

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

LCB File No. R074-03

Effective October 22, 2003

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

AUTHORITY: §§1-3, NRS 439.150 and 449.050.

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

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

(a) An ambulatory surgical center.....	[\$1,200] <i>\$2,250</i>
(b) A facility for the treatment of irreversible renal disease	[1,530] <i>2,748</i>
(c) A home office or subunit agency of a home health agency.....	[1,980] <i>3,034</i>
(d) A branch office of a home health agency	[1,040] <i>2,000</i>
(e) A rural clinic	[1,590] <i>2,160</i>
(f) An obstetric center	[1,200] <i>1,564</i>
(g) A program of hospice care	[1,450] <i>2,106</i>
(h) An independent center for emergency medical care	[1,330] <i>2,950</i>
(i) A nursing pool	[1,440] <i>1,988</i>
(j) A facility for treatment with narcotics	[1,270] <i>2,482</i>
(k) A medication unit	[500] <i>1,200</i>

- (l) A referral agency ~~[1,340]~~ **2,000**
- (m) A halfway house for recovering alcohol and drug abusers ~~[1,160]~~ **2,020**
- (n) A facility for refractive laser surgery ~~[3,545]~~ **7,556**
- (o) A mobile unit..... ~~[1,500]~~ **2,090**

2. An applicant for the renewal of such a license must pay to the Health Division the

following nonrefundable fees:

- (a) An ambulatory surgical center..... ~~[\$600]~~ **\$1,785**
- (b) A facility for the treatment of irreversible renal disease ~~[600]~~ **1,374**
- (c) A home office or subunit agency of a home health agency..... ~~[600]~~ **1,517**
- (d) A branch office of a home health agency ~~[100]~~ **1,000**
- (e) A rural clinic ~~[600]~~ **1,080**
- (f) An obstetric center ~~[600]~~ **782**
- (g) A program of hospice care ~~[600]~~ **1,053**
- (h) An independent center for emergency medical care ~~[600]~~ **1,475**
- (i) A nursing pool..... ~~[600]~~ **2,136**
- (j) A facility for treatment with narcotics ~~[600]~~ **1,241**
- (k) A medication unit ~~[100]~~ **600**
- (l) A referral agency ~~[600]~~ **1,000**
- (m) A halfway house for recovering alcohol and drug abusers ~~[300]~~ **1,010**
- (n) A facility for refractive laser surgery ~~[3,000]~~ **3,912**
- (o) A mobile unit..... ~~[750]~~ **1,045**

3. An application for a license is valid for 1 year after the date on which the application is submitted. If an applicant does not meet the requirements for licensure imposed by chapter 449

of NRS or the regulations adopted pursuant thereto within 1 year after the date on which he submits his application, he must submit a new application and pay the required fee to be considered for licensure.

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

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

	Fee per facility	Fee per bed in the facility
(a) A skilled nursing facility	\$2,200	[\$90] \$60
(b) A hospital, other than a rural hospital	10,000	[90] 80
(c) A rural hospital	1,500	[90] 80
(d) An intermediate care facility for the mentally retarded or persons with developmental disabilities	[\$1,250] 1,564	[80] 184
(e) An intermediate care facility, other than an intermediate care facility for the mentally retarded or persons with developmental disabilities.....	1,200	90
(f) [A] <i>Except as otherwise provided in subsection 3, a</i> residential facility for groups	[\$800] 2,400	[190] 184
(g) A facility for the treatment of abuse of alcohol or drugs	[\$500] 782	[50] 184
(h) A facility for hospice care	[\$1,450] 1,564	[90] 184

- (i) A home for individual residential care ~~[710]~~ **1,764** ~~[270]~~ **184**
- (j) A facility for modified medical detoxification..... ~~[660]~~ **782** ~~[90]~~ **184**

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

	Fee per facility	Fee per bed in the facility
(a) A skilled nursing facility	\$1,100	[\$45] \$30
(b) A hospital, other than a rural hospital	5,000	[45] 40
(c) A rural hospital	750	[45] 40
(d) An intermediate care facility for the mentally retarded or persons with developmental disabilities	[600] 782	92
(e) An intermediate care facility, other than an intermediate care facility for the mentally retarded or persons with developmental disabilities.....	600	45
(f) Except as otherwise provided in subsection [3.] 4 , a residential facility for groups <i>which has 11 beds or more</i>	[300] 1,182	92
(g) <i>Except as otherwise provided in subsection 5, a residential facility for groups which has less than 11 beds</i>	1,085	92
(h) A facility for the treatment of abuse of alcohol or drugs	[300] 391	92
[(h)] (i) A facility for hospice care.....	[600] 782	92
[(i)] (j) A home for individual residential care.....	[100] 500	92

