

LCB FILE No. R091-00

**PROPOSED REGULATION OF THE BUREAU OF
SERVICES TO THE BLIND AND VISUALLY IMPAIRED**

**NOTICE OF INTENT TO
ACT UPON A REGULATION**

Notice of Hearing for the Amendment of Regulations of the
State of Nevada Bureau of Services to the Blind and Visually Impaired of the
Nevada Rehabilitation Division, Department of Employment, Training and Rehabilitation

The State of Nevada Bureau of Services to the Blind and Visually Impaired (BSBVI) will hold public hearings at 11:00 am, on June 17, 2000, at the Washoe County Administration Building Snack Bar, 1001 9th Street, Reno, Nevada, 89512 and in the upstairs conference room at 628 Belrose, Las Vegas, Nevada 89158. The purpose of the hearings is to receive comments from all interested persons regarding the amendment of regulations that pertain to Chapter 426 of the Nevada Administrative Code (NAC 426).

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. **The need for and purpose of the proposed amendments to the regulations.** BSBVI is proposing to amend the regulations of NAC 426 in compliance with the mandates of the Governor's Fundamental Review of State Government. BSBVI staff have reviewed the current regulations and have drafted amendments to numerous sections. These amendments were reviewed and approved by the Nevada Committee of Blind Vendors at the annual meeting held on March 12, 2000. While the majority of the amendments were necessitated to clean up regulatory language, a small number add or delete sections to NAC 426.
2. **Either the terms or substance of the regulations to be amended, or a description of the subjects and issues involved.** NAC 426 pertains to the operational requirements placed upon operators of vending facilities that are part of the bureau's Business Enterprise Program. These regulations are comprised of the following component areas: General Provisions including definitions; the Nevada Committee of Blind Vendors; Operator Training and Licensure requirements; a description of how operators are selected to operate vending facilities and how they may be transferred to new locations; a description of how vending facilities are to be operated including financial reporting requirements, equipment and inventory, daily operating and management requirements and operator benefits; and Rules of Practice in addressing operator grievances. BSBVI does **not** regulate the relationship established in NRS 426 between managers of public property and the bureau. BSBVI also does **not** regulate the relationship established in NRS 426 between private vending companies and this program.

3. **The estimated economic effect of the regulation on the business which it is to regulate and on the public.**
 - (a). **Both adverse and beneficial effects:** There are no adverse economic effects on either the businesses to be regulated or to the public. The benefit of the program can be found in a reduced reliance on the part of the operators of these facilities on public assistance. There is no increase in fees associated with these amendments.
 - (b). **Both immediate and long-term effects:** The most immediate effect of these amendments is the clarification of what requirements the bureau places on operators of vending facilities covered under the program. Two sections have been added that specify the minimal amount that operators are to receive as retirement and health insurance benefits. Irrelevant sections of the regulations have been repealed.
4. **The estimated cost to the agency for enforcement of the proposed regulations.** There will be no additional cost to the Bureau of Services to the Blind and Visually Impaired related to the enforcement of these regulations. Existing staff are capable of carrying out the enforcement.
5. **A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating agency.** NAC 426 does **not** duplicate any regulation issued by any other state or local governmental agency. The regulation does **not** duplicate or overlap any federal regulation. However, NAC 426 is supplemental to a regulation for the operation of the Randolph-Sheppard Vending Program as promulgated by the Rehabilitation Services Administration of the U.S. Department of Education.
6. **If the regulation is required pursuant to federal law, a citation and description of the federal law.** NAC 426 is not required under federal law.
7. **If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.** NAC 426 does **not** include provisions which are more stringent or more restrictive than those contained in federal regulations.
8. **Whether the proposed regulation establishes a new fee or increases an existing fee.** No new fees are established. Existing fees remain the same. Penalties for late payments are reduced.

Persons wishing to comment upon the proposed action of the State of Nevada Bureau of Services to the Blind and Visually Impaired of the Rehabilitation Division, Department of Employment, Training and Rehabilitation may appear at the scheduled public hearings or may address their comments, data, views or arguments, in written form, to Michael A. Becker, Chief, Bureau of Services to the Blind and Visually Impaired, Capitol Complex, 505 East King Street, Carson City, Nevada, 89701. Written submission must be received by the State of Nevada Bureau of Services to the Blind and Visually Impaired on or before June 20, 2000. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the State of Nevada Bureau of Services to the Blind and Visually Impaired may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be amended will be on file at the State Library, 100 Stewart Street, Carson City, Nevada for inspection by members of the public during business hours. Additional copies of this notice and the regulation to be amended will be available at: 1933 North Carson Street, Carson City, Nevada; 505 East King Street, Room 505, Carson City, Nevada; 628 Belrose Ave., Las Vegas, Nevada; 1025 Corporate Boulevard, Reno, Nevada; and , 557 West Silver, Suite 206, Elko, Nevada, and in all counties in which an office of the agency is not maintained, at the main public library for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for or against its adoption and incorporate therein the reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

Washoe County Admin. Building
Snack Bar
1001 9th Street
Reno, Nv. 89512

Bureau of Services to the Blind
& Visually Impaired
1025 Corporate Boulevard
Reno, Nv. 89502

State Library
100 Stewart Street
Carson City, Nv. 89701

Bureau of Services to the Blind
& Visually Impaired
557 West Silver, Suite 206
Elko, Nv. 89801

Bureau of Services to the Blind
& Visually Impaired
1933 North Carson Street
Carson City, Nv. 89706

Attn: Barbara Mathews, Director
Churchill County Library
5553 S. Main Street
Fallon, Nv. 89406

Bureau of Services to the Blind
& Visually Impaired
505 East King Street, Room 505
Carson City, Nv. 89701

Attn: Darryl Batson, Director
Las Vegas-Clark County Library
833 Las Vegas Blvd., North
Las Vegas, Nv. 89101

Bureau of Services to the Blind
& Visually Impaired
628 Belrose Avenue
Las Vegas, Nv. 89158

Attn: Sara Jones, Director
Elko County Library
720 Court Street
Elko, Nv. 89801

Attn: Lauri Oki, Director
Eureka Branch Library
P.O. Box 293
Eureka, Nv. 89316

Attn: Sherry Allen, Director
Humboldt County Library
85 East 5th Street
Winnemucca, Nv. 89445

Lincoln County Library
93 Main Street
Pioche, Nv. 89043

Attn: Christian Freer-Parsons, Director
Lyon County Library
20 Nevin Way
Yerington, Nv. 89447

Attn: Steve Schlatter, Director
Mineral County Library
P.O. Box 1390
Hawthorne, Nv. 89415

Goldfield Public Library
P.O. Box 430
Goldfield, Nv. 89013

Attn: Diane Hartsock, Director
Tonopah Public Library
P.O. Box 449
Tonopah, Nv. 89049

Attn: Jeanne Munk, Director
Pershing County Library
P.O. Box 781
Lovelock, Nv. 89419

Storey County Library
P.O. Box 14
Virginia City, Nv. 89440

Attn: Nancy Cummings, Director
Washoe County Library
P.O. Box 2151
Reno, Nv. 89505

Attn: Lori Romero, Director
White Pine County Library
950 Campton Street
Ely, Nv. 89301

Attn: Lynn Chambliss, Director
Battle Mountain Branch Library
P.O. Box 141
Battle Mountain, Nv. 89820

Attn: Sally Edwards, Director
Carson City Library
900 N. Roop Street
Carson City, Nv. 89701

Attn: Carolyn Rawles-Heiser, Director
Douglas County Library
P.O. Box 337
Minden, Nv. 89423

NOTICE OF WORKSHOP TO SOLICIT COMMENT ON PROPOSED REGULATIONS

May 12, 2000

The State of Nevada Bureau of Services to the Blind and Visually Impaired (BSBVI), (775)684-4244, is proposing the Amendment of Regulations pertaining to Chapter 426 of the Nevada Administrative Code. A workshop has been set for 9:30 am, on June 17, 2000, at the Washoe County MIS Building Snack Bar, 1001 9th Street, Reno, Nevada, 89512 and in the upstairs conference room at 628 Belrose, Las Vegas, Nevada, 89158. The purpose of the workshop is to solicit comments from interested persons on the following general topics that are addressed in the proposed amendments to the regulations:

1. Operator Training and Licensure requirements;
2. Operator selection, transfer and promotion;
3. Operator financial and reporting requirements;
4. Facility equipment and inventory;
5. Daily operating and facility management requirements;
6. Operator benefits; and,
7. Rules of practice governing operator grievances.

A copy of all materials relating to the proposal may be obtained at the workshop, at the locations listed below, or by contacting Janette Parish, Management Assistant II, 505 East King Street, Room 505, Carson City, Nevada, 89701, (775) 684-4244. A reasonable fee may be charged for copying these materials.

