

LCB File No. R122-05

**PROPOSED REGULATION OF THE
STATE BOARD OF HEALTH**

GENERAL REQUIREMENTS FOR LICENSURE

These amendments were brought before the public during workshops held on April 28, 2005 in Las Vegas and on April 29, 2005 in Reno. It is planned that these regulation amendments will go before the State Board of Health for adoption during the October 14, 2005 meeting.

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

The following sections have not been revised or modified:

NAC 449.011, 449.0112, 449.01153, 449.01156, 449.0116, 449.0118, and 449.0119.

Section 1. Chapter 449 of NAC is hereby amended by adding thereto the provisions set forth in sections 2 to 4, inclusive, of this regulation.

Section 2.

The severity of a violation shall be determined in accordance with NAC 449.99861. The scope of a violation shall be determined in accordance with NAC 449.9986. The severity and scope score shall be determined in accordance with NAC 449.99839. As a result of any survey conducted at a residential facility for groups by a representative of the bureau, the bureau shall total the sum of the severity and scope scores of all deficiencies cited. The facility will be assigned a letter grade as follows based on the sum of the severity and scope scores:

<i>Total Sum of Severity and Scope Scores</i>	<i>Assigned Grade</i>
<i>0 – 15</i>	<i>A</i>
<i>16 – 24 or any deficiency cited with a severity level of 3 and a scope level of 3</i>	<i>B</i>
<i>25 – 34 or any deficiency with a severity level of 4 and a scope level of 1</i>	<i>C</i>
<i>35 or more or any deficiency with a severity level of 4 and a scope level of 2 or more</i>	<i>D</i>

Section 3.

1. Immediately upon receipt of the placard issued to a residential facility for groups by the bureau indicating the grade assigned in accordance with Section 2, the administrator of a residential facility for groups shall ensure that the placard is posted in a conspicuous, public area in the facility.

2. Failure to immediately post the placard as required will result in a deficiency with a severity and scope score equivalent to the severity and scope score of the deficiency cited in the previous survey having the highest combined score.

Section 4

1. Within thirty days following receipt of the placard issued to a residential facility for groups by the bureau with an assigned grade of “B”, the facility may submit an application for resurvey. The fee for a resurvey application, is as indicated in section 2 of the amended provisions of Chapter 449 of NAC, Fees and must be paid upon submission of the application.

2. Within thirty days following receipt of the placard issued to a residential facility for groups by the bureau with an assigned grade of a “C” or “D”, the facility must submit an application for resurvey. The fee for a resurvey application, is as indicated in section 2 of the amended provisions of Chapter 449, Fees and must be paid upon submission of the application.

3. Failure of a residential facility for groups that receives a placard issued by the bureau with an assigned grade of “C” or “D” to submit a resurvey application and fee within thirty days is cause for revocation of the license.

Section 5. NAC 449.0114 is hereby amended to read as follows:

NAC 449.0114 Display of license; compliance with law; notice of transfer of real property or change in administrator, ownership, location or services. ([NRS 449.037](#))

1. Upon receipt of a license, the licensee shall display the license at a conspicuous location within the facility.

2. During the term of the license, the licensee shall continuously maintain the facility in conformance with the provisions of this chapter and chapter 449 of NRS.

3. If there is a transfer of the real property on which the facility is located, but no change in the operator of the facility, the licensee shall, within 10 days, notify the Health Division of the transfer in writing and provide the Health Division with a copy of any lease agreement relating to the transfer.

4. If there is a change in the administrator of the facility, the licensee shall notify the Health Division of the change within 10 days. The notification must provide evidence that the new administrator is currently licensed pursuant to chapter 654 of NRS and the regulations adopted pursuant thereto.

5. A licensee shall notify the Health Division immediately of any change in the ownership of, the location of, or the services provided at, the facility.

6. A licensee who, fails to file a change of administrator application within 10 days after the previous administrator is relieved or has relinquished responsibility for the facility must pay:

(a) The fee required for filing a change of the administrator of the facility, program or agency application pursuant to NAC 449.0168; and

(b) An additional charge equal to one-half the amount of the fee required for filing a change of the administrator of the facility, program or agency application.

Section 6. NAC 449.0115 is hereby amended to read as follows:

NAC 449.0115 Review of building plans for new construction or remodeling by certain applicants: Required documents; payment of fees and costs. (NRS 439.150, 439.200, 449.037)

1. An applicant for a license or the renewal of a license to operate a medical facility~~[,] or~~ facility for the dependent ~~[or program of hospice care]~~ who wishes or is required ~~[pursuant to NAC 449.15359, 449.4063, 449.6114, 449.6135, 449.74543 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.

SMALL BUSINESS IMPACT STATEMENT
Proposed Amendment of Nevada Administrative Code (NAC)

GENERAL REQUIREMENTS FOR LICENSURE

Background:

The purpose of the proposed revised regulations for residential facilities is to add sections for the assignment of a “grade” by the bureau to each residential facility following a survey. Grades “A”, “B”, “C” or “D” will be assigned in accordance with the facility’s level of compliance with the regulations. The proposed language at NAC 449.0114 will require licensees that file delinquent applications for a change of administrator to pay an increased fee. The proposed changes at NAC 449.0115 will ensure an applicant for a license or the renewal of a license who wishes or is required to have building plans reviewed for new construction or remodeling to submit the plans as required.

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 IV, 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 all facilities.

A Small Business Impact Questionnaire was sent to the facilities along with written correspondence detailing the proposed amendments, including a copy of the proposed regulation changes, on { date }. 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?

The specific responses to these questions may be found in the attached document titled: “Small Business Impact Questionnaire Summary – General Requirements for Licensure”. Below is a table indicating the number of responses.

Total Number of Responses:	57	
Q2- # having Direct Adverse Effect:	14	Economic Effect
Q3- # having Direct Beneficial Effect:	13	General Effect
Q4- # having Indirect Adverse Effect:	9	General Effect
Q5- # having Indirect Beneficial Effect:	15	General Effect

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

There will be an economic effect to those residential facilities that only achieve a grade of “C” or “D”, however, these poorly performing facilities will be responsible for paying the cost for workload required to conduct re-surveys which will eventually decrease the burden for those facilities that attain higher standards. In the past the entire workload was distributed evenly among all facilities.

There will only be a minimal economic effect to facilities concerning the increased fees for filing a delinquent change of administrator application. This cost is minimized by the ability of facilities to file within the 10 day window allowed and pay only the standard fee for the administrator change application.

There will be an 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 can be made to plans, rather than a constructed building, balance the costs of the plan review.

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 conducted a pilot test of the grading system to determine where grade delineations should be set in order to ensure that residential facilities with minimal to moderate deficiencies would not be impacted by fees for re-survey. Based on interpretation of the results from the pilot surveys, the grade delineations were set at levels that should render the following results, >50% of facilities should score an “A” grade, approximately 25% of the facilities should score a “B” grade and the remaining <25% should score “C” or “D” grades and would require a fee for re-survey.

Facilities have the ability to minimize the impact of increased change of administrator fees, by filing within a 10 day window.

In order to minimize the economic effect of plan review fees on small businesses, The BLC considered the consequences of non-compliant construction vs. the cost of plan review.

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 is negligible, since the fees collected should pay for the anticipated additional workload.

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

The revisions to the general requirements for licensure will only generate new revenue for BLC when an applicant is delinquent in filing for a change of administrator. Other fees to be collected for re-surveys of poorly performing residential facilities total approximately \$34,000 and should only serve to offset the cost of the additional workload. Fees paid for the plan review process go directly to the contractor who conducts the reviews (P & D Consultants).

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.