

LCB File No. R052-99

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, 450B and 652. **The hearing is scheduled to begin at 9:00 a.m. on Friday, September 10, 1999, at the Grant Sawyer Building, Room 4410, 555 E. Washington Avenue, Las Vegas, Nevada.**

THIS HEARING IS TO MAKE TEMPORARY REGULATIONS PERMANENT.

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.

RESIDENTIAL FACILITIES FOR GROUPS - FEES

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 1 year) and changes that LCB made to the temporary regulations (during their preparation for permanent adoption) it was identified that some language modification was required in the general provisions section of NAC Chapter 449. The Bureau decided it would wait until the regulations were codified by LCB before attempting to change any language.

In July the bureau received a copy of the codified regulations. The bureau subsequently drafted proposed changes to the regulations and will present these changes before the December BOH meeting.

We have established new language and modifications to existing language in the following areas:

NAC 449.0168

The changes are designed to establish standards for processing applications to change license endorsements, whereas currently there is no authority nor mechanism for the bureau to receive applications for the changes discussed. If the language is modified as presented the industry will benefit from the ability to apply for changes through the formal application process, rather than the current informal process.

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) a fee for addition or change of facility type endorsements on a license and 2) a fee for change to the category indicated on a license.

SURGICAL CENTERS FOR AMBULATORY PATIENTS

The proposed amendments are needed to update the current regulations originally adopted in 1988 relating to the licensing of surgical centers for ambulatory patients. The amendments also update the construction standards relating to ambulatory surgical centers.

The proposed regulations affect all services/departments in ambulatory surgical centers.

The proposed regulations will have a beneficial effect, recognized by the ambulatory surgical centers industry, on the ambulatory surgical centers because they were developed by utilizing current standards of care that are defined by the Medicare/Medicaid reimbursement participation standard. All currently licensed hospitals meet these standards at this time because all the hospitals participate in the Medicare/Medicaid reimbursement program.

The proposed regulations will have a beneficial effect on the public/consumer by assuring the public, through the state licensure process, that ambulatory surgical centers are meeting current standards of care.

There will be no change in cost to the facilities or to the Bureau of Licensure and Certification (BLC) for the change in the regulations for the licensing of ambulatory surgical centers. The current fee for initial and annual renewal of licenses will cover the cost to BLC.

The proposed regulations state that the facility must be in compliance with Nevada Revised Statutes (NRS) 449.700-449.730, NRS 453, NRS 652.217, and Nevada Administrative Code (NAC) 441 A and NAC 459. The duplication was necessary to assure certain statutes that affect the health and safety of residents and visitors to Nevada are being implemented by ambulatory surgical centers licensed by BLC.

The proposed regulations parallel the federal Medicare/Medicaid reimbursement participatory regulations governing ambulatory surgical centers (42 Code of Federal Regulations (CFR) Part 416, subpart A, B, and C) in certain sections and 42 CFR 489.24, Clinical Laboratory Improvement Amendment of 1988, Public Health Service Act (42 USC 274) and Life Safety Code, Standard 101.

The regulations are more stringent than the Federal regulations governing ambulatory surgical centers in certain areas: regulations for tuberculosis screening in employees, patient rights, and construction standards.

The regulations do not establish new fees or increase an existing fee.

POINT OF CARE TESTING

Proposed changes to Chapter 652 Medical Laboratories are necessary to allow healthcare professionals to perform waived and moderate complexity testing at the bedside in medical facilities licensed pursuant to Chapter 449.

Point of Care testing is defined and point of care device is described with limitations of use.

Qualifications and activities of the point of care analyst are identified and certification fees are established. Continuing education requirements apply to the point of care analyst.

Anticipated benefits to both laboratories regulated by NAC 652 and the public (the patients) will be an overall cost reduction as a result of decreased length of stay due to rapid return of results to the physician. These benefits are both immediate and long term. There are no adverse effects anticipated.

The increased cost to the agency will be funded by establishing a certification fee issued for point of care testing analyst.

NAC 652 and CLIA regulations (42 CFR Part 493 of the Code of Federal Regulations) have established requirements for the performance of laboratory testing, however, with the recent availability of small portable hand-held analyzers, bedside testing by healthcare professionals other than traditional laboratory technical staff required changes to existing regulations.

