

LCB File R-132-99

PROPOSED REGULATION OF THE STATE BOARD OF HEALTH

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the State Board of Health will hold public hearing and act on amendments to Nevada Administrative Code (NAC) 449 and 652. **The hearing is scheduled to begin at 9:00 a.m. on Thursday, October 7, 1999, at the Grant Sawyer Building, Room 4410, 555 E. Washington Avenue, Las Vegas, Nevada.**

PROPOSED REGULATIONS FOR FACILITIES FOR THE TREATMENT OF IRREVERSIBLE RENAL DISEASE

Currently, there are no regulations for state licensure of Facilities for the Treatment of Irreversible Renal Disease. The proposed regulations will fill that gap.

The proposed regulations will affect all areas of service in the Facility for the Treatment of Irreversible Renal Disease. They will incorporate patient rights, minimum standards for space, equipment, water treatment and reuse, and sanitary and hygienic conditions, patient care and treatment, home dialysis, qualifications of staff, training, clinical records, and evaluation of quality.

The adoption of the proposed regulations should not create an economic or operational impact on licensed facilities because they parallel federal requirements that all facilities for the treatment of irreversible renal disease have been following.

The proposed regulations will have a beneficial impact for the public by providing licensing standards for recipients of renal dialysis that are consistent with current standards of practice.

The adoption of the proposed regulations will 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.

The proposed regulations do not duplicate the regulations of other state or local government entities. They parallel federal regulations of the Health Care Financing Administration 42 C.F.R. 405.2102 through 405.2171, inclusive.

The proposed regulations contain several sections that are more stringent than the federal regulations: Requirements for Tuberculosis testing for employees, fire protection, training curriculum, bacteriologic testing of product water, and water system requirements.

The proposed regulations do not change existing fees or add additional fees.

PROVISION OF HOSPICE CARE

The proposed changes are necessitated by the passage of Senate Bill 382 that eliminated the word “Freestanding” from the statutory definition of facility for hospice care. This change allows a hospice program to be part of an existing medical facility.

The specific Nevada Administrative Code (NAC) regulations that are affected are: NAC 449.016, NAC 449.0181, NAC 449.0187, NAC 449.01225, NAC 449.016(1)(g), NAC 449.016(2)(h), NAC 449.0172, NAC 449.0181, NAC 449.0187, NAC 449.0187(8), and NAC 449.0188.

There will be no adverse effects on the business of hospice care. In fact, there will be a beneficial effect due to the fact that a hospice program could now occupy part of an existing medical facility rather than incur the expense of building a freestanding facility.

There will be no increased cost to the Bureau of Licensure and Certification. The changes to the regulations do not effect the time required to conduct licensure surveys.

These regulations do not overlap any other existing state regulations. The regulations are somewhat similar to the Medicare requirements for hospice care at 42 CFR 418.50 – 418.100. The federal regulations are more stringent.

The proposed changes to the regulations do not establish any new fees or increase existing fees.

FACILITIES FOR MODIFIED MEDICAL DETOXIFICATION AND FEES

The 1999 legislature established under NRS 449.0151 another facility type, facility for modified medical detoxification. “Facility for modified medical detoxification “ means a facility that provides 24-hour medical monitoring of treatment and detoxification in a manner which does not require that the service be provided in a licensed hospital. The proposed regulations are necessary to license this medical facility type.

The proposed regulations establish consistency in the areas of Governing Body, Administration, Drug and Alcohol treatment program following the Bureau of Alcohol and Drugs programmatic guidelines, health and safety areas, and minimal nursing, pharmacy and, medication administration standards.

These proposed regulations will benefit the businesses because the businesses will be able to provide a higher level of detoxification services, as defined by American Society of Additive Medicine, to the public.

The public will have more opportunities to access a higher level of detoxification services for alcohol and drug addictions.

There will be no cost to the Bureau of Licensure and Certification for enforcement. Fees will be established for initial licensure and renewal licensure to be paid by the facilities. These fees will cover BLC’s costs.

There is some duplication from the accreditation process by the Bureau of Alcohol and Drug abuse. The duplicated regulations are necessary to assure all programmatic aspects are met to assure that the public is receiving detoxification services that meet state and national standards.

The regulations do not duplicate or overlap any federal regulations.

