

LCB File No. R064-04

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

**PROPOSED CHANGES TO REGULATIONS OF
THE STATE BOARD OF HEALTH
PROVISION OF NEONATAL CARE BY HOSPITAL**

New material is *italicized*. Deleted material is in brackets .

Note: NAC 442.250 through NAC 442.290, NAC 442.321 through NAC 442.350, NAC 442.501, and NAC 442.530 hereby remain unchanged.

Section 1. Chapter 442 of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Section 2. *“Advanced practitioner of nursing (APN)” defined. Advanced practitioner of nursing has the meaning ascribed to it in NRS 632.012.*

Section 3. *Additional requirements for Level II specialty care facilities and Level III subspecialty care facilities.*

1) The following support personnel shall be available in Level II specialty care facilities and Level III subspecialty care facilities:

a) At least one full time social worker licensed pursuant to chapter 641B of NRS for every 30 beds, who has experience with the socioeconomic and psychosocial problems of high risk women and fetuses, ill neonates and their families. Additional social workers are required when there is a high volume of medical or psychosocial activity.

b) At least one occupational or physical therapist with neonatal expertise.

c) At least one registered dietitian or nutritionist who has special training in perinatal nutrition and can plan diets that meet the special needs of high risk women and neonates.

d) Pharmacy personnel who can work to continually review their systems and process of medication administration to ensure that patient care policies are maintained.

2. Level II specialty care facilities and Level III subspecialty care facilities must have a policy for the use of interpreters to address any prevalence of non-English speaking and hearing impaired patients and families in their population.

3. Level II specialty care facilities and Level III subspecialty care facilities must demonstrate quality assurance activities to report and track morbidity and mortality data and establish a policy for perinatal conferencing with obstetricians, perinatologists, neonatologists and pediatricians to report trends and outcomes.

Section 4. Construction standards and physical environment:

1. The state board of health hereby adopts by reference:

(a) The Guidelines for Design and Construction of Hospital and Healthcare Facilities, in the form most recently published by the American Institute of Architects, unless the board gives notice that the most recent revision is not suitable for this state pursuant to subsection 2. A copy of the guidelines may be obtained by calling (800) 242-3837.

(b) NFPA 101: Life Safety Code, in the form most recently published by the National Fire Protection Association, unless the board gives notice that the most recent revision is not suitable for this state pursuant to subsection 2. A copy of the code may be obtained from the National Fire Protection Association, 11 Tracy Drive, Avon, Massachusetts, 02322, or by telephone (800) 344-3555, for the price of \$53.05 for members, plus \$6.95 for shipping and handling.

2. The state board of health shall review each revision of the publications adopted by reference pursuant to subsection 1 to ensure its suitability for the state. If the board

determines that the revision is not suitable for this state, it will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the board does not revise its determination, the board will give notice that the revision is not suitable for this state within 30 days after the hearing. If the board does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 1.

Section 5. NAC 442.306 is hereby amended to read as follows:

NAC 442.306 “Level I *basic care facility* ~~[neonatal—unit]~~” defined. (NRS 442.007, 449.037) “Level I *basic care facility* ~~[neonatal—unit]~~” means a hospital licensed by the division to provide the neonatal services that are specified in NAC 442.380.

Section 6. NAC 442.308 is hereby amended to read as follows:

NAC 442.308 “Level II *specialty care facility* ~~[neonatal—unit]~~” defined. (NRS 442.007, 449.037) “Level II *specialty care facility* ~~[neonatal—unit]~~” means a hospital licensed by the division to provide the neonatal services that are specified in NAC 442.390.

Section 7. NAC 442.310 is hereby amended to read as follows:

NAC 442.310 “Level III *subspecialty care facility* ~~[neonatal—unit]~~” defined. (NRS 442.007, 449.037) “Level III *subspecialty care facility* ~~[neonatal—unit]~~” means a hospital licensed by the division to provide neonatal intensive care for infants as specified in NAC 442.401 and 442.430.

Section 8. NAC 442.370 is hereby amended to read as follows:

NAC 442.370 **Adoption by reference of Guidelines for Perinatal Care.** (NRS 442.007, 449.037)

1. The state board of health hereby adopts by reference the current ~~third~~ edition of Guidelines for Perinatal Care, ~~published in 1992,~~ excluding the chapter concerning construction standards ~~chapter 1,~~ is adopted by reference as a minimum acceptable standard. This publication is available from the American Academy of Pediatrics, Publications Department, P.O. Box 927, Elk Grove Village, Illinois 60009-0927, for the price of \$40.

