

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

LCB File No. R078-12

July 5, 2012

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

AUTHORITY: §1, NRS 449.0302 and 449.040; §§2-4, NRS 449.0302; §§5 and 6, NRS 449.448.

A REGULATION relating to applications submitted to the Health Division of the Department of Health and Human Services; revising the information required to be included in various applications to the Health Division; and providing other matters properly relating thereto.

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

449.011 An application for a license that is filed with the Health Division pursuant to NRS 449.040:

1. Must be complete and ~~notarized.~~ *include proof of the identity of the applicant that is acceptable to the Health Division.*
2. In accordance with NRS 449.050, must be accompanied by the appropriate application fee specified in NAC 449.002 to 449.99939, inclusive.
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, 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:

449.0112 1. Upon receipt of a properly completed ~~[and notarized]~~ application, *proof of the identity of the applicant that is acceptable to the Health Division* 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 survey of:

(a) The applicant; and

(b) The facility, program plan and management plan, as appropriate.

2. Before issuing a license, 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 449.4526 is hereby amended to read as follows:

449.4526 1. A person who has sustained damages as a result of the bankruptcy of or any breach of contract by a facility may file an application for indemnification with the Administrator of the Health Division. The Administrator of the Health Division shall return an incomplete application to the applicant.

2. An application filed pursuant to subsection 1 must include a copy of the court order or settlement agreement which indicates a determination that the patient sustained damages as a result of a breach of contract or bankruptcy of a facility, *proof of the identity of the patient or*

patient's legal representative that is acceptable to the Health Division and a ~~notarized~~

statement of the patient or patient's legal representative which includes the following information:

(a) A brief description of the damages sustained by the patient as a result of the bankruptcy of or any breach of contract by the facility;

(b) The date that the damages were sustained and the amount of damages claimed; and

(c) The name and address of the facility in which the patient sustained damage.

3. The Health Division may bring an action for interpleader against all claimants upon the surety bond or substitute thereof filed or deposited pursuant to NRS 449.068 or 449.069, as applicable. If the Health Division brings such an action, the Health Division shall publish notice of the action at least once each week for 2 weeks in a newspaper of general circulation in the county in which the facility has its principal place of business. The Health Division may deduct its costs of the action, including the costs of publication of the notices, from the amount of the surety bond or substitute thereof.

4. All claims against the surety bond or substitute thereof have equal priority. If the surety bond or substitute thereof is insufficient to pay all the claims in full, the claims must be paid pro rata.

5. If no claims have been filed against the surety bond or substitute thereof deposited with the Health Division within 12 months after the license of the facility expires or is revoked, the Health Division shall release the surety bond or substitute thereof to the facility and shall not consider any claim filed by a patient against the surety bond or substitute thereof after that time.

6. If one or more claims have been filed against the surety bond or substitute thereof within 12 months after the license of the facility expires or is revoked, the proceeds must not be released

to the facility or distributed to any patient earlier than 18 months after the license of the facility expires or is revoked.

Sec. 4. NAC 449.9755 is hereby amended to read as follows:

449.9755 After it receives a properly completed ~~[and notarized]~~ application, ~~[accompanied by]~~ *proof of the identity of the applicant that is acceptable to the Division and* the appropriate fee, the Division shall conduct an investigation of the applicant and inspect the proposed center.

Sec. 5. NAC 449.99942 is hereby amended to read as follows:

449.99942 1. Before offering to a patient a service of general anesthesia, conscious sedation or deep sedation, an outpatient facility shall submit to the Health Division an application for a permit to offer those services at the outpatient facility on a form prescribed by the Health Division.

2. An application for a permit must:

(a) Be complete and ~~[notarized.]~~, *if the applicant is a natural person, include proof of the identity of the applicant that is acceptable to the Health Division.*

(b) Be accompanied by the appropriate application fee as prescribed in subsection 3.

(c) Include:

(1) The name of the applicant and, if a natural person, evidence that the applicant has attained the age of 21 years.

(2) The location of the outpatient facility.

(3) In specific terms, the nature of services and type of care to be offered.

(4) The name of the person in charge of the outpatient facility.

(5) Such other information as may be required by the Health Division for the proper administration and enforcement of NRS 449.435 to 449.448, inclusive, and NAC 449.9994 to 449.999489, inclusive.

(6) Evidence satisfactory to the Health Division that the applicant is of reputable and responsible character. If the applicant is a firm, association, organization, partnership, business trust, corporation or company, similar evidence must be submitted as to the members thereof, and the person in charge of the outpatient facility for which application is made. If the applicant is a political subdivision of the State or other governmental agency, similar evidence must be submitted as to the person in charge of the outpatient facility for which application is made.

(7) Evidence satisfactory to the Health Division of the ability of the applicant to comply with the standards and regulations adopted by the Board.

(8) Evidence satisfactory to the Health Division that the outpatient facility:

(I) Conforms to the zoning regulations of the local government within which the outpatient facility will be operated; or

(II) Has applied for an appropriate reclassification, variance, permit for special use or other exception for the outpatient facility.

(d) Be accompanied by:

(1) Except as otherwise provided in subparagraph (2), proof of accreditation by a nationally recognized organization approved by the Board pursuant to NAC 449.999424; or

(2) If the application is for an initial permit, evidence that the outpatient facility has applied for accreditation by a nationally recognized organization approved by the Board pursuant to NAC 449.999424.

3. An applicant for a permit must pay to the Health Division a nonrefundable fee of \$3,570.

4. An application for a permit is valid for 1 year after the date on which the application is submitted. If an applicant does not meet the requirements for a permit within 1 year after the date on which the application was submitted, the applicant must submit a new application and pay the required fee to be considered for a permit.

5. An application for a permit must be submitted for each location of the outpatient facility where a service of general anesthesia, conscious sedation or deep sedation will be offered.

Sec. 6. NAC 449.999421 is hereby amended to read as follows:

449.999421 1. Upon receipt of a properly completed ~~[and notarized]~~ application for a permit, *proof of the identity of the applicant, if applicable, that is acceptable to the Health Division* and the appropriate fee, the Health Division shall conduct an investigation of the applicant and the outpatient facility pursuant to the provisions of NRS 449.446. During the investigation, the Health Division shall determine whether the outpatient facility is in compliance with the provisions of NRS 449.435 to 449.448, inclusive, and NAC 449.9994 to 449.999489, inclusive.

2. Before issuing a permit, the Health Division must receive a satisfactory report of inspection of the outpatient facility from the State Fire Marshal or the local fire department.