

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

LCB File No. R073-04

Effective August 4, 2004

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

AUTHORITY: §§1-7, NRS 449.037.

A REGULATION relating to facilities for the treatment of abuse of alcohol or drugs; adopting by reference certain construction and maintenance standards; requiring a facility for the treatment of abuse of alcohol or drugs to obtain approval of building plans for new construction or remodeling from the Health Division; requiring a facility for the treatment of abuse of alcohol or drugs to take certain actions concerning disasters; requiring the inspection, recharging and tagging of portable fire extinguishers at such facilities; authorizing the use of portable room-heating devices at such facilities under certain circumstances; requiring certain facilities for the treatment of abuse of alcohol or drugs to comply with the provisions of chapters 446 of NRS and NAC to obtain certain permits and to maintain certain reports concerning sanitation; and providing other matters properly relating thereto.

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

1. The State Board of Health hereby adopts by reference:

(a) 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 at 11 Tracy Drive, Avon, Massachusetts 02322, at the Internet address <http://www.nfpa.org>, or by telephone at 800.344.3555, for the price of \$55.80 for members or \$62 for nonmembers, plus \$7.95 for shipping and handling.

(b) NFPA 99: Standard for Health Care Facilities, 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 standard may be obtained from the National Fire Protection Association at 11 Tracy Drive, Avon, Massachusetts 02322, at the Internet address <<http://www.nfpa.org>>, or by telephone at 800.344.3555, for the price of \$41.63 for members or \$46.25 for nonmembers, plus \$7.95 for shipping and handling.

(c) Guidelines for Design and Construction of Hospital and Health Care 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 from the American Institute of Architects at the AIA Store, 1735 New York Avenue, NW, Washington, DC 20006-5292, at the Internet address <<http://www.aia.org>>, or by telephone at 800.242.3837, for the price of \$52.50 for members or \$75 for nonmembers, plus \$9 for shipping and handling.

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

Sec. 2. NAC 449.081 is hereby amended to read as follows:

449.081 1. Building plans for new construction or remodeling must be submitted to the entity designated to review such plans by the Health Division pursuant to the provisions of NAC 449.0115. *Before the construction or remodeling may begin, the plans for the construction or remodeling must be approved by the Health Division.*

2. The Health Division shall not approve the licensing of a facility until all construction has been completed and a survey is conducted at the site.

Sec. 3. NAC 449.098 is hereby amended to read as follows:

449.098 1. Each facility shall ~~[post]~~ *develop* a written plan for disasters which outlines procedures for members of the staff and clients to follow in case of fire or ~~[other emergencies and]~~ *another emergency and* which provides for meeting the needs of clients if the facility *must be evacuated or* is destroyed.

2. *A simple floor plan showing the routes for evacuating must be posted in prominent locations on each floor of each facility.*

3. *Each facility shall conduct a disaster drill at least annually, and a written record of each drill must be retained in the facility for not less than 12 months after the drill is conducted.*

4. *The facility shall notify the Bureau of the occurrence of a fire or disaster in the facility within 24 hours after the facility becomes aware of the fire or disaster.*

Sec. 4. NAC 449.108 is hereby amended to read as follows:

449.108 1. A residential program must:

(a) Be approved by the Health Division; and

(b) Meet the criteria specified in *the most recently published edition of the Patient*

Placement Criteria for the Treatment of Substance-Related Disorders, [2nd Edition Revised]

(ASAM PPC-2R), which is hereby adopted by reference ~~[H]~~, *unless the State Board of Health gives notice that the most recent revision is not suitable for this State pursuant to this paragraph.* A copy of the book may be purchased from *the American Society of Addiction Medicine at* ASAM Publications Distribution, P.O. Box 101, Annapolis Junction, ~~[MD]~~ *Maryland* 20701-0101, *at the Internet address* <<http://www.asam.org>>, *or by telephone at 800.844.8948*, for the price of \$70 for ASAM members or \$85 for nonmembers ~~[H]~~, *plus shipping and handling. The State Board of Health will review each revision of the Patient Placement Criteria for the Treatment of Substance-Related Disorders to ensure its suitability for this State. If the Board determines that a revision is not suitable for this State, the Board will hold a public hearing to review its determination within 6 months after the date of the publication of the revision and give notice of that hearing. If, after the hearing, the Board does not revise its determination, the Board will give notice within 30 days after the hearing that the revision is not suitable for this State. If the Board does not give such notice, the revision becomes part of the publication adopted by reference pursuant to this paragraph.*

