

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

LCB File No. R090-12

Effective December 20, 2012

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

AUTHORITY: §§1-3, 6-19 and 21, NRS 640E.110; §§4 and 20, NRS 640E.110 and 640E.250; §5, NRS 640E.110 and 640E.240; §22, NRS 640E.110 and 640E.130; §23, NRS 432A.077; §§24 and 27, NRS 439.200; §§25 and 28-49, NRS 449.0302; §§26 and 50, NRS 442.190.

A REGULATION relating to dietetics; providing a procedure for the filing of an application to engage in the practice of dietetics; setting forth the information that must be included in such an application; establishing certain fees relating to licensure; setting forth provisions governing background checks relating to licensure; providing for the issuance of provisional and temporary licenses; providing a procedure for the investigation of complaints against licensees or applicants for licensure; setting forth provisions governing disciplinary action against a licensee; providing for the suspension, revocation and reinstatement of a license; providing a procedure for the appeal of certain administrative decisions; establishing the Dietitian Advisory Group; prohibiting the employment of or contracting with unlicensed persons under certain circumstances; and providing other matters properly relating thereto.

Section 1. Chapter 640E of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 22, inclusive, of this regulation.

Sec. 2. *As used in this chapter, unless the context otherwise requires, “Executive Officer” means the Executive Officer of the Board.*

Sec. 3. *Except as otherwise provided in NRS 640E.090 and 640E.170, all persons who engage in the practice of dietetics in this State must be licensed pursuant to this chapter and chapter 640E of NRS.*

Sec. 4. 1. All applications submitted pursuant to this chapter and chapter 640E of NRS must be filed with the Executive Officer.

2. In addition to any applicable statutory requirements, an application for a license or provisional license to engage in the practice of dietetics, the renewal of such a license or the reinstatement of a such license must include:

(a) The applicant's full name, including his or her first name, middle name if applicable and last name.

(b) Any other name that has been used by the applicant.

(c) The applicant's date of birth.

(d) The applicant's physical address and the applicant's mailing address if different than the physical address.

(e) A telephone number at which the applicant can be reached.

(f) A method of electronic communication, including, without limitation, an electronic mail address, a telephone number that will accept electronic mail, or any other method by which the Executive Officer may communicate with the applicant other than by telephone or United States mail. The Executive Officer may exempt an applicant from the requirements of this paragraph if the applicant attests that the methods set forth in this paragraph are not feasible for him or her and acknowledges that the United States mail is the only means by which to communicate with the applicant.

(g) The applicant's registration number from the Commission on Dietetic Registration of the Academy of Nutrition and Dietetics or its successor organization.

(h) The status of any disciplinary action against the applicant by the Commission on Dietetic Registration of the Academy of Nutrition and Dietetics or its successor organization.

(i) A statement by the applicant acknowledging the mandatory reporting requirements concerning the abuse, neglect, exploitation or isolation of an older person set forth in NRS 200.5093, the abuse, neglect, exploitation or isolation of a vulnerable person set forth in NRS 200.50935 and the abuse or neglect of a child set forth in NRS 432B.220.

(j) Any other information required by the Executive Officer to determine the applicant's identity or eligibility for licensure.

3. An application which is not complete or which does not include payment of all applicable fees must be returned to the applicant not later than 10 working days after receipt of the application.

4. The Executive Officer shall determine what constitutes satisfactory written evidence required by NRS 640E.150 to be included with an application for a license to engage in the practice of dietetics.

5. The Executive Officer shall determine what constitutes satisfactory documentation and other information required by NRS 640E.220 to be included with an application for renewal.

6. An applicant shall notify the Executive Officer of any change to the information contained in his or her application within 15 days after the change. The notification may be made in writing, by electronic mail or by any other method authorized by the Executive Officer. The failure of an applicant to comply with the requirements of this subsection constitutes grounds for the denial of the application or the suspension or revocation of the applicant's license.