2. The state board of health shall review each revision of the publication adopted by reference pursuant to subsection 1 to ensure its suitability for the state. If the board determines that the revision is not suitable for this state, it will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the board does not revise its determination, the board will give notice that the revision is not suitable for this state within 30 days after the hearing. If the board does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 1.

Levels of Care

Section 9. NAC 442.380 is hereby amended to read as follows:

NAC 442.380 Hospitals providing care at level I. (NRS 442.007, 449.037)

1. A Level I basic care facility must provide: ~~[A hospital providing neonatal care at level I must:]~~

(a) A newborn nursery for the routine care of apparently normal neonates who have demonstrated successful adaptation to extrauterine life. ~~[Be able to: (1) Provide care for normal neonates;]~~

(b) Resuscitation and stabilization of all neonates born in the hospital. ~~[(2) Provide cardiopulmonary resuscitative services for neonates; and]~~

(c) *Evaluation and continuing care of healthy neonates.*

(d) *Identification, stabilization, and preparation of* ~~[(3) Identify, stabilize and prepare]~~ neonates for transport to a Level II *specialty care facility* or Level III *subspecialty care facility* ~~[neonatal unit]~~, as appropriate.

(e) *Consultation and transfer arrangements. The Level I basic care facility must establish and follow a policy which clearly delineates when consultation with a Level II specialty care facility or Level III subspecialty care facility is required to prevent rapid or further deterioration of an infant and prevent delay in definitive care.* ~~[(b) Except as otherwise provided in subsection 2, have a written agreement with each level III neonatal unit to which it refers neonates. The agreement must include provisions for the level III unit to provide:]~~

(f) *Parent-sibling-neonate visitation.*

(g) *Data collection and retrieval.*

2. *The hospital providing care as a Level I basic care facility must have a written agreement with a Level III subspecialty care facility to which it refers neonates which includes provisions for the Level III subspecialty care facility or its designee to:*

(a) *Provide* education in perinatal care, including neonatal resuscitation, for the staff of the Level I *basic care facility* ~~[neonatal unit. (1) Education in perinatal care, including neonatal resuscitation, for the staff of the level I neonatal unit; and]~~

(b) ~~[(2)]~~ *Provide* technical assistance in the development of a program of quality assurance for the care provided to neonates by the Level I *basic care facility* ~~[neonatal unit]~~.

3. ~~[2.]~~ A *Level I basic care facility* ~~[hospital providing care at level I]~~ that is unable to secure the agreements *in subsection 2* ~~[required by paragraph (b) of subsection 1]~~ shall document the

efforts it made to secure the agreements and develop a plan to provide level I basic care services in the absence of such agreements.

Section 10. NAC 442.390 is hereby amended to read as follows:

NAC 442.390 Hospitals providing care at level II. (NRS 442.007, 449.037) ~~{A hospital providing neonatal care at level II must:}~~

1. *A Level II specialty care facility must provide:* ~~{Be able to:}~~

(a) *Basic care Level I services as described above.* ~~{Provide care for normal neonates;}~~

(b) *Care for a minimum of 6 neonates for intermediate care.*

(c) *Stabilization of severely ill neonates* before transfer. ~~{Provide cardiopulmonary resuscitative services;}~~

(d) *Treatment of moderately ill larger preterm and term neonates.* ~~{(e) Provide care in excess of its designated level for a neonate for not more than 24 hours, while identifying, stabilizing and preparing a high-risk or critically ill neonate for transport to a level III neonatal unit;}~~

(e) *Data collection and retrieval.* ~~{Provide continuing care for convalescing neonates transported from level III neonatal units; and}~~

(f) *Continuing care of low-birth weight neonates who are not ill but require frequent feeding, as well as those who require more hours of nursing than do normal neonates.* ~~{Provide care that meets the total anticipated medical needs of the patient for the duration of his admission.}~~

(g) *Intermediate care of sick neonates who do not require intensive care but require 6 – 12 hours of nursing care each day. Neonates requiring complex care such as assisted ventilation, for more than several hours will be moved.*

(h) Cardiopulmonary resuscitative services and continuous monitoring of cardiopulmonary status.

(i) Care in excess of its designated level for a neonate for not longer than 24 hours, while identifying, stabilizing and preparing a high-risk or critically ill neonate for transport to a Level III subspecialty care facility.