2. At the time of admission into a residential program, there must be documentation indicating that the client has been informed of:
 - (a) The general nature and goal of the program;
 - (b) The rules governing client conduct and the infractions that can lead to disciplinary action or discharge from the program;
 - (c) The treatment costs, if any, to be borne by the client;
 - (d) The client's rights and responsibilities; and
 - (e) Confidentiality laws, rules and regulations.

3. The program must be periodically evaluated to ensure compliance with any applicable regulations adopted pursuant to subsection 4 of NRS 458.025.

4. The facility must provide access to medical, dental, psychological and rehabilitative services to meet the needs of all its clients, to the extent possible, with assistance from available community resources.

5. If a facility provides services through outside sources, written arrangements must be made assuring that the services are supplied directly by, or under the supervision of, qualified persons.

6. The facility must provide case management services as needed by the client either directly or by written agreement with a qualified social worker, a registered nurse or a counselor certified or licensed by the Board of Examiners for Alcohol and Drug Abuse Counselors.

7. A plan for case management services must be recorded in the client's record and must be periodically evaluated in conjunction with the client's treatment plan.

8. Each facility shall review the program at least annually. Areas reviewed must include, but need not be limited to, appropriateness of admissions, lengths of stay, discharge planning, use of services and utilization of the components of the program and outside services. Written reports of the reviews must be evaluated by the governing body, administrator and such committees as they designate. Documentation of the evaluation process must be maintained at the facility.

Sec. 5. NAC 449.129 is hereby amended to read as follows:

449.129 1. ~~[The State Board of Health hereby adopts by reference NFPA 101: Life Safety Code, in the form most recently published by the National Fire Protection Association, unless the Board determines that the most recent version is not suitable for this State pursuant to this subsection. A copy of the code may be obtained from the National Fire Protection Association,~~

~~11 Tracy Drive, Avon, Massachusetts 02322, for the price of \$45.50 for members of the National Fire Protection Association, or \$50.50 for nonmembers, plus \$6.95 for shipping and handling. The Board will hold a public hearing to review each revision of the code to ensure its suitability for the State. If the Board determines that the revision is not suitable for this State, the revision does not become part of the publication adopted by reference pursuant to this subsection and the version of the code that is currently in effect remains in effect.~~

~~—2.— Except as otherwise provided in this section, a facility shall comply with the provisions of NFPA 101: Life Safety Code, adopted by reference in subsection 1.]~~ A facility must be designed, constructed, equipped and maintained in a manner that protects the health and safety of the clients and personnel of the facility and members of the general public.

~~[3.]~~ 2. Each facility must comply with all currently adopted life safety, fire, Health Division, *local building* and zoning codes. If there is a difference between state and local codes, the more stringent standards apply.

~~[4.]~~ 3. Facilities housing 17 or more clients must meet the requirements of the chapter titled “Existing Hotel and Dormitories,” of the ~~[current]~~ edition of *NFPA 101: Life Safety Code*, adopted by reference pursuant to ~~[subsection 1.]~~ *section 1 of this regulation*. Those facilities housing not more than 16 clients must meet the requirements of the chapter titled “Lodging or Rooming Houses,” of the ~~[current]~~ edition of *NFPA 101: Life Safety Code*, adopted by reference pursuant to ~~[subsection 1.]~~

~~—5.— New or remodeled facilities must comply with all currently adopted building, electrical and plumbing codes.~~

~~—6.]~~ *section 1 of this regulation*.