Sec. 5. 1. The following nonrefundable fees must be paid by a licensee or an applicant for a license to engage in the practice of dietetics, as applicable:

(a) For the issuance of a license.....\$200

(b) *For the issuance of a provisional license*200

(c) *For the issuance of a temporary license*25

(d) *For the renewal of a license*200

(e) *For the late renewal of a license*100

(f) *For the reinstatement of a license*200

(g) *For the issuance of a duplicate license or changing the name on a license*20

2. *The amount of the fees charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for the handling of the fingerprint cards and issuance of the reports of criminal histories must be paid by the applicant.*

Sec. 6. 1. *If the Central Repository for Nevada Records of Criminal History determines that a background investigation of a licensee or an applicant for a license to engage in the practice of dietetics cannot be completed because pertinent information is missing, the Executive Officer shall send a notice to the licensee or applicant which specifies the missing information and provides that the licensee or applicant must:*

(a) *Submit the missing information to the Central Repository for Nevada Records of Criminal History within 30 days after receipt of the notice; or*

(b) *Submit satisfactory evidence to the Executive Officer that the missing information cannot be obtained.*

2. *If a background investigation cannot be completed because the licensee or applicant has been arrested or issued a citation, or has been the subject of a warrant for alleged criminal conduct, and there has been no disposition of the matter, the licensee or applicant shall:*

(a) Notify the Executive Officer immediately upon the scheduling of any judicial proceeding concerning the matter; and

(b) Notify the Executive Officer immediately upon the disposition of the matter and forward to the Central Repository for Nevada Records of Criminal History evidence of the disposition of the matter as soon as it is available.

3. As used in this section “disposition” has the meaning ascribed to it in NRS 179A.050.

Sec. 7. If a licensee or an applicant for a license to engage in the practice of dietetics wishes to challenge the accuracy of the information provided by the Central Repository for Nevada Records of Criminal History, the licensee or applicant must notify the Executive Officer within 10 working days after being notified of the results of the background investigation that the licensee or applicant is challenging the accuracy of the information. Except as otherwise provided in subsection 2 of section 8 of this regulation, the Executive Officer shall give the licensee or applicant not less than 30 days after the Executive Officer receives notice of the challenge to provide satisfactory evidence to the Executive Officer that the information is incorrect before suspending the license or denying the application.

Sec. 8. The Executive Officer, upon determining that a licensee or an applicant for a license to engage in the practice of dietetics has been convicted of a crime set forth in paragraph (a) of subsection 1 of NRS 449.174:

- 1. May revoke, suspend or refuse to renew the license or deny the application; or*
- 2. If the licensee or applicant has notified the Executive Officer pursuant to section 7 of this regulation that the licensee or applicant is challenging the accuracy of information provided by the Central Repository for Nevada Records of Criminal History, may suspend the license or deny the application pending the resolution of the challenge.*

Sec. 9. 1. *A provisional license may be issued pursuant to NRS 640E.180 to allow a person time to complete all licensure requirements during the period of the provisional license.*

2. The Executive Officer shall not issue more than one provisional license to any person.

3. For the purpose of NRS 640E.180, the Board will interpret the term “under the supervision of a licensed dietitian” as used in subsection 3 of NRS 640E.180 to mean the performance of a task or activity under the direction of a licensed dietitian where the licensed dietitian ensures the accomplishment of the task or activity, including initial direction and periodic inspection of the actual accomplishment of the task or activity.

Sec. 10. 1. *Any temporary license issued pursuant to NRS 640E.190 must be limited to the providing of medical nutrition therapy in this State.*

2. An application for a temporary license must include the following information:

(a) The applicant’s name, the jurisdiction in which the applicant holds a corresponding license and the number of that license;

(b) A declaration that the license is in good standing in the jurisdiction in which it was issued;

(c) The name of the entity for which the licensee will be providing services; and

(d) The address at which the licensee will be providing services.

Sec. 11. 1. *The Executive Officer may waive the requirement of an examination set forth in paragraph (e) of subsection 1 of NRS 640E.150 if the Executive Officer is satisfied that the experience and qualifications of the applicant for a license to engage in the practice of dietetics justify granting the license without examination.*

2. The Executive Officer may seek guidance from the Dietitian Advisory Group established pursuant to section 22 of this regulation concerning any request for such a waiver.

Sec. 12. *Any notice that is required by the provisions of this chapter or chapter 640E of NRS to be delivered by mail or electronically to a licensee or an applicant for a license to engage in the practice of dietetics shall be deemed to be validly given if the notice is sent to the last address or electronic mail address that was provided to the Executive Officer by the licensee or applicant.*

Sec. 13. *A dietitian who is registered by the Commission on Dietetic Registration of the Academy of Nutrition and Dietetics or its successor organization shall be deemed to have satisfied the requirements for licensure set forth in paragraphs (c), (d) and (e) of subsection 1 of NRS 640E.150.*

Sec. 14. *1. Upon receipt of a complaint that a person is engaging in the practice of dietetics without a license, the Executive Officer shall send a certified letter to the person about whom the complaint was made which:*

(a) Directs the person immediately to cease and desist from the practice of dietetics; and
(b) Requires the person to submit to the Executive Officer within 10 days an application for a license to engage in the practice of dietetics or satisfactory evidence that the person is not engaged in the practice of dietetics.