A Notice of Workshop to Solicit Comments on Proposed Regulations has been sent to all persons on the agency's mailing list for administrative regulations and has been posted at the following locations:

Washoe County Admin. Building Snack Bar 1001 9 th Street Reno, NV 89512	Bureau of Services to the Blind And Visually Impaired 1933 North Carson Street Carson City, NV 89706
Nevada State Library 100 Stewart Street Carson City, NV 89701	Bureau of Services to the Blind And Visually Impaired 505 East King Street, Room 505 Carson City, NV 89701

Bureau of Services to the Blind and Visually Impaired 628 Belrose Las Vegas, NV 89159	Attn: Darryl Batson, Director Las Vegas-Clark County Library 833 Las Vegas Blvd., North Las Vegas, NV 89101
Bureau of Services to the Blind and Visually Impaired 1025 Corporate Boulevard Reno, NV 89502	Attn: Sara Jones, Director Elko County Library 720 Court Street Elko, NV 89801
Bureau of Services to the Blind and Visually Impaired 557 West Silver Street, Ste 206 Elko, NV 89801	Attn: Lauri Oki, Director Eureka Branch Library P.O. Box 293 Eureka, NV 89316
Attn: Barbara Matthews Churchill County Library 5553 S. Main Street Fallon, NV 89406	Attn: Diane Hartsock, Director Tonopah Public Library P.O. Box 449 Tonopah, NV 89049
Attn: Sherry Allen, Director Humboldt County Library 85 East 5 th Street Winnemucca, NV 89445	Attn: Jeanne Munk, Director Pershing County Library P.O. Box 781 Lovelock, NV 89419
Lincoln County Library 93 Main Street Pioche, NV 89043	Storey County Library P.O. Box 14 Virginia City, NV 89440
Attn: Christian Freer-Parsons, Director Lyon County Library 20 Nevin Way Yerington, NV 89447	Attn: Nancy Cummings, Director Washoe County Library P.O. Box 2151 Reno, NV 89505
Attn: Steve Schlatter, Director Mineral County Library P.O. Box 1390 Hawthorne, NV 89415	Attn: Lori Romero, Director White Pine County Library 950 Campton Street Ely, NV 89301
Goldfield Public Library P.O. Box 430 Goldfield, NV 89013	Attn: Lynn Chambliss, Director Battle Mountain Branch Library P.O. Box 141 Battle Mountain, NV 89820
Attn: Sally Edwards, Director Carson City Library 900 N. Roop Street Carson City, NV 89701	Attn: Carolyn Rawles-Heiser, Director Douglas County Library P.O. Box 337 Minden, NV 89423

Date: May 12, 2000

CHAPTER 426

BENEFITS AND PRIVILEGES FOR HANDICAPPED PERSONS

GENERAL PROVISIONS

426.010	Definitions.....	5
426.015	“Accessories” defined.....	5
426.018	“Adjusted net proceeds” defined	
426.020	“Blind person” defined.....	5
426.025	“Bureau” defined.....	5
426.027	“Chief” defined.....	5
426.028	“Department” defined.....	5
426.029	“Division” defined.....	5
426.030	“Equipment” defined.....	5
426.035	“Gross income” defined.....	5
426.040	“Net proceeds” defined.....	6
426.042	“Net profit” defined.....	6
426.045	“Operating agreement” defined.....	6
426.050	“Operator” defined.....	6
426.055	“Vending facility” defined.....	6
426.060	Purposes of chapter.....	6
426.065	Intention to bureau to establish and expand vending facilities.....	6
426.067	Operator deemed independent contractor.....	6
426.070	Copies of chapter.....	6

COMMITTEE OF BLIND VENDORS

426.080	Creation; election and term of members; adoption and contents of bylaws; annual meeting.....	7
426.085	Duties.....	7
426.095	Confidentiality of information.....	7

TRAINING PROGRAM; LICENSES

426.100	Application for assessment.....	8
426.105	Qualifications for enrollment in training program.....	8
426.110	Qualifications for a license.....	8
426.115	Reports required for issuance of license.....	8
426.120	Duration of license.....	9
426.123	Bureau may require certain persons to complete continuing education or training or to receive counseling or vocational rehabilitation.....	9
426.135	Termination of license.....	9
426.140	Grounds for suspension or revocation of license.....	9
426.145	Procedure for suspension or revocation of license; procedure for termination of operating agreement.....	10

SELECTION AND TRANSFER OF OPERATORS
TO VENDING FACILITIES

426.150	Application to operate particular vending facility: Qualifications; waiver.....	10
426.155	Notice of availability of location for vending facility.....	11
426.160	Advisory committee for selection of operators.....	11
426.165	Disqualification from selection; interim operator.....	11
426.175	Use of vending facility for training.] Repealed	11

ESTABLISHMENT AND OPERATION OF VENDING FACILITIES

General Requirements

426.180	Operating agreement: Purpose; tender of agreement; signature; termination or suspension.	11
426.185	Operating agreement: Required contents; modification.	12
426.194	Procurement and display of licenses and permits.	12
426.196	Requirements of insurance.	12
426.201	Liability for willful or negligent acts.	13

Financial Operation; Records and Reports

426.215	Operator's bond.	13
426.220	Security for payment of sales taxes, workers' compensation, security deposits or other payments.	13
426.222	Payments must be drawn on business or personal account; recordation of personal expenses.	13
426.223	Submission of report or payment to bureau.	13
426.224	Penalty for late payment or report: Notice; payment; automatic termination of operating agreement; waiver.	13
426.225	Assignment of revenue and commissions from vending machines.	14
426.230	Money to be set aside from net proceeds.	14
426.235	Advancement of money: Purposes; repayment.	14
426.240	Computation of payments.} Repealed	15
426.245	Business enterprise account for the blind: Accounting and use of money by bureau.	15
426.250	Maintenance of books and records of account.	15
426.255	Submission of monthly report of business operations.	15
426.260	Request for records, correspondence or other documents.	16
426.265	Records: Maintenance at facility; availability to bureau; audit; correction.	16
426.270	Business checking account: Establishment and maintenance; requirement of sufficient cash; effect of negative balance.	16
426.275	Business checking account: Deposit of income.	16
426.280	Business checking account: Payment of business expenses; reimbursement from personal money.	16
426.285	Ordinary and necessary expenses: Exclusions.	17
426.290	Payments for obligations.	17
426.295	Extension of credit by operator.} Repealed	17

Equipment and Inventory

426.300	Equipment: Provision, repair and replacement by bureau; assumption of responsibility by operator; restrictions on use.	18
426.305	Equipment: Daily maintenance by operator; payment for repairs caused by abuse or neglect.	18
426.315	Equipment: Limitation on use.	18
426.320	Equipment: Retention of title to bureau; surrender of possession.	18
426.326	Acquisition of merchandise, accessories and supplies necessary to begin and continue operation; quarterly inventory.	19
426.330	Acknowledgment of receipt of equipment, accessories and initial stock of merchandise; record of changes to those items.	19
426.335	Goods and services to be sold; approval of chief required.	19
426.345	Physical inventory required under certain circumstances; exclusion of certain items.	19
426.350	Determination of value of items for physical inventory.	20
426.355	Option to purchase retained for bureau; reimbursement to operator upon withdrawal from program.	20
426.357	Surrender of premises and assets by operator.	21
426.360	Encumbrance of assets prohibited.	21

Employees; Daily Operation and Management

426.365	Employment practices and responsibilities: Responsibility of the operator.	21
426.370	Employment practices and responsibilities: Responsibilities of bureau.	21

426.380	Appearance and conduct of operator and employees.....	22
426.385	Relations with customers.....	22
426.390	Maximum vacation leave of operator; additional leave granted by chief.....	22
426.395	Management of facility; unauthorized absence of operator.....	22
426.400	Managerial services provided by bureau; performance evaluations.....	22

*Operator Benefits; Retirement and
Health Insurance Coverage*

**PRACTICE BEFORE THE BUREAU OF SERVICES TO THE
BLIND AND VISUALLY IMPAIRED**

426.416	Request for administrative review of complaint.....	23
426.420	Time and location of administrative review.....	23
426.425	Procedure for administrative review.....	23
426.430	Issuance and delivery of written decision.....	23
426.450	Request for hearing after written decision.....	24
426.455	Time and location of hearing; notice.....	24
426.460	Representation of licensee at hearing.....	24
426.465	Rules of evidence.....	24
426.470	Order of presentation.....	24
426.475	Resolution of complaint.....	24
426.480	Final decision; appeal.....	25
426.485	Record of hearing.....	25
426.490	Transcript of proceedings.....	25
426.500	Appeal: Judicial review or arbitration.....	25

GENERAL PROVISIONS

NAC 426.010 Definitions. (NRS 426.560, 426.670) As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 426.015 to 426.055, inclusive, have the meanings ascribed to them in those sections.

(Supplied in codification; A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.015 “Accessories” defined. (NRS 426.560, 426.670) “Accessories” means items which:

1. Are suitable for use in the operation of a vending facility;
2. Are portable or subject to breakage or loss; and
3. Have a purchase price of less than \$100.

The term includes, but is not limited to, pots, pans, cooking utensils, dishware, flatware, cutlery, glassware, hand trucks and display racks.

[Bur. of Services to the Blind, § 2 subsec. 1, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

Chapter 426 of NAC is hereby amended by adding thereto a new section to read as follows:

NAC 426 “Adjusted net proceeds defined. (NRS 426.560, 426.670) “Adjusted net proceeds means the amount of money which remains of the gross income after an operator has deducted the ordinary and necessary expenses of his business and includes the amount of set-aside paid to the bureau pursuant to NAC 426.230.

NAC 426.020 “Blind person” defined. “Blind person” has the meaning ascribed to it in NRS 426.041.

[Bur. of Services to the Blind, § 2 subsec. 2, eff. 10-14-82]

NAC 426.025 “Bureau” defined. (NRS 426.560, 426.670) “Bureau” has the meaning ascribed to it in NRS 426.045.

[Bur. of Services to the Blind, § 2 subsec. 3, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.027 “Chief” defined. “Chief” means the chief of the bureau.

(Supplied in codification)

NAC 426.028 “Department” defined. (NRS 426.560, 426.670) “Department” has the meaning ascribed to it in NRS 426.061.

(Supplied in codification; A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.029 “Division” defined. (NRS 426.560, 426.670) “Division” has the meaning ascribed to it in NRS 426.071.

(Added to NAC by Bur. of Services to the Blind & Vis. Impaired, eff. 8-28-97)

NAC 426.030 “Equipment” defined. (NRS 426.560, 426.670) “Equipment” means items which have a purchase price of \$100 or more and are approved by the bureau as suitable for use in a vending facility. The term includes items which are owned by the bureau or the operator.