HOSPITALS

The proposed amendments are needed to update the current regulations originally adopted in 1969 relating to the licensing of hospitals. The amendments also update the construction standards relating to hospitals.

The proposed regulations affect all services/departments in acute hospitals. Current standards of care for those departments were addressed in the regulations.

The proposed regulations will have little if any effect on the acute hospitals because they were developed by utilizing current standards of care that are defined by the Medicare/Medicaid reimbursement participation standards. All currently licensed hospitals meet these standards at this time because all the hospitals participate in the Medicare/Medicaid reimbursement program.

The proposed regulations will have a beneficial effect on the public/consumer by assuring the public, through the state licensure process, that hospitals are meeting current standards of care.

There will be no change in cost to the facilities or to the Bureau of Licensure and Certification (BLC) for the change in the regulations for the licensing of hospitals. The current fee for initial and annual renewal of licenses will cover the cost to BLC.

The proposed regulations state that the facility must be in compliance with Nevada Revised Statutes (NRS) 449.700 – 449.730, NRS 439B.410, NRS 652.217, NRS 632, and Nevada Administrative Code (NAC) 441 A and NAC 459. The duplication was necessary to assure certain statutes that affect the health and safety of residents and visitors to Nevada are being implemented by hospitals licensed by BLC.

The proposed regulations parallel the federal Medicare/Medicaid reimbursement participatory

regulations governing acute hospitals (42 Code of Federal Regulations (CFR) Part 482, Subpart A, B, C, and D) in certain sections and 42 CFR 489.24, Clinical Laboratory Improvement Amendment of 1988, Public Health Service Act (42 USC 274) and Life Safety Code, Standard 101.

The regulations are more stringent than the Federal regulations governing hospitals in certain areas: regulations for tuberculosis screening in employees, certain patient care areas, patient rights, and construction standards.

SKILLED NURSING REGULATIONS

The proposed amendments are needed to update the current regulations originally adopted in 1969 relating to the licensing of skilled nursing facilities. The amendments also update the construction standards relating to skilled nursing facilities.

The proposed amendments will incorporate resident rights, resident behavior and facility practices, quality of life, resident assessment, and quality of care requirements not included in the current regulations. Additionally, general requirements such as physician, nursing and dietary services will be addressed, as well as construction and design requirements.

The adoption of the proposed amendments should not create an economic or operational impact on licensed facilities because the proposed regulations parallel federal regulations the facilities have been following since 1990.

The proposed amendments are considered to provide a beneficial impact for the public by providing licensing standards for the care, safety and quality of life for nursing home residents consistent with current standards of practice.

The adoption of the proposed amendments should have no economic impact on the Bureau of Licensure and Certification because the proposed regulations parallel federal regulations that the agency has surveyed under contract with the Health Care Financing Administration.

These regulations do not duplicate the regulations of other state or local government entities.

The regulations parallel federal regulations of the Health Care Financing Administration 42 C.F.R. 483.1 through 483.75, inclusive.

The proposed amendments include several sections that are more stringent than the federal regulations: Requirements for design and construction of skilled nursing facilities that are not addressed in federal regulation; requirements for TB testing of personnel.

The proposed amendments do not change existing fees or impose any new fees.

CONSTRUCTION STANDARDS

The proposed amendments are needed to update the current regulations originally adopted in 1969 relating to the construction standards of skilled nursing facilities and hospitals.

The proposed regulations affect all services/departments in acute hospitals.

The proposed regulations will have little effect on existing structures. All new construction and remodeling projects will be required to comply with the guidelines. The guidelines are used nationwide and will be beneficial to facilities in that architects or other design professionals are currently using the same guidelines in other states.

The proposed regulations will be beneficial to the general public by providing a nationally recognized standard for constructing a health care facility in a safe fashion.

There will be no change in cost to the facilities or to the Bureau of Licensure and Certification (BLC) for the change in the regulations for the licensing of hospitals. The current fee for initial and annual renewal of licenses will cover the cost to BLC.

