

LCB File No. R050-02

**PROPOSED REGULATION OF THE HEALTH DIVISION
OF THE DEPARTMENT OF HUMAN RESOURCES**

(Replaces Initial Draft posted on 4/09/02)

NOTICE OF PUBLIC WORKSHOPS

NOTICE IS HEREBY GIVEN that the State Health Division will hold public hearing and act on amendments to Nevada Administrative Code (NAC) 449. There will be two workshops held on the following dates, times, and locations:

<p>April 24, 2002 LAS VEGAS NEVADA</p> <p>Clark County District Health Department 625 Shadow Lane Clemens Room Las Vegas, Nevada Time: 8:30 a.m. – 10:00 a.m.</p> <p>Medical and Other Related Facilities Fees</p> <p>Facilities for Refractive Laser Surgery</p> <p>Administrative Sanctions</p> <p>Facilities for Treatment with Narcotics</p>	<p>April 25, 2002 RENO NEVADA</p> <p>Washoe County District Health Department 1001 E. 9th Street South Auditorium Reno, Nevada Time: 1:30 p.m. – 3:00 p.m.</p> <p>Medical and Other Related Facilities Fees</p> <p>Facilities for Refractive Laser Surgery</p> <p>Administrative Sanctions</p> <p>Facilities for Treatment with Narcotics</p>
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The regulations will be presented at the June 14, 2002, Board of Health meeting. It will be held at the Washoe County District Health Department, 1001 East 9th Street, South Auditorium, Reno, Nevada at 9:00 a.m.

FEES

The purpose of the proposed revised regulations for fees, Nevada Administrative Code (NAC) 449.013, NAC 449.016 and NAC 449.0168 is to amend existing regulations governing the amount of initial and annual renewal fees charged to certain medical facilities licensed pursuant to NRS 449.0151, facilities for the dependent licensed pursuant to NRS 440.0045, regulation of other facilities licensed pursuant to NRS 449.038, businesses that provide referrals to residential facilities for groups licensed pursuant to NRS 449.0305 and homes for individual residential care licensed pursuant to NRS 449.249. The proposed revised regulation also adds initial and annual renewal fees charged to mobile units and a facility for refractive laser surgery. The need for the

proposed revision to NAC 449.013, NAC 449.016 and NAC 449.0168 is directly related to the legislatively budgeted cost of the State agency to perform current state licensure activities in State Fiscal Year 03 (July 1, 2002 – June 30, 2003) pursuant to Nevada Revised Statutes (NRS) Chapter 449. The proposed fee increase is calculated to generate revenue sufficient to cover existing personnel and operating costs, without adding new staff or activities. Without the adoption of the proposed fee increases, the State Agency will collect approximately 556 thousand dollars less than the budgeted cost of conducting state licensure activities. Since State Fiscal Year 1994 (July 1, 1993- June 30, 1994) state licensure activities have been funded exclusively through licensure fees contained in NAC 449.013, NAC 449.016 and NAC 449.0168. The adverse economic effect identified as resulting from the proposed regulation changes is that the annual cost to obtain/renew a license to operate facilities will increase as identified in the table below:

FACILITY TYPE	Current Initial Fee/Per Bed Fee Charged for State Licensure	Proposed Initial Fee/Per Bed Fee to be Charged for State Licensure	Current Annual Renewal Fee/Per Bed Fee Charged for State Licensure	Proposed Annual Renewal Fee/ Per Bed Fee to be Charged for State Licensure
Facility for Skilled Nursing	\$1,200 /\$75	\$2,200 /\$90	\$1,100 /\$75	\$1,100 / \$45
Hospital	\$5,000 /\$77	\$10,000 /\$90	\$1,100/\$77	\$5,000 / \$45
Rural Hospital	\$750 /\$45	\$ 1,500/\$90	\$ 750/\$45	\$ 750 / \$45
Intermediate Care Facility for Persons with Mental Retardation or Developmental Disabilities	\$ 750 /\$50	\$1,300/\$80	\$ 600/\$35	\$ 650/ \$40
Intermediate Care Facility	\$1,200/\$75	\$1,200/\$90	\$600/\$75	\$600/ \$45
A Residential Facility for Groups	\$ 500/ \$50	\$2,130/\$260	\$ 300/\$35	\$1,065/\$130
A Facility for the Treatment of Abuse of Alcohol or Drugs	\$500/ \$50	\$ 500/ \$50	\$ 300/\$35	\$300/\$35
A Facility for Hospice Care	\$1,200/ \$50	\$1,540/ \$100	\$ 600/\$35	\$ 770/\$50
A Home for Individual Residential Care	\$ 100 /\$50	\$ 840/ \$320	\$ 100/\$35	\$ 420/\$160
A Facility for Modified Medical Detoxification	\$500/\$50	\$ 680/ \$90	\$300/\$35	\$ 340/ \$45
Ambulatory Surgery Center	\$1,200	\$1,580	\$ 600	\$790
Facility for the Treatment of Irreversible Renal Disease	\$1,200	\$1,650	\$ 600	\$ 825
Home Health Agency (or Subunit of a Home Health Agency)	\$1,200	\$2,170	\$ 600	\$1,085
Branch Office of a Home Health Agency	\$ 500	\$1,240	\$ 100	\$ 620
A rural clinic	\$1,200	\$1,710	\$ 600	\$ 855