2. If the person fails to submit the application or evidence required pursuant to subsection 1 timely:

(a) The matter must be referred to the Office of the Attorney General and the district attorney of the county in which the alleged violation occurred for investigation and possible prosecution pursuant to NRS 640E.370; and

(b) A civil penalty may be imposed in accordance with the requirements and limitations of NRS 640E.370.

Sec. 15. 1. *The Executive Officer shall receive a complaint against a licensee or an applicant for a license to engage in the practice of dietetics from any person.*

2. The Executive Officer shall forward each complaint to the Commission on Dietetic Registration of the Academy of Nutrition and Dietetics or its successor organization for investigation of the complaint. If the Commission on Dietetic Registration of the Academy of Nutrition and Dietetics or its successor organization refuses to investigate the complaint, the Executive Officer may conduct an investigation.

3. If, after reviewing the findings of an investigation conducted pursuant to subsection 2, the Executive Officer finds grounds for taking disciplinary action, the Executive Officer shall, after notice and hearing, issue a decision in the matter.

4. The failure of a licensee to cooperate with an investigation conducted pursuant to subsection 2 constitutes grounds for disciplinary action against the licensee.

Sec. 16. *No person may file a complaint with the Executive Officer concerning nutrition services which the person receives if he or she knows that the person who provides the nutrition services is neither licensed pursuant to this chapter and chapter 640E of NRS nor engaging in the practice of dietetics under the direct supervision of a licensed dietitian pursuant to NRS 640E.170.*

Sec. 17. 1. *For the purposes of disciplinary action, any of the following acts will be considered to be conduct that is harmful to the public or detrimental to the public health or safety:*

(a) A violation of any provision of this chapter or chapter 640E of NRS; or

(b) A violation of any provision of the “Code of Ethics” of the Academy of Nutrition and Dietetics.

2. *The “Code of Ethics” of the Academy of Nutrition and Dietetics is hereby adopted by reference. A copy of the “Code of Ethics” may be obtained free of charge from the Academy of Nutrition and Dietetics by telephone at (800) 877-1600 or on the Internet website <http://www.eatright.org/codeofethics/>.*

Sec. 18. *A licensee shall pay all costs incurred in connection with any disciplinary action taken against the licensee.*

Sec. 19. 1. *A person whose license is suspended shall comply with the terms of the suspension that are specified by the Executive Officer, including, without limitation:*

(a) Informing the Executive Officer of the name and address of his or her employer or, if self-employed, the name and address of his or her business.

(b) Submitting to the Executive Officer copies of evaluations of his or her performance by his or her employer.

(c) Undergoing counseling with a qualified professional counselor.

(d) Undergoing treatment for addiction, if the suspension was related to the abuse of alcohol or a controlled substance or some other condition that may be assisted with treatment, by a qualified health care provider.

(e) Entering into a contract to obtain alcohol or drug rehabilitation services if the suspension was related to the abuse of alcohol or a controlled substance.

(f) Submitting to the Executive Officer copies of reports prepared by a qualified professional counselor or qualified health care provider.

(g) Submitting to the Executive Officer self-evaluation reports.

(h) Submitting to the Executive Officer copies of the results of random screenings for alcohol or controlled substances.

(i) Meeting with the Executive Officer or a designated representative of the Executive Officer at specified intervals.

(j) Working under supervision as approved by the Executive Officer or a designated representative of the Executive Officer.

(k) Completing successfully any educational courses required by the Executive Officer.

(l) Submitting to the Executive Officer a report from a qualified professional counselor or qualified health care provider which sets forth that, in the opinion of the professional counselor or health care provider, the dietitian presents no risk of harm to his or her clients or the general public.

(m) Completing successfully a rehabilitation program specified by the Executive Officer.

2. The Executive Officer may terminate the suspension of the license at any time.

3. If at any time the Executive Officer determines that the licensee has violated the terms of the suspension or that the progress and performance of the licensee under the suspension are unsatisfactory, the Executive Officer may extend the period of the suspension, modify the terms of the suspension or revoke the license of the licensee.

4. The licensee shall pay all costs incurred by the licensee to comply with the terms of the suspension of his or her license which are specified by the Executive Officer pursuant to this section.