The proposed regulations state that there are satisfactory assurances that the facility meets all applicable Federal, State and local laws and complies with all applicable life safety, environmental health, building and fire codes and zoning ordinances. If there are any differences between the State and local codes, the more restrictive standards apply. This is necessary to inform the facility that they are required to meet other codes or laws to pass the building inspection and zoning or certificate of occupancy requirements.

The proposed regulations reference the National Fire Protection Association (NFPA) as the basic codes of reference, in particular, the Life Safety Code NFPA 101, and the NFPA 99. These particular references and several others are included in “The Guidelines for Design and Construction of Hospitals and Health Care Facilities” on pages 3, 4 and 5.

The proposed regulations are more stringent than the federal regulations at 42 CFR 482.41 Condition of Participation – Physical Environment. This is necessary because the federal regulations do not address design and construction of facilities.

The proposed regulations do not establish new fees or increase an existing fee.

CERTIFICATION OF ENVIRONMENTAL TESTING LABORATORIES

The Administrative Code Chapter 445A pertaining to Certification of Environmental

Laboratories analyzing drinking water in accordance with the Federal Safe Drinking Water Act

as presently constituted has some defects that require resolution. The United States

Environmental Protection Agency along with stakeholders throughout the nation has developed

a consensus standard called the National Environmental Laboratory Accreditation Conference (NELAC) standard. The Bureau of Licensure and Certification has participated in the development of this standard. A program for laboratories to certify according to this nationally accepted standard has been put forth. It is called the National Environmental Laboratory Accreditation Program (NELAP). States may adopt the standard and they may participate in NELAP if they so choose.

Participation in NELAP necessitates subscribing to the NELAC standard which is organized in four distinct tiers, namely: 1.) Legal Identity and Mission; 2.) Testing Capability; 3.) Regulatory Program; 4.) Test Methods.

Each of these “tiers” are addressed in the current NAC but are not organized efficiently and items referenced therein create areas of confusion due to conflicting instructions or protocols. At one juncture the authority to revoke or downgrade certification based upon information obtained from site surveys was denied the Bureau because not all of the pertinent chapters of the referenced standard were included.

Some of the material included in the current NAC, though important, does not apply to laboratory certification. It should be separated from the certification portion of the code.

It is proposed that a completely new version of Chapter 445A pertaining to Environmental Laboratory Certification be adopted in accordance with a template provided by NELAC. This code follows the organizational pattern established by the NELAC standard and includes changes that are required for NELAP participation. Standards that are unique to Nevada will be retained. Since this version is new, the section identification numbers will not coincide with or relate to those of the current code. It is proposed to eliminate the current code and replace it with the new wording. Section numbers can be changed to fit into the surrounding code.

Anticipated effects on the environmental laboratory business are beneficial and immediate. Adoption of this revision will affect environmentally sensitive businesses in the following ways:

1. EPA involvement with the Performance Testing program has been changed. The NAC will reflect these changes.
2. Nevada will be able to participate in the NELAP program if it elects to do so.
3. Ambiguous language will be replaced so consistency in agency action will be assured.
4. Laboratories electing to participate in NELAP accreditation may do so with Nevada as their sponsoring authority.
5. NELAP accredited laboratories will have automatic reciprocity among all NELAP participation states. (So far twenty states have applied for NELAP participation and several more have committed.) *Nevada laboratory certification officers recommend that Nevada participate.*
6. NELAP participating laboratories will be held to a common standard.
7. NELAP participating laboratories will be able to participate in Federal contracts.
8. NELAP participating laboratories will not suffer a competitive disadvantage relative to participants.
9. NELAP participating laboratories will be assured a level playing field nationally.
10. NELAP participating laboratories will produce data of known, consistent and comparable quality.
11. Laboratories not electing NELAP accreditation will not be required to do so, but will be held to the NELAC standard in so far as it is appropriate.
12. Agencies and businesses requiring analyses of regulated parameters will be assured that data meet a rigorous nationally accepted standard.

Anticipated effects on the public are beneficial and long-term. The changes will assist in maintaining quality laboratory analytical capacity to ensure that measurements that affect the public health will be trustworthy.

The estimated cost to the agency for enforcement of the proposed regulation will not be any different than for the current regulation. In the event Nevada elects to have Bureau of Licensure and Certification Laboratory Certification Officers trained to become NELAP assessors, the cost will be limited to the training expense. The training is required every four years.

