; emergency drills; testing, inspection and recordkeeping. (NRS 449.037)

1. The administrator of a residential facility shall ensure that the facility complies with the regulations adopted by the state fire marshal pursuant to chapter 477 of NRS and any local ordinances relating to safety from fire. The facility must be approved for residency by the state fire marshal.

2. A residential facility must have a plan for the evacuation of residents in case of fire or other emergency. The plan must be:

- (a) Understood by all employees;
- (b) Posted in a common area; and
- (c) Discussed with each resident at the time of his admission.

3. A drill for evacuation must be performed monthly on an irregular schedule, and a written record of each drill must be kept on file at the facility.

4. Portable fire extinguishers must be inspected, recharged and tagged at least once each year by a person certified by the state fire marshal to conduct such inspections.

5. Portable heaters or space heaters may not be used in a residential facility. A fireplace must be equipped with glass doors or a metal screen to prevent ashes or burning wood from falling outside of the fireplace.

6. The administrator shall ensure that a written policy on smoking is developed and carried out by the facility. The policy must be developed with the purpose of preventing a fire caused by smoking in the facility. The policy regarding smoking must be posted in a common area.

7. The windows and doors of a residential facility must not be covered with security bars.

8. Smoke detectors must be maintained in proper operating condition at all times and must be tested monthly. The results of the tests conducted pursuant to this subsection must be recorded and maintained at the facility.

NAC 449.2704 Written agreement between facility and resident required; contents; retention; inspection. (NRS 449.037)

1. An agreement must be signed by the administrator of a residential facility and each resident or by the resident's legal guardian stating the:

- (a) Basic rate for the services provided by the facility;
- (b) Schedule for payment;
- (c) Services included in the basic rate;
- (d) Charges for optional services which are not included in the basic rate; and
- (e) Residential facility's policy on refunds of amounts paid but not used.

2. The administrator may remove the rates and charges from any copies of the agreement to which the employees of the facility have direct access. The original agreement may be kept in a locked cabinet to which only the administrator has access. The administrator shall provide the bureau with the original agreement within 72 hours after the bureau requests it.

3. The agreement must be included in the file maintained pursuant to NAC 449.2749.

NAC 449.2742 Administration of medication: Responsibilities of administrator, caregiver and employee of facility. (NRS 449.037)

1. The administrator of a residential facility that provides assistance to residents in the administration of medications shall:

(a) Ensure that a physician, pharmacist or registered nurse who does not have a financial interest in the facility reviews at least once every 6 months the [regimen of] drugs including all over-the-counter medications and supplements taken by each resident of the facility, to ensure accuracy and appropriateness and provides a written report of that review to the administrator of the facility;

(b) Include a copy of each report submitted to the administrator pursuant to paragraph (a) in the file maintained pursuant to NAC 449.2749 for the resident who is the subject of the report; and

(c) Make and maintain a report of any actions that are taken by the caregivers employed by the facility in response to a report submitted pursuant to paragraph (a).

2. Within 72 hours after the administrator of the facility receives a report submitted pursuant to paragraph (a) of subsection 1, a member of the staff of the facility shall notify the resident's physician of any concerns noted by the person who submitted the report. The report must be reviewed and initialed by the administrator.

3. Before assisting a resident in the administration of medication, a caregiver shall obtain written information describing the side effects, possible adverse reactions, contraindications and toxicity of the medication.

4. Except as otherwise provided in this subsection, a caregiver shall assist in the administration of medication to a resident if the resident needs the caregiver's assistance. A caregiver may assist the ultimate user of controlled substances or dangerous drugs only if the conditions prescribed in subsection 6 of NRS 449.037 are met.

5. [An] All over-the-counter medications and supplements may be given to a resident only if the resident's physician has approved the administration of the items above [the

medication] or the facility is ordered to do so by another physician. The administration of over-the-counter medications and supplements must be included in the record required pursuant to NAC 449.2744.

6. If a physician orders a change in the amount or times medication is to be administered to a resident, the caregiver responsible for assisting in the administration of the medication shall comply with the order and note the change in the record maintained pursuant to NAC 449.2744. An order or prescription signed by the physician must be included in the record and [**or a copy of the order, the prescription or a revised label**] a matching label prepared by the pharmacist must be attached to the container for the medication within 5 days after the change is ordered.

7. An employee of a residential facility shall not draw medication into a syringe or administer an injection unless authorized by law to do so.

NAC 449.2744 Administration of medication: Maintenance of logs and records; contents. (NRS 449.037)

1. The administrator of a residential facility that provides assistance to residents in the administration of medications shall maintain:

(a) A log for each medication received by the facility for use by a resident of the facility. The log must include:

- (1) The type and quantity of medication received by the facility;
- (2) The date of its delivery;
- (3) The name of the person who accepted the delivery;
- (4) The name of the resident for whom the medication is prescribed; and

(5) The date on which any unused medication is removed from the facility or destroyed.

(b) A record of the medication administered to each resident. The record must include [the type of medication administered and the date and time that it was administered.] :

(1) The type of medication administered,

(2) The date that the medication was administered,

(3) The time that the medication was administered; and

(4) Instructions written on the record must reflect the physician's current order.

2. The administrator of the facility shall keep a log of caregivers assigned to administer medications that indicates the shifts during which each caregiver was responsible for assisting in the administration of medication to a resident. This requirement may be met by including on a resident's medication sheet an indication of who assisted the resident in the administration of the medication, if the caregiver can be identified from this indication.