[Bur. of Services to the Blind, § 2 subsec. 4, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.035 “Gross income” defined. (NRS 426.560, 426.670) “Gross income” means all income which is earned from the operation of a vending facility.

[Bur. of Services to the Blind, § 2 subsec. 5, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.040 is hereby amended to read as follows:

NAC 426.040 “Net proceeds” defined. (NRS 426.560, 426.670) “Net proceeds” means the amount of money which remains of the gross income after an operator has deducted the ordinary and necessary expenses of his business, excluding the ~~money~~ *amount of set-aside* which he is required to pay to the bureau pursuant to NAC 426.230.

[Bur. of Services to the Blind, § 2 subsec. 6, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.042 is hereby amended to read as follows:

NAC 426.042 “Net profit” defined. (NRS 426.560, 426.670) “Net profit” means the amount of money which remains in the net proceeds after an operator deducts the ~~money~~ *amount of set-aside* which he is required to pay to the bureau pursuant to NAC 426.230.

(Added to NAC by Bur. of Services to the Blind & Vis. Impaired, eff. 8-28-97)

NAC 426.045 “Operating agreement” defined. (NRS 426.560, 426.670) “Operating agreement” means an agreement between the bureau and a blind person who is licensed pursuant to the provisions of this chapter which sets forth the terms and conditions for the operation of a vending facility.

[Bur. of Services to the Blind, § 2 subsec. 7, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.050 “Operator” defined. “Operator” has the meaning ascribed to it in subsection 1 of NRS 426.630.

[Bur. of Services to the Blind, § 2 subsec. 8, eff. 10-14-82]

NAC 426.055 “Vending facility” defined. “Vending facility” has the meaning ascribed to the term “vending stand” in subsection 3 of NRS 426.630.

[Bur. of Services to the Blind, § 2 subsec. 9, eff. 10-14-82]

NAC 426.060 Purposes of chapter. (NRS 426.560, 426.670) The purposes of this chapter are to establish standards and procedures for the administration of a comprehensive program which will provide to blind persons in this state opportunities to operate vending

facilities as business enterprises and to provide to blind persons and other persons who are disabled opportunities for employment at vending facilities.

[Bur. of Services to the Blind, § 3, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.065 Intention of bureau to establish and expand vending facilities. (NRS 426.560, 426.670) The bureau intends, whenever feasible, to establish new vending facilities and to expand, remodel or refurbish existing facilities.

[Bur. of Services to the Blind, § 5, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.067 is hereby amended to read as follows:

NAC 426.067 Operator deemed independent contractor. (NRS 426.560, 426.670) For the purposes of this chapter, an operator ~~[shall be]~~ *is* deemed *to be* an independent contractor.

(Added to NAC by Bur. of Services to the Blind & Vis. Impaired, eff. 8-28-97)

NAC 426.070 is hereby amended to read as follows:

NAC 426.070 Copies of chapter. (NRS 426.560, 426.670) The bureau ~~[will]~~ *shall* furnish a copy of this chapter to each operator and to each person who is licensed to operate a vending facility in ~~[a]~~ *the* medium of his choice ~~[, if the medium is available].~~

[Bur. of Services to the Blind, § 4, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

COMMITTEE OF BLIND VENDORS

NAC 426.080 Creation; election and term of members; adoption and contents of bylaws; annual meeting. (NRS 426.560, 426.670)

1. The Nevada committee of blind vendors is hereby created. The committee consists of operators who are in good standing with the bureau and are elected in the manner prescribed in the bylaws of the committee.

2. The operators in this state shall adopt bylaws to govern the committee. The adoption must be by a majority of the operators who are present at the meeting to adopt the bylaws and vote upon the adoption. The bylaws are not effective until they are approved by the chief. The bylaws must prescribe:

- (a) The number of members on the committee;
- (b) The method of electing the members;
- (c) The method of selection of the officers of the committee;
- (d) Other matters essential to the proper functioning of the committee; and
- (e) The procedure for the annual meeting of the committee.

3. The members of the committee are elected each even-numbered year by all the operators who are present at the meeting to elect members and vote upon the election of members. The

members serve a term of 2 years, and until their successors have been elected and the bureau determines that they are qualified to serve.

4. The committee shall:

(a) Hold a meeting annually.

(b) Abide by the provisions of chapter 241 of NRS.

[Bur. of Services to the Blind, § 68, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.085 Duties. (NRS 426.560, 426.670) The Nevada committee of blind vendors shall:

1. Participate with the bureau in the development of policy and make recommendations on issues which affect the program for vending facilities administered by the bureau;

2. Receive grievances from operators and assist the operators in the presentation of those grievances to the bureau;

3. Participate with the bureau in a program which is designed to transfer and promote operators;

4. Participate in the development of training programs for operators; and

5. Sponsor meetings to provide useful information to operators.

[Bur. of Services to the Blind, § 69, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.095 Confidentiality of information. (NRS 426.560, 426.670) Information about a person which is furnished to the members of the Nevada committee of blind vendors to enable them to carry out their official responsibilities may be used only for that purpose. The members shall not disclose such information without the informed written consent of the person about whom the information is concerned.

[Bur. of Services to the Blind, § 6, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

TRAINING PROGRAM; LICENSES

NAC 426.100 is hereby amended to read as follows:

NAC 426.100 Application for assessment. (NRS 426.560, 426.670) A blind person *who is a client of the bureau and has been determined eligible for vocational rehabilitation services* may apply *and be referred* ~~[to the bureau]~~ for an assessment of his ability to operate a vending facility.

[Bur. of Services to the Blind, § 8, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.105 is hereby amended to read as follows:

NAC 426.105 Qualifications for enrollment in training program. (NRS 426.560, 426.670) A blind person may be enrolled in the training program for operators offered by the bureau if the chief determines that:

1. The person would benefit from and complete the program;

~~{2. Upon completion of the program, the person would be qualified to operate a vending facility; and~~

~~—3} 2.~~ In addition to meeting the requirements of age and citizenship for a license to operate a vending facility, the person:

(a) Is physically and emotionally qualified to operate a vending facility, based upon evaluations of the person's medical, psychological and vocational condition which are on file with the bureau or submitted to the bureau for purposes of the assessment.

(b) Possesses the skills in communications, mathematics, mobility, personal grooming and independent living which are necessary for the performance of the duties and responsibilities of an operator.

(c) Possesses the ability for self-employment.

(d) Possesses the ability to maintain good relations with customers, the bureau and the agency which controls the premises where the vending facility is located~~{}~~ ; and

3. Upon completion of the program, would be qualified to operate a vending facility.

[Bur. of Services to the Blind, § 9, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.110 Qualifications for a license. To be eligible for a license to operate a vending facility, a blind person must:

1. Be a citizen of the United States;
2. Be 18 years of age or older; and
3. Have successfully completed the bureau's requirements for training.

[Bur. of Services to the Blind, § 10, eff. 10-14-82]

NAC 426.115 is hereby amended to read as follows:

NAC 426.115 Reports required for issuance of license. (NRS 426.560, 426.670) The bureau ~~{with}~~ *may* issue to a blind person a license to operate a vending facility if the following documents have been submitted to the bureau by or on behalf of the blind person:

1. A report of an ophthalmological or optometric examination which establishes that the person is legally blind. The report must have been obtained within 1 year before the proposed date for issuance of the license or must confirm the existence of permanent legal blindness regardless of the date of the report.

2. A report of a general medical examination which establishes that the person is physically capable of performing the duties required of an operator. The report must have been obtained within 1 year before the proposed date for issuance of the license.

3. A report of a psychological examination which establishes that the person is mentally and emotionally capable of performing the duties required of an operator. The report must have been obtained within 1 year before the proposed date for issuance of the license.

4. A report which establishes that the person is capable with regard to spatial orientation and mobility.

5. Proof of citizenship in the United States by submission of a birth certificate or certificate of naturalization.

6. A certificate by an authorized employee of the bureau that the person has successfully completed the training required by the bureau. Copies of the applicant's reports of progress which were issued during such training must be attached to the certificate.

[Bur. of Services to the Blind, § 11, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.120 Duration of license. (NRS 426.560, 426.670) A license to operate a vending facility is effective for an indefinite period, unless the license is terminated, suspended or revoked.

[Bur. of Services to the Blind, § 12, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.123 Bureau may require certain persons to complete continuing education or training or to receive counseling or vocational rehabilitation. (NRS 426.560, 426.670)

1. The bureau may require a person who is licensed to operate a vending facility and who has not operated a vending facility within the previous year to complete a course of continuing education or training, or to receive counseling or vocational rehabilitation, as prescribed by the bureau.

2. If the bureau determines that an operator is not properly operating or managing his vending facility, the bureau may require the operator to complete a course of continuing education or training, or to receive counseling or vocational rehabilitation, as prescribed by the bureau.

(Added to NAC by Bur. of Services to the Blind & Vis. Impaired, eff. 8-28-97)

NAC 426.135 is hereby amended to read as follows:

NAC 426.135 Termination of license. (NRS 426.560, 426.670) A license to operate a vending facility automatically terminates if the licensee:

1. Ceases to be a citizen of the United States~~[.]~~ ;
2. Ceases to be a blind person~~[.]~~ ;
3. Submits to the bureau his resignation as an operator. ~~[Such a]~~ *The resignation* ~~[termination]~~ is effective upon ~~[the effective date of his resignation]~~ *acceptance by the chief ;*
or,
4. Surrenders his license to the bureau.

[Bur. of Services to the Blind, § 13, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.140 is hereby amended to read as follows:

NAC 426.140 Grounds for suspension or revocation of license. (NRS 426.560, 426.670)
1. Each of the following acts by an operator constitutes a ground for suspension or revocation of his license:

(a) Abandonment of a vending facility. A vending facility shall be deemed to be abandoned if the operator has been absent from the vending facility without the authorization of the bureau and the facility has been closed for 3 consecutive working days ~~[or more]~~.