The regulations do not overlap or duplicate any federal regulations.
The regulations will maintain the existing fee structure.

DEFIBRILLATION - 450B.900-.936 (This regulation does not apply to EMS providers under the authority of Clark County Health District.)

These amendments are to repeal the existing regulations concerning defibrillation, add defibrillation to the authorized practices of emergency medical technicians, and add the

definitions currently listed in sections .900 thru .914 to the “General Provisions” section of 450B.

This section of NAC 450B was placed in regulation because the use of automatic and semi-automatic defibrillation was introduced as a pilot program for emergency medical technicians and has since become a normal part of the emergency medical technician’s scope of practice.

The National Highway Traffic Safety Administration of the United States Department of Transportation has adopted in the EMT Basic program training for the use of automatic and semi-automatic defibrillators. This eliminates the need for further training and certification in defibrillation for the EMT, as currently required in NAC 450B.918-.936.

This section of NAC 450B has generated unnecessary costs and training time for EMS services and personnel.

There are no anticipated effects on the business which NAC 450B regulates.

There are no anticipated effects on the public.

There are no anticipated additional costs to the Health Division for enforcement of the proposed regulation.

There are no existing regulations of other state or local governmental agencies which the proposed amendments to the regulations overlap or duplicate.

DO NOT RESUSCITATE - 450B.955

These amendments are to implement a fee for issuance of a Do Not Resuscitate Identification bracelet. This fee would cover the cost of the bracelet, including engraving and shipping the bracelet to the patient.

There are no anticipated effects on the business which NAC 450B regulates.

There are no anticipated effects on the public.

Estimated cost to the Health Division for enforcement of the proposed regulation:

Expenditure of \$1,575.00 for purchasing an initial inventory of bracelets. This expenditure will be recouped in full through a fee to be determined by the health authority.

The amendment establishes a fee determined by the health authority not to exceed the actual cost of obtaining the medallion from a manufacturer, including the cost of engraving, shipping and handling.

There are no existing regulations of other state or local governmental agencies which the proposed amendments to the regulations overlap or duplicate.

Members of the public may make oral comments at this meeting. Persons wishing to submit written testimony or documentary evidence in excess of two typed, 8-1/2" x 11" pages must submit the material to the Board's Secretary by August 26, 1999.

Secretary, State Board of Health
Nevada State Health Division
Capitol Complex
505 E. King Street, Room 201
Carson City, NV 89701-4797

Written comments, testimony, or documentary evidence in excess of two typed pages will not be accepted at the time of the hearing. The purpose of this requirement is to allow Board members adequate time to review the documents.

Members of the public who are disabled and require special accommodations or assistance at the meeting are required to notify Yvonne Sylva, Secretary, Board of Health, in writing at the Nevada State Health Division, 505 E. King Street, Room 201, Carson City, NV 89701, or by calling (702) 687-4740.

A copy of this notice and the proposed regulation amendments are on file for inspection at the following locations during normal business hours:

Bureau of Licensure and Certification, 1550 E. College Pkwy, Suite 158, Carson City, Nevada (702) 687-4475).

Bureau of Licensure and Certification, 4220 S. Maryland Parkway, Suite 810, Las Vegas, Nevada (702) 486-6515.

Bureau of Licensure and Certification, 1755 E. Plumb Lane, Suite 241, Reno, Nevada
(702) 688-2888

Emergency Medical Services, 850 Elm Street, Elko, Nevada (702) 753-1154.

Emergency Medical Services, 100 Frankie, Tonopah, Nevada (702) 482-3722.

