

LCB File No. R073-03

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

NOTICE OF HEARING

The regulations will be presented at the September 12, 2003, Board of Health meeting for adoption.

RESIDENTIAL FACILITIES FOR GROUPS

During the Board of Health meeting in September 2002, the board requested that the Bureau of Licensure & Certification work with representatives of the residential care industry in an effort to reduce costs. In October of 2002, the bureau established an Assisted Living Advisory Council (ALAC). This council was chartered to address certain items. One such item was revision of residential facility for groups' regulations to reflect actual practice. The bureau has worked with the ALAC to generate a draft document with necessary revisions. The following changes are being proposed: 1) removal of the phrase "three or more" from each facility type definition due to confusion and lack of need due to the required licensure for homes for individual residential care, NAC 449.173, NAC 449.2758, NAC 449.2762, NAC 449.2764, and NAC 449.2766; 2) moving language in NAC 449.275 concerning residents receiving hospice services to an appropriate section in order to reduce confusion that hospice is a particular type of residential facility for groups; and 3) numerous minor changes and additions to other sections to clarify requirements and address concerns. The changes have an anticipated beneficial effect on the businesses, which NAC 449 regulates. The changes are not substantial and are designed to clarify issues rather than create more requirements. The changes present no anticipated effect to the public. There is no anticipated additional cost to the agency for enforcement of the proposed regulation changes. The regulations proposed for change will not effect changes to other governmental agencies and do not overlap/duplicate other regulations. The regulations proposed for change do not overlap/duplicate federal regulations. The regulations do not have a counterpart in the code of federal regulations. The regulation changes do not address fees.

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 449.0045, 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 need for the proposed revision to NAC 449.013, NAC 449.016 and NAC 449.0168 is directly related to the projected cost of the State Agency to perform current state licensure responsibilities in State Fiscal Year 04 (July 1, 2003 – June 30, 2004) pursuant to Nevada Revised Statutes (NRS) Chapter 449. The proposed fee increase is

calculated to generate revenue sufficient to cover personnel and operating costs. Without the adoption of the proposed fee increases, the State Agency will collect approximately \$480,000 less than the budgeted cost of conducting mandated 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	\$2,200/\$90	\$2,200/\$60	\$1,100/\$45	\$1,100/\$30
Hospital	\$10,000 /\$90	\$10,000/\$80	\$5,000/\$45	\$5,000/\$40
Rural Hospital	\$1,500 /\$90	\$1,500/\$80	\$750/\$45	\$750/\$40
Intermediate Care Facility for Persons with Mental Retardation or Developmental Disabilities	\$1,250/\$80	\$1,564/\$184	\$600/\$92	\$782/\$92
Intermediate Care Facility	\$1,200/\$90	\$1,200/\$90	\$600/\$45	\$600/\$45
A Residential Facility for Groups	\$800/\$190	\$2,400/\$184	\$300/\$92	\$1,200/\$92
A Residential Facility for Groups w/ low income beds	\$800/\$190	\$2,400/\$100	\$300/\$35	\$1,200/\$50
A Facility for the Treatment of Abuse of Alcohol or Drugs	\$500/\$50	\$782/\$184	\$300/\$92	\$391/\$92
A Facility for Hospice Care	\$1,450/\$90	\$1,564/\$184	\$600/\$92	\$782/\$92
A Home for Individual Residential Care	\$710/\$270	\$1,764/\$184	\$100/\$92	\$882/\$92
A Facility for Modified Medical Detoxification	\$660/\$90	\$782/\$184	\$300/\$92	\$391/\$92
Ambulatory Surgery Center	\$1,200	\$2,250	\$600	\$1,125

Facility for the Treatment of Irreversible Renal Disease	\$1,530	\$2,748	\$600	\$1,374
Home Health Agency (or Subunit of a Home Health Agency)	\$1,980	\$3,034	\$600	\$1,517
Branch Office of a Home Health Agency	\$1,040	\$2,000	\$100	\$1,000
A rural clinic	\$1,590	\$2,160	\$600	\$1,080
An Obstetric Center	\$1,200	\$1,564	\$600	\$782
A Program of Hospice Care	\$1,450	\$2,106	\$600	\$1,053
An Independent Center for Emergency Medical Care	\$1,330	\$2,950	\$600	\$1,475
A Nursing Pool	\$1,440	\$1,988	\$600	\$994
A Facility for Treatment with Narcotics	\$1,270	\$2,482	\$600	\$1,241
A Medication Unit	\$500	\$1,200	\$100	\$600
A Referral Agency	\$1,340	\$2,000	\$600	\$1,000
A Halfway House for Recovering Alcohol and Drug Abusers	\$1,160	\$2,020	\$300	\$1,010
A Facility for Refractive Laser Surgery	\$3,545	\$7,556	\$3,000	\$3,912
A Mobile Unit	\$1,500	\$2,090	\$750	\$1,045

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; 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.

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 June 9, 2003, 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 June 9, 2003.

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

Nevada State Health Division, 505 E. King Street, First Floor Bulletin Board, Carson City, Nevada (775) 684-4200

Clark County Health District, 625 Shadow Lane, Las Vegas, Nevada (702) 385-1291

Washoe County Health District, 1001 East 9th Street, Reno, Nevada (775) 328-3732

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

Nevada State Library, 100 Stewart, Carson City

Nevada State Health Division Website at: <http://health2k.state.nv.us/administration/meetings/>

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:

Battle Mountain Branch Library (Lander Co.), 625 S Broad St., Battle Mountain, NV 89820

Carson City Library, 900 North Roop St. Carson City, NV 89701

Churchill County Library, 533 S. Main St. Fallon, NV 89406

Clark County Library, 1401 East Flamingo Road, Las Vegas, NV 89110

Douglas County Library, 1625 Library Lane, (PO Box 337) Minden, NV 89423

Elko County Library, 720 Court St. Elko, NV 89801
Eureka Branch Library, 210 South Monroe St., Eureka, NV 89316
Goldfield Public Library (Esmeralda Co.), Corner of Crook and Ramsey, (PO Box 430) Goldfield,
NV 89013
Henderson District Public Library, 280 South Water Street, Henderson, NV 89105
Humboldt County Library, 85 East 5th St., Winnemucca, NV 89445
Lincoln County Library, 93 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
Pahrump Library District, 701 East Street, Pahrump, NV 89041
Pershing County Library, 1125 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.), 167 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**

**RESIDENTIAL FACILITIES FOR GROUPS
(change #13)
General Provisions**

EXPLANATION – Matter *italicized* is new language; matter in brackets [] is omitted language.

Section 1 Chapter 449 of NAC is hereby amended by adding thereto new sections to read as follows:

Residents who elect to receive hospice care: Responsibilities of staff; retention of resident with special medical needs. (NRS 449.037)

1. A residential facility that provides services to a resident who has elected to receive hospice care, shall obtain a copy of the plan of care required pursuant to NAC 449.0186 for that resident.

2. The members of the staff of the facility shall:

(a) Maintain at the facility a written record of the care and services provided to a resident who receives hospice care; and

(b) Report any deviation from the established plan of care to the resident's physician within 24 hours after the deviation occurs.

3. If the division approves a request made pursuant to NAC 449.2736 by the administrator of the residential facility, the residential facility may retain a resident who:

(a) Is bedfast, as defined in NAC 449.2702; or

(b) Requires skilled nursing or other medical care on a 24-hour basis.

Section 2 NAC 449.156 hereby remains unchanged.

NAC 449.156 Definitions. (NRS 449.037) As used in NAC 449.156 to 449.2766, inclusive, unless the context otherwise requires, the words and terms defined in NAC 449.1565 to NAC 449.176, inclusive, have the meanings ascribed to them in those sections.

Section 3 NAC 449.1565 hereby remains unchanged.

NAC 449.1565 “Administer” defined. (NRS 449.037) “Administer” means the direct application of a drug or medicine referred to in NRS 454.181 to 454.371, inclusive, by injection, inhalation, ingestion or any other means, to the body of a resident of a residential facility.

Section 4 NAC 449.157 hereby remains unchanged.

NAC 449.157 “Administrator” defined. (NRS 449.037) “Administrator” means a person:

1. Who is licensed by the Nevada state board of examiners for administrators of facilities for long-term care pursuant to chapter 654 of NRS;

2. Whose name appears on a license issued by the bureau as administrator of record for a residential facility; and
3. Who is legally responsible for the care of residents and the daily operation of the facility.

Section 5 NAC 449.1575 hereby remains unchanged.

NAC 449.1575 “Board” defined. (NRS 449.037) “Board” means the state board of health.

Section 6 NAC 449.1585 hereby remains unchanged.

NAC 449.1585 “Caregiver” defined. (NRS 449.037) “Caregiver” means an employee of a residential facility who provides care, assistance or protective supervision to a resident of the facility.

Section 7 NAC 449.1591 hereby remains unchanged.

NAC 449.1591 “Category 1 resident” defined. (NRS 449.037) “Category 1 resident” means:

1. In a residential facility with not more than 10 residents, a resident who, without the assistance of any other person, is physically and mentally capable of moving himself from the room in which he sleeps to outside the facility in 4 minutes or less; or
2. In a residential facility with more than 10 residents, a resident who, without the assistance of any other person, is physically and mentally capable of moving himself from the room in which he sleeps to the other side of a smoke or fire barrier or outside the facility, whichever is nearest, in 4 minutes or less.

Section 8 NAC 449.1595 hereby remains unchanged.

NAC 449.1595 “Category 2 resident” defined. (NRS 449.037) “Category 2 resident” means:

1. In a residential facility with not more than 10 residents, a resident who, without the assistance of any other person, is not physically or mentally capable of moving himself from the room in which he sleeps to outside the facility in 4 minutes or less.
2. In a residential facility with more than 10 residents, a resident who, without the assistance of any other person, is not physically or mentally capable of moving himself from the room in which he sleeps to the other side of a smoke or fire barrier or outside the facility, whichever is nearest, in 4 minutes or less.

Section 9 NAC 1597 hereby remains unchanged.

NAC 449.1597 “Dietary supplement” defined. (NRS 449.037) “Dietary supplement” has the meaning ascribed to it in 21 U.S.C. 321(ff) as that section existed on August 17, 1999.

Section 10 NAC 449.160 hereby remains unchanged.

NAC 449.160 “Division” defined. “Division” means the health division of the department of human resources.

Section 11 NAC 449.164 hereby remains unchanged.

NAC 449.164 “Hospice care” defined. (NRS 449.037) “Hospice care” has the meaning ascribed to it in NRS 449.0115.

Section 12 NAC 449.169 hereby remains unchanged.

NAC 449.169 “Medical professional” defined. (NRS 449.037) “Medical professional” means a physician or a physician assistant, nurse practitioner, registered nurse, physical therapist, occupational therapist, speech pathologist or practitioner of respiratory care who is trained and licensed to perform medical procedures and care prescribed by a physician.

Section 13 NAC 449.172 hereby remains unchanged.

NAC 449.172 “Residential facility” defined. (NRS 449.037) “Residential facility” means a residential facility for groups as defined in NRS 449.017.

Section 14 NAC 449.173 is hereby amended to read as follows:

NAC 449.173 “Residential facility which provides care to persons with Alzheimer’s disease” defined. (NRS 449.037) “Residential facility which provides care to persons with Alzheimer’s disease” means a residential facility that provides care and protective supervision for ~~three or more~~ persons with Alzheimer’s disease or a related disease, including, without limitation, senile dementia, organic brain syndrome or other cognitive impairment.

Section 15 NAC 449.176 hereby remains unchanged.

NAC 449.176 “Staff of a facility” defined. (NRS 449.037) “Staff of a facility” means the administrator, caregivers and other employees of a residential facility.

Licensing

Section 16 NAC 449.179 hereby remains unchanged.