(j) Continuing care for convalescing neonates transported from Level III subspecialty care facilities.

(k) Gavage feeding.

(l) Pharmacy services 24 hours a day, including parenteral nutritional solutions seven days per week.

(m) Laboratory consultation services 24 hours a day.

(n) Radiological services such as X-ray, diagnostic imaging procedures, and consultation services 24 hours a day.

(o) Certified or registered respiratory therapists trained in neonatology on staff 24 hours a day.

2. The Level II specialty care facility must have a medical director who is: ~~[Have a medical director of the neonatal unit who is a pediatrician with special interest, experience and training in the care of neonates.]~~

(a) A neonatologist or board-certified pediatrician with special interest, experience, and in some situations, subspecialty certification in neonatal-perinatal medicine;

(b) Not a medical director of more than 2 Level II specialty care facilities;

(c) Responsible for the care of the neonates in the Level II specialty care facility and consults with Level I basic care facilities and Level III subspecialty care facilities for possible

admissions to the Level II specialty care facility or possible transfers to a Level III subspecialty care facility;

(d) Supervisor to advanced nurse practitioners in the Level II specialty care facility; and

(e) Able to assure qualified coverage in his/her absence by other neonatologists or pediatricians with special training and interest in neonatology.

3. The Level II specialty care facility must provide nursing staff trained in the care of high risk neonates and staffed in accordance with the current edition of the Guidelines for Perinatal Care. The nursing staff shall be supervised by a qualified registered nurse who coordinates the care of the neonates in the Level II specialty care facility and shall assist the medical director in management of the Level II specialty care facility. ~~[Except as otherwise provided in this subsection, have a written agreement with each level III neonatal unit to which it refers neonates. The agreement must include provisions for:~~

~~—(a) The education in perinatal care, including neonatal resuscitation, of the staff of the level II neonatal unit.~~

~~—(b) Technical assistance in the development of a program of quality assurance for the care provided to neonates by the level II neonatal unit.~~

~~—(c) The return of neonates to the level II neonatal unit for care.~~

~~A hospital providing care at level II that is unable to secure the agreements required in this subsection shall document the efforts it made to secure the agreements and develop a plan to provide level II services in the absence of such agreements.]~~

4. The Level II specialty care facility shall have a written agreement with a Level III subspecialty care facility to which it refers neonates. The agreement must include provisions

for: ~~[Be able at all times to care for infants in need of gavage feeding or continuous monitoring of cardiopulmonary status.]~~

(a) The education in perinatal care, including neonatal resuscitation, of the Level II specialty care facility staff.

(b) Technical assistance for the program of quality assurance for the care provided to neonates by the Level II specialty care facility; and

(c) The return of neonates to the Level II specialty care facility for care.

5. A Level II specialty care facility unable to secure the agreements required in subsection 4 shall document the efforts it made to secure the agreements and develop a plan to provide Level II specialty care facility services in the absence of such agreements. ~~[Provide at least X-ray diagnostic imaging procedures and consultation services 24 hours per day.]~~

Section 11. NAC 442.401 is hereby amended to read as follows:

NAC 442.401 Hospitals providing care at level III. (NRS 442.007, 449.037)

1. A *Level III subspecialty care facility must: ~~[hospital which provides neonatal care at level III must:]~~*

(a) Be able to care for sick ~~[normal]~~ neonates as provided by NAC 442.390~~[:]~~ and neonates requiring complex care such as assisted ventilation for more than several hours and neonates requiring long term ventilation;

*(b) Provide **nine** ~~[six]~~ or more beds for the intensive care of neonates;*

*(c) Provide and adhere to a formal, written plan for in-house coverage of the Level III **subspecialty care facility** ~~[unit]~~ by neonatologists, pediatricians, qualified physicians and advanced practitioners of nursing, taking into consideration the condition and medical needs of the neonates requiring Level III **subspecialty** care; and*

(d) Have formal, written agreements with each Level I *basic care facility* and Level II *specialty care facility* ~~[neonatal-unit]~~ from which it receives neonates. The agreement must include provisions for:

(1) Education in perinatal care, including neonatal resuscitation, for the staff of the Level I *basic care facilities* and Level II *specialty care facilities* ~~[neonatal-units]~~ on at least an annual basis; and

(2) Technical assistance in the development of a program of quality assurance for the care provided to neonates by the Level I *basic care facilities* and Level II *specialty care facilities* ~~[neonatal-units]~~.

