

**ADOPTED REGULATION OF THE
STATE BOARD OF HEALTH**

LCB File No. R050-02

Effective October 22, 2002

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

AUTHORITY: §§1-3, NRS 449.037 and 449.050.

Section 1. NAC 449.013 is hereby amended to read as follows:

449.013 1. Except as otherwise provided in NAC 449.0168, an applicant for a license to operate any of the following facilities, programs of hospice care or agencies must pay to the health division the following nonrefundable fees:

- (a) An ambulatory surgical center.....\$1,200
- (b) A facility for the treatment of irreversible renal disease ~~1,200~~ *1,530*
- (c) A home office or subunit agency of a home health agency..... ~~1,200~~ *1,980*
- (d) A branch office of a home health agency ~~500~~ *1,040*
- (e) A rural clinic ~~1,200~~ *1,590*
- (f) An obstetric center 1,200
- (g) A program of hospice care ~~1,200~~ *1,450*
- (h) An independent center for emergency medical care ~~1,200~~ *1,330*
- (i) A nursing pool ~~750~~ *1,440*
- (j) A facility for treatment with narcotics ~~750~~ *1,270*
- (k) A medication unit 500
- (l) A referral agency ~~750~~ *1,340*

- (m) A halfway house for recovering alcohol and drug abusers ~~500~~ 1,160
- (n) A facility for refractive laser surgery3,545
- (o) A mobile unit.....1,500

2. An applicant for the renewal of such a license must pay to the health division the

following nonrefundable fees:

- (a) An ambulatory surgical center.....\$600
- (b) A facility for the treatment of irreversible renal disease600
- (c) A home office or subunit agency of a home health agency.....600
- (d) A branch office of a home health agency100
- (e) A rural clinic600
- (f) An obstetric center600
- (g) A program of hospice care600
- (h) An independent center for emergency medical care600
- (i) A nursing pool.....600
- (j) A facility for treatment with narcotics600
- (k) A medication unit100
- (l) A referral agency600
- (m) A halfway house for recovering alcohol and drug abusers300
- (n) A facility for refractive laser surgery3,000
- (o) A mobile unit.....750

3. An application for a license is valid for 1 year after the date on which the application is submitted. If an applicant does not meet the requirements for licensure imposed by chapter 449 of NRS or the regulations adopted pursuant thereto within 1 year after the date on which he

submits his application, he must submit a new application and pay the required fee to be considered for licensure.

Sec. 2. NAC 449.016 is hereby amended to read as follows:

449.016 1. Except as otherwise provided in NAC 449.0168, an applicant for a license to operate any of the following facilities must pay to the health division the following nonrefundable fees:

	Fee per facility	Fee per bed in the facility
(a) A skilled nursing facility	[\$1,200] \$2,200	[\$75] \$90
(b) A hospital, other than a rural hospital	[5,000] 10,000	[77] 90
(c) A rural hospital	[750] 1,500	[45] 90
(d) An intermediate care facility for the mentally retarded or persons with developmental disabilities	[750] 1,250	[50] 80
(e) An intermediate care facility, other than an intermediate care facility for the mentally retarded or persons with developmental disabilities	1,200	[75] 90
(f) A residential facility for groups	[500] 800	[50] 190
(g) A facility for the treatment of abuse of alcohol or drugs.....	500	50
(h) A facility for hospice care	[1,200] 1,450	[50] 90

(i) A home for individual residential care	{100} 710	{50} 270
(j) A facility for modified medical detoxification	{500} 660	{50} 90

2. An applicant for the renewal of such a license must pay to the health division the following nonrefundable fees:

	Fee per facility	Fee per bed in the facility
(a) A skilled nursing facility	\$1,100	{75} \$45
(b) A hospital, other than a rural hospital	5,000	{77} 45
(c) A rural hospital	750	45
(d) An intermediate care facility for the mentally retarded or persons with developmental disabilities	600	{35} 92
(e) An intermediate care facility, other than an intermediate care facility for the mentally retarded or persons with developmental disabilities	600	{75} 45
(f) {A} <i>Except as otherwise provided in subsection 3, a</i> residential facility for groups.....	300	{35} 92
(g) A facility for the treatment of abuse of alcohol or drugs.....	300	{35} 92
(h) A facility for hospice care	600	{35} 92

(i) A home for individual residential care	100	[35] 92
(j) A facility for modified medical detoxification	300	[35] 92

3. *An applicant for renewal of a license for a residential facility for groups shall pay a fee of \$35 for each bed in the facility which is paid entirely with money from:*

- (a) The supplemental security income program as defined in NRS 422.053;*
- (b) The home and community-based services program pursuant to 42 U.S.C. § 1396n; or*
- (c) A program for group care of adults established by a county.*

4. An application for a license is valid for 1 year after the date on which the application is submitted. If an applicant does not meet the requirements for licensure imposed by chapter 449 of NRS or the regulations adopted pursuant thereto within 1 year after the date on which he submits his application, he must submit a new application and pay the required fee to be considered for licensure.