(b) Failure to operate a vending facility in accordance with:

- (1) Any applicable law or regulation;
 - (2) The operating agreement; or
 - (3) The permit given by the public agency or private person who has control of the premises where the vending facility is located.
- (c) Failure to maintain the equipment which is located at his vending facility in good condition.
- (d) Misconduct~~[,]~~ including, *but not limited to*:
- (1) Fraud, misappropriation or conversion.
 - (2) Use of alcoholic beverages or illicit drugs ~~[which impair his performance while on duty]~~.
 - (3) Embezzlement.
 - (4) Submission of a false report to the bureau.
 - (5) Failure to submit to a medical, psychological, ~~[or]~~ ophthalmological *or other* examination when requested to do so by the bureau. The bureau will pay for the cost of ~~[such an]~~ *the* examination.
 - (6) Other behavior which seriously jeopardizes the operation of the vending facility.
- (e) Failure to pay obligations incurred in the operation of the vending facility when payments on those obligations are due.
- (f) Failure to pay to the bureau when due the money which he is required to pay pursuant to NAC 426.230 or 426.235.
- (g) Failure to obtain the insurance required by the operating agreement, or to pay the insurance premiums when they become due.
- (h) Failure to engage personally in the daily operation of his vending facility *as described in NAC 426.395*.
- (i) Failure to maintain the records of the business operations of the vending facility which he is required to maintain pursuant to NAC 426.250.
- (j) Refusal to permit the inspection, review or audit of the records of the business operations of the vending facility by authorized representatives of the bureau.
- (k) Failure or refusal to comply with the requirements of continuing education or training, or to receive counseling or vocational rehabilitation pursuant to NAC 426.123.

2. The chief ~~[will]~~ *may* suspend or revoke the license of an operator if he determines that the operator ~~[does not possess]~~ *no longer possesses* the personal attributes which were required for his enrollment in the training program for operators offered by the bureau.

[Bur. of Services to the Blind, § 15, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.145 is hereby amended to read as follows:

NAC 426.145 Procedure for suspension or revocation of license; procedure for termination of operating agreement. (NRS 426.560, 426.670) If the bureau determines that the conduct of an operator requires suspension or revocation of his license, or the termination of his operating agreement before the expiration of the period specified in the agreement, the bureau ~~[will]~~ *must* provide to the operator an opportunity to show that he is in compliance with all requirements for retention of his license or operating agreement. The bureau ~~[will]~~ *must* provide to the operator notice of that opportunity and ~~[will]~~ *shall* set forth in the notice the

grounds for the suspension or revocation of his license, or termination of his operating agreement.

[Bur. of Services to the Blind, § 14, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

SELECTION AND TRANSFER OF OPERATORS TO VENDING FACILITIES

NAC 426.150 is hereby amended to read as follows:

NAC 426.150 Application to operate particular vending facility: Qualifications; waiver. (NRS 426.560, 426.670)

1. Except as otherwise provided in subsection 2, a blind person who is licensed to operate a vending facility may apply to operate a particular vending facility.

2. Except as otherwise provided in subsection 3, a blind person who is licensed to operate a vending facility may not apply to operate a particular vending facility if:

(a) He has managed or operated a facility for less than 6 months; or

(b) He fails to comply with *or meet* the requirements for the operation of the vending facility which are set forth in the notice of vacancy for the facility.

3. The chief ~~[will]~~ *may* waive the limitations set forth in subsection 2 if he determines that there is not a sufficient number of eligible applicants for the operation of the vending facility.

[Bur. of Services to the Blind, § 20, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.155 is hereby amended to read as follows:

NAC 426.155 Notice of availability of location for vending facility. The bureau ~~[will]~~ *shall* notify each person who is eligible to operate a vending facility whenever a location for such a facility is or is about to become available.

[Bur. of Services to the Blind, § 18, eff. 10-14-82]

NAC 426.160 is hereby amended to read as follows:

NAC 426.160 Advisory committee for selection of operators. (NRS 426.560, 426.670)

If two or more persons who are licensed to operate a vending facility have submitted an application to the bureau, a person employed by the bureau as an officer of field operations ~~[will]~~ *shall* appoint an advisory committee to select an operator. The committee ~~[will]~~ *shall* consist of *at least* three members *and, to the extent possible shall include, persons representing the management of the building in which the facility is to be located and one member of the committee of blind vendors who serves as an observer to the selection process.*

[Bur. of Services to the Blind, § 19, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.165 Disqualification from selection; interim operator. (NRS 426.560, 426.670) If a person who has been selected to operate a vending facility withdraws from consideration or refuses to execute, within a prescribed time, an operating agreement, he is

disqualified from selection as an operator of that facility. Upon such a disqualification, the chief may:

1. Offer the agreement to the applicant who received the next highest rank for selection.
2. Reinitiate the application process.
3. Select an interim operator for a specified period. The interim operator shall comply with the provisions of this chapter.

[Bur. of Services to the Blind, § 23, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.175 is hereby repealed.

NAC 426.175 ~~Use of vending facility for training. (NRS 426.560, 426.670) The bureau may use a vending facility to provide training on the job for blind persons enrolled in the training program offered by the bureau.~~

[Bur. of Services to the Blind, § 21, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

ESTABLISHMENT AND OPERATION OF VENDING FACILITIES

General Requirements

NAC 426.180 is hereby amended to read as follows:

NAC 426.180 Operating agreement: Purpose; tender of agreement; signature; termination or suspension. (NRS 426.560, 426.670)

1. An operating agreement grants to the operator, for a specified period, ~~a possessory interest in~~ the *right to the use of a* vending facility and the equipment included with the vending facility.

2. The bureau ~~will~~ *shall* offer an operating agreement and all documents relating to the agreement to a person who has been selected to operate a vending facility. The person who is selected must sign the operating agreement before he takes possession of the vending facility.

3. Except as otherwise provided in this subsection, an operating agreement terminates automatically upon expiration of the period specified in the agreement. The bureau may, in accordance with NAC 426.145, terminate an operating agreement before the expiration of the specified period if the operator fails to comply with the provisions of the operating agreement, this chapter or chapter 426 of NRS. The bureau may suspend an operating agreement for 90 days if an operator has made continuous clerical errors on reports that he is required to submit to the bureau. The operator may continue to operate his vending facility during the 90-day period, but shall cooperate with the bureau to improve the reports which he submits.

[Bur. of Services to the Blind, § 44, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.185 is hereby amended to read as follows:

NAC 426.185 Operating agreement: Required contents; modification. (NRS 426.560, 426.670)

1. An operating agreement must include three parts as follows:

(a) Part A must grant to the operator, for a specified period, ~~[a possessory interest in a]~~ *the right to the use of a* particular vending facility and in any equipment included with the facility.

(b) Part B must include the terms and conditions of operation which are required by this chapter, including, but not limited to:

- (1) The days and hours of operation;
- (2) A description of the types of goods and services that may be offered at the vending facility, as set forth in NAC 426.335;
- (3) The insurance coverage required pursuant to NAC 426.196;
- (4) The liability of the operator pursuant to NAC 426.201;
- (5) The option to purchase retained by the bureau pursuant to NAC 426.355;
- (6) The procedure for administrative review set forth in NAC 426.416 to 426.500, inclusive; and
- (7) The employment status of the operator pursuant to NAC 426.067.

(c) Part C must include any special agreements which relate to the terms and conditions of the operation of the vending facility, including, but not limited to, standards of operation and special approval required for the operation of the facility.

2. Any part of an operating agreement may be modified in a manner prescribed by the bureau. If the entire operating agreement is not modified, the provisions which were not modified remain valid.

[Bur. of Services to the Blind, § 45, eff. 10-14-82]—(NAC A 3-15-84; A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.194 Procurement and display of licenses and permits. (NRS 426.560, 426.670) An operator shall obtain all licenses and permits which are required for the operation of a vending facility, including, but not limited to, a sales tax permit and local business license. The operator shall pay all fees related to the issuance or renewal of each license or permit. The operator shall display each license or permit in a prominent location at the vending facility.

[Bur. of Services to the Blind, § 60, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)—(Substituted in revision for NAC 426.375)

NAC 426.196 is hereby amended to read as follows:

NAC 426.196 Requirements of insurance. (NRS 426.560, 426.670)

1. The bureau ~~[will]~~ *shall* provide fire insurance and ~~[other]~~ *storekeeper's liability* insurance as may be necessary for all vending facilities ~~[which are located in or on public buildings or properties]~~. The bureau ~~[will]~~ *shall*:

(a) Prescribe in each operating agreement the insurance that is required for the vending facility covered by the agreement, including the insurance that the operator is required to obtain; ~~[and]~~

(b) Respond within 30 days to all written inquiries from an operator concerning the requirements of insurance for the vending facility; *and* ~~[]~~

~~[2. The operator shall:
—(a) Obtain each policy of insurance that he is required to obtain pursuant to the operating agreement;~~

~~—(b) Upon approval of the bureau, obtain any additional policies of insurance that he considers necessary for the vending facility;]~~

(c) Ensure that each policy of insurance names the bureau as an additional insured[;].

~~[(d) Provide to the bureau a copy of each policy of insurance; and~~

~~—(e) Immediately notify the bureau if any policy of insurance is canceled by an insurer or operator.]~~

(Added to NAC by Bur. of Services to the Blind & Vis. Impaired, eff. 8-28-97)

NAC 426.201 is hereby amended to read as follows:

NAC 426.201 Liability for willful or negligent acts. (NRS 426.560, 426.670)

~~1. [The bureau will not, unless otherwise required by statute, assume liability for the willful or negligent acts of an operator or of his employees or agents, which cause injury or damage to persons or property.~~

~~—2].~~ An operator shall, unless otherwise required by statute, assume liability for his willful or negligent acts, or the willful or negligent acts of his employees or agents, which cause injury or damage to persons or property *and shall hold the bureau harmless for any such acts.*

(Added to NAC by Bur. of Services to the Blind & Vis. Impaired, eff. 8-28-97)

Financial Operation; Records and Reports

NAC 426.215 Operator's bond. (NRS 426.560, 426.670) The bureau may require the operator to provide to the bureau a bond or other security of a type and amount determined by the bureau.