2. A Level III *subspecialty care facility* ~~[unit]~~ that refuses to enter into the required agreements with a Level I *basic care facility* or Level II *specialty care facility* ~~[unit]~~ shall show sufficient reason for the refusal and notify the Level I *basic care facility* or Level II *specialty care facility* ~~[unit]~~ in writing of reasons for refusal.

3. If, after an investigation by the *division* ~~[state health officer or his designee]~~ into the circumstances of the refusal of the Level III *subspecialty care facility* ~~[unit]~~ to enter into an agreement with a Level I *basic care facility* or Level II *specialty care facility* ~~[unit]~~, there is a finding that the Level III *subspecialty care facility's* ~~[unit's]~~ reasons for refusal are not sufficient, the *division* ~~[state health officer]~~ may order the Level III *subspecialty care facility* ~~[unit]~~ to enter into an acceptable agreement and set a time for compliance.

4. The medical director of a Level III *subspecialty care facility* ~~[neonatal-unit]~~ must:

(a) Be a neonatologist;

(b) Devote his full time to the direction of the *facility* ~~[unit]~~;

(c) Consider transferring a neonate who no longer requires Level III *subspecialty* care to the hospital in which he was born; and

(d) Confer with the attending physician at the hospital in which the neonate was born and the parents or guardians of the neonate before he transfers a neonate to the hospital in which he was born.

5. The medical staff of the *facility* ~~[unit]~~ must:

(a) Include at least one pediatrician or qualified physician with special interest and experience in neonatology for each 10 beds, or fraction thereof, in the *facility* ~~[unit]~~.

(b) Be comprised of physicians, not less than one-half of whom are neonatologists or are eligible to take the examination of the American Board of Pediatrics in neonatal-perinatal medicine.

(c) Include a pediatric cardiologist who is certified by the American Board of Pediatrics, Subboard of Cardiology, or a qualified physician whose specialty is pediatric cardiology. If a pediatric cardiologist or qualified physician is not available, a qualified pediatric cardiologist must be actively recruited and the hospital shall enter into agreements with other neonatal facilities to provide pediatric cardiology.

(d) Include:

(1) A pediatric surgeon who is certified by the American Board of Surgery, with special qualifications in pediatric surgery; or

(2) A qualified physician whose specialty is pediatric surgery, who is available 24 hours per day. If a pediatric surgeon or a qualified physician is not available, a qualified pediatric surgeon must be actively recruited and the hospital shall enter into agreements with other neonatal facilities to provide pediatric surgery.

6. At least one registered or certified respiratory therapist must be assigned to the *Level III subspecialty care facility* ~~{unit}~~ for every five *infants on assisted mode of ventilation, including Continuous Positive Airway Pressure (CPAP)* ~~{ventilators in use}~~.

7. The nurse manager of the *facility* ~~{unit}~~ must:

(a) Be a registered nurse;

(b) Have not less than 3 years of clinical experience in ~~{level II or}~~ Level III *subspecialty* ~~{neonatal intensive}~~ care; and

(c) Devote his full time to the management of the *Level III subspecialty care facility* ~~{unit}~~.

8. At least one licensed social worker must be assigned to the unit for every 30 ~~{20}~~ beds in the *facility* ~~{unit}~~.

9. The nurse manager and medical director of the *Level III subspecialty care facility* ~~{unit}~~ shall identify the personnel and determine the educational requirements necessary to meet the needs of:

(a) The staff of the *Level III subspecialty care facility* ~~{unit}~~ and provide nursing staff *experienced in the care of high risk neonates, and staff in accordance with the current edition of the Guidelines for Perinatal Care*; and

(b) Any outreach program.

10. The *Level III subspecialty care facility* ~~{unit}~~ shall provide transportation services for critically ill neonates. Personnel used for these services ~~{must}~~ *may* include *physicians, advanced practitioners of nursing, registered nurses, respiratory therapists, and emergency medical technicians* ~~{a physician or advanced practitioners of nursing, and}~~ *or* such other personnel as the medical director deems appropriate.

11. As used in this section, “qualified physician” means a physician licensed to practice in this state who:

(a) Has been issued a credential to practice a specialty or a subspecialty in a hospital by the governing board of the hospital; and

(b) Has, at any time, completed the occupational and educational requirements of a specialty board for the specialty or subspecialty in which he is practicing.