NAC 449.179 Submission and approval of plan for new construction or remodeling; inspection; evidence of compliance. (NRS 449.037, 449.050)

1. Before an applicant for a license to operate a new residential facility begins construction of the facility or before an applicant for a license to operate an existing residential facility or a licensee begins a project to remodel an existing residential facility, the applicant or licensee must:

(a) Submit the plan for construction or remodeling to the entity designated to review such plans by the health division pursuant to the provisions of NAC 449.0115 and the state and local agencies that are required to approve the plan before construction or remodeling may be commenced; and

(b) Notify the bureau of a tentative date for the completion of the construction or remodeling.

2. The plan for construction or remodeling must include a description of the materials that will be used to complete the project.

3. Before issuing a license to operate a residential facility, the bureau shall inspect the facility to ensure that it complies with:

(a) The provisions of NAC 449.156 to 449.2766, inclusive; and

(b) The applicable zoning ordinances and regulations.

4. An applicant for a license to operate a residential facility must submit to the bureau with his application evidence that the applicant and the facility are in compliance with the provisions of NRS 449.001 to 449.240, inclusive, and NAC 449.156 to 449.2766, inclusive.

5. The bureau shall not perform the inspection required pursuant to subsection 3 until the applicant has submitted to the bureau the application required pursuant to NRS 449.040, the fee required pursuant to NAC 449.016 and the evidence required pursuant to subsection 4.

Section 17 NAC 449.180 hereby remains unchanged.

NAC 449.180 Requirements for purchasing licensed facility. (NRS 449.037) If an applicant for a license to operate a residential facility desires to purchase a currently licensed facility, the facility must comply with all current state and local requirements relating to health and safety.

Section 18 NAC 449.190 hereby remains unchanged.

NAC 449.190 License: Contents; validity; transferability; issuance of more than one type. (NRS 449.037)

1. A license to operate a residential facility must include:

- (a) The name of the administrator of the facility;
- (b) The name and address of the facility;
- (c) The type of facility;
- (d) The maximum number of residents authorized to reside at the facility; and
- (e) The category of residents who may reside at the facility.

2. The license becomes invalid if the facility is moved to a location other than the location stated on the license. The license may not be transferred to another owner.

3. A residential facility may be licensed as more than one type of residential facility if the facility provides evidence satisfactory to the bureau that it complies with the requirements for each type of facility and can demonstrate that the residents will be protected and receive necessary care and services.

Section 19 NAC 449.193 hereby remains unchanged.

NAC 449.193 Renewal of license: Form; fee; required information. (NRS 449.037)

1. An applicant for the renewal of a license to operate a residential facility must submit to the bureau a completed application on a form prescribed by the bureau and the fee for renewal required pursuant to NAC 449.016.

2. The applicant for renewal must submit with the application required pursuant to subsection 1:

- (a) Evidence of compliance with NRS 449.065 or 449.067;
- (b) A copy of the license issued to the administrator of the facility by the Nevada state board of examiners for administrators of facilities for long-term care pursuant to chapter 654 of NRS;
- (c) A certificate of insurance stating that the facility has purchased a policy of liability insurance for the facility; and
- (d) A copy of the business license issued to the facility or proof that the facility has complied with local zoning ordinances.

Administration and Personnel

Section 20 NAC 449.194 is hereby amended to read as follows:

NAC 449.194 Responsibilities of administrator. (NRS 449.037) The administrator of a residential facility shall:

1. Provide oversight and direction for the members of the staff of the facility as necessary to ensure that residents receive needed services and protective supervision and that the facility is in compliance with the requirements of NAC 449.156 to 449.2766, inclusive, and chapter 449 of NRS.

2. Designate one or more employees to be in charge of the facility during those times when the administrator is absent. *The name of the employee in charge must be posted in a public place within the facility during those times when the administrator is absent.* Except as otherwise provided in this paragraph, employees designated to be in charge of the facility when the administrator is absent must have access to all areas of and records kept at the facility. Confidential information may be removed from the files to which the employees in charge of the facility have access if the confidential information is maintained by the administrator. The administrator or an employee who is designated to be in charge of the facility pursuant to this paragraph must be at the facility at all times.

3. Maintain in the facility, and make available upon request, a copy of the provisions of NAC 449.156 to 449.2766, inclusive, and the report of the latest investigation of the facility conducted by the bureau pursuant to NRS 449.150.

4. Ensure facility records are accurate and do not misrepresent information.

Section 21 NAC 449.196 hereby remains unchanged.

NAC 449.196 Qualifications of caregivers. (NRS 449.037)

1. A caregiver of a residential facility must:
 - (a) Be at least 18 years of age;
 - (b) Be responsible, mature and have the personal qualities which will enable him to understand the problems of the aged and disabled;
 - (c) Understand the provisions of NAC 449.156 to 449.2766, inclusive, and sign a statement that he has read those provisions;
 - (d) Demonstrate the ability to read, write, speak and understand the English language;
 - (e) Possess the appropriate knowledge, skills and abilities to meet the needs of the residents of the facility; and
 - (f) Receive annually not less than 8 hours of training related to providing for the needs of the residents of a residential facility.

2. If a resident of a residential facility uses prosthetic devices or dental, vision or hearing aids, the caregivers employed by the facility must be knowledgeable of the use of those devices.

Section 22 NAC 449.197 hereby remains unchanged.

NAC 449.197 Medical services may be provided only by medical professional. (NRS 449.037) A member of the staff of a residential facility shall not provide medical services to a resident of the facility unless the member of the staff is a medical professional.

Section 23 Nac 449.199 is hereby amended to read as follows:

NAC 449.199 Staffing requirements; limitation on number of residents; written schedule required for each shift. (NRS 449.037)

1. The administrator of a residential facility shall ensure that a sufficient number of caregivers are present at the facility to conduct activities and provide care and protective supervision for the residents. There must be at least one caregiver on the premises of the facility if one or more residents are present at the facility.

2. Except as otherwise provided in NAC 449.2756, the administrator of a residential facility which has more than 20 residents shall ensure that at least one employee is awake and on duty at the facility at all times. An additional employee must be available to provide care within 10 minutes after he is informed that his services are needed.

3. A residential facility must not accept residents in excess of the number of residents specified on the license issued to the owner of the facility.

4. The administrator of a residential facility shall maintain monthly a written schedule that includes the number and type of members of the staff of the facility assigned for each shift. The schedule must be amended if any changes are made to the schedule. The schedule must be retained for at least 6 months after the schedule expires.

5. A residential facility may have employees less than 18 years of age, provided they are not caregivers and provided they are under the direct supervision of an employee who is at least 18 years of age.

Section 24 NAC 449.200 is hereby amended to read as follows:

NAC 449.200 Personnel files. (NRS 449.037)

1. Except as otherwise provided in subsection 2, a separate personnel file must be kept for each member of the staff of a facility and must include:

(a) The name, address, telephone number and social security number of the employee;

~~(b) Proof that the employee is not less than 18 years of age;~~

~~(b) (e)~~ The date on which the employee began his employment at the residential facility;

~~(c) (d)~~ Records relating to the training received by the employee;

~~(d) (e)~~ The health certificates required pursuant to chapter 441A of NAC for the employee; {changes suggested, not specified}

~~(e) (f)~~ Evidence that the references supplied by the employee were checked by the residential facility; and

~~(f) (g)~~ Evidence of compliance with NRS 449.176 to ~~[449.185]~~ **449.188**, inclusive.

~~{2. If the administrator of the residential facility is the owner of the residential facility, a residential facility must keep a personnel file for the administrator that fulfills the requirements set forth in subsections 1 and 3, except for the requirement set forth in paragraph (f) of subsection 1.~~

~~—3} 2.~~ The personnel file for a caregiver of a residential facility must include, in addition to the information required pursuant to subsection 1, a certificate stating that the caregiver is currently certified to perform first aid and cardiopulmonary resuscitation *and proof the caregiver is not less than 18 years of age.*

~~{4} 3.~~ The administrator may keep the personnel files for the facility in a locked cabinet and may, except as otherwise provided in this subsection, restrict access to this cabinet by other employees of the facility. Copies of the documents which are evidence that an employee has been certified to perform first aid and cardiopulmonary resuscitation and that the employee has

been tested for tuberculosis must be available for review at all times. The administrator shall make the personnel files available for inspection by the bureau within 72 hours after the bureau requests to review the files.

Section 25 NAC 449.202 hereby remains unchanged.

NAC 449.202 Rights of staff members during investigation of facility; duties of investigator. (NRS 449.037)

1. Upon the request of the administrator of a residential facility or any other member of the staff of the facility, a person who is conducting an investigation of the facility pursuant to NRS 449.150 shall:

- (a) Identify himself and provide the name and telephone number of his supervisor; and
- (b) Inform the administrator or other member of the staff of the facility of the reason for the investigation.

2. The person who is conducting the investigation shall:

- (a) Treat the members of the staff of the facility in a professional and respectful manner;
- (b) Conduct an unbiased investigation; and
- (c) Provide to the administrator of the facility an accurate report of the findings of the investigation, including a description of each deficiency found and a citation to the section of this chapter or chapter 449 of NRS which has been violated.

3. After the investigation has been completed, the person conducting the investigation shall, upon the request of a member of the staff of the facility:

- (a) Provide the member of the staff of the facility with the opportunity to:
 - (1) Ask questions concerning the findings of the investigation; and
 - (2) Review with the person who conducted the investigation the provisions of this chapter and chapter 449 of NRS that the investigator believes were violated; and
- (b) Provide to the member of the staff of the facility the details of any complaints received by the division concerning the facility, other than details that may reveal the identity of the person who submitted the complaint.

General Operational Requirements

Section 26 NAC 449.204 is hereby amended to read as follows:

NAC 449.204 Financing; insurance. (NRS 449.037)

1. A residential facility must:

~~[(a) If it is a new facility, have a reasonable expectation of sufficient money to carry it through the first 3 months of operation and furnish evidence to that effect;]~~

- (a) ~~[(b)]~~ Maintain a recognized system of financial accounting; and
- (b) ~~[(e)]~~ Maintain a contract of insurance for protection against liability to third persons in amounts appropriate for the protection of residents, employees, volunteers and visitors to the facility.

~~[2. In determining the money required pursuant to paragraph (a) of subsection 1, the facility must not include money:~~

- ~~—(a) Held on behalf of a resident of the facility; or~~
- ~~—(b) Received or expected to be received from a resident for the costs of his residency and care received at the facility.]~~

2. ~~3.~~ A certificate of insurance must be furnished to the division as evidence that the contract pursuant to paragraph (c) of subsection 1 is in force and a license must not be issued until that certificate is furnished. Each contract of insurance must contain an endorsement providing for a notice of 30 days to the bureau before the effective date of a cancellation or nonrenewal of the policy.

Section 27 NAC 449.205 hereby remains unchanged.

NAC 449.205 Advertising and promotional materials. (NRS 449.037) Advertising and promotional materials for a residential facility must be accurate and not misrepresent accommodations, services or programs offered by the facility.

Section 28 NAC 449.208 hereby remains unchanged.

NAC 449.208 Restrictions on conducting other businesses or providing other services on premises. (NRS 449.037) No other business may be conducted or other services may be provided on the premises of a residential facility if the business or services would interfere with the operation of the facility or the care provided to the residents of the facility.

Section 29 NAC 449.209 hereby remains unchanged.