[Bur. of Services to the Blind, § 31, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.220 is hereby amended to read as follows:

NAC 426.220 Security for payment of sales taxes, workers' compensation, security deposits or other payments. (NRS 426.560, 426.670) The bureau may:

1. Advance money to an operator for the purchase of a certificate of deposit to secure the payment of sales taxes, workers' compensation or other payments required of the operator.

2. Enter into a cooperative agreement with another agency of the state by which the bureau pledges money from the business enterprise account for the blind to secure the payment of sales taxes, workers' compensation or security deposits required of the operator by the agency. If an operator fails to make a payment to the agency, the bureau ~~[will]~~ *shall* notify the operator and require him to pay the delinquent obligation.

[Bur. of Services to the Blind, § 54, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.222 is hereby amended to read as follows:

NAC 426.222 Payments must be drawn on business ~~[or personal]~~ account; recordation of personal expenses. (NRS 426.560, 426.670) A payment required by this chapter must be drawn on the business account ~~[or personal account]~~ of an operator. Payments which are made,

other than payments for a business deduction, must be recorded as a personal expense on the monthly balance sheet maintained by the operator.

(Added to NAC by Bur. of Services to the Blind & Vis. Impaired, eff. 8-28-97)

NAC 426.223 is hereby amended to read as follows:

NAC 426.223 Submission of report or payment to bureau. (NRS 426.560, 426.670)

A report or payment required by this chapter must be submitted to the bureau not later than 20 days after the close of business on the last day of the calendar month covered by the payment or report. A report or payment must be submitted to the Bureau of Services to the Blind and Visually Impaired ~~[, 505 East King Street, Room 501, Carson City, Nevada 89710]~~ *at its current address.*

(Added to NAC by Bur. of Services to the Blind & Vis. Impaired, eff. 8-28-97)

NAC 426.224 is hereby amended to read as follows:

NAC 426.224 Penalty for late payment or report: Notice; payment; automatic termination of operating agreement; waiver. (NRS 426.560, 426.670)

1. Except as otherwise provided in subsection 5, if a payment or report required by this chapter is not received by the bureau on the date it is due, the bureau ~~[will]~~ *shall* assess a penalty of \$50 or 15 percent of the amount due, whichever is greater. The bureau ~~[will]~~ *shall* determine whether a payment or report is received by the bureau on the date that it is due ~~[in accordance with NRS 238.100]~~ *by noting the date of the postmark.*

2. The bureau ~~[will]~~ *shall* mail to the last known address of the operator by certified mail, return receipt requested, or personally deliver to the operator, notice that a penalty has been assessed.

3. A penalty must be paid not more than ~~[10]~~ *30* days after the operator receives notice of the penalty. Except as otherwise provided in subsection 5, if a penalty is not paid, the bureau ~~[will]~~ *shall* assess an additional penalty of \$50 or 15 percent of the amount due, whichever is ~~[greater]~~ *less*, excluding the amount due for the first penalty.

4. If, in a 1-year period, three reports, payments or penalties are not submitted to the bureau when they are due, the operating agreement between the bureau and the operator ~~[will]~~ *may be [automatically]* terminated without notice.

5. The chief ~~[will]~~ *may* waive the assessment of a penalty pursuant to this section if the operator submits a request for a waiver which includes the reasons for the late payment, report or penalty.

(Added to NAC by Bur. of Services to the Blind, eff. 3-15-84; A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)—(Substituted in revision for NAC 426.075)

NAC 426.225 is hereby amended to read as follows:

NAC 426.225 Assignment of revenue and commissions from vending machines. (NRS 426.560, 426.670)

1. The chief ~~[will]~~ *shall* assign to an operator revenue which is accrued from vending machines that are in direct competition with the vending facility of the operator.

2. The chief may assign to an operator commissions which are accrued from vending machines that are not in direct competition with the operator's facility to supplement the

income of the operator for not more than 6 months. The bureau ~~will~~ shall develop and publish a policy for determining the amount of commissions that may be assigned pursuant to this subsection.

3. For the purpose of this section, if vending machines are not easily accessible to the employees in the building occupied by the operator's facility, the machines are not considered to be in direct competition with the operator's facility.

[Bur. of Services to the Blind, § 43, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.230 is hereby amended to read as follows:

NAC 426.230 Money to be set aside from net proceeds. (NRS 426.560, 426.670)

1. To provide the money which is necessary for the administration of the program for vending facilities, each operator shall set aside money from the monthly net proceeds of his business in accordance with the following table:

Net Proceeds of Business	Amount to Be Set Aside
\$0 to \$1,100	2 percent of net proceeds
1,101 to 1,350	\$25 plus 5 percent of net proceeds over \$1,100
1,351 to 1,800	\$35 plus 10 percent of net proceeds over \$1,350
1,801 to 2,250	\$80 plus 15 percent of net proceeds over \$1,800
2,251 to 2,800	\$150 plus 20 percent of net proceeds over \$2,250
2,801 to 3,600	\$260 plus 30 percent of net proceeds over \$2,800
3,601 to 5,000	\$500 plus 40 percent of net proceeds over \$3,600
Over \$5,000	\$1,045 plus 50 percent of net proceeds over \$5,000

2. The chief, after consultation with the Nevada committee of blind vendors, ~~will~~ shall periodically review the table in subsection 1.

3. The chief, after consultation with the committee of blind vendors, may waive or reduce set-aside payments for a prescribed period of time. If the chief and the committee of blind vendors determines that it is advisable to waive or reduce set-aside, he shall notify the operators prior to the end of the month for which set-aside payments are being waived or reduced.

[Bur. of Services to the Blind, § 32, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.235 Advancement of money: Purposes; repayment. (NRS 426.560, 426.670)

1. The bureau may advance money to an operator from the business enterprise account for the blind to purchase initial stock of merchandise, supplies and equipment which are necessary to begin the operation of a vending facility. The operator shall execute a promissory note for the amount to be repaid to the bureau. The repayment must be made in monthly installments, based upon the adjusted net proceeds of the operator's business in accordance with the following table:

Adjusted Net Proceeds	Installment Required
\$0 to \$1,000.....	10 percent of the amount
1,001 to 2,000.....	\$100 plus 15 percent of the adjusted net proceeds over \$1,000
2,001 to 3,000.....	\$250 plus 20 percent of the adjusted net proceeds over \$2,000
3,001 to 4,000.....	\$450 plus 30 percent of the adjusted net proceeds over \$3,000
4,001 to 5,000.....	\$750 plus 50 percent of the adjusted net proceeds over \$4,000
Over \$5,000.....	\$1,150 plus 50 percent of the adjusted net proceeds over \$5,000

2. The bureau may advance money to an operator from the business enterprise account for the blind in exchange for a promissory note to ensure the continued operation of an existing vending facility. Such an advance must be repaid by the operator in accordance with the terms and conditions of the promissory note.

[Bur. of Services to the Blind, § 34, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.240 is hereby repealed.

~~NAC 426.240 **[Computation of payments.—Whenever any payment is made to the bureau, the payment must be rounded to the nearest dollar.]**~~

[Bur. of Services to the Blind, § 35, eff. 10-14-82]

NAC 426.245 is hereby amended to read as follows:

NAC 426.245 Business enterprise account for the blind: Accounting and use of money by bureau. (NRS 426.560, 426.670)

1. The bureau ~~[will]~~ **shall** account for the money set aside and collected by the bureau from the operators in accordance with generally accepted principles of accounting.

2. In addition to the purposes authorized by NRS 426.675, the bureau ~~[will]~~ **shall** use money from the business enterprise account for the blind for:

(a) Payment of the costs incurred for management of the program for vending facilities administered by the bureau, including the expenses of the Nevada committee of blind vendors.

(b) If money is available in the account, reimbursement of an operator for the payment of a premium on a policy of insurance which the operator is required to maintain if, in the determination of the chief, the reimbursement is consistent with NRS 426.640.

[Bur. of Services to the Blind, § 33, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.250 Maintenance of books and records of account. (NRS 426.560, 426.670)

Each operator shall maintain complete books and records of account for his business on the basis of calendar years in accordance with generally accepted standards for business accounting. The books and records must accurately reflect all receipts and disbursements. The operator shall use the method of accounting approved by the bureau.

[Bur. of Services to the Blind, § 38, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.255 Submission of monthly report of business operations. (NRS 426.560, 426.670) Each operator shall submit to the bureau, on a form prescribed by the bureau, a monthly report of the business operations of his vending facility. The monthly report must be based on a calendar month.

[Bur. of Services to the Blind, § 36, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.260 is hereby repealed.

NAC 426.260 ~~Request for records, correspondence or other documents. (NRS 426.560, 426.670)~~ ~~The bureau may request any records, correspondence or other documents of an operator which are necessary for the operation or management of the vending facility or the performance of the operator.]~~

[Bur. of Services to the Blind, § 37, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

Chapter 426 of NAC is hereby amended by adding thereto the provisions set forth as section 426. ___ of this regulation.