Sec. 3. NAC 449.0168 is hereby amended to read as follows:

449.0168 1. Except as otherwise provided in subsection 2, a holder of a license to operate a medical facility, facility for the dependent, program of hospice care or referral agency who wishes or is required pursuant to NAC 449.190, 449.307, 449.7473 or 449.758 to modify his license to reflect:

- (a) A change in the name of the facility, program or agency;
- (b) A change of the administrator of the facility, program or agency;
- (c) A change in the number of beds in the facility;
- (d) A change in the type of facility licensed or the addition of another type of facility to be licensed;

(e) A change in the category of residents who may reside at the facility; or

(f) A change in the designation of a staging area for a mobile unit or, if the mobile unit is operated by an independent facility, a change in the address of the independent facility, must submit an application for a new license to the health division and pay to the health division a fee of ~~[\$160.]~~ \$200.

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2. An applicant who applies for a license pursuant to paragraph (c) of subsection 1 because of an increase in the number of beds in the facility must pay to the health division:

(a) A fee of ~~[\$160.];~~ \$200; and

(b) A fee for each additional bed ~~[in the facility of:]~~ as follows:

- (1) If the facility is an intermediate care facility for the mentally retarded or persons with developmental disabilities ~~[.]~~.....\$80
- (2) *If the facility is* a residential facility for groups ~~[.]~~.....190
- (3) *If the facility is* a facility for the treatment of abuse of alcohol or drugs ~~[.]~~.....50
- (4) *If the facility is* a facility for hospice care ~~[.]~~.....90
- (5) *If the facility is* a home for individual residential care ~~[or]~~270
- (6) *If the facility is* a facility for modified medical detoxification ~~[\$50]~~
- ~~—(2)] 90~~
- (7) If the facility is a hospital ~~[77]~~
- ~~—(3)] 90~~
- (8) If the facility is a rural hospital..... ~~[45]~~
- ~~[(4)] 90~~

(9) If the facility is a skilled nursing facility or an intermediate care facility, other than an intermediate care facility for the mentally retarded or persons with developmental disabilities~~[75]~~ **90**

3. If the address of the home office of a home health agency has not changed, a holder of a license to operate a subunit agency or branch office of the home health agency who wishes or is required pursuant to NAC 449.758 to modify his license to reflect a change in the address of the subunit agency or branch office of the home health agency must:

- (a) Submit an application for a new license to the health division; and
- (b) Pay to the health division a fee of ~~[\$160.]~~ **\$200.**

4. A fee paid pursuant to this section is nonrefundable.

5. As used in this section:

(a) “Administrator” means the person who is responsible for the daily management of a medical facility, facility for the dependent or program of hospice care.

(b) “Independent facility” has the meaning ascribed to it in section 3 of ~~[this regulation.]~~ **LCB File No. R063-02, which was adopted by the state board of health and filed with the secretary of state on July 24, 2002.**

(c) “Staging area” has the meaning ascribed to it in section 7 of ~~[this regulation.]~~ **LCB File No. R063-02, which was adopted by the state board of health and filed with the secretary of state on July 24, 2002.**

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R050-02**

The Bureau of Licensure and Certification of the Health Division of the Department of Human Resources adopted regulations assigned LCB File No. R050-02 which pertain to chapter 449 of the Nevada Administrative Code on September 6, 2002.

Notice date: 7/16/2002

Date of adoption by agency: 9/6/2002

Hearing date: 8/16/2002 & 9/6/2002

Filing date: 10/22/2002

INFORMATIONAL STATEMENT

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

A Small Business Impact Questionnaire was mailed to Facilities for Alcohol and Drug Abuse, Facilities for Adult Day Care, Residential Facilities for Groups, Residential Facilities for Groups/Alzheimer's, Business that Provides Referrals, Homes for Individual Residential Care, Facilities for Treatment with Narcotics, Facilities for Modified Medical Detoxification, Surgical Centers for Ambulatory Patients, Facilities for the Treatment of Irreversible Renal Disease, Agencies to Provide Nursing in the Home, Agencies to Provide Nursing in the Home-Branch Office, Hospitals, Hospice Care-Program of Care, Independent Centers for Emergency Medical Care, Facilities for Intermediate Care for the Mentally Retarded, Nursing Pools, Rural Clinics, and Facilities for Skilled Nursing on April 1, 2002. Attachment A is the Small Business Impact Statement Questionnaire. Attachment B is a copy of the small business impact summary.

