

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

**LCB File No. R123-05**

Effective November 17, 2005

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

AUTHORITY: §1, NRS 439.150, 449.0305, 449.037, 449.050.

A REGULATION relating to medical facilities; requiring an agency to provide nursing in the home to obtain a new license from the Health Division of the Department of Health and Human Services if there is a change in any of the services the agency provides; and providing other matters properly relating thereto.

**Section 1.** NAC 449.0168 is hereby amended to read as follows:

449.0168 1. Except as otherwise provided in subsection 2, a holder of a license to operate a medical facility, facility for the dependent, program of hospice care or referral agency who wishes or is required pursuant to NAC 449.190, 449.307, 449.7473 or 449.758 to modify his license to reflect:

- (a) A change in the name of the facility, program or agency;
- (b) A change of the administrator of the facility, program or agency;
- (c) A change in the number of beds in the facility;
- (d) A change in the type of facility licensed or the addition of another type of facility to be licensed;
- (e) A change in the category of residents who may reside at the facility; ~~or~~
- (f) A change in the designation of a staging area for a mobile unit or, if the mobile unit is operated by an independent facility, a change in the address of the independent facility ~~or~~; *or*

*(g) A change in any of the services provided by an agency to provide nursing in the home,*

↳ must submit an application for a new license to the Health Division and pay to the Health Division a fee of \$250.

2. An applicant who applies for a license pursuant to paragraph (c) of subsection 1 because of an increase in the number of beds in the facility must pay to the Health Division:

(a) A fee of \$250; and

(b) A fee for each additional bed as follows:

- (1) If the facility is an intermediate care facility for the mentally retarded or persons with developmental disabilities ..... \$184
- (2) Except as otherwise provided in subparagraph (3), if the facility is a residential facility for groups ..... 184
- (3) If the facility is a residential facility for groups and the fee for each bed in the facility is paid entirely with money from sources described in subsection 3 of NAC 449.016 ..... 100
- (4) If the facility is a facility for the treatment of abuse of alcohol or drugs ..... 184
- (5) If the facility is a facility for hospice care ..... 184
- (6) If the facility is a home for individual residential care ..... 184
- (7) If the facility is a facility for modified medical detoxification..... 184
- (8) If the facility is a hospital ..... 80
- (9) If the facility is a rural hospital..... 80
- (10) If the facility is a skilled nursing facility ..... 60
- (11) If the facility is an intermediate care facility, other than an intermediate care facility for the mentally retarded or persons with developmental disabilities ..... 90

3. If the address of the home office of a home health agency has not changed, a holder of a license to operate a subunit agency or branch office of the home health agency who wishes or is required pursuant to NAC 449.758 to modify his license to reflect a change in the address of the subunit agency or branch office of the home health agency must:

- (a) Submit an application for a new license to the Health Division; and
- (b) Pay to the Health Division a fee of \$250.

4. A fee paid pursuant to this section is nonrefundable.

5. As used in this section:

(a) “Administrator” means the person who is responsible for the daily management of a medical facility, facility for the dependent or program of hospice care.

(b) “Independent facility” has the meaning ascribed to it in NAC 449.9701.

(c) “Staging area” has the meaning ascribed to it in NAC 449.97018.

**NOTICE OF ADOPTION OF PROPOSED REGULATION  
LCB File No. R123-05**

The State Board of Health adopted regulations assigned LCB File No. R123-05 which pertain to chapter 449 of the Nevada Administrative Code on October 14, 2005.

**Notice date:** 9/14/2005  
**Hearing date:** 10/14/2005

**Date of adoption by agency:** 10/14/2005  
**Filing date:** 11/17/2005

**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.**

In the beginning when the draft regulations were mailed out for regulations workshops the proposed amendments included amendments for Residential Facilities for Groups. The Residential Facilities for Groups amendments have been included in LCB File No. 122-05.

A Small Business Impact Questionnaire was mailed to the Residential Facilities for Groups, Residential Facilities for Groups/Alzheimer's and Home Health Agencies on April 5, 2005. 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 April 28, 2005, in Las Vegas and on April 29, 2005, in Reno was published in the Las Vegas Review Journal and Reno Gazette Journal on April 11, 2005. Notices of public workshops, and proposed regulations were mailed to all county libraries in Nevada, Residential Facilities for Groups, Residential Facilities for Groups/Alzheimer's, Home Health Agencies and interested parties on April 5, 2005. The Small Business Impact Summary was available at both workshops.

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 or before September 14, 2005. Notices of public hearing, and proposed regulations were mailed to all county libraries in Nevada, Residential Facilities for Groups, Residential Facilities for Groups/Alzheimer's, Home Health Agencies, and interested parties on September 8, 2005. The notice of public hearing was mailed to Clark County Health District, and Washoe County District Health Department on September 8, 2005.

The Legislative Council Bureau (LCB) had not completed the review of the proposed regulations until September 28, 2005. The LCB version was mailed out to the above mentioned parties on or before October 3, 2005.

No individuals commented during the workshops.

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 62 people attended the October 14, 2005, Board of Health hearing.

**(B) TESTIFIED AT EACH HEARING; AND**

No individuals testified at hearing.

**(C) SUBMITTED TO THE AGENCY WRITTEN STATEMENTS.**

No written statements were submitted 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: Home Health Agencies changing services will be required to pay the same fee as other facilities when making changes to their license.

Beneficial: None

Anticipated effects on the public:  
Adverse: None  
Beneficial: Increased regulatory compliance.

**(B) BOTH IMMEDIATE AND LONG TERM EFFECTS.**

Anticipated effects on the business which NAC 449 regulates.  
Immediate: None  
Long-term: Increased regulatory compliance.

Anticipated effects on the public:  
Immediate: None  
Long-term: Increased regulatory compliance.

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

There is no anticipated additional cost to the agency for enforcement of the proposed regulation changes.

**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.**

These 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.**

These amendments do establish fees for Home Health Agencies making changes to the services indicated on their license.

**SMALL BUSINESS IMPACT STATEMENT**  
(Nevada Revised Statutes 233B.0608)

**FEES**

**Background:**

The purpose of the proposed revised regulations for fees is to establish fees for resurvey of residential facilities for groups receiving a grade of “C” or “D”. The language at NAC 449.0168(1)(g) is being added in order to charge home health agencies the standard \$250 fee that is charged to other facilities when making changes to licenses.

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 Residential Facilities for Groups and Home Health Agencies.

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 April 5, 2005. The questions on the questionnaire were:

- 1) How many employees are currently employed by your business?
- 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 – Fees”. Below is a table indicating the number of responses.

Total Number of Responses:	26	
Q2- # having Direct Adverse Effect:	12	Economic Effect
Q3- # having Direct Beneficial Effect:	7	General Effect
Q4- # having Indirect Adverse Effect:	8	General Effect
Q5- # having Indirect Beneficial Effect:	5	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 home health agencies concerning fees to be charged for changes to services offered on a license. This fee will only affect those agencies that make such a change and this fee is based on the cost associated with processing the application and issuing the new license and is in accordance with that which is charged to other facility types for similar changes.

**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.

Only Home Health Agencies making changes to the services indicated on their license will be required to pay the new fee.

**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.

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

The revisions requiring fees to be collected for re-survey of residential facilities scoring a “C” or “D” will allow the BLC to collect approximately \$34,000. (based on 25% of 270 total facilities or 68 times \$500 = \$34,000)

The revisions requiring a fee to be collected whenever a Home Health Agency changes services listed on its license will allow the BLC to collect approximately \$750. (based on an estimate of 3 agencies making such changes per year, 3 times \$250 = \$750)



**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.