Designation of Hospital as Neonatal *Facility* ~~{Unit}~~

Section 12. NAC 442.411 is hereby amended to read as follows:

NAC 442.411 Application for designation; application fee. (NRS 442.007, 449.037)

1. The division shall provide a uniform application form for hospitals to apply for a designation as a ~~{Level I,}~~ *Level II specialty care facility* (continuing and intermediate care), or Level III *subspecialty care facility* (intensive care) ~~{neonatal-unit}~~.

2. The application must include a statement:

(a) Describing the qualifications of the hospital’s personnel to provide *Level II specialty care* or *Level III subspecialty* ~~{intensive}~~ care for neonates;

(b) Describing the facilities and equipment to be used to provide Level II *specialty care* ~~{intensive}~~ or level III *subspecialty* care for neonates;

(c) Describing how the hospital’s facilities and personnel meet or exceed the standards established in NAC 442.250 to 442.570, inclusive, for the level of neonatal care requested;

(d) From the medical director of the proposed neonatal *facility* ~~{unit}~~ that the hospital has adequate facilities, equipment, personnel and policies and procedures to provide neonatal care at the level requested; and

(e) From the chief operating officer of the hospital that the hospital is committed to maintaining sufficient support personnel and equipment to provide neonatal care at the level requested.

3. An application for a designation as a *Level II specialty care facility or Level III subspecialty care facility* ~~[neonatal-unit]~~ must be accompanied by an application fee of \$7,500, which, pursuant to subsection 6 of NAC 442.480, will be applied to the costs of the required inspection.

4. The division is not required to grant a separate designation of licensure for a Level I basic care facility. If a hospital elects to have obstetrical services, then the hospital must have a Level I basic care facility. Refer to NAC 449.3645, NAC 449.365, NAC 449.3655, NAC 449.367 and NRS 449.037.

Section 13. NAC 442.415 is hereby amended to read as follows:

NAC 442.415 Accompaniment of application with letter of approval. (NRS 442.007, 449.037) If a hospital is required to obtain the approval of the director of the department of human resources pursuant to NRS 439A.100 in order to provide intensive care for neonates, the hospital's application for approval to be designated as a *Level II specialty care facility or Level III subspecialty care facility* ~~[neonatal-unit]~~ must be accompanied by a letter of approval received from the director.

Section 14. NAC 442.430 is hereby amended to read as follows:

NAC 442.430 Level III *subspecialty care facility* ~~[neonatal-units]: Requirements for designation.~~ (NRS 442.007, 449.037) A hospital seeking designation as a Level III *subspecialty care facility* ~~[neonatal-unit]~~ for intensive care must:

1. Demonstrate its capability to provide all required services and equipment, which include:

(a) The following services and equipment for the transportation of a neonate:

- (1) A portable incubator;
- (2) Resuscitation equipment;
- (3) Oxygen, a means of application and a means to monitor levels of saturation;
- (4) Portable cardiac and temperature monitoring equipment;
- (5) A ventilator; and
- (6) Continuous intravenous infusion equipment.

(b) Participation in services for each neonate while ~~he remains~~ in the hospital and after release from the hospital, coordinating those services and cooperating with the division in providing the data concerning those services, *including referring all neonates with birth defects, as defined by NRS 442.310, to the Bureau of Early Intervention Services for review of program eligibility.*

(c) A program for perinatal education, offered for all physicians, nurses, respiratory therapists, nurses specializing in community health, advanced practitioners of nursing, physician assistants, specialists in the development of children, nutritionists and social workers within the area the hospital serves.

(d) The following diagnostic imaging procedures and associated consultation services 24 hours per day:

- (1) X ray;
- (2) Ultra-sound;
- (3) Fluoroscopy X ray;
- (4) Computerized axial tomography;

- (5) Nuclear medicine; and
- 6) Echo cardiography.
- (e) Pharmacy services including parenteral nutritional solutions, 7 days per week.
- (f) Laboratory and associated consultation services 24 hours per day.
- 2. Provide medical personnel, equipment and services required for a neonate in need of intensive care, and a system for consultation between medical personnel and for the use of equipment and services.
- 3. Adopt a written policy which contains:
 - (a) The description of the system for neonatal intensive care;
 - (b) The description of the system for transportation and referral for intensive care;
 - (c) The plan to provide continuing education of personnel providing neonatal services within those hospitals which make referrals to the Level III *subspecialty care facility* ~~[neonatal-unit]~~; and
 - (d) A method for evaluating the plan required by paragraph (c).
- 4. Demonstrate its intent to provide services to any neonate requiring intensive care regardless of race, religion, color, national origin or ability to pay.
- 5. Demonstrate its capability to conduct continuing analysis of each neonate as appropriate and coordinate that care by periodic conferences on mortality and morbidity.
- 6. Accept maternal transfers if indicated for care of a high-risk pregnancy regardless of the ability of the patient to pay for hospital services.