~~[(k)]~~ (k) A facility for modified medical detoxification ~~[300]~~ 391 92

3. An applicant for ~~[renewal of]~~ a license for a residential facility for groups shall pay a fee of ~~[\$35]~~ \$100 for each bed in the facility which is paid entirely with money from:

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

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

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

5. *An applicant for the renewal of a license for a residential facility for groups which has less than 11 beds who attests that, during the following licensure period, at least 75 percent of those beds will be paid for entirely with money from the sources described in subsection 4 shall pay a fee of \$500 plus:*

(a) For each bed that will be paid for entirely with money from the sources described in subsection 4, a fee of \$35 in accordance with that subsection; and

(b) For each remaining bed, a fee of \$92.

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

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

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

- (a) A change in the name of the facility, program or agency;
 - (b) A change of the administrator of the facility, program or agency;
 - (c) A change in the number of beds in the facility;
 - (d) A change in the type of facility licensed or the addition of another type of facility to be licensed;
 - (e) A change in the category of residents who may reside at the facility; or
 - (f) A change in the designation of a staging area for a mobile unit or, if the mobile unit is operated by an independent facility, a change in the address of the independent facility,
- ↪ must submit an application for a new license to the Health Division and pay to the Health Division a fee of ~~[\$200.]~~ **\$250.**

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

- (a) A fee of ~~[\$200.];~~ **\$250;** and
- (b) A fee for each additional bed as follows:
 - (1) If the facility is an intermediate care facility for the mentally retarded or persons with developmental disabilities ~~[\$80]~~ **\$184**
 - (2) ~~##~~ **Except as otherwise provided in subparagraph (3), if** the facility is a residential facility for groups ~~[\$90]~~ **184**

(3) *If the facility is a residential facility for groups and the fee for each bed in the facility is paid entirely with money from sources described in subsection 3 of NAC 449.016*100

(4) If the facility is a facility for the treatment of abuse of alcohol or drugs[50] 184

~~[(4)]~~ (5) If the facility is a facility for hospice care.....[90] 184

~~[(5)]~~ (6) If the facility is a home for individual residential care[270] 184

~~[(6)]~~ (7) If the facility is a facility for modified medical detoxification[90] 184

~~[(7)]~~ (8) If the facility is a hospital[90] 80

~~[(8)]~~ (9) If the facility is a rural hospital[90] 80

~~[(9)]~~ (10) If the facility is a skilled nursing facility ~~for an intermediate care facility, other than an intermediate care facility for the mentally retarded or persons with developmental disabilities~~[90] 60

(11) *If the facility is an intermediate care facility, other than an intermediate care facility for the mentally retarded or persons with developmental disabilities*90

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

- (a) Submit an application for a new license to the Health Division; and
- (b) Pay to the Health Division a fee of ~~[\$200.]~~ \$250.

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

5. As used in this section:

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

(b) “Independent facility” has the meaning ascribed to it in NAC 449.9701.

(c) “Staging area” has the meaning ascribed to it in NAC 449.97018.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R074-03**

The State Board of Health adopted regulations assigned LCB File No. R074-03 which pertain to chapter 449 of the Nevada Administrative Code on September 12, 2003.

Notice date: 8/13/2003
Hearing date: 9/12/2003

Date of adoption by agency: 9/12/2003
Filing date: 10/22/2003

INFORMATIONAL STATEMENT

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

A Small Business Impact Questionnaire was mailed to Facilities for Alcohol and Drug Abuse, Facilities for Adult Day Care, Residential Facilities for Groups, Residential Facilities for Groups/Alzheimer's, Business that Provides Referrals, Homes for Individual Residential Care, Facilities for Treatment with Narcotics, Facilities for Modified Medical Detoxification, Surgical Centers for Ambulatory Patients, Facilities for the Treatment of Irreversible Renal Disease, Agencies to Provide Nursing in the Home, Agencies to Provide Nursing in the Home-Branch Office, Hospitals, Hospice Care-Program of Care, Independent Centers for Emergency Medical Care, Facilities for Intermediate Care for the Mentally Retarded, Nursing Pools, Rural Clinics, Halfway Houses, Mobile Units and Facilities for Skilled Nursing on May 29, 2003.. Attachment A is the Small Business Impact Statement Questionnaire. Attachment B is a copy of the small business impact summary.