4. A facility is deemed to be in compliance with the provisions of this section if:

(a) The facility is licensed by May 30, 2001, and:

(1) The use of the physical space in the facility is not changed; and

(2) There are no deficiencies in the construction of the facility that are likely to cause serious injury, harm or impairment to the health and welfare of the public; or

(b) Before May 30, 2001, the facility has submitted building plans to the entity designated to review such plans by the Health Division pursuant to the provisions of NAC 449.0115 and:

(1) The Health Division determines that the plans comply with standards for construction in effect before May 30, 2001;

(2) Construction of the facility is begun before February 1, 2002;

(3) The facility is constructed in accordance with those standards; and

(4) There are no deficiencies in the construction of the facility that are likely to cause serious injury, harm or impairment to the health and welfare of the public.

Sec. 6. NAC 449.135 is hereby amended to read as follows:

449.135 1. ~~{Devices for the detection of combustion other than heat detectors must be installed on the ceiling of each story, in front of doors to stairways, and at not more than 30 feet apart in the corridors of all floors, including the center. Smoke detectors must also be installed in the center of any lounge or recreational area. The detectors may be single station units with an integral alarm.~~

~~—2.}~~ Portable fire extinguishers must be installed throughout ~~{the}~~ *each* facility at the direction of the fire authority having jurisdiction.

~~{3.}~~ *Each portable fire extinguisher available at a facility must be inspected, recharged and tagged at least once each year by a person certified by the State Fire Marshal to conduct such inspections.*

2. Any facility with a kitchen range with an upper surface of more than 15 square feet must provide the range with an exhaust hood having an automatic fire protection system in accordance with the chapter titled “Standards for Ventilation Control and Fire Protection of Commercial Cooking Operations,” of the ~~current~~ edition of *NFPA 101: Life Safety Code*, adopted by reference ~~[in subsection]~~ *pursuant to section* 1 of ~~[NAC 449.129]~~.

~~—4.— Portable room heating devices are prohibited. Any heating device other than a central heating plant must be so designed and installed that combustible material will not be ignited by it or its appurtenance.~~

~~—5.] this regulation.~~

3. *A portable room-heating device may be used at a facility if the device:*

(a) Is located at least 2 feet from any combustible material;

(b) Is plugged directly into a wall socket;

(c) Turns off automatically if it is tipped over; and

(d) Has no exposed heating elements.

4. Receptacles or outlets serviced by extension cords are prohibited.

~~[6.]~~ 5. Rooms in which smoking is allowed by direction of the facility or the fire authority must be provided with plainly visible “Smoking Area” signs.

~~[7.]~~ 6. A facility must conduct fire drills at least monthly and a written record of each drill conducted must be retained in the facility ~~[.]~~ *for not less than 12 months after the drill is conducted.*

Sec. 7. NAC 449.147 is hereby amended to read as follows:

449.147 1. Facilities must serve at least three meals or their equivalent daily, at regular times, with not more than 14 hours between a substantial evening meal and breakfast. A second serving must be provided for those clients who desire one.

2. Menus must be planned and followed to meet the nutritional needs of the clients in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences.

3. Therapeutic menus must be planned by a registered dietitian or must be reviewed and approved by the client's attending or staff physician.

4. Menus must be in writing, planned in advance, dated and posted and kept on file for 90 days. Any substitution must be noted on the written menus so that the menu on file reflects what was actually served.

5. Adequate facilities and equipment for the preparation, serving, refrigeration and storage of food *in a sanitary manner* must be provided . ~~[and must comply with all applicable regulations of the Health Division set forth in chapter 446 of NAC.]~~

6. *A facility with more than 10 clients must:*

(a) Comply with all applicable provisions of chapter 446 of NRS and the regulations adopted pursuant thereto;

(b) Obtain the necessary permits from the Bureau of Health Protection Services of the Health Division;

(c) Maintain a report of each inspection concerning the sanitation of the facility for at least 1 year after the date of the inspection; and

(d) Maintain a report of each corrective action taken to address a deficiency noted in a report described in paragraph (c) for at least 1 year after the date of the corrective action.

7. Clients needing special equipment, implements or utensils to assist them while eating must have such items provided.

~~7.~~ 8. If a facility operates on the cottage plan, provision must be made for food service that assures hot, palatable meals.

~~8.~~ 9. A qualified person must be used as a consultant on planning meals and serving food. Consultation each month is required. A qualified person may be a person meeting the requirements for registration with the Commission on Dietetic Registration as either a registered dietitian or a registered dietetic technician.