NAC 449.209 Health and sanitation. (NRS 449.037)

1. A residential facility must:
 - (a) Have a safe and sufficient supply of water, adequate drainage and an adequate system for the disposal of sewage; and
 - (b) Comply with all local ordinances and state and federal laws and regulations relating to zoning, sanitation, accessibility to persons with disabilities and safety.
2. Containers used to store garbage outside of the facility must be kept reasonably clean and must be covered in such a manner that rodents are unable to get inside the containers. At least once each week, the containers must be emptied and the contents of the containers must be removed from the premises of the facility.
3. Containers used to store garbage in the kitchen and laundry room of the facility must be covered with a lid unless the containers are kept in an enclosed cupboard that is clean and prevents infestation by rodents or insects. Containers used to store garbage in bedrooms and bathrooms are not required to be covered unless they are used for food, bodily waste or medical waste.
4. To the extent practicable, the premises of the facility must be kept free from:
 - (a) Offensive odors;
 - (b) Hazards, including obstacles that impede the free movement of residents within and outside the facility;
 - (c) Insects and rodents; and
 - (d) Accumulations of dirt, garbage and other refuse.
5. The administrator of a residential facility shall ensure that the premises are clean and that the interior, exterior and landscaping of the facility are well maintained.
6. All windows that are capable of being opened in the facility and all doors that are left open to provide ventilation for the facility must be screened to prevent the entry of insects.
7. The facility must maintain electrical lighting as necessary to ensure the comfort and safety of the residents of the facility.

8. The temperature in the facility must be maintained at a level that is not less than 68 degrees Fahrenheit and not more than 82 degrees Fahrenheit.

9. If the door of a bathroom opens into any room in which food or utensils for eating are handled or stored, the door must close automatically.

Section 30 NAC 449.211 hereby remains unchanged.

NAC 449.211 Automatic sprinkler systems. (NRS 449.037)

1. After January 14, 1997, the division shall withhold the issuance of an initial license to operate a residential facility that does not have an automatic sprinkler system which complies with the provisions of chapter 477 of NRS and any local ordinances relating to the installation of automatic sprinkler systems.

2. Except as otherwise provided in subsection 3, a residential facility with less than seven residents that is issued a license on or before January 14, 1997, shall install an automatic sprinkler system that complies with the provisions of chapter 477 of NRS and any local ordinances relating to the installation of automatic sprinkler systems if:

- (a) The ownership of the facility is transferred to a new owner;
- (b) The number of beds in the facility is increased;
- (c) The facility is currently authorized to admit or retain category 1 residents only and wishes to apply for authorization to admit or retain category 2 residents; or
- (d) The facility is not currently authorized to admit or retain residents who suffer from Alzheimer's disease or other related dementia and the facility wishes to apply for authorization to admit or retain such residents.

3. A residential facility with less than seven residents that was issued its initial license on or before January 14, 1997, may not admit or retain a category 2 resident, unless an automatic sprinkler system that complies with the provisions of chapter 477 of NRS and any local ordinances relating to the installation of automatic sprinkler systems is installed in the facility. Not more than one resident who is confined to a wheelchair or who is required to use a walker may be admitted to such a facility at any time unless such an automatic sprinkler system is installed in the facility.

4. An automatic sprinkler system that has been installed in a residential facility must be inspected:

- (a) Not less than once each calendar quarter by a person who understands the manner in which the system operates and the manner in which it should be maintained; and
- (b) Not less than once each calendar year by a person who is licensed to inspect such a system pursuant to the provisions of chapter 477 of NAC.

Section 31 NAC 449.213 is hereby amended to read as follows:

NAC 449.213 Laundry and linen services. (NRS 449.037)

1. A residential facility shall:

- (a) Provide laundry and linen services on the premises of the facility; or
- (b) Contract with a commercial laundry for the provision of those services.

2. A residential facility that provides its own laundry and linen services must have accommodations which are adequate for the proper and sanitary washing and finishing of linen and other washable goods.

3. The laundry room in a residential facility must be situated in an area which is separate from an area where food is stored, prepared or served. The laundry must be adequate in size for

the needs of the facility and maintained in a sanitary manner. The laundry room must contain at least one washer and at least one dryer. All the equipment must be kept in good repair. All dryers must be ventilated to outside the building. If a washer or dryer is located outside the residential facility, the washer or dryer must be in a room or enclosure.

4. Laundry *must be appropriately cleaned* ~~[may be sanitized]~~ by the use of heat or chemicals. If laundry is *cleaned* ~~[sanitized]~~ by the use of heat, precautions must be taken to ensure that a resident, member of the staff of the facility or other person in the facility is not burned by water from a sink or bathtub. ~~[Delicate clothing may be washed in a sink or bathtub. The sink or bathtub in which the clothes are washed must be sanitized immediately after it is used for that purpose.]~~

Section 32 NAC 449.216 hereby remains unchanged.

NAC 449.216 Common areas; dining rooms. (NRS 449.037)

1. A residential facility must have at least one centrally located common area in which residents may socialize and participate in recreational activities. A common area may include, without limitation, a living room, dining room, enclosed porch or solarium.

2. The common areas must be large enough to accommodate those to be served without overcrowding the areas. A minimum area of 15 square feet of total common area space per person must be provided.

3. All common areas must be furnished and equipped with comfortable furniture.

4. The dining room must be of sufficient size to accommodate all the residents comfortably. A minimum area of 10 square feet per person must be provided.

5. The dining room must be conveniently located near the kitchen to ensure the rapid and efficient serving of food.

Section 33 NAC 449.217 is hereby amended to read as follows:

NAC 449.217 Kitchens; storage of food; adequate supplies of food; permits; inspections. (NRS 449.037)

1. The equipment in a kitchen of a residential facility and the size of the kitchen must be adequate for the number of residents in the facility. The kitchen and the equipment must be clean and must allow for the sanitary preparation of food. The equipment must be in good working condition.

2. Perishable foods must be refrigerated at a temperature of 40 degrees Fahrenheit or less. Frozen foods must be kept at a temperature of 0 degrees Fahrenheit or less.

3. Sufficient storage must be available for all food and equipment used for cooking and storing food. *Stored food must be appropriately packaged.*

4. The administrator of a residential facility shall ensure that there is at least a 2-day supply of fresh food and at least a 1-week supply of canned food in the facility at all times.

5. Pesticides and other toxic substances must not be stored in any area in which food, kitchen equipment, utensils or paper products are stored. Soaps, detergents, cleaning compounds and similar substances must not be stored in any area in which food is stored.

6. A residential facility with more than 10 residents must:

(a) Comply with the standards prescribed in chapter 446 of NAC; and

(b) Obtain the necessary permits from the bureau of health protection services of the division.

7. The equipment used for cooking and storing food and for washing dishes in a residential facility with more than 10 residents must be inspected and approved by the bureau of health protection services of the division and the state and local fire safety authorities.

Section 34 NAC 449.2175 is hereby amended to read as follows:

NAC 449.2175 Service of food; seating; menus; special diets; nutritional requirements; dietary consultants. (NRS 449.037)

1. A residential facility must have adequate facilities and equipment for the preparation, service and storage of food.

2. Tables and chairs must be of proper height and of sufficient number to provide seating for the number of residents authorized for the facility. They must be sturdy and have easily washable surfaces. Chairs must be constructed so that they do not overturn easily.

3. Menus must be in writing, planned a week in advance, dated, posted and kept on file for 90 days.

4. A resident who has been placed on a special diet by a physician or dietitian must be provided a meal that complies with the diet. The administrator of the facility shall ensure that records of any modifications to the menu to accommodate for special diets prescribed by a physician or dietitian are kept on file for at least 90 days.

5. Any substitution for an item on the menu must be *documented* ~~[indicated on the written menu]~~ and kept on file. *Substitutions must be posted during meal service so that residents may observe the changes. Documentation concerning substitutions must be kept on file with menus for at least 90 days after the date on which the substitution occurred.*

6. Each meal must provide a reasonable portion of the daily dietary allowances recommended by the Food and Nutrition Board, National Academy of Sciences, National Research Council.

7. Meals must be nutritious, served in an appropriate manner, suitable for the residents and prepared with regard for individual preferences and religious requirements. At least three meals a day must be served at regular intervals. The times at which meals will be served must be posted. Not more than 14 hours may elapse between the meal in the evening and breakfast the next day. Snacks must be made available in between meals for the residents who are not prohibited by their physicians from eating between meals.

8. A resident must be served meals in his bedroom for not more than 14 consecutive days if he is temporarily unable to eat in the dining room because of an injury or illness. The facility may serve meals to other residents in their rooms upon request. If a meal is served to a resident in his room because the resident is unable to eat in the dining room, the facility must maintain a record of the times and reasons for serving meals to the resident in his room.

9. A residential facility with more than 10 residents must employ or otherwise obtain the services of a person to serve as a consultant for the planning and serving of meals who:

(a) Is registered as a dietitian by the Commission on Dietetic Registration; or

(b) Is a graduate from an accredited college with a major in food and nutrition and has 2 years of supervisory experience in a medical facility or facility for the dependent or has participated in a course of training for a supervisor of the service of food.

10. The person providing services pursuant to subsection 9 must provide those services not less than once each calendar quarter. The administrator of the facility shall keep a written record of the consultations on file at the facility. The consultations must include:

(a) The development and review of weekly menus;

- (b) Training for the employees who work in the kitchen;
- (c) Advice regarding compliance with the nutritional program of the facility; and
- (d) Any observations of the person providing the services regarding the preparation and service of meals in the facility to ensure that the facility is in compliance with the nutritional program of the facility.

Section 35 NAC 449.218 is hereby amended to read as follows:

NAC 449.218 Bedrooms; privacy; storage space and closets; bedding; use of personal furniture. (NRS 449.037)

1. A bedroom in a residential facility that is shared by two or three residents must have at least 60 square feet of floor space for each resident who resides in the bedroom. A resident may not share a bedroom with more than two other residents. A bedroom that is occupied by only one resident must have at least 80 square feet of floor space.

2. Each bedroom in a residential facility must have one or more windows that are capable of being opened from the inside. If the room does not have a window that can be opened from the inside without the use of tools, a door to the outside, which is at least 36 inches wide and can be opened from the inside, must be provided.

3. Bedroom windows in a residential facility that was issued a license on or after January 14, 1997 ~~[Windows]~~ must have:

(a) A height of not less than 24 inches and a width of not less than 20 inches; ~~[The windows must have]~~

(b) A sill that is not more than 44 inches above the floor; *and*

(c) The combined size of the windows in a bedroom must equal not less than 10 percent of the floor space in the room.

~~4. [3.]~~ The arrangement of the beds and other furniture in the bedroom must provide privacy for and promote the safety of the residents occupying the bedroom. Adjustable curtains, shades, blinds or similar devices must be provided for visual privacy.

~~5. [4.]~~ Each resident must be provided:

(a) At least 10 square feet of space for storage in a bedroom for each bed in the bedroom; and

(b) At least 24 inches of space in a permanent or portable closet for hanging garments.

~~6. [5.]~~ A separate bed with a comfortable and clean mattress must be ~~[provided]~~ *made available* for each resident. The bed must be at least 36 inches wide. ~~[and made with]~~ Two clean sheets, a blanket, a pillow and a bedspread *must be available for each bed*. Linens must be changed at least once each week and more often if the linens become dirty. Additional bedding, including ~~[rubber or other]~~ protective *mattress covers* ~~[sheets,]~~ must be provided if necessary.

~~7. [6.]~~ Upon the request of a resident, a residential facility may authorize the resident to use personal furniture and furnishings that comply with the requirements of subsection 5 if their use does not jeopardize the health and safety of any of the residents of the facility.

~~8. [7.]~~ There must be a light outside the entrance to each bedroom to provide a resident with adequate lighting to reach safely a switch for turning on a light fixture inside the bedroom. Upon the request of a resident, bedside lighting must be provided.

Section 36 NAC 449.220 is hereby amended to read as follows:

NAC 449.220 Bedroom doors. (NRS 449.037)

1. A bedroom door in a residential facility which is equipped with a lock must open with a single motion from the inside unless the lock provides security for the facility and can be operated without a key or any special knowledge.

2. A bedroom door must not be equipped with a deadbolt lock or chain stop unless the door opens directly to the outside of the facility. The doors of a bedroom and the doors of the closets in the bedroom may be equipped with locks for use by residents if:

(a) The doors may be unlocked from inside the bedroom or closet without the use of a key *and the locks release with a single motion*; and

(b) The doors of the bedroom may be unlocked from outside the room and the keys are readily available at all times.