Notice of public workshops held on April 24, 2002, in Las Vegas and April 25, 2002, in Reno was published in the Las Vegas Review Journal and Reno Gazette Journal on or before April 8, 2002. Notices of public workshops, and proposed regulations were mailed to all county libraries in Nevada, Facilities for Alcohol and Drug Abuse, Facilities for Adult Day Care, Residential Facilities for Groups, Residential Facilities for Groups/Alzheimer's, Business that Provides Referrals, Homes for Individual Residential Care, Facilities for Treatment with Narcotics, Facilities for Modified Medical Detoxification, Surgical Centers for Ambulatory Patients, Facilities for the Treatment of Irreversible Renal Disease, Agencies to Provide Nursing in the Home, Agencies to Provide Nursing in the Home-Branch Office, Hospitals, Hospice Care-Program of Care, Independent Centers for Emergency Medical Care, Facilities for Intermediate Care for the Mentally Retarded, Nursing Pools, Rural Clinics, and Facilities for Skilled Nursing, and interested parties on April 1, 2002. The small business impact summary was available at both workshops.

Twenty-eight individuals commented during the workshops, all comments were in opposition to fee increases. Many stated that small residential facilities for groups would be "run out of business".

Due to an ongoing process on the part of the Nevada State Health Division administration and the provider community to reach consensus on the proposed fee increase, a second series of public workshops was convened. Notice of Public workshops held on July 22, 2002, in Las Vegas and Reno was published in the Las Vegas Review Journal and Reno Gazette Journal on or before July 5, 2002. Notices of public workshops, and proposed regulations were mailed to all county libraries in Nevada, Facilities for Alcohol and Drug Abuse, Facilities for Adult Day Care, Residential Facilities for Groups, Residential Facilities for Groups/Alzheimer's, Business that Provides Referrals, Homes for Individual Residential Care, Facilities for Treatment with Narcotics, Facilities for Modified Medical Detoxification, Surgical Centers for Ambulatory Patients, Facilities for the Treatment of Irreversible Renal Disease, Agencies to Provide Nursing in the Home, Agencies to Provide Nursing in the Home-Branch Office, Hospitals, Hospice Care-Program of Care, Independent Centers for Emergency Medical Care, Facilities for Intermediate Care for the Mentally Retarded, Nursing Pools, Rural Clinics, and Facilities for Skilled Nursing, and interested parties on July 5, 2002. The small business impact summary was available at both workshops.

Twelve individuals commented during the workshops, all comments were in opposition to fee increases, especially with the cost of liability insurance costs increasing for facilities. Many stated that they felt SSI and Medicaid reimbursement needed to increase, prior to a new licensure fee being imposed.

Notice of public hearing regarding the Board's intent to adopt amendments was published in the Las Vegas Review Journal, Reno Gazette Journal on or before May 15, 2002. Notices of public hearing, proposed regulations and the small business impact summary were mailed to all county libraries in Nevada, Clark County Health District, Washoe County Health District, Facilities for Alcohol and Drug Abuse, Facilities for Adult Day Care, Residential Facilities for Groups, Residential Facilities for Groups/Alzheimer's, Business that Provides Referrals, Homes for Individual Residential Care, Facilities for Treatment with Narcotics, Facilities for Modified Medical Detoxification, Surgical Centers for Ambulatory Patients, Facilities for the Treatment of Irreversible Renal Disease, Agencies to Provide Nursing in the Home, Agencies to Provide Nursing in the Home-Branch Office, Hospitals, Hospice Care-Program of Care, Independent Centers for Emergency Medical Care, Facilities for Intermediate Care for the Mentally Retarded, Nursing Pools, Rural Clinics, and Facilities for Skilled Nursing, and interested parties on May 9, 2002.

Notice of public hearing regarding the Board's intent to adopt amendments was published in the Las Vegas Review Journal, Reno Gazette Journal on or before July 16, 2002. Notices of public hearing, proposed regulations and the small business impact summary were mailed to all county libraries in Nevada, Clark County Health District, Washoe County Health District, Facilities for Alcohol and Drug Abuse, Facilities for Adult Day Care, Residential Facilities for Groups, Residential Facilities for Groups/Alzheimer's, Business that Provides Referrals, Homes for Individual Residential Care, Facilities for Treatment with Narcotics, Facilities for Modified Medical Detoxification, Surgical Centers for Ambulatory Patients, Facilities for the Treatment of Irreversible Renal Disease, Agencies to Provide Nursing in the Home, Agencies to Provide Nursing in the Home-Branch Office, Hospitals, Hospice Care-Program of Care, Independent Centers for Emergency Medical Care, Facilities for Intermediate Care for the Mentally Retarded, Nursing Pools, Rural Clinics, and Facilities for Skilled Nursing, and interested parties on July 5, 2002.

