

LCB File No. R074-03

**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.

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FEES

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

Section 1 NAC 449.012 hereby remains unchanged.

NAC 449.012 Definitions (NRS 449.037, 449.050) As used in NAC 449.012 to 449.0168, inclusive, unless the context otherwise requires, the words and terms defined in NAC 449.0121 to 449.0127, inclusive, have the meanings ascribed to them in those sections.

Section 2 NAC 449.0121 hereby remains unchanged.

NAC 449.0121 “Ambulatory surgical center” defined (NRS 449.037) “Ambulatory surgical center” has the meaning ascribed to it in NAC 449.972.

Section 3 NAC 449.01215 hereby remains unchanged.

NAC 449.01215 “Branch office” defined (NRS 449.037) “Branch office” has the meaning ascribed to it in NAC 449.749.

Section 4 NAC 449.01225 hereby remains unchanged.

NAC 449.01225 “Facility for hospice care” defined (NRS 449.037) “Facility for hospice care” has the meaning ascribed to it in NAC 449.0172.

Section 5 NAC 449.01227 hereby remains unchanged.

NAC 449.01227 “Facility for refractive laser surgery” defined. (NRS 449.037, 449.050) “Facility for refractive laser surgery” has the meaning ascribed to it in NRS 449.00387.

Section 6 NAC 449.01229 hereby remains unchanged.

NAC 449.01229 “Facility for treatment with narcotics” defined. (NRS 449.037, 449.038) “Facility for treatment with narcotics” has the meaning ascribed to it in NAC 449.1542.

Section 7 NAC 449.0123 hereby remains unchanged.

NAC 449.0123 “Home health agency” defined. (NRS 449.037) “Home health agency” has the meaning ascribed to it in NAC 449.749.

Section 8 NAC 449.01235 hereby remains unchanged.

NAC 449.01235 “Home office” defined. (NRS 449.037) “Home office” has the meaning ascribed to it in NAC 449.749.

Section 9 NAC 449.0124 hereby remains unchanged.

NAC 449.0124 “Hospice care” defined. (NRS 449.037) “Hospice care” has the meaning ascribed to it in NAC 449.0175.

Section 10 NAC 449.01245 hereby remains unchanged.

NAC 449.01245 “Intermediate care facility for the mentally retarded or persons with developmental disabilities” defined. (NRS 449.037) “Intermediate care facility for the mentally retarded or persons with developmental disabilities” has the meaning ascribed to it in NAC 449.632.

Section 11 NAC 449.0125 hereby remains unchanged.

NAC 449.0125 “Medication unit” defined. (NRS 449.037, 449.038) “Medication unit” has the meaning ascribed to it in NAC 449.15435.

Section 12 NAC 449.01252 hereby remains unchanged.

NAC 449.01252 “Mobile unit” defined. (NRS 449.037, 449.050) “Mobile unit” has the meaning ascribed to it in NRS 449.01515.

Section 13 NAC 449.01255 hereby remains unchanged.

NAC 449.01255 “Nursing pool” defined (NRS 449.037) “Nursing pool” has the meaning ascribed to it in NRS 449.0153.

Section 14 NAC 449.0126 hereby remains unchanged.

NAC 449.0126 “Rural clinic” defined (NRS 449.037) “Rural clinic” has the meaning ascribed to it in NRS 449.0175.

Section 15 NAC 449.01265 hereby remains unchanged.

NAC 449.01265 “Rural hospital” defined. (NRS 449.037) “Rural hospital” has the meaning ascribed to it in NRS 449.0177.

Section 16 NAC 449.0127 hereby remains unchanged.

NAC 449.0127 “Subunit agency” defined (NRS 449.037) “Subunit agency” has the meaning ascribed to it in NAC 449.749.

Section 17 NAC 449.013 is hereby amended to read as follows:

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

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	2,250
(b) A facility for the treatment of irreversible renal disease.....	1,530	2,748
(c) A home office or subunit agency of a home health agency.....	1,980	3,034
(d) A branch office of a home health agency.....	1,040	2,000
(e) A rural clinic.....	1,590	2,160
(f) An obstetric center.....	1,200	1,564
(g) A program of hospice care.....	1,450	2,106
(h) An independent center for emergency medical care.....	1,330	2,950
(i) A nursing pool.....	1,440	1,988
(j) A facility for treatment with narcotics.....	1,270	2,482
(k) A medication unit.....	500	1,200
(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	1,125
(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	994
(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.

Section 18 NAC 449.016 is hereby amended to read as follows:

NAC 449.016 License and renewal fees to operate skilled nursing facility, hospital, rural hospital, intermediate care facilities, residential facility for groups, facility for treatment of abuse of alcohol or drugs, facility for hospice care, home for individual residential care and facility for modified medical detoxification; expiration of application for license. (NRS 439.150, 449.037, 449.050, 449.249)

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) <i>Except as otherwise provided in subsection 3</i> , a 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) <i>Except as otherwise provided in subsection 4</i> , a residential facility for groups.....	300 1,200	92
(g) A facility for the treatment of abuse of alcohol or drugs	300 391	92
(h) A facility for hospice care	600 782	92
(i) A home for individual residential care	100 882	92
(j) A facility for modified medical detoxification	300 391	92

3. An applicant for a ~~renewal~~ 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 renewal of a license for a residential facility for groups shall pay a fee of \$ 50 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 application for a license is valid for 1 year after the date on which the application is submitted. If an applicant does not meet the requirements for licensure imposed by chapter 449 of NRS or the regulations adopted pursuant thereto within 1 year after the date on which he submits his application, he must submit a new application and pay the required fee to be considered for licensure.

Section 19 NAC 449.0168 is hereby amended to read as follows:

NAC 449.0168 Fees for modification of certain licenses. (NRS 439.150, 449.0305, 449.037, 449.050)

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 subsection 2(b)(3),* if the facility is a residential facility for groups ~~[190]~~ 184
 - (3) *If the facility is a residential facility for groups and the bed is paid entirely with money from sources as described in NAC 449.016(3)* 100
 - ~~[(3)]~~(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~~ ~~[90]~~ 60

~~with developmental]~~

(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.