NAC 426. ___ Bureau to conduct independent audit of certain vending facilities; development of policy; method of payment. (NRS 426.560, 426.670)

- 1. The bureau will schedule an audit to be conducted by an accounting firm under an independent contract with the bureau for every facility with gross revenues of \$150,000 or more. Audits are to be scheduled biennially.***
- 2. The bureau chief, in consultation with the Nevada committee of blind vendors, shall develop and promulgate policy and procedures for the conduct of the audit.***
- 3. Payment for these audits must be made from funds set-aside in the business enterprise account.***

NAC 426.265 is hereby amended to read as follows:

NAC 426.265 Records: Maintenance at facility; availability to bureau; audit; correction. (NRS 426.560, 426.670) *1.* Each operator shall maintain the records, ***correspondence or other documents*** of his business operation in the area where the vending facility is located and make the records available to an authorized representative of the bureau, with or without notice, for inspection ~~or~~, audit ***or other purpose***. Upon issuance of a receipt for records, the operator shall surrender his records to a representative of the bureau for audit. The receipt must specify the date on which the records ~~will~~ ***shall*** be returned to the operator and include the signature of the representative of the bureau who receives the records. After an audit by the bureau, an operator shall, if requested by the bureau, correct the records in accordance with the bureau's instructions. Each operator shall maintain the records of his business operation for 5 years after the end of the calendar year covered by the records.

2. The bureau may request any records, correspondence or other documents of an operator which are necessary for the operation or management of the vending facility or the performance of the operator.

[Bur. of Services to the Blind, § 39, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.270 is hereby amended to read as follows:

NAC 426.270 Business checking account: Establishment and maintenance; requirement of sufficient cash; effect of negative balance. (NRS 426.560, 426.670)

1. Each operator shall establish and maintain a checking account for his business. The account must be in a commercial bank which is authorized to do business in this state and offers electronic access to banking services. The operator shall not commingle his business and personal money in the business checking account.

2. Each operator shall maintain cash in an amount which is sufficient to pay all monthly obligations of his vending facility without diminishing ~~his~~ *the* net worth *of his business*.

3. If an operator maintains a negative balance in his checking account or issues a check without sufficient money in the checking account, the bureau may terminate his operating agreement.

[Bur. of Services to the Blind, § 56, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.275 Business checking account: Deposit of income. (NRS 426.560, 426.670)
All income which is earned from the operation of a vending facility must be deposited in the business checking account of the operator.

[Bur. of Services to the Blind, § 57, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.280 Business checking account: Payment of business expenses; reimbursement from personal money. (NRS 426.560, 426.670) The operator shall pay his business expenses and the money owed to the bureau by a check drawn on his business checking account. He may use the money in his business checking account to reimburse himself for any expenses of the business which he originally paid from his personal money if he maintains documents which relate to those payments, including, but not limited to, invoices and receipts, in accordance with the generally accepted standards for business accounting.

[Bur. of Services to the Blind, § 59, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.285 is hereby amended to read as follows:

NAC 426.285 Ordinary and necessary expenses: Exclusions. (NRS 426.560, 426.670)
Unless the chief provides *prior* written approval to an operator, ordinary and necessary expenses of the business of an operator do not include:

1. Expenses for accounting services not related to the business.
2. Attorney's fees and related expenses.
3. Charges for bank overdraft or return of checks.

4. Charges for the use of credit cards except as permitted by this chapter.
5. Costs of commuting to and from work, including parking fees, for the operator or his employees.
6. Contributions or gifts to organizations or customers.
7. Costs of aids, appliances or other equipment furnished to the operator through the program for vocational rehabilitation offered by the bureau.
8. Costs of replacing merchandise which is destroyed because of spoilage, theft or other circumstances.
9. Costs of maintenance, replacement or repair of equipment which is owned by the bureau.
10. Costs of maintenance, replacement or repair of equipment which is owned by the operator and used at the vending facility.
11. Costs of markup of an item of merchandise which is over the actual cost of the item, if the item was purchased from a firm and the markup directly or indirectly benefits the operator.
12. Allowances for employees' meals.
13. Penalties paid to an agency which imposes taxes or issues a license.
14. Personal expenses, including, but not limited to:
 - (a) Charges for personal clothing.
 - (b) Premiums for health, medical or disability insurance for the operator or his family.
 - (c) Payments for personal income tax, including payments for estimated taxes.
 - (d) Premiums for life insurance or payments for a retirement program for the operator.
 - (e) Any other expenses which are personal.
15. The purchase price of or rental payments for equipment which has not been authorized by the bureau.
16. Payments to the bureau pursuant to a promissory note for any money advanced to establish a vending facility.
17. Travel expenses.
18. Depreciation of the equipment owned by the operator.
19. Expenses for rent or utilities at a location other than the facility.
20. Losses incurred for an extension of credit ~~[that was not approved by the bureau].~~
[Bur. of Services to the Blind, § 58, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.290 Payments for obligations. (NRS 426.560, 426.670) An operator shall conduct his business on a 30-day net cash basis and pay all his obligations when they are due.
[Bur. of Services to the Blind, § 64, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.295 is hereby repealed.

~~**NAC 426.295 [Extension of credit by operator. (NRS 426.560, 426.670) An operator shall not extend credit to his customers unless the credit is extended through established credit card accounts.]**~~

[Bur. of Services to the Blind, § 65, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

Equipment and Inventory

NAC 426.300 is hereby amended to read as follows:

NAC 426.300 Equipment: Provision, repair and replacement by bureau; assumption of responsibility by operator; restrictions on use. (NRS 426.560, 426.670)

1. The bureau ~~{will}~~ *shall* furnish to each vending facility equipment which is suitable for the facility. The bureau ~~{will}~~ *shall* assume responsibility for all the normal repair and replacement of that equipment.

2. ~~[An operator may submit to the bureau a written proposal to assume responsibility for the maintenance and repair of the equipment which was furnished by the bureau. If the proposal is approved, the cost of the maintenance and repair may be deducted as an operating expense of the business. Copies of itemized bills for any repairs must be attached to the monthly statement of profit and loss on which the expense is deducted.~~

~~—3.]~~ If the bureau determines that it is necessary or appropriate, it ~~{will}~~ *shall*:

(a) Replace equipment located at a vending facility, if money is available in the business enterprise account for the blind.

(b) Provide additional equipment at a vending facility, if money is available in the business enterprise account for the blind.

(c) Provide written authorization to an operator to purchase equipment specified in the authorization.

~~[4]~~ 3. An operator shall not add to, modify, remove or replace equipment which has been provided by the bureau *or any other source* without the written consent of the bureau.

[Bur. of Services to the Blind, § 24, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.305 is hereby amended to read as follows:

NAC 426.305 Equipment: Daily maintenance by operator; payment for repairs caused by abuse or neglect. (NRS 426.560, 426.670) An operator shall assume responsibility for the daily maintenance of the equipment furnished by the bureau ~~{and shall provide the care which is necessary to maintain the equipment in good condition, excluding ordinary wear}~~. The operator shall pay for any repairs which have resulted from his neglect or abuse of the equipment.

[Bur. of Services to the Blind, § 27, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.315 is hereby amended to read as follows:

NAC 426.315 Equipment: Limitation on use. (NRS 426.560, 426.670) Equipment which has been furnished by the bureau or authorized for purchase ~~{may}~~ *must* be used only for the business of the vending facility.

[Bur. of Services to the Blind, § 26, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.320 is hereby amended to read as follows:

NAC 426.320 Equipment: Retention of title to bureau; surrender of possession. (NRS 426.560, 426.670)

1. Except for the ~~possessory interest~~ *right to the use of a facility and the equipment therein, which is* granted to the operator pursuant to NAC 426.180, the bureau retains all right to, title to and interest in the equipment it furnishes for the operation of a vending facility.
 2. The operator shall surrender possession of the equipment:
 - (a) Upon termination, suspension or revocation of his license; or
 - (b) If he is required to do so by the terms of the operating agreement.
- [Bur. of Services to the Blind, § 28, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.326 is hereby amended to read as follows:

NAC 426.326 Acquisition of merchandise, accessories and supplies necessary to begin and continue operation; ~~quarterly~~ *annual* inventory. (NRS 426.560, 426.670)

1. An operator shall obtain the items of merchandise, accessories and supplies which are necessary to begin operation of his vending facility. An operator shall deduct the value of those items of merchandise, accessories and supplies as a business expense if the deduction ~~will~~ *does* not result in a negative balance in his net proceeds. Any amount which is not deducted must be shown as an asset on the monthly balance sheet maintained by the operator until it is liquidated.
 2. An operator shall obtain items of merchandise, accessories and supplies in quantities which are sufficient to ensure the continued operation of his vending facility.
 3. ~~At the end of each calendar quarter~~ *Annually or at any other time as may be prescribed by the bureau chief*, an operator shall conduct a physical inventory of the items of merchandise, accessories and supplies which he has in his possession for resale, and record the results of the inventory in his books and records of account. A copy of the results of the inventory must be included with the monthly report that the operator is required to submit to the bureau pursuant to NAC 426.255.
- (Added to NAC by Bur. of Services to the Blind & Vis. Impaired, eff. 8-28-97)

NAC 426.330 is hereby amended to read as follows:

NAC 426.330 Acknowledgment of receipt of equipment, accessories and initial stock of merchandise; record of changes to those items. (NRS 426.560, 426.670) Each operator shall acknowledge the receipt of the equipment, accessories and initial stock of merchandise furnished by the bureau. ~~To maintain proper control over those items, the operator shall sign an acknowledgment of his receipt of the initial items and~~ *The bureau* shall maintain a record of any changes to those items *and shall provide the operator with a copy thereof* ~~upon forms prescribed by the bureau~~. Each form ~~, if approved,~~ must be signed and dated by an authorized representative of the bureau.

[Bur. of Services to the Blind, § 30, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.335 is hereby amended to read as follows:

NAC 426.335 Goods and services to be sold; approval of chief required.
(NRS 426.560, 426.670)

1. Each operating agreement must specify the goods and services which may be sold at the vending facility covered by the agreement.