An Obstetric Center	\$1,200	\$1,200	\$ 600	\$ 600
A Program of Hospice Care	\$1,200	\$1,540	\$ 600	\$ 770
An Independent Center for Emergency Medical Care	\$1,200	\$1,420	\$ 600	\$ 710
A Nursing Pool	\$ 750	\$1,540	\$ 600	\$ 770
A Facility for Treatment with Narcotics	\$ 750	\$1,340	\$ 600	\$ 670
A Medication Unit	\$ 500	\$ 500	\$ 100	\$ 100
A Referral Agency	\$ 750	\$1,420	\$ 600	\$ 710
A Halfway House for Recovering Alcohol and Drug Abusers	\$500	\$1,320	\$ 300	\$ 660
A Facility for Refractive Laser Surgery		\$3,545		\$3,000
A Mobile Unit		\$1,500		\$ 750

The proposed fees will 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. 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. There is no duplication or overlap of other state or local government agency's regulations. Additionally, there is no overlap or duplication of a federal agency's regulations.

FACILITIES FOR REFRACTIVE LASER SURGERY

Senate Bill 483, passed by the 2001 legislative session, requires the State Board of Health to adopt regulations for the licensure of facilities for refractive laser surgery. The bill also requires that these facilities file a surety bond to provide indemnification to certain patients. The proposed regulations were developed to meet the requirements of the bill and to set standards for the regulation of LASIK facilities. The proposed regulations include, in addition to the requirements for the surety bond, requirements for the administration of the facility, staff requirements, provisions for patient records, policies and procedures, quality improvement, and patient services. The proposed regulations also include regulations that govern patient rights,

safety requirements for equipment and lasers, and regulations for the maintenance of the physical environment. It is anticipated that there will be a beneficial effect on the businesses covered by these regulations. Facilities that provide quality service will have the added benefit of licensure to attest to their compliance with a set standard. Facilities that fall below this standard will be required to bring their services up to a community standard. The anticipated cost to the facilities will be the cost of the licensure fees. A small business impact statement is being prepared and will be distributed at local workshops. There will be an economic impact on Bureau of Licensure and Certification based on the need for provider education, administrative time for license application, surveyor time for licensure surveys and complaint investigations. The proposed regulations do not duplicate the regulations of any other state or federal agency.

ADMINISTRATIVE SANCTIONS

The regulations for Administrative Sanctions have had no revisions since their adoption in 1991. The revised regulation is needed to improve the enforcement mechanisms in place for medical facilities and facilities for the dependent. These regulations will allow for improved efficiency in implementing administrative sanctions and tracking those sanctions. The revised regulations will: i) Eliminate the mandatory imposition of sanctions for widespread deficiencies that are a potential harm to a recipient and allow imposition of such to be at the discretion of the agency. ii) Modify the terms and conditions for monitoring sanctions, allowing for monitoring to take place but not requiring the specific appointment of a monitor. iii) Add language to clarify sample size for current recipients, reduce the size of a sample during follow-up surveys, and allow for a sample of one for complaint investigations while limiting the scope score to a level of one. iv) Increase the amount of per-instance monetary penalties. v) Change from four different levels of scope to three levels of scope when assessing the number of recipients affected by a deficient practice. vi) Change language to reflect name changes from the federal Health Care Financing Administration to the Centers for Medicare and Medicaid Services (CMS), and the state Welfare Division to the Division for Health Care Financing and Policy (DHCFP). It is anticipated that affected businesses will see a long-term impact from this modification. Beneficial effects will include a reduction in the numbers of sanctions issued for deficient practices that are widespread potential for harm. Adverse effects would be experienced by facilities that do not comply with regulations, particularly causing actual harm to recipients, who could be subject to higher monetary sanction penalties. Long-term effects are anticipated for the public through streamlining of agency resources allowing better implementation of administrative sanctions that will impact on quality of care provided by licensed providers. The agency does not anticipate an increased cost to implement the proposed regulation changes. The Bureau of Licensure and Certification has been implementing these regulations for the past nine years. Adoption of the proposed modifications will improve the agency's ability to streamline the imposition of sanctions. These regulations do not overlap other state or local regulations. These regulations overlap the regulations of the Centers for Medicare and Medicaid Services that govern enforcement remedies in nursing homes. The existing regulations contain provisions to impose sanctions that limit occupancy or ban admissions of any recipient. This regulation is more stringent than the corresponding regulations found in the Centers for Medicare and Medicaid Services federal enforcement regulations for nursing homes. The federal regulations provide for the imposition of a ban on payment for new admissions or all admissions for Medicare or Medicaid recipients. The proposed regulation does not create any new fees. It does establish an increase in the amount of monetary penalties imposed on a one-time basis.

