

**LCB File No. R071-04**

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

**RESIDENTIAL FACILITIES FOR GROUPS**

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

**Section 1.** Chapter 449 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation. (Suggest sections 2—3 be added under the general provisions at 449.156 through 449.176 and sections 4 and 5 be added in the sections under the heading “special types of facilities” at 449.2754 - 449.2766 and described as residential facility which provides assisted living services)

**Section 2.** *“Discharge” means: The resident no longer resides at the residential facility, but did not transfer to another licensed facility for inpatient or residential care.*

**Section 3.** *“Transfer” means: The resident has been admitted to another licensed facility for inpatient or residential care. In the case of a hospital, the resident is transferred when the resident is accepted for care or observation on any unit, ward or department with the exception of the emergency department.*

**Section 4.** *“Living units” means:*

*(a) For a facility with less than 11 residents, the entire home.*

*(b) For a facility with 11 or more residents, individual accommodations within the facility.*

**Section 5. Residential facility which provides assisted living services: General requirements.**

*1. A residential facility which offers “assisted living services” must obtain an endorsement on its license authorizing it to operate as a residential facility which provides “assisted living services”. A residential facility which offers “assisted living services” must comply with this section and NAC 449.156 through 449.2749 inclusive and sections 449.2754 through 449.2766 for which the facility is also licensed.*

*2. A residential facility must not claim that it provides “assisted living services” unless:*

*(a) It obtains an endorsement pursuant to subsection 1.*

*(b) Before authorizing a person to move into the facility, the facility makes a full written disclosure to the person regarding what services of personalized care will be available to the person and the amount that will be charged for those services throughout the resident's stay at the facility.*

*(c) The residents of the facility reside in their own living units which:*

*(1) Contain toilet facilities and a sleeping area or bedroom; and*

*(2) In a facility with 11 or more residents, is shared with another occupant only upon consent of both occupants or the occupant’s representatives.*

*(d) The facility provides personalized care to the residents of the facility and the general approach to operating the facility incorporates these core principles:*

*(1) The facility is designed to create a residential environment that actively supports and promotes each resident's quality of life and right to privacy;*

*(2) The facility is committed to offering high-quality supportive services that are developed by the facility in collaboration with the resident to meet the resident's individual needs;*

*(3) The facility provides a variety of creative and innovative services that emphasize the particular needs of each individual resident and his personal choice of lifestyle;*

*(4) The operation of the facility and its interaction with its residents supports, to the maximum extent possible, each resident's need for autonomy and the right to make decisions regarding his own life;*

*(5) The operation of the facility is designed to foster a social climate that allows the resident to develop and maintain personal relationships with fellow residents and with persons in the general community;*

*(6) The facility is designed for and is operated in a manner which minimizes the need for its residents to move out of the facility as their respective physical and mental conditions change over time; and*

*(7) The facility is operated in such a manner as to foster a culture that provides a high-quality environment for the residents, their families, the staff, any volunteers and the community at large.*

*3. A residential facility that obtains an endorsement to provide assisted living services must provide services that will enable retention of residents within the standards described for certain health conditions at NAC 449.2712 through NAC 449.2734.*

**Sec. 6.** NAC 449.2756 is hereby amended to read as follows: (to be modified along with changes made in the Revised Proposed Regulation of The State Board of Health LCB File No. R073-03 dated October 24, 2003)

**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) *Staff that have direct contact with and provide care for persons with any form of dementia, including, without limitation, dementia caused by Alzheimer's disease have adequate training, including the following:*

(1) Within ~~[3 months]~~ *40 hours* after ~~[an employee is first employed]~~ *employment* at the facility, the employee successfully completes at least ~~[8]~~ *2* hours of training in providing care, including emergency care, to ~~[a resident who suffers]~~ *residents suffering* from Alzheimer's disease or related dementia and providing support for the members of the resident's family.

(2) *Within 3 months after employment at the facility, the employee successfully completes at least 8 hours of additional training in providing care to residents suffering from Alzheimer's disease or related dementia.*

(3) *Every year employees licensed or certified by an occupational board must receive as part of the facility's in-service training or continuing educational training, three hours of dementia-specific training.*

(4) *Every year all caregivers must receive three hours of dementia-specific training.*

(5) *Must have documentary evidence in their personnel file of the training outlined in paragraph (d) of subsection 1.*

(e) Knives, matches, firearms, tools 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.