2. THE NUMBER OF PERSONS WHO:

(A) ATTENDED THE HEARING;

Approximately 125 people attended the August 16, 2002, Board of Health hearing.
Approximately 53 people attended the September 6, 2002, Board of Health hearing that was a continuation of the August 16, 2002, Board of Health hearing.

(B) TESTIFIED AT EACH HEARING; AND

August 16, 2002:

Darrin Cook, IHS of Las Vegas
Betty Gammon, Adult Assisted Living
Lynn Ingle, Institute of Orthopedic Surgery
Ivan Tippets, Wicker Basket
Martha Hilario, Golden Home Care
Marte Hilario, ACAN and Golden Home Care
Margaret McConnell, Charleston Residential Care Hotel
Mark McConnell, Charleston Residential Care Hotel
Lynn Homnick, Rose Cottage
William Perry, Nevada Long Term Care Association
Wendy Simons, Park Place and Care
Teresa Stricker, Division for Aging Services
Bill Welch, Nevada Hospital Association

September 6, 2002:

Ivan Tippets, Wicker Basket
Marte Hilario, ACAN and Golden Home Care
Martha Hilario, Golden Home Care
Lynn Homnick, Rose Cottage
Wendy Simons, Park Place and Care
Margaret McConnell, Charleston Residential Care Hotel
Mark McConnell, Charleston Residential Care Hotel
Betty Gammon, Adult Assisted Living
Bill Welch, Nevada Hospital Association
Theresa Brushfield, Adult Care
Dennis Fuller, Senior Care
Becky Fuller, Criton's Senior Care
Chris Tan, Criton's Senior Care
Florine Gamble, Florine Gamble Assisted Living
Larry Fry, Dayton Parkview Adult Residence

(C) SUBMITTED TO THE AGENCY WRITTEN STATEMENTS.

August 16, 2002

Tim A. Manion, First Care Management

September 6, 2002

Dell Williams, Silver Rose

Larry Fry, Dayton Parkview Adult Residence

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

Comment was solicited from affected or potentially affected businesses by mailing appropriate facilities and all interested parties the proposed regulations, a small business impact questionnaire, a copy of the small business impact summary, and the notices for the workshops and Board of Health hearings. Copies the workshop minutes and Board of Health hearing minutes may be obtained by calling the Bureau of Licensure and Certification at (775) 687-4475.

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

None.

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

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

While payment of increased fees will have an immediate and long term negative economic impact on facilities requiring state licensure due to having to pay an increased amount annually, the proposed fees will also have a beneficial economic effect on the facilities in that collection of the fee will allow the State Agency the ability to continue to perform state licensure activities in a timely manner.

Additionally, state licensure is a condition of federal participation in a hospital, rural hospital, skilled nursing and nursing facilities, a nursing pool, an intermediate care facility for persons with mental retardation or persons with developmental disabilities, ambulatory surgery centers, facilities for the treatment of irreversible renal disease, hospice and home health agencies, (the ability to be reimbursed for servicing Medicare and Medicaid clients) payment. Increased fees will ensure that facilities will be able to be reimbursed for serving Medicare and Medicaid clients in addition to being reimbursed for serving private pay patients and private insurance covered patients. Adverse and beneficial effects on the public, both immediate and long term: none identified.

The proposed fee will have a beneficial economic effect on the public in that collection of the fee will allow the State Agency the ability to continue to perform state licensure activities in a timely

manner and the quality of patient care being provided by facilities will continue to be monitored and complaints investigated. Additionally, with state licensure functions being performed, new facilities will be able to be licensed thereby increasing the public care options. The proposed amendments to the regulation will increase some of the facilities annual renewal fees to address the projected cost of completing NRS mandated surveys and priority one and priority two level complaints.

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

The determination of those facilities eligible for the reduced per bed fee, estimated to be 150 facilities, will require additional professional level staff time equal to 100 hours at approximately \$130 per hour. Additionally ongoing monitoring may be required if complaints are received.

7. A DESCRIPTION OF ANY REGULATIONS OF OTHER STATE OR GOVERNMENT AGENCIES WHICH THE PROPOSED REGULATION OVERLAPS OR DUPLICATES AND A STATEMENT EXPLAINING WHY THE DUPLICATION OR OVERLAPPING IS NECESSARY. IF THE REGULATION OVERLAPS OR DUPLICATES A FEDERAL REGULATION, NAME THE REGULATING FEDERAL AGENCY.

There is no duplication or overlap of other state or local government agency's regulations.

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

None.

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

The BLC may receive approximately \$1,572,891.00 within the SFY '03. The fees are used to support required state licensure activities.