FACILITIES FOR TREATMENT WITH NARCOTICS; MEDICATION UNITS

On January 17, 2001, the Federal oversight of Narcotic Treatment Centers was moved from the Food and Drug Administration to the Substance Abuse and Mental Health Services Administration (SAMHSA). The Code of Federal Regulations (CFR) 21, Part 291 was repealed and replaced by 42 CFR Part 8. This change requires that all Facilities for Treatment with Narcotics must be certified by the Centers for Substance Abuse Treatment (CSAT) of SAMHSA in order to provide treatment. The Nevada Administrative Code (NAC) Chapter 449 regulations for Facilities for Treatment with Narcotics currently references the repealed section of the Code of Federal Regulations. The proposed changes to NAC Chapter 449 will change the references to the repealed CFR and add the newly adopted Code of Federal Regulations. There will be no economic impact on the Bureau of Licensure and Certification due to the fact that surveys are already being conducted in these facilities and licensing fees are already in place. There will be no increase to licensing fees due to the adoption of these proposed changes. The proposed regulations reference the regulations of the Substance Abuse and Mental Health Services Administration of Federal government but do not duplicate these regulations. A small business impact statement is being prepared and will be distributed at public workshops.

Members of the public may make oral comments at this meeting. Persons wishing to submit written testimony or documentary evidence in excess of two typed, 8-1/2" x 11" pages must submit the material to Shirley A. Rains, Administrative Assistant IV, no later than April 12, 2002, at the following address:

Bureau of Licensure and Certification
1550 E. College Parkway, Suite #158
Carson City, Nevada 89706

Members of the public who are disabled and require special accommodations or assistance at the workshop are to notify Shirley A. Rains, Administrative Assistant IV, in writing at the Bureau of Licensure and Certification, 1550 E. College Parkway, Suite 158, Carson City, Nevada 89706, no later than April 12, 2002.

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

Bureau of Licensure and Certification, 1550 E. College Pkwy, Suite 158, Carson City, Nevada (775) 687-4475.

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

Emergency Medical Services, 850 Elm Street, Elko, Nevada (775) 753-1154.

Emergency Medical Services, 100 Frankie, Tonopah, Nevada (775) 482-3722.

Copies may be obtained in person, by mail, or by calling (775) 687-4475. Copies are also available for review at all physical locations of program offices (see above) or the following main public libraries in each county:

Carson City Library, 900 North Roop St. Carson City, NV 89701
Churchill County Library, 533 S. Main St. Fallon, NV 89406
Clark County Library, 4020 Maryland Parkway, Las Vegas, NV 89119
Douglas County Library, 1625 Library Lane, (PO Box 337) Minden, NV 89423
Elko County Library, 720 Court St. Elko, NV 89801
Goldfield Public Library (Esmeralda Co), Corner of Crook and Ramsey, (PO Box 430) Goldfield, NV
Eureka Branch Library, 10190 Monroe St., Eureka, NV 89316
Humboldt County Library, 85 East 5th St., Winnemucca, NV 89445
Battle Mountain Branch Library (Lander Co.), 6255 Broad St., Battle Mountain, NV 89820
Lincoln County Library, 63 Maine St., (PO Box 330) Pioche, NV 89043
Lyon County Library, 20 Nevin Way, Yerington, NV 89447
Mineral County Library, 125 A St., (PO Box 1390) Hawthorne, NV 89415
Pershing County Library, 125 Central, (PO Box 781) Lovelock, NV 89419
Storey County Library, 95 South R St., (PO Box 14) Virginia City, NV 89440
Tonopah Public Library (Nye Co.), 171 Central, (PO Box 449) Tonopah, NV 89049
Washoe County Library, 301 South Center St., (PO Box 2151) Reno, NV 89505
White Pine County Library, 950 Campton St., Ely, NV 89301