NAC 449.2746 Administration of medication: Restrictions concerning medication taken as needed by resident; responsibilities of caregiver; written records. (NRS 449.037)

1. A caregiver employed by a residential facility shall not assist a resident in the administration of a medication that is taken as needed unless:

(a) The resident is able to determine his need for the medication or the determination is made by a medical professional qualified to make that determination; or

(b) The caregiver has received written instructions indicating the specific symptoms for which the medication is to be given, the amount of medication that may be given and the frequency with which the medication may be given.

2. A caregiver who administers medication to a resident as needed shall record the following information concerning the administration of the medication:

- (a) The reason for the administration;
- (b) The date and time of the administration;
- (c) The dose administered;
- (d) The results of the administration of the medication; and
- (e) The initials of the caregiver.

(f) Instructions written on the record must reflect the current physician's order.

NAC 449.2749 Maintenance of separate file of information concerning each resident; contents; confidentiality of information. (NRS 449.037)

1. A separate file must be maintained for each resident of a residential facility and retained for at least 5 years after he permanently leaves the facility. The file must be kept locked in a place that is resistant to fire and is protected against unauthorized use. The file must contain all records, letters, assessments, medical information and any other information related to the resident, including, without limitation:

- (a) The full name, address, date of birth and social security number of the resident.
- (b) The address and telephone number of the resident's physician and the next of kin or guardian of the resident or any other person responsible for him.
- (c) A statement of the resident's allergies, if any, and any special diet or medication he requires.
- (d) A statement from the resident's physician concerning the mental and physical condition of the resident that includes:

(1) A description of any medical conditions which require the performance of medical services;

(2) The method in which those services must be performed; and

(3) A statement of whether the resident is capable of performing the required medical services.

(e) Evidence of compliance with the provisions of chapter 441A of NRS and the regulations adopted pursuant thereto.

(f) The types and amounts of protective supervision and personal services needed by the resident.

(g) An evaluation of the resident's ability to perform the activities of daily living and a brief description of any assistance he needs to perform those activities. This evaluation must be completed yearly or more frequently if there is a significant change in the condition of a resident.

(h) A list of the rules for the facility that is signed by the administrator of the facility and the resident or a representative of the resident.

(i) The name and telephone number of the vendors and medical professionals that provide services for the resident.

(j) A document signed by the administrator of the facility when the resident permanently leaves the facility.

2. The document required pursuant to paragraph (j) of subsection 1 must indicate the location to which the resident was transferred or the person in whose care the resident was discharged. If the resident dies while a resident of the facility, the document must include the

time and date of the death and the dates on which the person responsible for the resident was contacted to inform him of the death.

3. Except as otherwise provided in this subsection, a resident's file must be kept confidential. A resident's file must be made available upon request at any time to an employee of the bureau who is acting in his capacity as an employee of the bureau.

NAC 449.275 Residential facility that provides hospice care: Responsibilities of staff; retention of resident with special medical needs. (NRS 449.037)

1. A residential facility that provides hospice care for a resident must obtain a copy of the plan of care required pursuant to NAC 449.0186 for that resident.

2. The members of the staff of the facility shall:

(a) Maintain at the facility a written record of the care and services provided to a resident who receives hospice care; and

(b) Report any deviation from the established plan of care to the resident's physician within 24 hours after the deviation occurs.

3. A residential facility that provides hospice care for a resident may retain the resident only after the requirements of NAC 449.2736 have been met for a resident who [even if the resident]:

(a) Is bedfast, as defined in NAC 449.2702; or

(b) Requires skilled nursing or other medical care on a 24-hour basis.

NAC 449.2756 Residential facility which provides care to persons with Alzheimer's disease: Standards for safety; personnel required; training for employees. (NRS 449.037)

1. The administrator of a residential facility which provides care to persons with Alzheimer's disease shall ensure that:

(a) Swimming pools and other bodies of water are fenced or protected by other acceptable means.

(b) Operational alarms, buzzers, horns or other audible devices which are activated when a door is opened are installed on all doors that may be used to exit the facility.

(c) At least one member of the staff is awake and on duty at the facility at all times.

(d) Within 3 months after an employee is first employed at the facility, the employee successfully completes at least 8 hours of training in providing care, including emergency care, to a resident who suffers from Alzheimer's disease or related dementia and providing support for the members of the resident's family.

(e) Knives, matches, firearms, tools, other than tools ordinarily used in the kitchen, and other items that could constitute a danger to the residents of the facility are inaccessible to the residents.

(f) [The grounds outside the facility are completely fenced with gates that have locking devices and are free from obstructions or conditions that may pose a safety hazard] Each facility must have an area outside the facility or a secure yard adjacent to the facility for the purpose of resident use and activities outside the facility. The area or yard must be fenced and be arranged in a manner that will not jeopardize the safety of residents. All gates leading from the secure area to unsecured areas or yards must be locked and keys for gates must be readily available to the members of the staff of the facility at all times. At least 40 square feet of space must be provided in the secured yard for each resident of the facility.

(g) All toxic substances are not accessible to the residents of the facility.

2. The training required pursuant to paragraph (d) of subsection 1 must be provided pursuant to a curriculum approved by the bureau, the board or the board of examiners for

long-term care administrators. Such training may be used to satisfy the requirement of paragraph (f) of subsection 1 of NAC 449.196 for the year in which the training is received.

NAC 449.2764 Residential facility for persons with mental illnesses: Training for employees. (NRS 449.037)

1. A person who provides care for a resident of a residential facility for persons with mental illnesses must, within 60 days after he becomes employed at the facility, attend not less than 8 hours of training [education] concerning care for residents who are suffering from mental illnesses.

2. As used in this section, "residential facility for persons with mental illnesses" means a residential facility that provides care and protective supervision for three or more persons with mental illnesses, including, without limitation, schizophrenia, bipolar disorder, psychosis and other related disorders.