Section 37 NAC 449.221 hereby remains unchanged.

NAC 449.221 Use of certain areas in facility as bedroom prohibited. (NRS 449.037)

A hall, stairway, unfinished attic, garage, storage area or shed or other similar area of a residential facility must not be used as a bedroom. Any other room must not be used as a bedroom if it:

1. Can only be reached by passing through a bedroom occupied by another resident; or
2. Is used for any other purpose.

Section 38 NAC 449.222 hereby remains unchanged.

NAC 449.222 Bathrooms and toilet facilities; toilet articles. (NRS 449.037)

1. Each residential facility with less than seven residents that was issued an initial license before January 14, 1997, must have bathroom facilities in sufficient number to accommodate the residents, the members of the staff of the facility and other persons at the facility.

2. Each residential facility that is issued an initial license on or after January 14, 1997, must have:

- (a) A flush toilet and lavatory for each four residents; and
- (b) A tub or shower for each six residents.

3. The bottoms of tubs and showers must have surfaces that inhibit falling and slipping. Cabinets that are attached to the floor or grab bars must be adjacent to the tubs, toilets and showers.

4. All bathrooms and toilet facilities must be located convenient to sleeping, recreational and living areas. A bathroom must have a window that can be opened or a vent to outside the facility.

5. Provision must be made for privacy in all bathrooms and toilet facilities in rooms intended for use by more than one person.

6. Bathroom doors that are equipped with locks must open with a single motion from the inside without the use of a key. If a key is required to open a lock from outside the bathroom, the key must be readily available at all times.

7. Each resident must have his own toilet articles and must be provided with toilet paper, individual towels and washcloths. Paper towels may be used for hand towels. The towels and washcloths must be changed as often as is necessary to maintain cleanliness, but in no event less often than once each week. A soap dispenser may be used instead of individual bars of soap.

8. All bathrooms and toilet facilities must be sufficiently lighted, and night-lights must be provided in hallways that lead from the bedrooms to the bathrooms and toilet facilities.

Section 39 NAC 449.224 hereby remains unchanged.

NAC 449.224 Housing for staff members. (NRS 449.037)

1. Bedrooms must be provided for any members of the staff of a residential facility and their families who live at a residential facility. The bedrooms must comply with the provisions of subsections 2 to 7, inclusive, of NAC 449.218 and the provisions of NAC 449.220 and 449.221.

2. Members of the staff of the facility and their families who live at the facility shall be deemed residents of the facility for the purposes of determining the number of toilets, lavatories and tubs or showers the facility is required to have pursuant to NAC 449.222. All toilets, lavatories and tubs or showers used by the members of the staff of the facility or their families must comply with the provisions of NAC 449.222.

Section 40 NAC 449.226 hereby remains unchanged.

NAC 449.226 Safety requirements for residents with restricted mobility or poor eyesight; water hazards; auditory systems for bathrooms and bedrooms; access by vehicles. (NRS 449.037)

1. A resident of a residential facility who uses a wheelchair or a walker must not be required to use a bedroom on a floor other than the first floor of the facility that is entirely above the level of the ground, unless the facility is designed and equipped in such a manner that the resident can move between floors without assistance.

2. Stairways, inclines, ramps, open porches and other areas that are potentially hazardous for residents who have poor eyesight must be adequately lighted.

3. If a residential facility with a resident who is mentally or physically disabled has a fishpond, pool, hot tub, jacuzzi or other body of water on the premises of the facility, the body of water must be fenced, covered or blocked in some other manner at all times when it is not being used by a resident.

4. In a residential facility with more than 10 residents:

(a) Each resident must be provided with, or the bedroom and bathroom of each resident must be equipped with, an auditory system that is monitored by a member of the staff of the facility.

(b) An auditory system must be available for use in the bathroom of each resident of the facility if the facility was issued its initial license on or after January 14, 1997, so that a resident needing assistance can alert a member of the staff of the facility of that fact from the toilet and the shower.

(c) A bathroom that is located in a common area of the facility must be equipped with an auditory system that is monitored by a member of the staff of the facility.

5. Residential facilities must be easily accessible by vehicle in the case of an emergency.

Section 41 NAC 449.227 is hereby amended to read as follows:

NAC 449.227 Accommodations for residents with restricted mobility. (NRS 449.037) A residential facility with a resident who uses a wheelchair or a walker must:

1. Have hallways, doorways and exits wide enough to accommodate a wheelchair or walker;
2. Have ramps *to accommodate access to areas used by* residents ~~[at all primary exits]~~; and
3. Provide assistance to such a resident ~~[at all other exits and]~~ at any steps located inside the facility on the first floor that is entirely above grade.

Section 42 NAC 449.229 is hereby amended to read as follows:

NAC 449.229 Protection from fire; plans for evacuation; emergency drills; testing, inspection and recordkeeping. (NRS 449.037)

1. The administrator of a residential facility shall ensure that the facility complies with the regulations adopted by the state fire marshal pursuant to chapter 477 of NRS and any local ordinances relating to safety from fire. The facility must be approved for residency by the state fire marshal.

2. A residential facility must have a plan for the evacuation of residents in case of fire or other emergency. The plan must be:

- (a) Understood by all employees;
- (b) Posted in a common area of the facility; and
- (c) Discussed with each resident at the time of his admission.

3. A drill for evacuation must be performed monthly on an irregular schedule, and a written record of each drill must be kept on file at the facility *for at least 12 months*.

4. Portable fire extinguishers must be inspected, recharged and tagged at least once each year by a person certified by the state fire marshal to conduct such inspections.

5. Portable heaters or space heaters must not be used in a residential facility *unless the heater:*

- (a) Is no closer than 2 feet from any combustable material; and*
- (b) Is plugged directly into the wall socket; and*
- (c) Automatically turns off if tipped over; and*
- (d) Does not have any exposed heating elements.*

6. A fireplace must be equipped with glass doors or a metal screen to prevent ashes or burning wood from falling outside the fireplace.

7. ~~6~~ The administrator shall ensure that a written policy on smoking is developed and carried out by the facility. The policy must be:

- (a) Developed with the purpose of preventing a fire caused by smoking in the facility; and
- (b) Posted in a common area of the facility.

8. ~~7~~ The windows and doors of a residential facility must not be covered with security bars.

9. ~~8~~ Smoke detectors must be maintained in proper operating condition at all times and must be tested monthly. The results of the tests conducted pursuant to this subsection must be recorded and maintained at the facility.

10. ~~9~~ *A lock that requires a key to open for egress from the facility, may only be used on doors if the facility has received approval from the state fire marshal or his designee.*

Section 43 NAC 449.231 hereby remains unchanged.

NAC 449.231 First aid and cardiopulmonary resuscitation. (NRS 449.037)

1. Within 30 days after an administrator or caregiver of a residential facility is employed at the facility, the administrator or caregiver must be trained in first aid and cardiopulmonary resuscitation. The advanced certificate in first aid and adult cardiopulmonary resuscitation issued by the American Red Cross or an equivalent certification will be accepted as proof of that training.

2. A first-aid kit must be available at the facility. The first-aid kit must include, without limitation:

- (a) A germicide safe for use by humans;
 - (b) Sterile gauze pads;
 - (c) Adhesive bandages, rolls of gauze and adhesive tape;
 - (d) Disposable gloves;
 - (e) A shield or mask to be used by a person who is administering cardiopulmonary resuscitation; and
 - (f) A thermometer or other device that may be used to determine the bodily temperature of a person.
3. Except for first aid in an emergency, no treatment or medication may be administered to a resident without the approval of a physician.

Section 44 NAC 449.232 is hereby amended to read as follows:

NAC 449.232 Telephone; list of telephone numbers. (NRS 449.037)

1. Each residential facility must have a telephone that the residents may use to make local calls.
2. A list of telephone numbers to be called in case of an emergency for each resident must be located near the telephone. The list must include the telephone number of the resident's physician and the telephone number of a friend of the resident or one of the members of the resident's family.
3. The telephone number of the facility must be listed in the telephone directory *under the facility's name*.

Section 45 NAC 449.241 hereby remains unchanged.

NAC 449.241 Limitations on use of volunteers; requirements concerning residents who volunteer to assist staff or perform other duties. (NRS 449.037)

1. Volunteers may be used to supplement the services and programs of a residential facility, but may not be used to replace members of the staff of the facility.
2. A resident may volunteer to help the employees of the facility in a manner that does not create an unsafe condition for the resident, other residents or the members of the staff of the facility.
3. A resident must not be required to perform duties normally performed by the staff of the facility. If a resident volunteers to perform such duties, the administrator of the facility shall ensure that the resident's records include a statement that the resident has volunteered to perform those duties.
4. A resident who is performing duties pursuant to this section must not be allowed access to confidential files.

Section 46 NAC 449.258 is hereby amended to read as follows:

NAC 449.258 Written policies for facility required; visiting hours; mail; employees required to comply with policies. (NRS 449.037)

1. Written policies for a residential facility that comply with the provisions of NAC 449.156 to 449.2766, inclusive, must be developed.
2. *A policy on visiting hours must be ~~if visiting hours are~~ established to promote contact with persons who are not residents of the facility.* The policy regarding visits must be flexible, to ensure that every resident has the opportunity to retain and strengthen ties with family and friends.

3. Assurances must be provided that incoming and outgoing mail for a resident will not be interfered with in any way, unless written permission is obtained from the resident or his representative. Permission obtained from the resident or his representative may specifically state the type of mail that may be interfered with by the members of the staff of the facility. Permission granted by a resident or his representative pursuant to this subsection may be revoked by the resident at any time.

4. The employees of the facility shall comply with the policies developed pursuant to this section.

Section 47 NAC 449.259 is hereby amended to read as follows:

NAC 449.259 Supervision of residents. (NRS 449.037)

1. A residential facility shall:
 - (a) Provide each resident with protective supervision as necessary;
 - (b) Inform all caregivers of the required supervision;
 - (c) Provide each resident with the opportunity to attend the religious service of his choice and participate in personal and private pastoral counseling;
 - (d) Permit a resident to rest in his room at any time;
 - (e) Permit a resident to enter or leave the facility at any time if the resident:
 - (1) Is physically and mentally capable of leaving the facility; and
 - (2) The resident complies with the rules established by the administrator of the facility for leaving the facility;
 - (f) Provide laundry services for each resident unless a resident elects in writing to make other arrangements;
 - (g) Ensure that each resident's clothes are clean, comfortable and presentable; *and*
~~[(h) Provide for the residents each week at least 10 hours of scheduled activities that are suited to their interests and capacities;~~
~~—(i) Encourage the residents to participate in the activities scheduled pursuant to paragraph (h);~~
~~—(j) Post a calendar of activities for each month that is prepared at least 1 month in advance and notifies residents of the major activities that will occur in the facility;]~~
(h) [(k)] Inform each resident or his representative of the actions that the resident should take to protect his valuables.

2. The administrator of a residential facility may require a resident who leaves the facility to inform a member of the staff of the facility upon his departure and return.

~~[3. The calendar required pursuant to paragraph (j) of subsection 1 must be posted in a common area of the facility. A copy of the calendar must be maintained at the facility for at least 6 months after it expires.]~~

3. ~~[4.]~~ The employees of a residential facility shall:
 - (a) Treat each resident in a kind and considerate manner; and
 - (b) Respect each resident's independence and ability to make decisions on his own, whenever possible.

Section 48 NAC 449.260 is hereby amended to read as follows:

NAC 449.260 Activities for residents. (NRS 449.037)

1. The caregivers employed by a residential facility shall:

(a) Ensure that the residents are afforded an opportunity to enjoy their privacy, *participate in physical activities*, relax and associate with other residents;

(b) Provide group activities that provide mental and physical stimulation and develop creative skills and interests;

(c) Plan recreational opportunities that are suited to the interests and capacities of the residents;

~~[(d) Establish daily visiting hours to promote contact with persons who are not residents of the facility; and]~~

(d) ~~[(e)]~~ Provide each resident with a written program of activities.