Section 15. NAC 442.440 is hereby amended to read as follows:

NAC 442.440 Level III *subspecialty care facilities* ~~[neonatal-units]~~: System required for education, consultation, referral and continuing care. (NRS 442.007, 449.037) A hospital

seeking designation as a Level III *subspecialty care facility* ~~[neonatal-unit]~~ must comply with the requirements set forth in NAC 442.430, as appropriate, and must develop and maintain a system which includes:

1. The education of personnel providing neonatal services in hospitals which make referrals to that Level III *subspecialty care facility* ~~[unit]~~;
2. A service by telephone for 24 hours per day for consultation and referral;
3. The education of personnel at all usual sources of referrals concerning the identification and stabilization of a neonate at a stage which is considered a high risk; and
4. A program for the continuing analysis of and care for each neonate.

Section 16. NAC 442.461 is hereby amended to read as follows:

NAC 442.461 Reporting requirements; provision of access for inspection. (NRS 442.007, 449.037) A *Level II specialty care facility or Level III subspecialty care facility* ~~[neonatal-unit]~~ shall:

1. Comply with the reporting requirements established by the division;
2. Provide access to its facilities and records for inspection by the division; and
3. Annually submit to the division reports concerning the birth weight, survival, transfer and incidence of certain conditions of neonates in a format approved by the division.

Section 17. NAC 442.471 is hereby amended to read as follows:

NAC 442.471 Periodic examination of sites and review of performance. (NRS 442.007, 449.037) The division shall conduct an examination on the site of each *facility* ~~[neonatal-unit]~~ designated at each level and review its performance at least once every 5 years.

Section 18. NAC 442.480 is hereby amended to read as follows:

NAC 442.480 Provision of new service for *Level II specialty or Level III subspecialty* ~~[intensive]~~ care of neonates: Requirements for approval by division; period of approval.

(NRS 442.007, 449.037)

1. A hospital may request the division's approval to provide a new service for the *Level II specialty care of neonates after it has operated as a Level I basic care facility for at least 6 months. A hospital may request the division's approval to provide a new service for the Level III subspecialty ~~[intensive]~~ care of neonates after it has operated as a Level II specialty care facility for at least 6 months.* The hospital may not provide a new service for the *Level II specialty care or Level III subspecialty ~~[intensive]~~ care of neonates* before it has received written approval for the service from the division.

2. The division shall send written notification to the hospital within **45 ~~[10]~~** working days after receiving the application. The notice must state:

- (a) Whether the application is complete; and
- (b) If the application is not complete, what is needed for completion.

3. The division shall not approve an application for the provision of a new service for the *Level II specialty care or Level III subspecialty ~~[intensive]~~ care of neonates* before it *receives verification of ~~[has verified from]~~* the findings of the site-inspection team that the hospital complies with the provisions of chapter 442 of NAC.

4. If a hospital has applied for a designation as a *Level II specialty care facility or Level III subspecialty care facility ~~[neonatal-unit]~~*, the site-inspection team must include:

- (a) A neonatologist;
- (b) An obstetrician;
- (c) A nurse manager of a Level III *subspecialty care facility ~~[neonatal-unit]~~*; and

(d) A health facilities *surveyor* ~~[physician]~~ who is employed by the division.

A hospital that has applied for permission from the division to provide a new service of *Level II specialty care or Level III subspecialty* ~~[intensive]~~ care for neonates may request the disqualification of any member of the site-inspection team if the member is not qualified to serve on the team or has a conflict of interest. If the hospital proves the grounds for disqualification, that member must be disqualified from serving on the team.