~~2. The goods and services which may be sold at a vending facility include, but are not limited to:~~

~~—(a) Newspapers, periodicals, publications, postcards, greeting cards, confections, tobacco products, hot and cold beverages, food, film and film products, souvenir and gift items, and sundries.~~

~~—(b) Any other goods or services that the chief, after consultation with the head of the public agency or the private person responsible for the management of the property, determines is suitable for the location.~~

~~—3. The goods and services offered at a vending facility may be dispensed automatically or manually and may be prepared on or off the premises.~~

~~[4] 3.~~ Goods and services ~~[may]~~ *shall* not be sold, offered for sale or dispensed unless they have been approved in writing by the chief.

[Bur. of Services to the Blind, § 50, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.345 is hereby amended to read as follows:

NAC 426.345 Physical inventory required under certain circumstances; exclusion of certain items. (NRS 426.560, 426.670)

~~1. [Within 60 days before the expiration of an operating agreement, each operator, or a person designated by the operator, and an authorized representative of the bureau shall conduct a physical inventory of all equipment which has been furnished by the bureau. Unless it is the first inventory, the inventory must be reconciled with the last physical inventory of equipment.]~~

~~[2] 1.~~ Each operator, or a person designated by the operator, and an authorized representative of the bureau shall conduct a physical inventory of all equipment, accessories and merchandise of a vending facility if:

(a) The operator is transferred or promoted to another location;

(b) The operator resigns from the program for vending facilities administered by the bureau;

(c) The operator surrenders his license to the bureau; or

(d) The operating agreement expires and is not renewed, and a final settlement between the operator and the bureau is necessary.

~~[3] 2.~~ If an operator refuses to participate in the inventories required by subsection ~~[s] 1 [and 2]~~, or refuses to designate a representative for such purpose, the bureau ~~[will]~~ *shall* appoint an independent person to represent the operator. Except as otherwise provided in subsection ~~[4] 3~~, all equipment and accessories furnished by the bureau must be counted and reconciled with the master inventory maintained by the bureau.

~~[4] 3. [The following items must be excluded from the physical inventory of equipment, merchandise and accessories:~~

~~—(a) Accessories which are damaged;~~

- ~~—(b) Items of merchandise which are stored in containers that expose the items to possible contamination;~~
- ~~—(c) Products which are stale, damaged or outdated;~~
- ~~—(d) Accessories and supplies which are not used in the operation of the vending facility;~~
- ~~—(e) Food in open containers;~~
- ~~—(f) Meat which is wrapped in plastic;~~
- ~~—(g) Articles which are not authorized for sale in the operating agreement; and~~
- ~~—(h) Any other accessory or item of merchandise if the operator cannot produce a document showing that he purchased it]~~ *The value of the equipment, merchandise and accessories shall be negotiated between the former operator and the new operator or the bureau with assistance of bureau staff.*

[Bur. of Services to the Blind, § 51, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.350 is hereby repealed.

NAC 426.350 ~~[Determination of value of items for physical inventory. (NRS 426.560, 426.670) The accessories, supplies and merchandise which are inventoried pursuant to NAC 426.345 must be valued at their cost to the operator.]~~

[Bur. of Services to the Blind, § 52, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.355 is hereby amended to read as follows:

NAC 426.355 Option to purchase retained for bureau; reimbursement to operator upon withdrawal from program. (NRS 426.560, 426.670)

1. Each operating agreement must include a provision which reserves for the bureau an option to purchase any equipment, accessories, supplies and merchandise owned by the operator for use in the vending facility and to assign this option to a succeeding operator of the vending facility. At the time the option is exercised, the merchandise, accessories and supplies must be inventoried and valued in the manner provided in NAC 426.345 and 426.350. Equipment owned by the operator may be purchased by the bureau at its fair market value.

2. If an operator withdraws from the program ~~[for vending facilities]~~ administered by the bureau and the bureau purchases his equipment, accessories, supplies or merchandise, the bureau ~~[will]~~ *shall* reimburse the operator for the equipment, accessories, supplies or merchandise not later than 60 days after the expiration of his operating agreement unless a purchase agreement has been executed and notarized between the operator and the bureau which establishes an alternative payment schedule.

[Bur. of Services to the Blind, § 53, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.357 is hereby amended to read as follows:

NAC 426.357 Surrender of premises and assets by operator. (NRS 426.560, 426.670)

1. Upon the rescission or termination of an operating agreement, or the suspension, revocation or termination of a license, the operator shall vacate the premises of the vending

facility and surrender possession of all equipment, accessories, merchandise, supplies and other assets which the bureau owns or has an option to purchase.

2. If the operator fails to surrender the premises and assets, the bureau ~~will~~ *shall* take such action as is necessary to obtain possession. The operator may enter the premises to remove his personal property or, *upon his written request and* at his expense, the bureau ~~will~~ *shall* deliver the property to him or place it in storage.

[Bur. of Services to the Blind, § 55, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)—(Substituted in revision for NAC 426.405)

NAC 426.360 is hereby amended to read as follows:

NAC 426.360 Encumbrance of assets prohibited. The operator shall not ~~encumber or~~ allow ~~the encumbrance~~ *or cause to be allowed a lien or other type of claim to be issued on* ~~of~~ his vending facility or any of its equipment, accessories, merchandise, supplies or other assets.

[Bur. of Services to the Blind, § 63, eff. 10-14-82]

Employees; Daily Operation and Management

NAC 426.365 is hereby amended to read as follows:

NAC 426.365 Employment practices and responsibilities: Responsibility of the operator. (NRS 426.560, 426.670)

1. Each operator shall, *subject to approval of the chief:*

(a) Employ and compensate such employees as are necessary for the effective and efficient operation of the vending facility.

(b) Employ and compensate a relief operator to ensure the continuous operation of the vending facility during an absence of the operator.

(c) To avoid unnecessary and excessive costs, limit the number of persons that he employs and their hours of employment and compensation. Compensation of these employees must not exceed the prevailing wage which is paid to employees who have similar duties in the geographic area of the vending facility.

(d) Terminate the employment of any person whose continued employment is detrimental to the operation of the business.

~~[(e) Request from the bureau any available list of persons who are eligible for employment. —(f)]~~ (e) Upon request, provide to the bureau a written description of the duties of each employee.

~~2. In considering the employment of persons, the operator shall observe the following order of preference:~~

~~—(a) Persons who are licensed to operate a vending facility.~~

~~—(b) Other blind or visually impaired persons who are qualified to be employed at a vending facility.~~

~~—(c) Persons who are physically disabled and qualified to be employed at a vending facility.~~

~~—(d) Persons who are not disabled and are qualified to be employed at a vending facility.~~

~~—(e) Family members who are qualified to be employed at a vending facility.]~~

2. Each operator and employee of a vending facility shall maintain a clean appearance.

3. An operator shall conduct his business in a manner that satisfies his customers and shall avoid any practices which are inconsistent with this section.

4. Except for supervision or management which the bureau is required to provide, the operator of a vending facility shall make all decisions concerning the management of his facility and the daily operation of the facility.

[Bur. of Services to the Blind, § 41, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.370 is hereby amended to read as follows:

NAC 426.370 Employment practices and responsibilities: Responsibilities of bureau. (NRS 426.560, 426.670) The bureau ~~will~~ **shall**:

1. Notify an operator of any employment practices of the operator which are detrimental to the operation of the business and which require prompt action by the operator; and

2. Require the termination of any employee if:

(a) The bureau has received a request for removal of the employee from the public agency or private person who gave permission to establish and operate the vending facility; or

(b) The performance of the employee is detrimental to the operation of the vending facility and the operator has failed or refused to take appropriate action to correct the employee's performance.

[Bur. of Services to the Blind, § 42, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.380 and 426.385 are hereby repealed.

~~**NAC 426.380 [Appearance and conduct of operator and employees. (NRS 426.560, 426.670) Each operator and employee of a vending facility shall maintain a clean and wholesome appearance and shall conduct himself in a businesslike manner.]**~~

[Bur. of Services to the Blind, § 61, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

~~**NAC 426.385 [Relations with customers. (NRS 426.560, 426.670) An operator shall conduct his business in a manner that satisfies his customers and shall avoid any practices which are inconsistent with this section.]**~~

[Bur. of Services to the Blind, § 62, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.390 is hereby amended to read as follows:

NAC 426.390 Maximum vacation leave of operator; additional leave granted by chief. (NRS 426.560, 426.670)

1. Except as otherwise provided in subsection 2, an operator may take not more than 30 calendar days of vacation each calendar year. He shall notify the bureau and provide assurance that the operation of the vending facility will continue under the guidance of a qualified relief operator. The operator may report the wages which he pays to the relief operator as a business expense.

2. The chief ~~[will]~~ *may*, if he determines that special circumstances exist, authorize additional leave of absence.

[Bur. of Services to the Blind, §§ 76 & 77, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.395 is hereby amended to read as follows:

**NAC 426.395 ~~[Management of facility; u]~~Unauthorized absence of operator.
(NRS 426.560, 426.670)**

1. ~~[Except for supervision or management which the bureau is required to provide, the operator of a vending facility shall make all decisions concerning the management of his facility and the daily operation of the facility.]~~

[2.] Except with the prior approval of the chief, [A]an operator shall ~~[not be absent from his vending facility on a routine basis]~~ be physically present at the facility for a minimum of six hours per day.

[Bur. of Services to the Blind, § 78, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.400 is hereby amended to read as follows:

**NAC 426.400 Managerial services provided by bureau; performance evaluations.
(NRS 426.560, 426.670)**

1. The bureau ~~[will]~~ *shall* assist each operator in the efficient and effective management of each vending facility.

2. The bureau ~~[will]~~ *shall* provide to each operator of a vending facility managerial services concerning marketing, merchandising, pricing, maintenance of records, preparing reports, supervising personnel and other business procedures.