(e) *Provide for the residents each week at least 10 hours of scheduled activities that are suited to their interests and capacities;*

(f) *Encourage the residents to participate in the activities scheduled pursuant to paragraph (f); and*

(g) *Post a calendar of activities for each month that is prepared at least 1 month in advance and notifies residents of the major activities that will occur in the facility; and*

(h) *The calendar of activities must be posted in a common area of the facility. A copy of the calendar must be maintained at the facility for at least 6 months after it expires.*

2. The administrator of a residential facility with at least 20 residents shall appoint a member of the staff of the facility who will be responsible for the organization, conduct and evaluation of activities for the residents. The person so appointed shall ensure that the activities are suited to the interests and capacities of the residents.

3. The administrator of a residential facility with 50 or more residents shall, in addition to appointing a member of the staff of the facility pursuant to subsection 2, appoint such other members of the staff as the administrator deems necessary to assist the person who is responsible for conducting the activities.

4. A residential facility must have areas of sufficient size to conduct indoor and outdoor activities, including, without limitation:

(a) A common area that complies with the provisions of NAC 449.216; and

(b) An outdoor activity area that is easily accessible for the residents and is safe from vehicular traffic.

Section 49 NAC 449.262 is hereby amended to read as follows:

NAC 449.262 Provision of dental, optical and hearing care and social services; report of suspected abuse, neglect or exploitation; restrictions on use of restraints, confinement or sedatives. (NRS 449.037)

1. The administrator of a residential facility shall ensure that residents are provided with or are assisted in obtaining dental and optical care, treatment for hearing and hearing impairment and social services. The employees of the facility shall maintain a record of the services or assistance provided pursuant to this subsection.

2. If an employee of the facility suspects that a resident is being abused, neglected, *isolated* or exploited, the employee shall report that fact in the manner prescribed in NRS 200.5093.

3. The members of the staff of a residential facility shall not:

(a) Use restraints on any resident;

- (b) Lock a resident in a room inside the facility; or
- (c) Provide sedatives to a resident unless that sedative has been prescribed for that resident by a physician to treat specific symptoms. A caregiver shall make a record of the behavior of a resident who has been prescribed a sedative.

Section 50 NAC 449.267 is hereby amended to read as follows:

NAC 449.267 Money and property of residents. (NRS 449.037)

1. An employee of a residential facility shall not handle a resident's money without first being requested to do so in writing by the resident or his representative.

2. An accurate record must be kept of all money deposited with the facility for use by the resident, including withdrawals. The record must include:

- (a) A separate accounting of the money held by the facility on behalf of the resident;
- (b) Receipts for expenditures made by the facility on behalf of the resident; and
- (c) A written acknowledgment by the resident for each withdrawal of his money.

3. All money in excess of ~~[\$100]~~ \$400 held by the facility on behalf of a resident must be maintained in a financial institution in an account separate from the facility's operating accounts and must be clearly designated as such *unless otherwise requested in writing by the resident.*

4. Each resident must have access to ~~[not less than \$50 of]~~ his money *held at the facility* during normal business hours on each business day. ~~[The resident must be able to receive the remainder of his money within 2 business days after making a request for that money.]~~

5. If a member of the staff of a residential facility receives from a resident a request to make a withdrawal of money in such an amount that the member of the staff has reason to believe that the resident is being or has been exploited, the member of the staff shall report the transaction to:

- (a) If the resident is 60 years of age or older~~[-];~~,

(1) the *local office of the* aging services division of the department of human resources; ~~[or]~~

(2) ~~[The welfare division of the department of human resources; or]~~ *a police department or sheriff's office;*

(3) *the county's office for protective services, if one exists in the county where the suspected action occurred; or*

(4) *a toll-free telephone service designated by the aging services division of the department of human resources.*

- (b) If the resident is less than 60 years of age:

(1) The office for protective services for the county in which the facility is located if that county has such an office; or

(2) The local law enforcement agency if the county in which the facility is located does not have an office for protective services.

6. Except as otherwise provided in subsection 7, an operator or employee of a residential facility shall not accept appointment as a guardian or conservator of the estate of any resident, become a substitute payee for any payments made to any resident or accept an appointment as an attorney in fact for any resident.

7. If a resident whose only source of income is in the form of monthly checks is legally determined to be unable to manage his money and documentary evidence can be produced showing that efforts to obtain a legal guardian have failed, the facility may be the substitute payee on the checks. Records of all checks received, deposited or dispersed by the facility must be maintained in the resident's file.

8. Money that is held by a residential facility on behalf of a resident must be returned to the resident or his representative within 30 days after the resident is discharged from the facility.
9. An employee of a residential facility shall not borrow money from a resident.

Section 51 NAC 449.268 hereby remains unchanged.

NAC 449.268 Rights of residents; procedure for filing grievance, complaint or report of incident; investigation and response. (NRS 449.037)

1. The administrator of a residential facility shall ensure that:
 - (a) The residents are not abused, neglected or exploited by a member of the staff of the facility, another resident of the facility or any person who is visiting the facility;
 - (b) A resident is not prohibited from speaking to any person who advocates for the rights of the residents of the facility;
 - (c) The residents are treated with respect and dignity;
 - (d) The facility is a safe and comfortable environment;
 - (e) Residents are not prohibited from interacting socially;
 - (f) Residents are allowed to make their own decisions whenever possible;
 - (g) Residents are aware that they may file a complaint or grievance with the administrator and that a resident who files such a complaint receives a response in a timely manner;
 - (h) A resident is informed as soon as practicable that he is being moved to a new room or that he is receiving a new roommate; and
 - (i) Residents are afforded the opportunity to initiate an advance directive or power of attorney for health care and that the employees of the facility comply with the wishes contained in such a document.
2. The administrator of a residential facility shall provide a procedure to respond immediately to grievances, incidents and complaints. The procedure must include a method for ensuring that the administrator or a person designated by the administrator is notified of the grievance, incident or complaint. The administrator or a person designated by the administrator shall personally investigate the matter. A resident who files a grievance or complaint or reports an incident pursuant to this subsection must be notified of the action taken in response to the grievance, complaint or report or be given a reason why no action needs to be taken.
3. The employees of the facility shall comply with the procedures adopted pursuant to subsection 2.

Section 52 NAC 449.269 hereby remains unchanged.

NAC 449.269 Discrimination prohibited. (NRS 449.037)

1. A resident of a residential facility shall not be segregated or restricted in the enjoyment of any advantage or privilege enjoyed by other residents, or provided with any assistance, service or other benefit which is different or provided in a different manner from that provided to other residents, on the ground of race, color, religion, national origin or disability.
2. The facility's policy regarding nondiscrimination must be posted in a public area of the facility.

Admitting, Transferring and Discharging Residents

Section 53 NAC 449.2702 is hereby amended to read as follows:

NAC 449.2702 Written policy on admissions required; age and other eligibility requirements. (NRS 449.037)

1. Each residential facility must have a written policy on admissions which includes:
 - (a) A statement of nondiscrimination regarding admission to the facility and treatment after admission; and
 - (b) The requirements for eligibility as a resident of that type of facility.
2. A person who wishes to reside in a residential facility with residents that require a higher category of care than he requires may reside in the facility if he is not otherwise prohibited from residing in the facility.
3. Except as otherwise provided in subsection 4, a person who is admitted to a residential facility must be at least 18 years of age.

~~4. A person who is less than 18 years of age may be admitted to a residential facility that provides care to females during pregnancy.~~
4. ~~5.~~ Except as otherwise provided in NAC 449.275 and 449.2754, a residential facility shall not admit any person who:
 - (a) Is bedfast;
 - (b) Requires restraint;
 - (c) Requires confinement in locked quarters; or
 - (d) Requires skilled nursing or other medical supervision on a 24-hour basis.
5. ~~6.~~ A person may not reside in a residential facility if the person's physician or the bureau determines that the person does not comply with the requirements for eligibility.
6. ~~7.~~ As used in this section:
 - (a) "Bedfast" means a condition in which a person is:
 - (1) Incapable of changing his position in bed without the assistance of another person; or
 - (2) Immobile.
 - (b) "Restraint" means:
 - (1) A psychopharmacologic drug that is used for discipline or convenience and is not required to treat medical symptoms;
 - (2) A manual method for restricting a resident's freedom of movement or his normal access to his body; or
 - (3) A device or material or equipment which is attached to or adjacent to a resident's body that cannot be removed easily by the resident and restricts the resident's freedom of movement or his normal access to his body.

Section 54 NAC 449.2704 hereby remains unchanged.

NAC 449.2704 Disclosure of information concerning rates and payment for services. (NRS 449.037) The administrator of a residential facility shall, upon request, make the following information available in writing:

1. The basic rate for the services provided by the facility;
2. The schedule for payment;
3. The services included in the basic rate;
4. The charges for optional services which are not included in the basic rate; and
5. The residential facility's policy on refunds of amounts paid but not used.

Section 55 NAC 449.2706 is hereby amended to read as follows:

NAC 449.2706 Transfer of resident. (NRS 449.037)

1. If a resident's condition deteriorates to such an extent that:
 - (a) The residential facility is unable to provide the services necessary to treat the resident properly; or
 - (b) The resident no longer complies with the requirements for admission to the facility, the facility shall ~~[ensure that the resident is transferred]~~ *plan for appropriate transfer of the resident to another facility or to a setting where the resident will be properly cared for* pursuant to NRS 449.700 and 449.705.
2. A resident, his next of kin and the responsible agency, if any, must be consulted and adequate arrangements must be made to meet the resident's needs through other means before he permanently leaves the facility.

Section 56 NAC 449.2708 is hereby amended to read as follows:

NAC 449.2708 Discharge of resident; notice of discharge; issuance of notice to quit to resident for improper or harmful behavior. (NRS 449.037)

1. A resident may be discharged from a residential facility without his approval if:
 - (a) He fails to pay his bill within 5 days after it is due;
 - (b) He fails to comply with the rules or policies of the facility; or
 - (c) The administrator of the facility or the bureau determines that the facility is unable to provide the necessary care for the resident.
2. Before a resident may be discharged from a residential facility without his approval pursuant to this section, the facility must provide the resident, his representative and the person who pays the bill on behalf of the resident, if any, with written notice that the resident will be discharged.
3. *When a resident is transferred and admitted to a higher level of care from a residential facility in order to receive emergency care, the resident is automatically discharged from the residential facility. In such case, it is not necessary for the residential facility to provide the resident, his representative and the person who pays the bill on behalf of the resident, if any, with written notice that the resident will be discharged.*
- ~~[3.]~~ 4. If the resident or any of his visitors are engaging in behavior which is a threat to the mental or physical health or safety of the resident or other persons in the facility, the facility may issue a notice to quit to the resident. The notice to quit must include:
 - (a) The reasons for its issuance, with specific facts relating to the date, time and place of the incidents that posed a threat to the physical or mental health or safety of the resident or other persons in the facility; and
 - (b) The names of persons who witnessed the incidents and the circumstances under which the incidents occurred.If the resident or his visitors do not comply with the notice to quit, the resident may be discharged from the facility without his approval pursuant to subsection 2.

**Restrictions on Admitting or Retaining Residents
With Certain Medical Needs or Conditions**

Section 57 NAC 449.271 hereby remains unchanged.

NAC 449.271 Residents requiring gastrostomy care or suffering from staphylococcus infection or other serious infection or medical condition. (NRS 449.037)

Except as otherwise provided in NAC 449.2736, a person must not be admitted to a residential facility or permitted to remain as a resident of a residential facility if he:

1. Requires gastrostomy care;
2. Suffers from a staphylococcus infection or other serious infection; or
3. Suffers from any other serious medical condition that is not described in NAC 449.2712 to 449.2734, inclusive.