~~9.~~ 10. All facilities that contract with food management companies must comply with the applicable regulations of the Health Division as provided in chapter 446 of NAC.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R073-04**

The Health Division of the Department of Human Resources adopted regulations assigned LCB File No. R073-04 which pertain to chapter 449 of the Nevada Administrative Code on June 25, 2004.

Notice date: 5/25/2004
Hearing date: 6/25/2004

Date of adoption by agency: 6/25/2004
Filing date: 8/4/2004

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 the Facilities for the Treatment of Abuse of Alcohol or Drugs on February 27, 2004. 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 March 29, 2004, in Las Vegas and on April 1, 2004, in Reno was published in the Las Vegas Review Journal and Reno Gazette Journal on March 10, 2004. Notices of public workshops, and proposed regulations were mailed to all county libraries in Nevada, Facilities for the Treatment of Abuse of Alcohol or Drugs, and interested parties on February 27, 2004. The small business impact summary was available at both workshops.

Larry Farr, City of Reno Fire Department, stated that he was overall pleased with the uniform codes for plan review.

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 May 25, 2004. Notices of public hearing, and proposed regulations were mailed to all county libraries in Nevada, Facilities for the Treatment of Abuse of Alcohol or Drugs, and interested parties on May 25, 2004. The notice of public hearing was mailed to the Clark County Health District and the Washoe County District Health Department on May 25, 2004.

Copies of the workshop minutes and Board of Health hearing minutes may be obtained by calling the Bureau of Licensure and Certification at (775) 687-4475.

2. THE NUMBER OF PERSONS WHO:

(A) ATTENDED THE HEARING;

Approximately 69 people attended the June 25, 2004, Board of Health hearing.

(B) TESTIFIED AT EACH HEARING; AND

No one in attendance testified on Facilities for the Treatment of Abuse of Alcohol or Drugs regulations.

(C) SUBMITTED TO THE AGENCY WRITTEN STATEMENTS.

No written statements were provided to the agency.

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 of 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.

No testimony was received in opposition to the proposed regulation or which suggested changes to the proposed regulation.

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

Anticipated effects on the business which NAC 449 regulates.

Adverse: The plan review will have an associated fee as determined by the entity conducting the review on behalf of the state.

Beneficial: Regulations addressing plan review and disaster planning will be more consistent throughout all facility types. Facilities for the Treatment of Alcohol and Drug Abuse, with 10 or fewer clients will not be required to have a commercial grade kitchen.

Anticipated effects on the public:

Adverse: None

Beneficial: The proposed regulations will require the majority of facilities to have a plan review ensuring a safe environment for the public.

(B) BOTH IMMEDIATE AND LONG TERM EFFECTS.

Anticipated effects on the business which NAC 449 regulates.

Immediate: None

Long-term: Regulations addressing plan review and disaster planning will be more consistent throughout all facility types. Facilities for the Treatment of Alcohol and Drug Abuse, with 10 or fewer clients will not be required to have a commercial grade kitchen.

Anticipated effects on the public:

Immediate: None

Long-term: The proposed regulations will require the majority of facilities to have a plan review thus ensuring a safe environment for the public.

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

There will be additional staff time to register plans for the facilities that will now be required to have a plan review. The plan review will have an associated fee as determined by the entity conducting the review on behalf of the state. No other fee increases are associated with the proposed regulations.

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.

The proposed regulations do not overlap or duplicate federal regulations. The regulations do not have a counterpart in the code of federal regulations.

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.

None.

SMALL BUSINESS IMPACT STATEMENT

Plan Review and Dietary Services

Background:

The purpose of the proposed revised regulations for plan review is to require a review of architectural plans for the majority of facility types.

The construction standards regulations were revised to adopt by reference the National Fire Protection Association's (NFPA) 101 Life Safety Code, and the NFPA 99 Health Facilities Standards and the American Institute of Architects Guidelines for Design and Construction of Hospitals and Health Care Facilities throughout all applicable facility types. The revisions included changing the "Uniform Building Code" to local building codes due to changes being made on a national level from the "Uniform Building Code" to the International Codes or the National Fire Protection 5000 codes. It is the intent of the Bureau of Licensure and Certification (BLC) to eliminate a conflict between the state requirements and the local requirements in the area of the building codes.