5. The review by the site-inspection team must include an inspection and appraisal of:

(a) The facilities and equipment for neonatal care;

(b) The services to be provided for neonatal care;

(c) The qualifications of the personnel providing neonatal care;

(d) The programs of training relating to neonatal medicine for physicians, nurses, respiratory therapists, nurses specializing in community health, advanced practitioners of nursing, physician assistants, specialists in the development of children, nutritionists and social workers within the area the hospital serves;

(e) The plan for employment of professional personnel and the organizational structure for providing neonatal care;

(f) The records and procedures for maintaining records used for providing neonatal services;

(g) The system for referrals to or from the program;

(h) The plan to provide continuing education of personnel providing neonatal services in hospitals which make referrals to the Level III *subspecialty care facility* ~~[neonatal unit]~~;

(i) The arrangements for transportation to and from the Level III *subspecialty care facility* ~~[neonatal unit]~~;

(j) The arrangements for educating all sources of referral in the identification and stabilization of any neonate who needs to be referred; and

(k) Any other documents and materials required by the division.

6. The costs of the inspection by the site-inspection team for *Level II specialty care facilities* and *Level III subspecialty care facilities* ~~[units]~~ must be paid by the hospital that was inspected. The division shall apply the application fee collected pursuant to subsection 3 of NAC 442.411 to the satisfaction, in whole or in part, of such costs.

7. The division shall notify the hospital of its decision concerning the application within 15 working days after the division receives the findings of the site-inspection team. An approval by the division is effective for 5 years.

Section 19. NAC 442.511 is hereby amended to read as follows:

NAC 442.511 Denial, revocation or suspension of right to provide care; appeals. (NRS 442.007, 449.037)

1. The division shall give a hospital written notice in the manner prescribed in chapter 439 of NAC before it:

(a) Denies an application of a hospital to provide *Level II specialty care or Level III subspecialty* ~~[intensive]~~ care for neonates;

(b) Revokes its approval of a hospital to provide *Level II specialty care or Level III subspecialty* ~~[intensive]~~ care for neonates; or

(c) Suspends its approval of a hospital to provide *Level II specialty care or Level III subspecialty* ~~[intensive]~~ care for neonates.

2. A hospital may appeal any decision made by the division pursuant to subsection 1 in the manner prescribed in NAC 439.190 to 439.395, inclusive.

Section 20. NAC 442.520 is hereby amended to read as follows:

NAC 442.520 Revocation of designation: Grounds. (NRS 442.007, 449.037) The division may revoke a hospital's designation as a *Level II specialty care facility or Level III subspecialty care facility* ~~[neonatal-unit]~~ for intensive care if the hospital:

1. Uses unlicensed beds in its *Level II specialty care facility or Level III subspecialty care facility* ~~[neonatal-unit]~~;
2. Fails to provide the services required for a *Level II specialty care facility or Level III subspecialty care facility* ~~[neonatal-unit]~~ at its designated level or provides care in excess of its designated level;
3. Fails to comply with the criteria and standards for a *facility* ~~[neonatal-unit]~~ at its designated level;
4. Maintains a policy for admission to the *Level II specialty care facility or Level III subspecialty care facility* ~~[neonatal-unit]~~ which discriminates on the basis of financial resources, race, color, religion or national origin;
5. Fails to correct the deficiencies specified by the division within the time set;
6. Fails to provide the required continuing analysis in accordance with the criteria set by the division;
7. Fails to provide systems for continuing care and consultation with the referral *facility* ~~[neonatal-unit]~~, if applicable; or
8. Holds itself out to the public as anything other than as designated by the division.

Miscellaneous Provisions

Section 21. NAC 442.540 is hereby amended to read as follows:

NAC 442.540 Acceptance of neonate without regard to ability of parents or guardian to pay. (NRS 442.007, 449.037) A *Level I basic care facility, Level II specialty care facility or Level III subspecialty care facility* ~~{neonatal-unit}~~ shall accept any neonate transported to or back to that *facility* ~~{unit}~~, as appropriate, without regard to the ability of the parents or guardian of the neonate to pay for the care to be provided to the neonate.

Section 22. NAC 442.550 is hereby amended to read as follows:

NAC 442.550 System of cooperation among facilities ~~{neonatal-units}~~; **records of problems and solutions.** (NRS 442.007, 449.037) A system of cooperation to ensure the quality of care provided must be established between a Level III *subspecialty care facility* ~~{neonatal-unit}~~ and *facilities* ~~{neonatal-units}~~ that refer neonates to it. Records must be kept by each *facility* ~~{unit}~~ of any problems and solutions discussed among the *facilities* ~~{units}~~ in order to maintain a minimum standard for the quality of the care provided. The records are part of the quality assurance program records of the hospital.