Copies may be obtained in person, by mail, or by calling (702) 687-4475. Copies are also available for review at all physical locations of program offices (see above) or the following main public libraries in each county:

- Carson City Library, 900 North Roop St.
Carson City, NV 89701
- Churchill County Library, 533 S. Main St.
Fallon, NV 89406
- Clark County Library, 4020 Maryland Parkway,
Las Vegas, NV 89119
- Douglas County Library, 1625 Library Lane, (PO Box 337)
Minden, NV 89423
- Elko County Library, 720 Court St.
Elko, NV 89801
 - Goldfield Public Library (Esmeralda Co.), Corner of Crook and Ramsey,
(PO Box 430)
Goldfield, NV 89013
- Eureka Branch Library, 10190 Monroe St.,
Eureka, NV 89316
- Humboldt County Library, 85 East 5th St.,
Winnemucca, NV 89445
- Battle Mountain Branch Library (Lander Co.), 6255 Broad St.,
Battle Mountain, NV 89820
 - Lincoln County Library, 63 Maine St., (PO Box 330)
Pioche, NV 89043
 - Lyon County Library, 20 Nevin Way,
Yerington, NV 89447
- Mineral County Library, 125 A St., (PO Box 1390)
Hawthorne, NV 89415
 - Pershing County Library, 125 Central, (PO Box 781)
Lovelock, NV 89419
 - Storey County Library, 95 South R St., (PO Box 14)
Virginia City, NV 89440
 - Tonopah Public Library (Nye Co.), 171 Central, (PO Box 449)
Tonopah, NV 89049
 - Washoe County Library, 301 South Center St., (PO Box 2151)
Reno, NV 89505

- White Pine County Library, 950 Campton St.,
Ely, NV 89301

Per NRS 233B.064(2), upon adoption of any regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

To be published in the Las Vegas Review-Journal, Reno Gazette-Journal and Elko Daily Free

Press on or before August 11, 1999.

Richard J. Panelli, Chief
July 27, 1999

PROPOSED REGULATIONS OF THE STATE BOARD OF HEALTH

RESIDENTIAL FACILITIES FOR GROUPS

EXPLANATION - *Italicized* material is new; material in brackets ~~+~~ is to be deleted

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

Section 1 NAC 449.193 is hereby amended to read as follows

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.

(b) 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.}~~

Sec. 2 NAC 449.200 is hereby amended to read as follows

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, *if other than the owner 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) Documentation 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.

Sec. 3 NAC 449.209 is hereby amended to read as follows

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.

Sec. 4 NAC 449.226 is hereby amended to read as follows

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.

Sec. 5 NAC 449.229 is hereby amended to read as follows

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.

Sec. 6 NAC 449.2704 is hereby amended to read as follows

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 stating the]~~ *The residential facility must make available the following written information to all parties who request it:*

- (a) *The* basic rate for the services provided by the facility;
- (b) *The* schedule for payment;
- (c) *The* services included in the basic rate;
- (d) Charges for optional services which are not included in the basic rate; and
- (e) *The* 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.]~~

Sec. 7 NAC 449.2742 is hereby amended to read as follows

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. ~~Any~~ *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* ~~for 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.

Sec. 8 NAC 449.2744 is hereby amended to read as follows

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.

Sec. 9 NAC 449.2746 is hereby amended to read as follows

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.

Sec. 10 NAC 449.2749 is hereby amended to read as follows

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.

Sec. 11 NAC 449.275 is hereby amended to read as follows

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 *when 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.

Sec. 12 NAC 449.2756 is hereby amended to read as follows

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.

Sec. 13 NAC 449.2764 is hereby amended to read as follows

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.

INFORMATIONAL STATEMENT PER NRS 233B.066

1. DESCRIPTION OF HOW PUBLIC COMMENT WAS SOLICITED, SUMMARY OF PUBLIC RESPONSE, AND AN EXPLANATION OF HOW OTHER INTERESTED PERSONS MAY OBTAIN A COPY OF THE SUMMARY.

Workshops were held on October 27, 1998, in Las Vegas and October 28, 1998, in Reno. Notice of the public workshops was published in the Las Vegas Review Journal, Reno Gazette Journal, and the Elko Daily Free Press on or before October 14, 1998. The notice of public workshops, and proposed regulations were mailed to all county libraries in Nevada, residential facilities for groups, and all interested parties on October 9, 1998.

Notice of public hearing regarding adoption of the amendments to NAC 449 was published in the Las Vegas Review Journal, Reno Gazette Journal, and the Elko Daily Free Press on or before November 11, 1998. The notice of public hearing, and proposed regulations were mailed to all county libraries in Nevada, residential facilities for groups, and all interested parties on November 6, 1998.