Since this is a new facility type that will be licensed, there will be an initial licensure and annual renewal licensure fee for the facility. This fee covers the cost to the BLC for the survey processes and the clerical aspects.

HOMES FOR INDIVIDUAL RESIDENTIAL CARE AND FEES

During the 1999 Legislature, Senate Bill 163 was introduced, supported and passed because of concern for residents that were being cared for in homes for individual residential care. Until the passage of SB 163 these homes, with less than three residents were required to be registered by the bureau. However, there are no regulations for these homes to follow. Section 1 of NRS 449.249 has directed the Nevada State Board of Health to adopt minimal standards for licensing these homes that provide for care and sanitation to prevent the abuse, neglect and exploitation of the residents.

The minimal regulations were developed to prevent abuse, neglect and exploitation of residents in individual residential care and ensure that these resident's needs are met in a clean and sanitary environment.

The anticipated effect on the registered homes and individual residential care, is that each home will have consistent minimal standards to follow assuring consistently better care and understanding by the provider.

It is anticipated that the proposed regulations will provide a greater degree of protection for persons that live in homes for individual residential care.

The increased cost to the agency will be funded by establishing a minimal initial and renewal licensing fee for homes for individual residential care. The fee will be kept to a minimum for the home.

The proposed regulations do not overlap/duplicate other state or federal regulations. The proposed regulations do not have a counterpart in the code of federal regulations.

The regulation will establish a new fee for initial licensure and annual renewal. This fee will be kept to a minimum.

BUSINESSES THAT PROVIDE REFERRALS TO RESIDENTIAL FACILITIES FOR GROUPS AND FEES

Assembly Bill 373 requires a person to obtain a license from the board to operate a business that provides referrals to residential facilities for groups.

These regulations were developed to protect residents and their families by ensuring that people making referrals meet licensing standards and are confined to specific ways they can establish fees.

It is anticipated that the regulations will ensure that persons making referrals meet licensing standards and are prepared to assess a resident and assist with an appropriate placement. The regulations also determine the way fees can be charged. It is anticipated that these regulations will benefit the public using referral agencies.

The increased cost to the agency will be funded by establishing a minimal initial and renewal licensing fee for referral agencies.

The proposed regulations do not overlap/duplicate other state or federal regulations. The proposed regulations do not have a counterpart in the code of federal regulations.

The regulations will establish a new fee for initial licensure and annual renewal for referral agencies.

MEDICAL LABORATORIES AND FEES

Changes are needed to align regulations with statute as stated in Senate Bill 7 and establish fees associated with compliance verification for Senate Bill 7 and Assembly Bill 470.

Laboratory Assistant qualifications will be modified to reference those qualifications stated in Senate Bill 7. Permissible testing for laboratory assistants will be expanded to include all tests classified as waived. Fees will be established to cover costs associated with compliance verification of testing in out patient centers as permitted by Senate Bill 7. The ability to recover costs associated with the survey of out of state laboratories as required by Assembly bill 470 will be established.

No anticipated effects on medical laboratories. No anticipated effect on the public. No cost to the Health Division. No duplication of state or local regulations. No overlap of federal regulations. Regulations are not more stringent than federal regulations.

An initial fee of \$100 is established for each out patient center of a licensed laboratory that performs testing along with a \$50 biennial renewal fee.

RESIDENTIAL FACILITIES FOR TWO OR FEWER

Assembly Bill 373 requires that by January 1, 2000, homes for individual residential care in Counties of more than 100,000 either become licensed as residential facilities for groups or cease to operate. These facilities must comply with all statutory requirements for residential facilities for groups. The minimal regulations written for these facilities provide for care and sanitation to prevent abuse, neglect and exploitation of the elderly.

The minimal regulations were developed to prevent abuse, neglect and exploitation of residents and ensure that residents' needs are met in a clean and sanitary environment.

The anticipated effect on these facilities is that some facilities may have difficulty in meeting the requirements and therefore cease operation. Others may meet the requirements and provide a more professional setting for residents.

It is anticipated that the proposed regulations will provide a greater degree of protection for persons that live in residential facilities for groups licensed for two or fewer. It is anticipated that because of the proposed regulations some facilities may choose to close and therefore make options more limited for the elderly.

The increased cost to the agency will be funded by the licensing and renewal fees collected from these facilities.

The proposed regulations do not duplicate/overlap federal regulations.
The proposed regulations do not have a counterpart in the code of federal regulations.