Section 58 NAC 449.2712 hereby remains unchanged.

NAC 449.2712 Residents requiring use of oxygen. (NRS 449.037)

1. A person who requires the use of oxygen must not be admitted to a residential facility or be permitted to remain as a resident of a residential facility unless he:

(a) Is mentally and physically capable of operating the equipment that provides the oxygen;
or

(b) Is capable of:

- (1) Determining his need for oxygen; and
- (2) Administering the oxygen to himself with assistance.

2. The caregivers employed by a residential facility with a resident who requires the use of oxygen shall:

(a) Monitor the ability of the resident to operate the equipment in accordance with the orders of a physician; and

(b) Ensure that:

(1) The resident's physician evaluates periodically the condition of the resident which necessitates his use of oxygen;

(2) Signs which prohibit smoking and notify persons that oxygen is in use are posted in areas of the facility in which oxygen is in use or is being stored;

(3) Persons do not smoke in those areas where smoking is prohibited;

(4) All electrical equipment is inspected for defects which may cause sparks;

(5) All oxygen tanks kept in the facility are secured in a stand or to a wall;

(6) The equipment used to administer oxygen is in good working condition;

(7) A portable unit for the administration of oxygen in the event of a power outage is present in the facility at all times when a resident who requires oxygen is present in the facility; and

(8) The equipment used to administer oxygen is removed from the facility when it is no longer needed by the resident.

3. The administrator of a residential facility shall ensure that the caregivers who may be required to administer oxygen have demonstrated the ability to operate properly the equipment used to administer oxygen.

Section 59 NAC 449.2714 hereby remains unchanged.

NAC 449.2714 Residents requiring use of intermittent positive pressure breathing equipment. (NRS 449.037)

1. A person who requires the use of intermittent positive pressure breathing equipment must not be admitted to a residential facility or be permitted to remain as a resident of a residential facility unless:

(a) The resident is mentally and physically capable of operating and disinfecting the equipment and is capable of determining when its use is required; or

(b) The equipment is operated by a medical professional who has been trained to operate the equipment.

2. The caregivers employed by a residential facility with a resident who requires the use of intermittent positive pressure breathing equipment shall:

(a) Monitor the ability of the resident to operate the equipment in accordance with the orders of a physician; and

(b) Ensure that:

(1) The resident's physician evaluates periodically the condition of the resident which necessitates his use of the equipment;

(2) The equipment is operated by a medical professional trained in the operation of the equipment if the resident requires assistance;

(3) The equipment is in good working condition; and

(4) The equipment is removed from the facility when it is no longer needed by the resident.

Section 60 NAC 449.2716 hereby remains unchanged.

NAC 449.2716 Residents having colostomy or ileostomy. (NRS 449.037)

1. A person who has a colostomy or ileostomy must not be admitted to a residential facility or be permitted to remain as a resident of a residential facility unless:

(a) The resident is mentally and physically capable of properly caring for his colostomy or ileostomy, with or without assistance, and the resident's physician has stated in writing that the colostomy or ileostomy is completely healed; or

(b) The care for the colostomy or ileostomy is provided by a medical professional who is trained to provide that care.

2. The caregivers employed by a residential facility with a resident who has a colostomy or ileostomy shall ensure that:

(a) All bags used by the resident are discarded appropriately; and

(b) Privacy is afforded to the resident when care for the colostomy or ileostomy is being provided.

Section 61 NAC 499.2718 hereby remains unchanged.

NAC 449.2718 Residents requiring manual removal of fecal impactions or use of enemas or suppositories. (NRS 449.037)

1. A person who requires the manual removal of fecal impactions or the use of enemas or suppositories must not be admitted to a residential facility or be permitted to remain as a resident of a residential facility unless:

(a) The resident is able to provide the care for himself; or

(b) The care is administered according to the written instructions of a physician by a medical professional who has been trained to provide that care.

2. The caregivers employed by a residential facility with a resident who requires the manual removal of fecal impactions or the use of enemas or suppositories shall ensure that privacy is afforded to the resident when that care is being provided.

Section 62 NAC 449.272 hereby remains unchanged.

NAC 449.272 Residents requiring use of indwelling catheter. (NRS 449.037)

1. A person who requires the use of an indwelling catheter must not be admitted to a residential facility or be permitted to remain as a resident of a residential facility unless:

(a) The resident is physically and mentally capable of caring for all aspects of the condition, with or without the assistance of a caregiver;

(b) Irrigation of the catheter is performed in accordance with the physician's orders by a medical professional who has been trained to provide that care; and

(c) The catheter is inserted and removed only in accordance with the orders of a physician by a medical professional who has been trained to insert and remove a catheter.

2. The caregivers employed by a residential facility with a resident who requires the use of an indwelling catheter shall ensure that:

(a) The bag and tubing of the catheter are changed by:

(1) The resident, with or without the assistance of a caregiver; or

(2) A medical professional who has been trained to provide that care;

(b) Waste from the use of the catheter is disposed of properly;

(c) Privacy is afforded to the resident while care is being provided; and

(d) The bag of the catheter is emptied by a caregiver who has received instruction in the handling of such waste and the signs and symptoms of urinary tract infections and dehydration.

Section 63 NAC 449.2722 hereby remains unchanged.

NAC 449.2722 Residents having unmanageable condition of bowel or bladder incontinence; residents having manageable condition of bowel or bladder incontinence.
(NRS 449.037)

1. A person who has an unmanageable condition of bowel or bladder incontinence must not be admitted to a residential facility or permitted to remain as a resident of a residential facility.

2. A person who has a manageable condition of bowel or bladder incontinence must not be admitted to a residential facility or permitted to remain as a resident of a residential facility unless the condition can be managed by:

(a) The resident without the assistance of any other person;

(b) Requiring the resident to participate in a structured bowel or bladder retraining program to assist the resident in restoring a normal pattern of continence;

(c) A program which includes scheduled toileting at regular intervals; or

(d) Requiring the resident to use products that keep him clean and dry at all times.

3. The caregivers employed by a residential facility with a resident who has a manageable condition of bowel or bladder incontinence shall ensure that:

(a) If the resident can benefit from scheduled toileting, he is assisted or reminded to go to the bathroom at regular intervals;

(b) The resident is checked during those periods when he is known to be incontinent, including during the night;

(c) The resident is kept clean and dry;

(d) Retraining programs are designed by a medical professional with training and experience in the care of persons with bowel or bladder dysfunction;

(e) The retraining programs established for a resident are followed; and

(f) Privacy is afforded to the resident when care is being provided.

4. The caregivers employed by the facility shall not:

(a) Withhold fluids from a resident to control incontinence; or

(b) Have a resident catheterized to control incontinence for the convenience of the employees of the facility.

Section 64 NAC 449.2724 hereby remains unchanged.

NAC 449.2724 Residents having contractures. (NRS 449.037)

1. A person who has contractures must not be admitted to a residential facility or be permitted to remain as a resident of a residential facility unless the contractures do not adversely affect the ability of the resident to perform normal bodily functions and:

(a) The resident is able to care for the contractures without assistance; or

(b) Supervision in caring for the contractures is provided by a medical professional who is trained to provide such supervision.

2. The caregivers employed by a residential facility with a resident who has contractures shall ensure that the performance by the resident of any exercises to improve the resident's range of motion or any other exercises prescribed by a physician is supervised by a medical professional who has been trained to provide such supervision.

Section 65 NAC 449.2726 is hereby amended to read as follows:

NAC 449.2726 Residents having diabetes. (NRS 449.037)

1. A person who has diabetes must not be admitted to a residential facility or be permitted to remain as a resident of a residential facility unless the resident is capable of performing his own glucose testing with blood or urine specimens *or a licensed medical laboratory performs such testing* and:

(a) The resident is capable of administering his medication orally or by injection;

(b) The resident's medication is administered by a medical professional who has been trained to administer the medication; or

(c) If the resident's medication is administered orally, the medication is administered by a caregiver trained in the administration of that medication.

(d) A person who has diabetes and has been prescribed medication on a sliding scale may not be admitted or retained due to NRS 449.037(6)(b), unless the resident is fully capable of testing and medicating himself.

2. The caregivers employed by a residential facility with a resident who has diabetes shall:

(a) Assist the resident in administering the medication pursuant to NAC 449.2742; and

(b) Ensure that:

(1) Sufficient amounts of medicines, equipment to perform tests, syringes, needles and other supplies are maintained and stored in a secure place in the facility;

(2) Syringes and needles are disposed of appropriately in a sharps container which is stored in a safe place; and

(3) The caregivers responsible for the resident have received instruction in the recognition of the symptoms of hypoglycemia and hyperglycemia by a medical professional who has been trained in the recognition of those symptoms.

3. The caregivers employed by a residential facility with a resident who has diabetes and requires a special diet shall provide variations in the types of meals served and make available food substitutions in order to allow the resident to consume meals as prescribed by the resident's physician. The substitutions must conform with the recommendations for food exchanges contained in the *Exchange Lists For Meal Planning*, published by the American Diabetes Association, Incorporated and the American Dietetic Association, which is hereby adopted by

reference. A copy of the publication may be obtained from the American Diabetes Association, Incorporated, Order Department, P.O. Box 930850, Atlanta, Georgia 31193, at a cost of \$5.50.

Section 66 NAC 449.2728 is hereby amended to read as follows:

NAC 449.2728 Residents requiring regular intramuscular, subcutaneous or intradermal injections. (NRS 449.037)

1. A person who requires regular intramuscular, subcutaneous or intradermal injections must not be admitted to a residential facility or be permitted to remain as a resident of the facility unless the injections are administered by the resident or by a *licensed [medical] professional in accordance with the licensed professional's scope of practice and the laws governing such a professional [who has been trained to administer those injections].*

2. The caregivers employed by a residential facility with a resident who requires regular intramuscular, subcutaneous or intradermal injections shall ensure that:

(a) Sufficient amounts of medicines, equipment to perform tests, syringes, needles and other supplies are maintained and stored in a secure place in the facility; and

(b) Syringes and needles are disposed of appropriately in a sharps container which is stored in a safe place.

Section 67 NAC 449.2732 hereby remains unchanged.

NAC 449.2732 Residents requiring protective supervision. (NRS 449.037)

1. Except as otherwise provided in subsection 2, a person who requires protective supervision may not be admitted to a residential facility or be permitted to remain as a resident of a residential facility unless:

(a) The resident is able to follow instructions;

(b) The resident is able to make his needs known to the caregivers employed by the facility;

(c) The resident can be protected from harming himself and other persons; and

(d) The caregivers employed by the facility can meet the needs of the resident.

2. If a person who requires protective supervision is unable to follow instructions or has difficulty making his needs known to the employees of the facility, the person may be admitted to the facility or be permitted to remain as a resident of the facility if the facility complies with the provisions of NAC 449.2754 and 449.2756.

3. The administrator of a residential facility with a resident who requires protective services shall ensure that:

(a) The caregivers employed by the facility are capable of providing the supervision for that resident without neglecting the needs of the other residents of the facility; and

(b) There is a written plan for providing protective supervision for that resident.

Section 68 NAC 449.2734 hereby remains unchanged.

NAC 449.2734 Residents having tracheostomy or open wound requiring treatment by medical professional; residents having pressure or stasis ulcers. (NRS 449.037)

1. A person who has a tracheostomy or an open wound that requires treatment by a medical professional shall not be admitted to a residential facility or be permitted to remain as a resident of a residential facility unless:

(a) The wound is in the process of healing or the tracheostomy is stable or can be cared for by the resident without assistance;

(b) The care is provided by or under the supervision of a medical professional who has been trained to provide that care; or

(c) The wound is the result of surgical intervention and care is provided as directed by the surgeon.

