

LCB File No. R077-04

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

SURGICAL CENTERS FOR AMBULATORY PATIENTS

General Provisions

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

The following sections **have not** been revised or modified:

NAC 449.971, 449.9715, 449.972, 449.9725, 449.973, 449.9735, 449.974, 449.9741, 449.9742, 449.9745, 449.9755, 449.978, 449.9785, 449.979, 449.9795, 449.980, 449.9801, 449.9805, 449.981, 449.9812, 449.9813, 449.9815, 449.982, 449.983, 449.9835, 449.9837, 449.9855, 449.9865, 449.988, 449.9885, 449.989, 449.9895, 449.990, 449.9902, 449.9905, 449.991, 449.992, 449.9925, 449.993, 449.9937, 449.994, 449.9945, 449.9955, 449.996, 449.9965, 449.997.

Section 1 NAC 449.9743 is hereby amended to read as follows:

NAC 449.9743 “Surgery” defined. (NRS 449.037) “Surgery” means the treatment of a human being by a physician using one or more of the following procedures:

1. Cutting into any part of the body using a scalpel, electrocautery or any other means for diagnosis or the removal or repair of diseased or damaged tissue, organs, tumors or foreign bodies.
2. The reduction of a fracture or the dislocation of a bone, joint or bony structure.
3. The repair of a malformation of the body resulting from an injury, a birth defect or another cause, that requires cutting and manipulation or a suture.
4. An instrumentation of the uterine cavity of a woman for diagnostic or therapeutic purposes, including the procedure commonly known as dilation and curettage.
5. Any instrumentation of, or injection of a substance into, the uterine cavity of a woman to terminate a pregnancy.

6. Any procedure to sterilize a human being.
7. An endoscopic procedure.
8. A laproscopic procedure.
9. *Treatment for pain by means of injection.*

Section 2 NAC 449.9843 is hereby amended to read as follows:

NAC 449.9843 Compliance with standards of construction. (NRS 449.037)

1. ~~{Except as otherwise provided in this section:}~~

~~{(a)}~~ An ambulatory surgical center ~~{shall}~~**must** comply with the provisions of the *NFPA 101: Life Safety Code and NFPA 99, as* adopted ~~{by reference}~~ pursuant to ~~{NAC 449.9841}~~ **General Requirements for Licensure Section 1.**

~~{(b)}~~**2.** Any *new* construction, ~~{or}~~ remodeling **or change in use** of an ambulatory surgical center must comply with adopted by reference pursuant to General Requirements for Licensure Section 1~~{,}~~,

~~{(1) Except for section 1.2 of the introduction to the guidelines governing renovations;~~
~~—(2) {U}unless the remodeling is limited to refurbishing an area within the center, including, without limitation, painting the area, replacing flooring, repairing windows, or replacing window or wall coverings; and~~

~~{(3) Except for those provisions of the guidelines related to rooms for the use of lasers.~~
~~—(c) Any construction or remodeling of a room for the use of lasers in an ambulatory surgical center must comply with the provisions of Standard 9.5F2 of the American Institute of Architects, adopted by reference pursuant to NAC 449.9841.}~~

~~[2.]~~ 3. An ambulatory surgical center shall be deemed to be in compliance with ~~the provisions of subsection 1]~~ *NAC 449.983(2) and the Guidelines for Design and Construction of Hospital and Healthcare Facilities*, if:

(a) The center is licensed on February 1, 1999, the use of the physical space in the center is not changed and there are no deficiencies in the construction of the center that are likely to cause serious injury, harm or impairment to the public health and welfare; or

(b) The center has submitted building plans to the bureau before February 1, 1999 and:

(1) The bureau determines that the plans comply with standards for construction in effect before December 11, 1998;

(2) The center is constructed in accordance with those standards;

(3) Construction of the center is begun before August 1, 1999 and

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

~~[3]~~ 4. An ambulatory surgical center shall comply with all applicable:

(a) Federal and state laws;

(b) Local ordinances, including, without limitation, zoning ordinances; and

(c) Life safety, environmental, health, building and fire codes.

If there is a difference between state and local requirements, the more stringent requirements apply.

~~[4]~~ 5. An ambulatory surgical center ~~[may]~~ **must** submit building plans for new construction or remodeling to the ~~[bureau]~~ *entity designated to review such plans by the health division* pursuant to NAC 449.~~[0165]~~ **0115**. The ~~[bureau's]~~ *entity's* review of those plans is advisory only and does not constitute approval for the licensing of the center. The bureau shall not approve a

center for licensure until all construction is completed and a survey is conducted at the site of the center.

Section 3 NAC 449.9935 is hereby amended to read as follows:

NAC 449.9935 Operating and recovery rooms. (NRS 449.037)

1. The operating and recovery rooms of an ambulatory surgical center must be used exclusively for surgical procedures.

2. Except as provided in subsection 3, surgical procedures as defined in NAC 449.9743, shall be conducted in a Class A, B or C operating room as specified in chapter 9 of the Guidelines for Design and Construction of Hospitals and Health Care Facilities as adopted pursuant to General Requirements for Licensure Section 1.

3. If a facility is licensed to perform only endoscopic procedures, such procedures may be conducted in a procedure room as described in chapter 9 of the Guidelines for Design and Construction of Hospitals and Health Care Facilities for Endoscopy Suites as adopted pursuant to General Requirements for Licensure Section 1.

~~2~~4. A registered nurse experienced in surgical procedures shall supervise the operating room.

~~3~~5. Only a registered nurse may function as the circulating nurse in the operating room.

~~4~~6. The operating room must be equipped with:

(a) A system for making emergency calls;

(b) Oxygen;

(c) Mechanical ventilatory assistance equipment, including, without limitation, a manual breathing bag and a ventilator;

- (d) Cardiac monitoring equipment;
- (e) Laryngoscopes and endotracheal tubes; and
- (f) Suction equipment.

~~§~~7. If the operating team consists of persons who are not physicians, such as a dentist, a podiatrist or a nurse, a physician must be on the premises and immediately available in case of an emergency. As used in this subsection, “immediately available” means the physician is sufficiently free from other duties to be able to respond rapidly to the emergency.

TEXT OF REPEALED SECTIONS

NAC 449.9825 Emergency electrical power. (NRS 449.037)

The administrator shall ensure that the center has adequate emergency electrical power in accordance with NFPA 99: Standard for Health Care Facilities, adopted by reference pursuant to NAC 449.9841.

NAC 449.9841 Adoption by reference of standards for construction. (NRS 449.037)

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, 11 Tracy Drive, Avon, Massachusetts 02322, or by telephone at (800) 344-3555, for the price of \$45.50 for members or \$50.50 for nonmembers, plus \$6.95 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, 11 Tracy Drive, Avon, Massachusetts 02322, or by telephone at (800) 344-3555, for the price of \$33.50 for members or \$37.25 for nonmembers, plus \$5.95 for shipping and handling.

(c) *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 from the AIA Rizzoli Bookstore, 1735 New York Avenue, N.W., Washington, D.C. 20006, or by telephone at (888) 272-4115, for the price of \$60, plus \$5 for shipping and handling.

(d) “Standard 9.5F2,” governing the construction of rooms for the use of lasers, 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 standard may be obtained from the AIA Rizzoli Bookstore, 1735 New York Avenue, N.W., Washington, D.C. 20006, or by telephone at (888) 272-4115, for the price of \$60, plus \$5 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.

LCB File No. R077-04

SMALL BUSINESS IMPACT STATEMENT

(Nevada Revised Statutes 233B.0608)

Proposed Amendment of Nevada Administrative Code (NAC)

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.