The proposed regulations do incorporate state regulations. NAC 449.190, NAC 449.193, NAC 449.196 section 1 (a), (b) and (e), NAC 449.202, NAC 449.205, NAC 449.231, NAC 449.268 and NAC 449.269 will apply to residential facilities for two only.

The regulations determine that these facilities will be required to pay the fees established for residential facilities for groups.

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 September 22, 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.

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PROPOSED REGULATION OF THE STATE BOARD OF HEALTH

BUSINESS THAT PROVIDES REFERRALS TO RESIDENTIAL FACILITIES FOR GROUPS

EXPLANATION: *Italicized* material is new. ~~⊞~~ is deleted.

Section 1. Chapter 449 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 11 inclusive, of this regulation.

Section 2. *“Business that provides referrals to residential facilities for groups” defined.*

“Business that provides referrals to residential facilities for groups” means a business entity or an individual that engages in the process of referring clients for compensation to residential facilities for groups, here and after referred to as a referral agency.

Section 3. *“Bureau” defined. “Bureau” has the meaning ascribed to it in NAC 449.0028.*

Section 4. *“Client” defined. “Client” means the person who is referred by the referral agency to a medical or health facility/home/program for compensation.*

Section 5. *“Financial assessment” defined. “Financial assessment” means the client’s intended payment source for services provided by a residential facility for groups for a 6-month period and his eligibility status for Medicaid and Medicare services.*

Section 6. *“Needs assessment” defined. “Needs assessment” means the documented abilities of the client to function independently and a complete list of the areas in which he requires assistance.*

Section 7. *“Residential facilities for groups” defined. “Residential facilities for groups” has the meaning ascribed to it in NRS 449.017.*

Section 8. Requirements for licensing.

1. A licensed nurse or social worker working in a medical or health facility/program licensed by the Bureau may, for clients in those facilities/programs, make referrals to residential facilities for groups without first obtaining a license as a referral agency. Persons employed by the state, county or city governments in positions wherein their duties require them to make referrals to residential facilities for groups may, make for their clients referrals to residential facilities for groups without first obtaining a license as a referral agency.

2. A licensed nurse, social worker, physician or physician's assistant may apply for licensure to provide referrals to residential facilities for groups as an individual or agency.

3. An applicant for a license to make referrals to residential facilities for groups must provide evidence of a contract of insurance for protection against liability to third persons.

4. An applicant for a license must have a physical address where agency records are maintained.

Section 9. Employee requirements.

1. Employees of a referral agency must have a working knowledge of the licensing regulations for residential facilities for groups.

2. Employees of a referral agency that are not licensed as a nurse, social worker, physician or physician's assistant are prohibited from gathering assessment information and from engaging in the process of referring clients to residential facilities for groups.

Section 10. Responsibilities of the referral agency.

1. The referral agency must complete a needs assessment for the client and make referrals for the services that would best meet the client's physical, psychosocial and financial needs and wishes.

2. *The referral agency must complete a financial assessment for each client.*
3. *The referral agency must submit to the receiving facility/home/program, the client's needs assessment document.*
5. *The referral agency must not accept any fee, inducement or incentive from any residential facility for groups or any person or entity associated with a residential facility for groups for any reason.*
6. *The referral agency must not give any discharge planner, case manager, social worker or any person with the responsibility of discharge planning, a fee or incentive for perspective clients.*

Section 11. *Records and fee requirements*

1. *The referral agency must provide a written contract outlining the services to be performed and all fees associated with those services. The contract must be signed by the person paying for the services or his representative and the referral agency representative.*
2. *If, within thirty days of admission, a client is determined by the facility, the bureau or a physician to be inappropriate for the facility that he was referred to; the referral agency must refund the full amount of the fee paid by the client or his representative or assist with an acceptable referral for no additional fee.*
3. *The referral agency must not receive more than one fee per client within any six-month period, unless the client or the client's representative requests another referral.*
4. *The referral agency must maintain an organized file for each client that contains evidence of the needs assessment, financial assessment and the placement determination process. The file must be retained for 5 years at the place of business.*

Section 12. NAC 449.0034 is hereby amended to read as follows:

NAC 449.0034 “Facility” defined. “Facility” means a medical facility, ~~or~~ facility for the dependent, *homes for individual residential care, or businesses that provides referrals to residential facilities for groups.*