2. The bureau ~~[will periodically]~~ *shall* evaluate the performance of each operator *quarterly or more frequently if necessary* and determine whether any further business training is necessary.

4. Bureau staff shall submit a report of the findings of the quarterly evaluation of operator performance to the chief. Each report shall include recommendations for additional business training or other necessary actions.

[Bur. of Services to the Blind, § 67, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

Operator Benefits; Retirement and

Health Insurance Coverage

Chapter 426 of NAC is hereby amended by adding thereto the provisions set forth as sections 426.410 and 426.415 of this regulation.

***NAC 426.410 Bureau to provide retirement benefits program to licensed blind operators.
(NRS 426.560, 426.670)***

1. The bureau shall convey to each licensed blind operator, a check in the amount of not less than \$5,000 annually as a retirement income benefit. The amount of such benefit is subject to:

(a) Approval of a majority of the Committee of Blind Vendors; and,

(b) The availability of funds in the bureau's set-aside account

2. The bureau, in consultation with the Committee of Blind Vendors, shall promulgate policy outlining the eligibility for receipt of this benefit and how the amount due an individual blind operator will be determined.

NAC 426.415 Bureau to provide health insurance reimbursement benefits to licensed blind vendors and operators. (NRS 426.560, 426.570)

1. The bureau shall set aside an amount of not less than \$10,000 annually for each operator of a facility for the purpose of reimbursement of health care costs which are not paid by a third party insurer. The amount of such annual benefit is subject to:

(a) Approval of a majority of the Committee of Blind Vendors; and,

(b) The availability of funds authorized by the Nevada Legislature.

2. The bureau, in consultation with the Committee of Blind Vendors, shall promulgate policy outlining the eligibility for receipt of this benefit and how the reimbursement is to be paid to the individual blind vendor.

PRACTICE BEFORE THE BUREAU OF SERVICES TO THE BLIND AND VISUALLY IMPAIRED

NAC 426.416 is hereby amended to read as follows:

NAC 426.416 Request for administrative review of complaint. (NRS 426.560, 426.670)

1. A person who is licensed to operate a vending facility may submit a written request to the chief for an administrative review of a complaint if the licensee:

(a) Has a legitimate grievance with any action of the bureau in the operation or administration of the program for vending facilities; and

(b) Has not resolved the grievance through informal negotiations with an officer of the bureau.

2. Not more than 30 days after the occurrence of the action which is the cause of the licensee's grievance, a request for an administrative review must be mailed by registered or certified mail, return receipt requested, to the Chief of the Bureau of Services to the Blind and Visually Impaired ~~[, 505 East King Street, Carson City, Nevada 89710]~~ *at its current address.*

3. A request for an administrative review must include:
- (a) The date of the occurrence of the action which is the cause of the licensee's grievance;
 - (b) A statement of the complaint, including each issue that the licensee considers relevant to the complaint;
 - (c) A statement of each resolution of the complaint offered by the licensee;
 - (d) Citations to the statutes or regulations, if any, which pertain to the complaint;
 - (e) A statement which supports the position of the licensee;
 - (f) The mailing address and telephone number of the licensee; and
 - (g) The signature of the licensee and the date of his signature.
- (Added to NAC by Bur. of Services to the Blind & Vis. Impaired, eff. 8-28-97)

NAC 426.420 is hereby amended to read as follows:

NAC 426.420 Time and location of administrative review. (NRS 426.560, 426.670)

The chief ~~{will}~~ *shall* conduct an administrative review at a time and place which is reasonable for the parties. Unless otherwise scheduled to accommodate the licensee *or operator*, the chief ~~{will}~~ *shall* conduct an administrative review within 10 days after the chief receives a request for an administrative review.

[Bur. of Services to the Blind, § 73, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.425 is hereby amended to read as follows:

NAC 426.425 Procedure for administrative review. (NRS 426.560, 426.670) An administrative review ~~{will}~~ *must* be:

1. Conducted informally without attorneys or witnesses.
2. Based on the record available except that the *licensee or operator* may, upon his request, appear and present additional facts.

[Bur. of Services to the Blind, § 74, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.430 is hereby amended to read as follows:

NAC 426.430 Issuance and delivery of written decision. (NRS 426.560, 426.670)

1. Not more than 15 days after an administrative review, the chief ~~{will}~~ *shall* issue a written decision, including his findings of fact and conclusions of law concerning the complaint and any appropriate orders.

2. The bureau ~~{will}~~ *shall* mail the written decision to the licensee by registered or certified mail, return receipt requested, or a representative of the bureau ~~{will}~~ *may* personally deliver the decision to the licensee and read it to him. If the decision is personally delivered to the licensee, he shall date and sign a copy of the decision as an acknowledgment of the receipt.

3. The chief ~~{will}~~ *shall* mail a copy of the decision to each member of the Nevada committee of blind vendors.

[Bur. of Services to the Blind, § 75, eff. 10-14-82]—(NAC A by Bur. of Services to the Blind & Vis. Impaired, 8-28-97)

NAC 426.450 is hereby amended to read as follows:

NAC 426.450 Request for hearing after written decision. (NRS 426.560, 426.670)

1. Not more than 15 days after receipt of a written decision on a complaint, a licensee *or operator* may submit a written request to the ~~chief~~ *administrator* for a hearing on the complaint. The request must be mailed to the ~~Chief Administrator~~ *Administrator* of the Rehabilitation Division, ~~[505 East King Street, Room 502, Carson City, Nevada 89710,]~~ *at the current address* by certified or registered mail, return receipt requested.

2. The written request for a hearing must include *a copy of the original grievance filed by the licensee or operator*:

~~—(a) A statement of the complaint, including each issue that the licensee considers relevant to the complaint;~~

~~—(b) Citations to the statutes or regulations, if any, which pertain to the complaint;~~

~~—(c) A statement which supports the position of the licensee;~~

~~—(d) The mailing address and telephone number of the licensee; and~~

~~—(e) The signature of the licensee and the date of his signature.]~~

(Added to NAC by Bur. of Services to the Blind & Vis. Impaired, eff. 8-28-97)

NAC 426.455 is hereby amended to read as follows:

NAC 426.455 Time and location of hearing; notice. (NRS 426.560, 426.670)

1. Not more than 30 days after the ~~chief~~ *administrator* receives a written request for a hearing, a hearing officer appointed by the ~~chief~~ *Senior Hearings Officer of the Hearings Division of the Department of Administration* ~~will~~ *shall* conduct a hearing at a time and location that is reasonable for the parties. The hearing officer must have no personal involvement in the complaint.

2. Not less than 10 days before the date of the hearing, the bureau ~~will~~ *shall*, in accordance with NRS 233B.121, provide to all parties notice of the time, date and place of the hearing.

(Added to NAC by Bur. of Services to the Blind & Vis. Impaired, eff. 8-28-97)

NAC 426.460 Representation of licensee at hearing. (NRS 426.560, 426.670) The licensee may be represented at the hearing by an attorney or another person designated by the licensee.

(Added to NAC by Bur. of Services to the Blind & Vis. Impaired, eff. 8-28-97)

NAC 426.465 Rules of evidence. (NRS 426.560, 426.670) The hearing officer is not bound by the technical rules of evidence. Decisions concerning the admissibility of evidence must be made in accordance with NRS 233B.123.

(Added to NAC by Bur. of Services to the Blind & Vis. Impaired, eff. 8-28-97)

NAC 426.470 is hereby amended to read as follows:

NAC 426.470 Order of presentation. (NRS 426.560, 426.670) Each party ~~will~~ *must* be granted the opportunity to present his case, examine and cross-examine witnesses, and rebut evidence.

(Added to NAC by Bur. of Services to the Blind & Vis. Impaired, eff. 8-28-97)

NAC 426.475 is hereby amended to read as follows:

NAC 426.475 Resolution of complaint. (NRS 426.560, 426.670) Unless otherwise provided by statute, a complaint may be resolved by ~~[stipulation]~~ *mutual agreement*, settlement, consent decree or default of a party.

(Added to NAC by Bur. of Services to the Blind & Vis. Impaired, eff. 8-28-97)

NAC 426.480 Final decision; appeal. (NRS 426.560, 426.670)

1. A final decision by a hearing officer on a complaint must be in writing or stated in the record. A final decision must include findings of fact and conclusions of law. Findings of fact must include a statement of the facts which support the findings.

2. Not more than 30 days after a final decision is made, a party may appeal the decision in accordance with the provisions of NAC 426.500.

(Added to NAC by Bur. of Services to the Blind & Vis. Impaired, eff. 8-28-97)

NAC 426.485 Record of hearing. (NRS 426.560, 426.670) The record of the hearing must include:

1. The transcript of the oral testimony provided at the hearing;
2. All pleadings and motions filed by the parties;
3. Any rulings made by the hearing officer, including rulings on offers of proof;
4. Evidence that was admitted;
5. Facts which were officially noticed by the hearing officer; and
6. Any other decision, opinion or report of the hearing officer.

(Added to NAC by Bur. of Services to the Blind & Vis. Impaired, eff. 8-28-97)

NAC 426.490 is hereby amended to read as follows:

NAC 426.490 Transcript of proceedings. (NRS 426.560, 426.670) Upon request of a party, the bureau ~~[will]~~ *shall* provide a transcript of the oral proceedings of the hearing. The bureau may require payment of the cost incurred for providing the transcript.

(Added to NAC by Bur. of Services to the Blind & Vis. Impaired, eff. 8-28-97)

NAC 426.500 Appeal: Judicial review or arbitration. (NRS 426.560, 426.670) A licensee may appeal the final decision of a hearing officer and request judicial review pursuant to NRS 233B.130 to 233B.150, inclusive, or arbitration pursuant to 34 C.F.R. Part 395.13.

(Added to NAC by Bur. of Services to the Blind & Vis. Impaired, eff. 8-28-97)