

LCB File No. R182-09

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

CHAPTER 449

General Requirements for Licensure

These regulation changes are being proposed in accordance with Assembly Bill 123, of the 2009 legislative session.

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

Section 1. NAC 449.011 is hereby amended to read as follows:

NAC 449.011 Application for license *or permit*. An application for a license *or permit* that is filed with the Health Division pursuant to NRS 449.040:

1. Must be complete and notarized.
2. In accordance with NRS 449.050, must be accompanied by the appropriate application fee specified in this chapter.
3. In establishing that the applicant is of reputable and responsible character as required by NRS 449.040, must include personal references and information concerning the applicant's financial status and business activities and associations in and out of this State during the immediately preceding 3-year period. If the applicant is a firm, association, organization, partnership, business trust, corporation or company, such references and information must be provided with respect to the members thereof and the person in charge of the facility or program for which application is made.
4. In addition to the information required by NRS 449.040 and any other information specifically required for a particular license *or permit*, must include:

- (a) Full, complete and accurate information regarding the ownership of the facility or program and all changes to that ownership that occur while the application is pending. The information must include the name of:
- (1) Each natural person who is an owner of the facility or program;
 - (2) Each person who has a direct or indirect ownership interest in the facility or program of 10 percent or more and who is the owner, in whole or in part, of any mortgage, deed of trust, note or other obligation secured in whole or in part by the facility or program or any of the property or assets of the facility or program;
 - (3) If the applicant is a corporation, each officer and director; and
 - (4) If the applicant is a partnership, each partner.
- (b) The address of the applicant's principal office.
- (c) Evidence satisfactory to the Health Division that the facility or program meets all applicable federal, state and local laws and complies with all safety, health, building and fire codes. If there are any differences between the state and local codes, the more restrictive standards apply.
- (d) If required by NRS 439A.100, a copy of a letter of approval issued by the Director of the Department of Health and Human Services.
- (e) A copy of the certificate of occupancy, a copy of the applicant's business license and a copy of any special use permits obtained in connection with the operation of the facility or program.
- (f) A copy of any property lease or rental agreements concerning the facility or program.
- (g) If the applicant is a corporation, a copy of its bylaws and articles of incorporation.

Sec. 2. NAC 449.0112 is hereby amended to read as follows:

NAC 449.0112 Investigation; prelicensure *or prepermit* survey; inspection for fire safety.

1. Upon receipt of a properly completed and notarized application and the appropriate fee, the Health Division shall conduct an investigation concerning the premises, facilities, qualifications of personnel, methods of operation and policies of the applicant and perform a prelicensure *or prepermit* survey of:
 - (a) The applicant; and
 - (b) The facility, program plan and management plan, as appropriate.
2. Before issuing a license *or permit*, the Health Division must receive a satisfactory report of inspection of the facility from the State Fire Marshal or the local fire department.

Sec. 3. NAC 449.0114 is hereby amended to read as follows:

NAC 449.0114 Display of license *or permit*; compliance with law; transfer of real property; change in administrator, ownership, location or services.

1. Upon receipt of a license *or permit*, the licensee shall display the license *or permit* at a conspicuous location within the facility.
2. During the term of the license *or permit*, the licensee *or holder of a permit* 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 *holder of a permit* 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. *If the administrator requires licensure pursuant*

to chapter 654 of NRS, the notification must provide evidence that the new administrator is currently licensed pursuant to chapter 654 of NRS and the regulations adopted pursuant thereto. If the licensee fails to notify the Health Division and submit an application for a new license within 10 days after the change, the licensee shall pay to the Health Division a fee in an amount equal to 150 percent of the fee required for a new application set forth in subsection 1 of NAC 449.0168.

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

Sec. 4. NAC 449.0116 is hereby amended to read as follows:

NAC 449.0116 Renewal of license *or permit*: Application; validity of existing license *or permit* pending decision on application; inspection of facility; untimely filing or failure to file application.

1. Except as otherwise provided in subsection ~~2~~ 3, a licensee who wishes to renew his license must submit a complete application for renewal to the Health Division on or before November 15 of the calendar year in which the license expires. The existing license shall be deemed valid until the submitted application for renewal is evaluated and a final determination is made by the Health Division concerning whether to renew the license. The Health Division may require an inspection of the facility to ensure that it meets the requirements of this chapter before deciding whether to renew a license.
2. *Except as otherwise provided in subsection 4, a holder of a permit who wishes to renew his permit must submit a complete application for renewal to the Health Division no later than 45 day prior to the date on which the permit expires. The existing permit shall be deemed valid until the submitted application for renewal is evaluated and a*

final determination is made by the Health Division concerning whether to renew the permit. The Health Division may require an inspection of the facility to ensure that it meets the requirements of this chapter before deciding whether to renew a permit.

3. ~~[2]~~ 3. A licensee who, without good cause, files an application for the renewal of his license after the date set forth in subsection 1 but on or before December 31 of the calendar year in which the license expires and who wishes to renew his license must pay:
 - (a) The fee required for the renewal of the license pursuant to NAC 449.013 or 449.016, as appropriate; and
 - (b) An additional charge equal to one-half the amount of the fee required for the renewal of the license pursuant to NAC 449.013 or 449.016, as appropriate.
4. *A holder of a permit, who, without good cause, files an application for the renewal of his permit after the date set forth in subsection 2 but prior to the expiration of his permit must pay:*
 - (a) The fee required for the renewal of the permit pursuant to NAC 449.013 or 449.016, as appropriate; and*
 - (b) An additional charge equal to one-half the amount of the fee required for the renewal of the permit pursuant to NAC 449.013 or 449.016, as appropriate.*
5. ~~[3]~~ 5. A licensee who fails to file an application for the renewal of his license before the license expires is not eligible to renew the license and, if he wishes to be licensed, must submit an application for a new license.
6. *A holder of a permit, who fails to file an application for the renewal of his permit before the permit expires is not eligible to renew the permit and, if he wishes to be permitted, must submit an application for a new permit.*

Sec. 5. NAC 449.0118 is hereby amended to read as follows:

NAC 449.0118 Denial, suspension or revocation of license *or permit*: Grounds. In addition to the grounds set forth in NRS 449.160 and any other grounds specifically applicable to a particular license *or permit*, the Health Division may deny an application for a license *or permit* or may suspend or revoke a license *or permit* upon any of the following grounds:

1. The failure or refusal of an applicant or licensee *or holder of a permit* to comply with any of the provisions of chapter 449 of NRS or the regulations adopted by the State Board of Health.
2. The failure or refusal of an applicant or licensee to comply with a reasonable order from the Health Division to remove a resident from a facility or program.
3. Operating a facility or program without a license *or permit*, if a license *or permit* is required before operating.
4. Accepting for care, at any given time, more residents than the number specified in the license.
5. The failure or refusal of a licensee *or holder of a permit* to return an adequate plan of correction to the Health Division within 10 days after the receipt by the licensee *or holder of a permit* of a statement of deficiencies.
6. The failure or refusal to cooperate fully with an investigation or inspection by the Bureau.
7. Misappropriation of the property of a resident of a facility.
8. Abuse, neglect or exploitation of an infirm, mentally retarded or disabled person, or of a person who is 60 years of age or older.

Sec. 6. NAC 449.0119 is hereby amended to read as follows:

NAC 449.0119 Denial, suspension or revocation of license *or permit*: Appeals. An applicant or licensee *or holder of a permit* who is aggrieved by an action of the Health Division relating to the denial, suspension or revocation of a license *or permit* may appeal pursuant to the procedures set forth in NAC 439.300 to 439.395, inclusive.