TEXT OF REPEALED SECTIONS

NAC 442.570 Reimbursement of neonatal units. (NRS 442.007, 449.037)

1. A hospital which has provided services for care of a neonate may not receive reimbursement from the program unless it has obtained, from the division, a written designation as a level II level III neonatal unit.
2. A level II neonatal unit must be reimbursed by the division for stabilizing and preparing a high risk or critically ill neonate for transport to a level III unit. Authorized transport from the unit must be reimbursed by the division if:
 - (a) The transportation is eligible for reimbursement under the program;
 - (b) The person transported meets the requirements for eligibility under the program; and
 - (c) The provider of the service has a memorandum of understanding with the program concerning such transportation.
3. A level III neonatal unit must be reimbursed by the division for direct services eligible under the program and provided within the nursery for infants born in that hospital. The provider of the service of initial, authorized transportation from the unit or transportation back to the unit must be reimbursed by the division for the costs of the transportation if:
 - (a) The transportation is eligible for reimbursement under the program;
 - (b) The person transported meets the requirements for eligibility under the program; and
 - (c) The provider of the service has a memorandum of understanding with the program concerning such transportation.
4. Reimbursement for services provided by a neonatal unit will be made at the lowest rate that equivalent services are available within the region where that unit is located.

LCB File No. R064-04

SMALL BUSINESS IMPACT STATEMENT

(Nevada Revised Statutes 233B.0608)

Proposed Amendment of Nevada Administrative Code (NAC) 442.250 to 442.570

Provision of Neonatal Care by Hospital

PROPOSED REVISIONS TO REGULATIONS for Provision of Neonatal Care by Hospital have been generated by the Bureau of Licensure and Certification (BLC).

Background:

The regulations for the provision of neonatal care by hospitals were first added to NAC upon adoption by the State Board of Health in 1985. They were last amended in 1992. The proposed amendments are needed to bring the regulations into compliance with current standards of practice. The amendments are as follows: 1) the addition of the definition of an advanced practitioner of nursing; 2) modification of the definition of Level I Basic Care Facility, Level III Specialty Care Facility and Level III Subspecialty Care Facility; 3) the addition of the requirements for support personnel in the Level II Specialty and Level III Subspecialty Care Facilities; 4) by reference, the adoption of the most recently published Guidelines for Design and Construction of Hospital and Healthcare Facilities, the National Fire Protection Association's Life Safety Code, and Guidelines for Perinatal Care (excluding the chapter concerning construction standards); 5) the addition and deletion of language to bring all three levels of care into compliance with current standards of practice ; 6) clarification that a specialty designation is not needed for a Level I basic care facility; 7) the repeal of NAC 442.570 Reimbursement of neonatal units; and 8) clarification of those neonates who may require referral to the Bureau of Early Intervention Services.

BLC has determined that the adoption of these regulations should not create an economic impact on licensed facilities because the facilities currently providing this service do not qualify as small business as defined in Nevada Revised Statutes (NRS) 233B as a "business conducted for profit which employs fewer than 150 full-time or part-time employees." This small business impact statement complies with the requirements of NRS 233B.0609.

1. A description of the manner in which comment was solicited from affected small businesses, a summary and an explanation of the manner in which other interested parties may obtain a copy of the summary.

Provider comments were solicited during the revision process by the Board of Maternal-Child Health and each licensed provider received a Small Business Impact Questionnaire.

Copies of the summaries of these questionnaires are available from the office of the Bureau of Licensure and Certification 4220 South Maryland Parkway, Building D, Suite 810, Las Vegas, Nevada 89119. (702) 486-6515.

2. The estimated economic effect of the proposed regulation on the small business which it is to regulate including without limitation both adverse and beneficial effects.

N/A. The facilities currently providing this service do not qualify as a small business as defined in Nevada Revised Statutes (NRS) 233B.

3. A description of the methods the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

N/A. The facilities currently providing this service do not qualify as a small business as defined in Nevada Revised Statutes (NRS) 233B.

4. The estimated cost to the agency for enforcement of proposed regulations.

There is no additional cost anticipated for the enforcement of the proposed changes to the regulations.

5. If the proposed 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.

There is no new or increased fee associated with the proposed regulations.

6. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

These regulations do not represent duplication on local or federal levels. The Nevada State BOH is responsible for generating regulations governing licensure of healthcare facilities pursuant to NRS 449.037(1). There is no equivalent responsibility on the local or federal level.

Summary of Responses:

There was only one response received from a provider who did not qualify as a small business as defined in Nevada Revised Statutes 233B.