The regulations addressing the dietary personnel of hospitals were revised to allow the director of the dietetic services department to have professional qualifications in the area of professional chef, hotel-restaurant management, or is certified at minimum as a dietary manager and has additional work experience with medical-therapeutic diets.

The regulations addressing the requirement for a food establishment permit issued by the Bureau of Health Protection Services (BHPS), in Intermediate Care Facilities, Facilities for the Treatment of Alcohol and Drug Abuse, Modified Medical Detoxification Facilities were revised to require facilities with more than 10 clients/residents to have an inspection and permit.

Interested individuals can obtain a copy of the information packet, including the Small Business Impact Questionnaire, sent to all licensed facilities, from Shirley Rains, Administrative Assistant III, Bureau of Licensure and Certification, 1550 East College Parkway, Suite 158, Carson City, Nevada 89703

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

Pursuant to NRS 233B.0608 (2) (a), the BLC has requested input from operators of the following facility types:

- Obstetric Care
- Facilities for the Treatment of drug and Alcohol Abuse
- Facilities for Treatment of Irreversible Renal Disease
- Hospitals
- Independent Centers for Emergency Medical Care

Mobile Units
 Facilities for Modified Medical Detoxification
 Facilities for the Care of Adults During the Day
 Surgical Centers for Ambulatory Patients
 Intermediate Care Facilities

A Small Business Impact Statement Questionnaire was sent to the facilities in the table above along with written correspondence detailing the proposed amendments, including a copy of the proposed regulations, on February 27, 2004. The questions on the questionnaire were:

- 2) Will a specific regulation have an adverse economic effect upon your business?
- 3) Will the regulation(s) have any beneficial effect upon your business?
- 4) Do you anticipate any indirect adverse effects upon your business?
- 5) Do you anticipate any indirect beneficial effects upon your business?

Facility Type	Number of Responses
Ambulatory Surgery Center	3
Hospital	4
End Stage Renal Dialysis Center	1

Saint Rose Dominican Hospitals responded by indicating the regulations will have an adverse economic effect upon our business. A comment was included that stated they feel plan review should be conducted early in the process for identification of any potential oversight in the specifications before the licensing inspection is conducted.

This respondent states that NAC 449.3156(1) (d) should read ...the use of the physical space has not changed in such a way to not comply with the Guidelines for Design and Construction of Hospitals and Health Care Facilities or cause serious injury, serious harm or impairment to public health and welfare.

Additionally, this respondent stated that the regulations at NAC 449.3385(2) will have a beneficial effect upon the hospital because the changes in the regulation will make this position much easier to fill, and still contains the clinical dietetic advantages.

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 and both direct and indirect effects.

There will be an added economic effect to those facilities previously not required to submit architectural plans for review, however, the benefit in identifying potential non-compliance at a point where changes must be made to plans, rather than a constructed building, balance the costs of the plan review.

The proposed revisions to the dietary personnel requirements will not have additional economic effect on a facility.

The regulations revising the requirement for facilities with more than 10 clients/residents to have an inspection and permit issued by the Bureau of Health Protection Services (BHPS), in Intermediate Care Facilities, Facilities for the Treatment of Alcohol and Drug Abuse, Modified Medical Detoxification Facilities provides a cost saving in these facilities not being required to purchase commercial grade kitchen equipment to obtain a food establishment permit in a facility with less than 10 clients.

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

The BLC considered the impact of facilities in certain counties with populations over 50,000 of the potential of having multiple building codes adopted. The BLC revised the construction standards regarding building codes to eliminate duplicity and possible contradictory requirements.

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

The estimated cost to the agency for enforcement of the proposed amendments to NAC 449.016 and 449.0168 is negligible.

5. Total amount BLC expects to collect from any fees and the manner in which the money will be used.

The revisions to the plan review and dietary services regulations will not increase licensing fees.

6. An explanation of why any duplicative or more stringent provisions than federal, state or local standards regulating the same activity are necessary.

No duplication or more stringent provision are either created or already in existence.