2. If a person ~~[who]~~ has a pressure or stasis ulcer or ~~[who]~~ *is* at risk of developing a pressure or stasis ulcer is admitted to a residential facility or permitted to remain as a resident of a residential facility:

(a) The condition must have been diagnosed by a physician;

(b) The condition must be cared for by a medical professional who is trained to provide care for that condition and provide ~~[reassessment]~~ *reassessment*; and

(c) Before a caregiver provides care to the person who has a pressure or stasis ulcer or who is at risk of developing a pressure or stasis ulcer, the caregiver must receive training related to the prevention and care of pressure sores from a medical professional who is trained to provide care for that condition.

3. The administrator of the facility shall ensure that records of the care provided to a person who has a pressure or stasis ulcer pursuant to subsection 2 are maintained at the facility. The records must include an explanation of the cause of the pressure or stasis ulcer.

Section 69 NAC 449.2736 hereby remains unchanged.

NAC 449.2736 Procedure to exempt certain residents from restrictions. (NRS 449.037)

1. The administrator of a residential facility may submit to the division a written request for permission to admit or retain a resident who is prohibited from being admitted to a residential facility or remaining as a resident of the facility pursuant to NAC 449.271 to 449.2734, inclusive.

2. A written request submitted pursuant to this section must include, without limitation:

(a) Records concerning the resident's current medical condition, including updated medical reports, other documentation of current health, a prognosis and the expected duration of the condition;

(b) A plan for ensuring that the resident's medical needs can be met by the facility;

(c) A plan for ensuring that the level of care provided to the other residents of the facility will not suffer as a result of the admission or retention of the resident who is the subject of the request; and

(d) A statement signed by the administrator of the facility that the needs of the resident who is the subject of the written request will be met by the caregivers employed by the facility.

3. A written request submitted to the division pursuant to this section must be received:

(a) Before the administrator admits a resident; or

(b) At the onset of a medical condition set forth in NAC 449.271 to 449.2734, inclusive.

4. A residential facility must receive the permission requested pursuant to subsection 1 before the facility admits a resident who is otherwise prohibited from being admitted to the facility pursuant to NAC 449.271 to 449.2734, inclusive.

5. A residential facility may retain a resident who is otherwise prohibited from remaining as a resident of the facility pursuant to NAC 449.271 to 449.2734, inclusive, for 10 days after the facility submits to the division the written request required pursuant to subsection 1.

Section 70 NAC 449.2738 is hereby amended to read as follows:

NAC 449.2738 Review of medical condition of resident; relocation or transfer of resident having certain medical needs or conditions. (NRS 449.037)

1. If, after conducting an inspection or investigation of a residential facility, the bureau determines that it is necessary to review the medical condition of a resident, the bureau shall inform the administrator of the facility of the need for the review and the information the facility is required to submit to the bureau to assist in the performance of the review. The administrator shall, within a period prescribed by the bureau, provide to the bureau:

(a) The assessments made by physicians concerning the physical and mental condition of the resident; and

(b) Copies of prescriptions for medication or orders of physicians for services or equipment necessary to provide care for the resident.

2. If the bureau or the resident's physician determines that the facility is prohibited from caring for the resident pursuant to NAC 449.271 to 449.2734, inclusive, or is unable to care for the resident in the proper manner, the administrator of the facility must be notified of that determination. Upon receipt of such a notification, the administrator shall, within a period prescribed by the bureau, submit a plan to the bureau for the safe and appropriate relocation of the resident to a place where the proper care will be provided *in accordance with NRS 449.700*.

3. If an inspection or investigation reveals that the conditions at a residential facility may immediately jeopardize the health and safety of a resident, the administrator of the facility shall, as soon as practicable, ensure that the resident is transferred to a facility which is capable of properly providing for his care.

**Medical Services, Medical Records and
Other Records Concerning Residents**

Section 71 NAC 449.274 hereby remains unchanged.

NAC 449.274 Medical care of resident after illness, injury or accident; periodic physical examination of resident; rejection of medical care by resident; written records. (NRS 449.037)

1. If a resident of a residential facility becomes ill or is injured, the resident's physician and a member of the resident's family must be notified at the onset of illness or at the time of the injury. The facility must:

(a) Make all necessary arrangements to secure the services of a licensed physician to treat the resident if the resident's physician is not available; and

(b) Request emergency services when such services are necessary.

2. A resident who is suffering from an illness or injury from which the resident is expected to recover within 14 days after the onset of the illness or the time of the injury may be cared for in the facility. The decision as to the period within which the resident is expected to recover from the illness or injury and the needs of the resident must be made by the resident's physician or, if he is unavailable, by another licensed physician.

3. A written record of all accidents, injuries and illnesses of the resident which occur in the facility must be made by the caregiver who first discovers the accident, injury or illness. The record must include:

(a) The date and time of the accident or injury or the date and time that the illness was discovered;

(b) A description of the manner in which the accident or injury occurred or the manner in which the illness was discovered; and

(c) A description of the manner in which the members of the staff of the facility responded to the accident, injury or illness and the care provided to the resident.

This record must accompany the resident if he is transferred to another facility.

4. The facility shall ensure that appropriate medical care is provided to the resident by:

(a) A caregiver who is trained to provide that care;

(b) An independent contractor who is trained to provide that care; or

(c) A medical professional.

5. Before admission and each year after admission, or more frequently if there is a significant change in the physical condition of a resident, the facility shall obtain the results of a general physical examination of the resident by his physician. The resident must be cared for pursuant to any instructions provided by the resident's physician.

6. The members of the staff of the facility shall:

(a) Ensure that the resident receives the personal care that he requires.

(b) Monitor the ability of the resident to care for his own health conditions and shall document in writing any significant change in his ability to care for those conditions.

7. This section does not prohibit a resident from rejecting medical care. If a resident rejects medical care, an employee of the facility shall record the rejection in writing and shall request that the resident sign that record as a confirmation of his rejection of medical care. If the resident rejects medical care that a physician has directed the facility to provide, the facility shall inform the resident's physician of that fact within ~~[24]~~ 4 hours after the care is rejected. The facility shall maintain a record of the notice provided to the physician pursuant to this subsection.

8. As used in this section, "significant change" means a change in a resident's condition that results in a category 1 resident becoming a category 2 resident or otherwise results in an increase in the level of care required by the resident.

Section 72 NAC 449.2742 is hereby amended to read as follows:

NAC 449.2742 Administration of medication: Responsibilities of administrator, caregiver and employee of facility. (NRS 449.037)

1. The administrator of a residential facility that provides assistance to residents in the administration of medications shall:

(a) Ensure that a physician, pharmacist or registered nurse who does not have a financial interest in the facility:

(1) Reviews for accuracy and appropriateness, at least once every 6 months, the regimen of drugs taken by each resident of the facility, including, without limitation, any over-the-counter medications and dietary supplements taken by a resident; and

(2) Provides a written report of that review to the administrator of the facility;

(b) Include a copy of each report submitted to the administrator pursuant to paragraph (a) in the file maintained pursuant to NAC 449.2749 for the resident who is the subject of the report; and

(c) Make and maintain a report of any actions that are taken by the caregivers employed by the facility in response to a report submitted pursuant to paragraph (a).

2. Within 72 hours after the administrator of the facility receives a report submitted pursuant to paragraph (a) of subsection 1, a member of the staff of the facility shall notify the resident's

physician of any concerns noted by the person who submitted the report. The report must be reviewed and initialed by the administrator.

3. Before assisting a resident in the administration of any medication, including, without limitation, any over-the-counter medication or dietary supplement, a caregiver must obtain written information describing the side effects, possible adverse reactions, contraindications and toxicity of the medication.

4. Except as otherwise provided in this subsection, a caregiver shall assist in the administration of medication to a resident if the resident needs the caregiver's assistance. A caregiver may assist the ultimate user of controlled substances or dangerous drugs only if the conditions prescribed in subsection 6 of NRS 449.037 are met. *Each caregiver who assists with medications must receive additional education concerning medication management at least once every three years. The triennial requirement must include at least one hour of instruction to include Nevada Administrative Code requirements concerning medication management. This instruction must be documented by attendance rosters and course outlines.*

5. An over-the-counter medication or a dietary supplement may be given to a resident only if the resident's physician has approved the administration of the medication or supplement *in writing* or the facility is ordered to do so by another physician. *Over-the-counter medication, dietary supplements and prescription medication must be administered according to the prescribing physician's instructions or according to the package instructions when the physician hasn't specified an exact dose.* The administration of over-the-counter medications and dietary supplements must be included in the record required pursuant to NAC 449.2744(1)(b)(3).

6. ~~HF~~ *When* a physician orders a change in the amount or times medication is to be administered to a resident:

(a) The caregiver responsible for assisting in the administration of the medication shall comply with the order and *a copy of the order or prescription signed by the physician must be included in the record and the caregiver must* note the change in the record maintained pursuant to NAC 449.2744(1)(b)(3);

(b) The medication container must indicate that a change has occurred;

(c) ~~(b)~~ *Within 5 days after the change is ordered: a copy of the order or prescription signed by the physician must be included in the record; and*

~~(1) A copy of the order or prescription signed by the physician must be included in the record; and~~

~~(2) The medication container must indicate that a change has occurred; and~~

(d) ~~(e)~~ If the label prepared by a pharmacist does not match the order or prescription written by a physician, the physician, registered nurse or pharmacist must interpret that order or prescription and, within 5 days after the change is ordered, the interpretation must be included in the record maintained pursuant to NAC 449.2744(1)(b)(3).

7. An employee of a residential facility shall not draw medication into a syringe or administer an injection unless authorized by law to do so.

8. If the medication of a resident is discontinued, ~~or~~ if the expiration date of the medication of a resident has passed *or a resident decides not to recover medications after their discharge from the facility*, an employee of a residential facility must destroy the medication, by an acceptable method of destruction, in the presence of a witness and note the destruction of the medication in the record maintained pursuant to NAC 449.2744. Flushing contents of vials,

bottles or other containers into a toilet shall be deemed to be an acceptable method of destruction of medication.

9. Medications must be administered as prescribed by the physician and in accordance with NRS 449.037(6).

Section 73 NAC 449.2744 is hereby amended to read as follows:

NAC 449.2744 Administration of medication: Maintenance of logs and records; contents. (NRS 449.037)

1. The administrator of a residential facility that provides assistance to residents in the administration of medications shall maintain:

(a) A log for each medication received by the facility for use by a resident of the facility. The log must include:

- (1) The type and quantity of medication received by the facility;
- (2) The date of its delivery;
- (3) The name of the person who accepted the delivery;
- (4) The name of the resident for whom the medication is prescribed; and
- (5) The date on which any unused medication is removed from the facility or destroyed.

(b) A record of the medication administered to each resident. The record must include:

- (1) The type of medication administered;
- (2) The date and time that the medication was administered; and
- (3) Instructions for administering the medication to the resident that reflect each current order or prescription of the resident's physician.

(4) If a resident refuses a medication or a dose is skipped or missed, it shall be noted on the record and a physician shall be notified within 4 hours.

2. The administrator of the facility shall keep a log of caregivers assigned to administer medications that indicates the shifts during which each caregiver was responsible for assisting in the administration of medication to a resident. This requirement may be met by including on a resident's medication sheet an indication of who assisted the resident in the administration of the medication, if the caregiver can be identified from this indication.

Section 74 NAC 449.2746 is hereby amended to read as follows:

NAC 449.2746 Administration of medication: Restrictions concerning medication taken as needed by resident; responsibilities of caregiver; written records. (NRS 449.037)

1. A caregiver employed by a residential facility shall not assist a resident in the administration of a medication that is taken as needed unless:

(a) The resident is able to determine his need for the medication or the determination is made by a medical professional qualified to make that determination; or

(b) The caregiver has received written instructions indicating the specific symptoms for which the medication is to be given, the *exact* amount of medication that may be given and the frequency with which the medication may be given.

