

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

LCB File No. R076-04

Effective August 5, 2004

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

AUTHORITY: §1, NRS 449.037; §§2 and 3, NRS 439.150 and 449.037.

A REGULATION relating to mobile units; adopting by reference certain construction and maintenance standards; requiring the parent facility or independent facility that applies for or is issued a license to operate a mobile unit to submit building plans for the new construction or certain remodeling of the mobile unit to the entity designated by the Health Division of the Department of Human Resources and to obtain approval of the plans from the Health Division; requiring such facilities to pay certain costs relating to the review of such plans; 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 449.0115 is hereby amended to read as follows:

449.0115 1. An applicant for a license or the renewal of a license to operate a medical facility, facility for the dependent or program of hospice care who wishes or is required pursuant

to NAC 449.15359 , ~~or~~ 449.4063 *or 449.97026* to have building plans for new construction or remodeling reviewed by the Health Division must:

(a) Submit to the Health Division or have on file a current application for a license or renewal of a license;

(b) Pay to the Health Division any fees required for the issuance or renewal of a license pursuant to NAC 449.013 or 449.016; and

(c) Submit two complete sets of building plans for new construction or remodeling prepared by a registered architect, registered residential designer or licensed general contractor to the entity designated to review such plans by the Health Division.

2. All costs incurred for the review of building plans and any changes or revisions made to the plans must be borne by the applicant and paid directly to the designee of the Health Division conducting the review of the plans.

3. The costs required to be paid pursuant to subsection 2 are not refundable and are in addition to the fees charged for the issuance or renewal of the license pursuant to NAC 449.013 or 449.016.

Sec. 3. NAC 449.97026 is hereby amended to read as follows:

449.97026 1. Except as otherwise provided in subsection ~~3.1~~ 5, a parent facility or independent facility which is issued a license to operate a mobile unit shall ensure that the mobile unit complies with the provisions entitled “Mobile, Transportable and Relocatable Units” set forth in section 12 of the *Guidelines for Design and Construction of Hospital and Health Care Facilities*, ~~[2001 edition, and any subsequent edition issued by the American Institute of Architects which the State Board of Health approves for use in this State and which is hereby adopted by reference. Each new edition that includes the provisions of that section shall be~~

~~deemed approved by the State Board of Health unless the State Board of Health disapproves the edition within 60 days after the date of publication by the American Institute of Architects. The State Board of Health will review each edition issued after the 2001 edition to ensure its suitability for this State. A copy of the most recent edition may be obtained from the American Institute of Architects, 1735 New York Avenue, N.W., Washington, D.C. 20006, for the price of \$75, plus \$6 for shipping and handling.~~

~~—2.— Before the Health Division issues a license to operate a mobile unit, the] *adopted by reference pursuant to section 1 of this regulation.*~~

2. Except as otherwise provided in subsection 4, before any new construction of a mobile unit or any remodeling of an existing mobile unit is begun:

*(a) The parent facility or independent facility that applies for the license **to operate the mobile unit or that has been issued the license to operate the mobile unit** must submit ~~to the Bureau~~ a copy of the building plans for the ~~mobile unit. As soon as practicable after receiving the plans, the Bureau shall review the plans in accordance with~~ **new construction or remodeling to the entity designated to review such plans by the Health Division pursuant to the provisions of NAC 449.0115 [1]; and***

(b) The building plans must be approved by the Health Division.

*3. The **building plans submitted for review and approval as required pursuant to subsection 2** must be drawn to scale and include a statement indicating:*

- (a) The services and procedures that will be provided at the mobile unit; and*
- (b) Each staging area designated by the parent facility or independent facility for the mobile unit.*

~~3.1~~ 4. *A parent facility or independent facility is not required to submit plans for remodeling to the entity designated to review such plans by the Health Division pursuant to the provisions of NAC 449.0115 if the remodeling is limited to refurbishing an area within a mobile unit, including, without limitation, painting the area, replacing the flooring in the area, repairing the windows in the area, and replacing window or wall coverings in the area.*

5. A parent facility or independent facility which is issued a license to operate a mobile facility shall ensure that the mobile unit for which the license is issued:

(a) Complies with any applicable zoning regulation for each staging area designated for the mobile unit;

(b) Is of sufficient size and is arranged in a manner that is appropriate to provide the services for which the mobile unit is licensed;

(c) Is furnished with the appropriate equipment to provide for the comfort and safety of each patient who receives services at the mobile unit;

(d) Is maintained in good repair and in a clean and sanitary manner; and

(e) During any period in which the operator of the mobile unit provides services at the mobile unit:

(1) Is located and illuminated in such a manner that each patient who receives services at the mobile unit may safely and comfortably enter and exit the mobile unit; and

(2) Complies with any applicable statute, ordinance or regulation relating to the parking of the mobile unit.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R076-04**

The Health Division of the Department of Human Resources adopted regulations assigned LCB File No. R076-04 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: 8/5/2004

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 Mobile Units 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, Mobile Units 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, Mobile Units 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 Mobile Units 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.

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.

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.