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

**PROPOSED REGULATION OF THE HEALTH DIVISION
OF THE DEPARTMENT OF HUMAN RESOURCES**

These amendments were brought before the public during workshops in Las Vegas on April 24, and Reno on April 25, 2002. Additional workshops are planned for July 22, 2002. It is planned that they will come before the State Board of Health at its August 16, 2002, meeting.

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

AUTHORITY: §§1 and 2, NRS 439.150 and 449.037.

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

NAC 449.013 License and renewal fees to operate ambulatory surgical center, facility for treatment of irreversible renal disease, home office or subunit agency of home health agency, branch office of home health agency, rural clinic, obstetric center, program of hospice care, independent center for emergency medical care, nursing pool, facility for treatment with narcotics, medication unit and referral agency; expiration of application for license. (NRS 439.150, 449.0305, 449.037, 449.038, 449.050, 449.150)

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

- (a) An ambulatory surgical center.....\$1200
- (b) A facility for the treatment of irreversible renal disease ~~1,200~~ *1530*
- (c) A home office or subunit agency of a home health agency..... ~~1,200~~ *1980*
- (d) A branch office of a home health agency ~~500~~ *1040*
- (e) A rural clinic ~~1,200~~ *1590*
- (f) An obstetric center1,200
- (g) A program of hospice care ~~1,200~~ *1450*
- (h) An independent center for emergency medical care ~~1,200~~ *1330*
- (i) A nursing pool..... ~~750~~ *1440*
- (j) A facility for treatment with narcotics..... ~~750~~ *1270*
- (k) A medication unit 500

(l) A referral agency	[750] 1340
(m) A halfway house for recovering alcohol and drug abusers	[500] 1160
<i>(n) A facility for refractive laser surgery.....</i>	<i>3545</i>
<i>(o) A mobile unit.....</i>	<i>1500</i>

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 disease	[600] 765
(c) A home office or subunit agency of a home health agency.....	[600] 990
(d) A branch office of a home health	[100] 520
(e) A rural clinic	[600] 795
(f) An obstetric center	600
(g) A program of hospice care	[600] 725
(h) An independent center for emergency medical care	[600] 665
(i) A nursing pool.....	[600] 720
(j) A facility for treatment with narcotics.....	[600] 635
(k) A medication unit	100
(l) A referral agency	[600] 670
(m) A halfway house for recovering alcohol and drug abusers	[300] 580
<i>(n) A facility for refractive laser surgery</i>	<i>3000</i>
<i>(o) A mobile unit</i>	<i>750</i>

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.

Section 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 1500	45 90
(d) An intermediate care facility for the mentally retarded or persons with developmental disabilities.....	750 1250	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 1450	50 90
(i) A home for individual residential care.....	100 710	50 70
(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.....	600 625	35 40
(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 residential facility for groups.....	300 400	35 95

(g) A facility for the treatment of abuse of alcohol or drugs.....	300	35
(h) A facility for hospice care.....	{600} 725	{35} 45
(i) A home for individual residential care.....	{100} 355	{35} 135
(j) A facility for modified medical detoxification.....	{300} 330	{35} 45

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.

Section 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, ~~ref~~ referral agency, or *mobile unit* 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; or
- (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.

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:

(1) If the facility is an intermediate care facility for the mentally retarded or persons with developmental disabilities \$~~{50}~~ 80

(2) <i>If the facility is</i> a residential facility for groups	[50] 190
(3) <i>If the facility is</i> a facility for the treatment of abuse of alcohol or drugs	50
(4) <i>If the facility is</i> a facility for hospice care	[50] 90
(5) <i>If the facility is</i> a home for individual residential care or	[50] 270
(6) <i>If the facility is</i> a facility for modified medical detoxification	[50] 90
[2]7 If the facility is a hospital.....	[77] 90
[3]8 If the facility is a rural hospital.....	[45] 90
(4) 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, “administrator” means the person who is responsible for the daily management of a medical facility, facility for the dependent or program of hospice care.