2. A caregiver who administers medication to a resident as needed shall record the following information concerning the administration of the medication:

- (a) The reason for the administration;
- (b) The date and time of the administration;
- (c) The dose administered;
- (d) The results of the administration of the medication;

- (e) The initials of the caregiver; and
- (f) Instructions for administering the medication to the resident that reflect each current order or prescription of the resident's physician.

Section 75 NAC 449.2748 is hereby amended to read as follows:

NAC 449.2748 Storage of medication; return of medication to resident or another facility after transfer or discharge of resident. (NRS 449.037)

1. Medication, including, without limitation, any over-the-counter medication, stored at a residential facility must be stored in a locked area that is cool and dry. The caregivers employed by the facility shall ensure that any medication or medical or diagnostic equipment that may be misused or appropriated by a resident or any other unauthorized person is protected. Medications for external use only must be kept in a locked area separate from other medications. A resident who is capable of administering medication to himself without supervision may keep his medication in his room if the medication is kept in a locked container for which the facility has been provided a key.

2. Medication stored in a refrigerator, including, without limitation, any over-the-counter medication, must be kept in a locked box unless the refrigerator is locked or is located in a locked room.

3. Medication, including, without limitation, any over-the-counter medication or dietary supplement, must be:

(a) Plainly labeled as to its contents, the name of the resident for whom it is prescribed and the name of the prescribing physician; and

(b) Kept in its original container until it is administered.

4. If a resident is admitted to another facility for acute care, all medications are to be held at the facility for no more than 30 days. If the resident is readmitted to the residential facility with any new medications or changes in the resident's previous medication regimen, a physician shall be contacted to clarify the changes within 24 hours after the resident's readmission to the facility. The physician contact must be documented in the resident record.

5. [4.] Except in the case of a resident being transferred to a hospital or skilled nursing facility, When a resident is discharged from a residential facility, all medications prescribed for the resident must be provided to the resident or to the facility to which he is transferred. In the case of a resident being transferred to a hospital or skilled nursing facility, medications will only be provided upon the request of the receiving facility.

Section 76 NAC 449.2749 is hereby amended to read as follows:

NAC 449.2749 Maintenance of separate file of information concerning each resident; contents; confidentiality of information. (NRS 449.037)

1. A separate file must be maintained for each resident of a residential facility and retained for at least 5 years after he permanently leaves the facility. The file must be kept locked in a place that is resistant to fire and is protected against unauthorized use. The file must contain all records, letters, assessments, medical information and any other information related to the resident, including, without limitation:

(a) The full name, address, date of birth and social security number of the resident.

(b) The address and telephone number of the resident's physician and the next of kin or guardian of the resident or any other person responsible for him.

(c) A statement of the resident's allergies, if any, and any special diet or medication he requires.

(d) A statement from the resident's physician concerning the mental and physical condition of the resident that includes:

(1) A description of any medical conditions which require the performance of medical services;

(2) The method in which those services must be performed; and

(3) A statement of whether the resident is capable of performing the required medical services.

(e) Evidence of compliance with the provisions of chapter 441A of NRS and the regulations adopted pursuant thereto.

(f) The types and amounts of protective supervision and personal services needed by the resident.

(g) An evaluation of the resident's ability to perform the activities of daily living and a brief description of any assistance he needs to perform those activities. *The evaluation must be completed by the facility.* ~~[The]~~ An evaluation must be completed *upon admission and* annually, or more often if there is a change in the mental or physical condition of the resident that may significantly affect his ability to perform the activities of daily living.

(h) A list of the rules for the facility that is signed by the administrator of the facility and the resident or a representative of the resident.

(i) The name and telephone number of the vendors and medical professionals that provide services for the resident.

(j) A document signed by the administrator of the facility when the resident permanently leaves the facility.

2. The document required pursuant to paragraph (j) of subsection 1 must indicate the location to which the resident was transferred or the person in whose care the resident was discharged. If the resident dies while a resident of the facility, the document must include the time and date of the death and the dates on which the person responsible for the resident was contacted to inform him of the death.

3. Except as otherwise provided in this subsection, a resident's file must be kept confidential. A resident's file must be made available upon request at any time to an employee of the bureau who is acting in his capacity as an employee of the bureau.

Special Types of Facilities

Section 77 NAC 449.2754 is hereby amended to read as follows:

NAC 449.2754 Residential facility which provides care to persons with Alzheimer's disease: General requirements. (NRS 449.037)

1. A residential facility which offers or provides care for *a resident* ~~[residents]~~ with Alzheimer's disease or related dementia must obtain an endorsement on its license authorizing it to operate as a residential facility which provides care to persons with Alzheimer's disease.

2. If a residential facility is authorized to operate as a residential facility which provides care to persons with Alzheimer's disease and as another type of facility, the entire facility must comply with the requirements of this section or the residents who suffer from Alzheimer's

disease or other related dementia must be located in a separate portion of the facility that complies with the provisions of this section.

3. A residential facility which provides care to persons with Alzheimer's disease may admit or retain a resident who requires confinement in locked quarters.

4. A residential facility which provides care to persons with Alzheimer's disease must be administered by a person who:

(a) Has not less than 3 years of experience in caring for residents with Alzheimer's disease or related dementia in a licensed facility; or

(b) Has a combination of education and training that the bureau determines is equivalent to the experience required pursuant to paragraph (a).

5. The administrator of such a facility shall prescribe and maintain on the premises of the facility a written statement which includes:

(a) The facility's policies and procedures for providing care to its residents;

(b) Evidence that the facility has established interaction groups within the facility which consist of not more than six residents for each caregiver during those hours when the residents are awake;

(c) A description of:

(1) The basic services provided for the needs of residents who suffer from dementia;

(2) The activities developed for the residents by the members of the staff of the facility;

(3) The manner in which the behavioral problems will be managed;

(4) The manner in which the medication for residents will be managed;

(5) The activities that will be developed by the members of the staff of the facility to encourage the involvement of family members in the lives of the residents; and

(6) The steps the members of the staff of the facility will take to:

(I) Prevent residents from wandering from the facility; and

(II) Respond when a resident wanders from the facility; and

(d) The criteria for admission to and discharge and transfer from the facility.

6. The written statement required pursuant to subsection 5 must be available for review by members of the staff of the facility, visitors to the facility and the bureau.

7. The administrator shall ensure that the facility complies with the provisions of the statement required pursuant to subsection 5.

8. The members of the staff of the facility shall develop a program of activities that promotes the mental and physical enhancement of the residents. The following activities must be conducted at least weekly:

(a) Activities to enhance the gross motor skills of the residents;

(b) Social activities;

(c) Activities to enhance the sensory abilities of the residents; and

(d) Outdoor activities.

Section 78 NAC 449.2756 is hereby amended to read as follows:

NAC 449.2756 Residential facility which provides care to persons with Alzheimer's disease: Standards for safety; personnel required; training for employees. (NRS 449.037)

1. The administrator of a residential facility which provides care to persons with Alzheimer's disease shall ensure that:

(a) Swimming pools and other bodies of water are fenced or protected by other acceptable means.

(b) Operational alarms, buzzers, horns or other audible devices which are activated when a door is opened are installed on all doors that may be used to exit the facility.

(c) At least one member of the staff is awake and on duty at the facility at all times.

(d) Within 3 months after an employee is first employed at the facility, the employee successfully completes at least 8 hours of training in providing care, including emergency care, to a resident who suffers from Alzheimer's disease or related dementia and providing support for the members of the resident's family.

(e) Knives, matches, firearms, tools ~~[other than tools ordinarily used in the kitchen,]~~ and other items that could constitute a danger to the residents of the facility are inaccessible to the residents.

(f) The facility has an area outside the facility or a yard adjacent to the facility that:

- (1) May be used by the residents for outdoor activities;
- (2) Has at least 40 square feet of space for each resident in the facility;
- (3) Is fenced; and
- (4) Is maintained in a manner that does not jeopardize the safety of the residents.

All gates leading from the secured, fenced area or yard to an unsecured open area or yard must be locked and keys for gates must be readily available to the members of the staff of the facility at all times.

(g) All toxic substances are not accessible to the residents of the facility.

2. The training required pursuant to paragraph (d) of subsection 1 must be provided pursuant to a curriculum approved by the bureau, the board or the Nevada state board of examiners for administrators of facilities for long-term care. Such training may be used to satisfy the requirement of paragraph (f) of subsection 1 of NAC 449.196 for the year in which the training is received.

Section 79 NAC 449.2758 is hereby amended to read as follows:

NAC 449.2758 Residential facility for elderly or disabled persons: Training for caregivers. (NRS 449.037)

1. Within 60 days after being employed by a residential facility for elderly or disabled persons, a caregiver must receive not less than 4 hours of training related to the care of those residents.

2. As used in this section, "residential facility for elderly or disabled persons" means a residential facility that provides care to ~~[three or more]~~ elderly or disabled persons who require assistance or protective supervision because they suffer from infirmities or disabilities.

Section 80 NAC 449.2762 is hereby amended to read as follows:

NAC 449.2762 Residential facility for mentally retarded adults: Training for caregivers; program to modify behavior of resident. (NRS 449.037)

1. Within 60 days after being employed by a residential facility for mentally retarded adults, a caregiver must receive not less than 4 hours of training related to the care of mentally retarded persons.

2. If a resident who is mentally retarded is referred to the facility by a referring agency, the members of the staff of the facility may conduct a program to modify the behavior of the resident if that program is developed by the agency that referred the resident to the facility.

3. As used in this section, "residential facility for mentally retarded adults" means a residential facility that provides care and protective supervision for ~~[three or more]~~ persons with

mental retardation or related disorders, including, without limitation, birth trauma, anoxia, brain trauma or other genetic or developmental disorders.

Section 81 NAC 449.2764 is hereby amended to read as follows:

NAC 449.2764 Residential facility for persons with mental illnesses: Training for employees. (NRS 449.037)

1. A person who provides care for a resident of a residential facility for persons with mental illnesses shall, within 60 days after he becomes employed at the facility, attend not less than 8 hours of training concerning care for residents who are suffering from mental illnesses.

2. As used in this section, “residential facility for persons with mental illnesses” means a residential facility that provides care and protective supervision for ~~three or more~~ persons with mental illnesses, including, without limitation, schizophrenia, bipolar disorder, psychosis and other related disorders.

Section 82 NAC 449.2766 is hereby amended to read as follows:

NAC 449.2766 Residential facility for persons with chronic illnesses: Training for employees. (NRS 449.037)

1. Within 60 days after being employed by a residential facility for persons with chronic illnesses, an employee of the facility must obtain at least 4 hours of in-service training relating to the care provided to such persons and in the actions necessary to control infections.

2. Evidence of training received pursuant to subsection 1 must be included in the employee’s personnel file.

3. As used in this section, “residential facility for persons with chronic illnesses” means a residential facility that provides care and protective supervision for ~~three or more~~ persons with chronic illnesses or progressively debilitating diseases, including, without limitation, acquired immunodeficiency syndrome and cancer.

TEXT OF REPEALED SECTIONS

Section 83 NAC 449.275 is hereby repealed.

NAC 449.275 Residential facility that provides hospice care: Responsibilities of staff; retention of resident with special medical needs. (NRS 449.037)

1. A residential facility that provides hospice care for a resident shall obtain a copy of the plan of care required pursuant to NAC 449.0186 for that resident.

2. The members of the staff of the facility shall:

(a) Maintain at the facility a written record of the care and services provided to a resident who receives hospice care; and

(b) Report any deviation from the established plan of care to the resident’s physician within 24 hours after the deviation occurs.

3. If the division grants a request made pursuant to NAC 449.2736 by the administrator of a residential facility that provides hospice care, the residential facility may retain a resident who:

(a) Is bedfast, as defined in NAC 449.2702; or

(b) Requires skilled nursing or other medical care on a 24-hour basis.