Sec. 20. *1. The Executive Officer shall, in each order of revocation, prescribe a period during which a licensee may not apply for the reinstatement of his or her license. The period must not be less than 1 year or more than 10 years.*

2. An applicant for the reinstatement of a license must:

(a) Submit an application for reinstatement on a form prescribed by the Executive Officer;

(b) Satisfy all the requirements for renewal of a license;

(c) Attest that he or she has not, during the period of revocation of his or her license, violated any state or federal statute or regulation governing the practice of dietetics; and

(d) Attest that there is no disciplinary action pending against the licensee before the Commission on Dietetic Registration of the Academy of Nutrition and Dietetics or its successor organization.

3. The Executive Officer may designate requirements in addition to the requirements of subsection 2 that must be satisfied before an applicant will be considered for reinstatement of his or her license, including, without limitation, completion of additional courses or programs if the applicant's license has been revoked for more than 2 years.

4. The Executive Officer:

(a) Shall review an application for the reinstatement of a license to determine whether the application satisfies the requirements of this section; and

(b) May deny an application for the reinstatement of a license which the Executive Officer determines does not satisfy those requirements.

5. In considering an application for the reinstatement of a license which has been revoked, the Executive Officer shall evaluate:

(a) The severity of the act which resulted in the revocation of the license;

(b) The conduct of the applicant after the revocation of the license;

(c) The lapse of time since the revocation of the license;

(d) The degree of compliance by the applicant with any conditions the Executive Officer specified as a prerequisite for the reinstatement of the license;

(e) The degree of rehabilitation attained by the applicant as evidenced by statements to the Executive Officer from qualified people who have professional knowledge of the applicant; and

(f) The truthfulness of the attestations made by the applicant pursuant to subsection 2.

6. After completing his or her evaluation, the Executive Officer shall deny or grant the reinstatement of the license.

7. If the Executive Officer takes any disciplinary action against a licensee after the reinstatement of his or her license, the first such disciplinary action shall be deemed to be the licensee's first offense.

Sec. 21. 1. *If a person is aggrieved by a decision of the Executive Officer pursuant to this chapter or chapter 640E of NRS relating to the denial, suspension, refusal to renew or revocation of a license, the imposition of an administrative sanction or any other disciplinary action, the aggrieved person may file an appeal of the decision with the Board.*

2. In any appeal filed with the Board pursuant to subsection 1, unless otherwise provided by the Board:

(a) The procedures set forth in NAC 439.300 to 439.395, inclusive, apply; and

(b) For the purposes of NAC 439.300 to 439.395, the decision of the Executive Officer that is the basis of the appeal shall be deemed to be the decision of the Health Division of the Department of Health and Human Services.

3. As used in this section "disciplinary action" has the meaning ascribed to it in NAC 439.304.

Sec. 22. 1. *The Dietitian Advisory Group is hereby established pursuant to NRS 640E.130.*

2. *The Advisory Group consists of the following five members appointed by the Board:*
 - (a) *Four licensed dietitians; and*
 - (b) *One person who represents the general public.*
3. *The term of each member of the Advisory Group is 4 years. A member may be reappointed.*
4. *If a vacancy occurs in the membership of the Advisory Group, the Board will appoint a qualified person to fill the vacancy.*
5. *The Advisory Group shall meet at least once per year or as otherwise called by the Chair or at the direction of the Board or the Executive Officer.*
6. *To the extent practicable and allowed by law, the Advisory Group shall conduct its meetings by telephone, videoconference or other electronic means.*
7. *At its first meeting each year, the members of the Advisory Group shall select a Chair from among its members. The Chair serves as the liaison to the Board and the Executive Officer.*
8. *The Executive Officer shall provide administrative assistance to the Advisory Group.*
9. *A majority of the members of the Advisory Group constitutes a quorum for the transaction of business. A member shall be deemed present at a meeting if the member is available to participate at the meeting by telephone, videoconference or other electronic means.*
10. *The Advisory Group may:*
 - (a) *Facilitate the development of materials which may be used to educate the public concerning the practice of dietetics;*

(b) Facilitate the exchange of information between dietitians, the Commission on Dietetic Registration of the Academy of Nutrition and Dietetics or its successor organization, the Board and the Executive Officer; and

(c) To provide recommendations to the Board and the Executive Officer concerning regulations or practices that affect licensees, review disciplinary actions, appeals, denials or revocations of licenses and terms of the suspension or reinstatement of licenses.