## **LCB File No. R071-04**

### **SMALL BUSINESS IMPACT STATEMENT**

(Nevada Revised Statutes 233B.0608)

Proposed Amendment of Nevada Administrative Code (NAC), 449  
**Residential Facilities for Groups**

PROPOSED REVISIONS TO REGULATIONS for Residential Facilities for Groups have been generated by the Bureau of Licensure and Certification (BLC).

#### **Background:**

BLC licenses Residential Facilities for Groups as mandated by statutes (NRS 449.080). The regulations for residential facilities for groups were last revised 1/22/04. The 1/22/04 revisions were too far along in the process to make changes in accordance with new statutory requirements imposed during the 2003 legislative session. These latest proposed revisions accommodate certain statutory changes imposed by the 2003 legislature. The specific statutory changes can be traced back to Assembly Bill 326 (NRS 449.037(7)), requiring changes in regulations to add sections for an endorsement on a license to provide assisted living services and Assembly Bill 323 (NRS 449.0357), requiring continuing education for facility employees that are licensed or certified by an occupational licensing board and that provide care to persons with Alzheimer's disease. In addition, throughout the implementation of the regulations, certain requirements have been identified as requiring changes. The BLC has worked with representatives from the Assisted Living Advisory Council (ALAC), the American Association of Retired Persons (AARP), the Coalition of Assisted Residential Environments (CARE) and Medicaid to fashion language that will address the items in the statutes.

The proposed revisions will have a beneficial effect on the public. They clarify requirements and establish the regulatory framework to ensure that facilities meet minimum provisions to ensure the safety of Nevada's residents.

BLC has determined that the adoption of these regulations should not create an economic impact on licensed facilities because they do not establish any new fees and they do not require any significant operational changes. The regulations will not impose a burden upon small businesses and will not directly restrict the formation, operation, or expansion of a small business in Nevada. A small business is 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 have been solicited through ALAC from the beginning of the process to revise these regulations and workshops will be held. The 1999 legislature amended Nevada

Revised Statutes (NRS) Chapter 233B to require that state agencies assess the impact of regulation changes or development on small businesses. In keeping with this requirement, all currently active and pending Residential Facilities for Groups were provided a questionnaire (See attachment #A) to allow them to express their concerns over the economic impact of these proposed regulations on their businesses. Nevada currently has approximately 350 licensed residential facilities for groups. Almost all of these facilities meet the statutory definition of a small business, because the individual facilities employ less than 150 employees. All facilities were included and given the opportunity to express their concerns. 15 facilities responded to the questionnaire. All of the comments received were favorable.

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.**

The revisions should not have an economic effect on facilities.

**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.**

The BLC provided questionnaires as well as forums for providers to comment and reviewed the suggestions for changes that would lessen the economic impact. Wherever possible, in keeping with existing state laws, these changes have been made.

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

There will be no increased cost to BLC because regulations for residential facilities for groups are currently enforced by BLC and surveys are scheduled according to statutory mandates (NRS 449.230(3)).

**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 associated fee increase required by the adoption of the revisions.

**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 for this facility type pursuant to NRS 449.037(1) and there is no equivalent responsibility on the local or federal level.

## **Summary of Responses:**

Question 1: Will a specific regulation have an adverse economic effect upon your business?

Answers: 15 of 15 “NO”

Question 2: Will the regulation(s) have any beneficial effect upon your business?

Answers: 13 of 15 “YES”

Comments included: With regard to chapter 449 of NAC, we approve of the use of the words “discharge” and “transfer” to specifically denote the difference. The more precise the terminology, the better able we are to keep professional files and trace the history of our residents. We further appreciate the definition of “living units” in a fewer than 11 residential group home and “living units” in a larger accommodation. This also allows us to define our special group niche. With regard to NAC 449.2756, we agree that caregivers need to be trained as early as possible so they can provide proper care to our residents. We agree that emergency care 2 hour training within 40 hours of hire is appropriate. We agree that caregivers need the 8 hour training module soon after employment and the three month window allows us to give a probationary time to assess the qualities of the employee before we invest the costly training.

Question 3: Do you anticipate any indirect adverse effects upon your business?

Answers: 15 of 15 “NO”

Question 4: Do you anticipate any indirect beneficial effects upon your business?

Answers: 13 of 15 “YES”

Comments included: The indirect beneficial effect is upon our entire group home industry. The goal of our group home is to provide a safe, skilled and compassionate environment for those entrusted to our care. We feel that the changes and additions the Bureau has set forth serves to professionalize the group homes.