Notice of public workshops held on August 19, 1999, in Reno was published in the Las Vegas Review Journal, Reno Gazette Journal, and Elko Daily Free Press on or before August 2, 1999. Notices of public workshops and proposed regulations were mailed to all county libraries in Nevada, residential facilities for groups, and interested parties.

Notice of public hearing regarding the Board's intent to adopt amendments was published in the Las Vegas Review Journal, Reno Gazette Journal, and Elko Daily Free Press on or before August 11, 1999. Notices of public hearing and proposed regulations were mailed to all county libraries in Nevada, residential facilities for groups, and interested parties on July 30, 1999.

For public response copies of the minutes of the Board of Health meetings may be obtained by calling the Health Division at 684-4200.

In addition, copies of the proposed regulations were available during normal office hours at:

Bureau of Licensure and Certification - Carson City
Bureau of Licensure and Certification - Las Vegas
Bureau of Licensure and Certification - Reno
Nevada State Library
Emergency Medical Services - Elko
Emergency Medical Services - Tonopah

2. THE NUMBER OF PERSONS WHO:

(A) ATTENDED THE HEARING;

Approximately 85 people attended the December 11, 1998, Board of Health hearing.
Approximately 37 people attended the September 10, 1999, Board of Health hearing.

(B) TESTIFIED AT EACH HEARING; AND

There was nobody present to testify at the hearing.

(C) SUBMITTED TO THE AGENCY WRITTEN STATEMENTS.

No written statement were submitted at the Board of Health meeting.

3. A DESCRIPTION OF HOW COMMENT WAS SOLICITED FROM AFFECTED BUSINESSES, A SUMMARY OF THEIR RESPONSE, AND AN EXPLANATION HOW OTHER INTERESTED PERSONS MAY OBTAIN A COPY OF THE SUMMARY

Comment was solicited from affected or potentially affected businesses by mailing residential facilities for groups and all interested parties the proposed regulations and notice for the workshops and Board of Health hearing. There was no public response

4. IF THE REGULATION WAS ADOPTED WITHOUT CHANGING ANY PART OF THE PROPOSED REGULATION, A SUMMARY OF THE REASONS FOR ADOPTING THE REGULATION WITHOUT CHANGE.

None

5. THE ESTIMATED ECONOMIC EFFECT OF THE REGULATION ON THE BUSINESS WHICH IT IS TO REGULATE AND ON THE PUBLIC. THESE MUST BE STATED SEPARATELY, AND IN EACH CASE MUST INCLUDE:

- (A) BOTH ADVERSE AND BENEFICIAL EFFECTS; AND**
- (B) BOTH IMMEDIATE AND LONG TERM EFFECTS.**

These new fees will not have substantial effect on the industry, because the fees are only for businesses which want to change endorsement on their license and are very minimal. There will not be any substantial immediate nor long-term effect.

6. THE ESTIMATED COST TO THE AGENCY FOR ENFORCEMENT OF THE PROPOSED REGULATION.

These fees will help to cover the actual cost of providing the service to those facilities that wish to change an endorsement on their license.

7. A DESCRIPTION OF ANY REGULATIONS OF OTHER STATE OR GOVERNMENT AGENCIES WHICH THE PROPOSED REGULATION OVERLAPS OR DUPLICATES AND A STATEMENT EXPLAINING WHY THE DUPLICATION OR

OVERLAPPING IS NECESSARY. IF THE REGULATION OVERLAPS OR DUPLICATES A FEDERAL REGULATION, NAME THE REGULATING FEDERAL AGENCY.

None

8. IF THE REGULATION INCLUDES PROVISION WHICH ARE MORE STRINGENT THAN A FEDERAL REGULATION WHICH REGULATES THE SAME ACTIVITY, A SUMMARY OF SUCH PROVISION.

None

9. IF THE REGULATION PROVIDES A NEW FEE OR INCREASES AN EXISTING FEE, THE TOTAL ANNUAL AMOUNT THE AGENCY EXPECTS TO COLLECT AND THE MANNER IN WHICH THE MONEY WILL BE USED.

\$3,840.00 annually, to be used to offset the actual cost of making changes to licenses.