Notice of public workshops held on June 18, 2003, in Las Vegas and in Reno was published in the Las Vegas Review Journal and Reno Gazette Journal on June 3, 2003. Notices of public workshops, and proposed regulations were mailed to all county libraries in Nevada, Facilities for Alcohol and Drug Abuse, Facilities for Adult Day Care, Residential Facilities for Groups, Residential Facilities for Groups/Alzheimer's, Business that Provides Referrals, Homes for Individual Residential Care, Facilities for Treatment with Narcotics, Facilities for Modified Medical Detoxification, Surgical Centers for Ambulatory Patients, Facilities for the Treatment of Irreversible Renal Disease, Agencies to Provide Nursing in the Home, Agencies to Provide Nursing in the Home-Branch Office, Hospitals, Hospice Care-Program of Care, Independent Centers for Emergency Medical Care, Facilities for Intermediate Care for the Mentally Retarded, Nursing Pools, Rural Clinics, Halfway Houses, Mobile Units and Facilities for Skilled Nursing, and interested parties on May 29, 2003. The small business impact summary was available at both workshops.

Twenty-six individuals (25 individuals representing Residential Facilities for Groups and one individual representing Home Health Agencies) commented during the workshops, all comments were in opposition to fee increases. Many stated that they understood from the Board of Health hearings last year that the Health Division and the Bureau were to develop some "alternate methods" of establishing licensing fees.

Notice of public hearing regarding the Board's intent to adopt amendments was published in the Las Vegas Review Journal and Reno Gazette Journal on August 13, 2003. Notices of public hearing, and proposed regulations were mailed to all county libraries in Nevada, Clark County Health District, Washoe County Health District, Facilities for Alcohol and Drug Abuse, Facilities for Adult Day Care, Residential Facilities for Groups, Residential Facilities for Groups/Alzheimer's, Business that Provides Referrals, Homes for Individual Residential Care, Facilities for Treatment with Narcotics, Facilities for Modified Medical Detoxification, Surgical Centers for Ambulatory Patients, Facilities for the Treatment of Irreversible Renal Disease, Agencies to Provide Nursing in the Home, Agencies to Provide Nursing in the Home-Branch Office, Hospitals, Hospice Care-Program of Care, Independent Centers for Emergency Medical Care, Facilities for Intermediate Care for the Mentally Retarded, Nursing Pools, Rural Clinics, Halfway Houses, Mobile Units and Facilities for Skilled Nursing, and interested parties on August 8, 2003.

2. THE NUMBER OF PERSONS WHO:

(A) ATTENDED THE HEARING;

Approximately 82 people attended the September 12, 2003, Board of Health hearing.

(B) TESTIFIED AT EACH HEARING; AND

Richard Leffingwell, Almost Home Group Care
Margaret McConnell, CARE
Larry Frye, State President for CARE
Robert Malm, Julie's Elderly Care
Bill Welch, Nevada Hospital Association
Jim Waddhams, Nevada Hospital Association
Ron Bradley, Odd Fellows Retirement Manor
Rick McGee, Hope House
Mike Ganti, Margaret Rose Residential Care Center

(C) SUBMITTED TO THE AGENCY WRITTEN STATEMENTS.

Josephine Eugenio
Ron Bradley, Odd Fellows Retirement Manor
Dell and Anna Williams, Silver Rose Manor L.L.C.
Patricia Lite, ABC Group Care Home
Aniceta Galima, St. Ann Group Home
Judith Kimpton, JLK Care
Dennis and Prima Barba, River Flow Manor I & II
Eric Hartman, Whispering Willows
Jerry R. Jones, Residential Care Center, Inc.

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

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

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

None.

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

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

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

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

The proposed fee will have a beneficial economic effect on the public in that collection of the fee will allow the State Agency the ability to continue to perform state licensure activities in a timely manner and the quality of patient care being provided by facilities will continue to be monitored and complaints investigated. Additionally, with state licensure functions being performed, new facilities will be able to be licensed thereby increasing the public care options. The proposed amendments to the regulation will increase some of the facilities annual renewal fees to address the projected cost of completing NRS mandated surveys and priority one and priority two level complaints.

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

The determination of those facilities eligible for the reduced per bed fee, estimated to be 150 facilities, will require additional professional level staff time equal to 100 hours at approximately \$130 per hour. Additionally, the agency may incur costs to do onsite investigations if complaints are received concerning bed fees.

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

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

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

None.

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

The BLC may receive approximately \$1,885,739.00 within the SFY '04. The fees are used to support required state licensure activities.