11. The Advisory Group shall advise the Board and the Executive Officer on issues relating to dietetics if requested.

Sec. 23. Chapter 432A of NAC is hereby amended by adding thereto a new section to read as follows:

A licensee shall not employ or contract with a person to provide medical nutrition therapy or nutrition services unless the person is licensed pursuant to chapter 640E of NRS or exempt from such licensure.

Sec. 24. Chapter 442 of NAC is hereby amended by adding thereto a new section to read as follows:

As used in this chapter, unless the context otherwise requires, “licensed dietitian” has the meaning ascribed to it in NRS 640E.040.

Sec. 25. NAC 442.405 is hereby amended to read as follows:

442.405 In addition to the requirements set forth in NAC 442.390 and 442.401, level II specialty care facilities and level III subspecialty care facilities must meet the following requirements:

1. The following support personnel must be available in level II specialty care facilities and level III subspecialty care facilities:

(a) At least one full-time social worker, licensed pursuant to chapter 641B of NRS, for every 30 beds in the facility. The social worker must have experience with the socioeconomic and psychosocial problems of high-risk women and fetuses, as defined in the *Guidelines for Perinatal Care* adopted by reference pursuant to NAC 442.370, ill neonates and the families of ill neonates.

(b) At least one occupational therapist or physical therapist with experience in the care of neonates.

(c) At least one ~~registered~~ *licensed* dietitian ~~for nutritionist~~ who has special training in perinatal nutrition and can plan diets that meet the special needs of high-risk women and neonates.

(d) Personnel in the pharmacy, including, but not limited to, pharmacists and technicians, who will work to review continually their systems and process of administering medication to ensure that policies relating to the care of patients are maintained.

2. Level II specialty care facilities and level III subspecialty care facilities must have a policy for the use of interpreters to address the needs of patients and their families who do not speak English or are hearing impaired.

3. Level II specialty care facilities and level III subspecialty care facilities must:

(a) Demonstrate through quality assurance activities the ability of the facility to report and track data on morbidity and mortality; and

(b) Establish a policy for obstetricians, perinatologists, neonatologists and pediatricians to confer with other physicians, including physicians not located in the facility, to report trends and outcomes related to data on morbidity and mortality and other issues related to perinatology.

Sec. 26. NAC 442.788 is hereby amended to read as follows:

442.788 1. The program does not pay for dietary supplements or medications relating to eligible medical conditions except as otherwise provided in subsection 2 and in the circumstances specified for the following eligible medical conditions:

- (a) Cystic fibrosis, medications related to the eligible medical condition or its complications.
- (b) Epilepsy, subject to individual case and medical review.
- (c) Juvenile diabetes, subject to individual case and medical review.
- (d) Inborn errors of metabolism, including those detected through the program for screening newborn babies conducted pursuant to NRS 442.008 and NAC 442.020 to 442.050, inclusive, dietary supplements as prescribed.
- (e) Asthma that requires daily medication for a client to perform the activities of daily living, subject to individual case and medical review.
- (f) Cardiac conditions that require ongoing medication for a client to perform the activities of daily living, subject to individual case and medical review.
- (g) Thyroid conditions that require ongoing medication, subject to individual case and medical review.

2. The program will, subject to individual case and medical review, cover dietary supplements and medications required on an ongoing basis for the prevention or amelioration of complications of an eligible medical condition.

3. The program will cover:

- (a) Primary care of a client, as recommended by the American Academy of Pediatrics, to the extent that the Health Division determines such care is necessary to ensure the optimum health of the client;

(b) Services of a ~~registered~~ *licensed* dietitian, to the extent that the Health Division determines those services are necessary to ensure the optimum health of a client;

(c) Physical therapy necessary to return a client to functional ability, except that, unless otherwise authorized by the Health Division, such coverage is limited to not more than 12 sessions annually and 60 minutes per session; and

(d) Psychological therapy relating to emotional support for an ongoing, chronic eligible medical condition, except that, unless otherwise authorized by the Health Division, such coverage is limited to:

(1) For individual therapy, not more than 12 sessions annually and 60 minutes per session.

(2) For group therapy, not more than 24 sessions annually.

Sec. 27. Chapter 446 of NAC is hereby amended by adding thereto a new section to read as follows:

The holder of a permit issued pursuant to NRS 446.875 shall not employ or contract with a person to provide medical nutrition therapy or nutrition services unless the person is licensed pursuant to chapter 640E of NRS or exempt from such licensure.

Sec. 28. Chapter 449 of NAC is hereby amended by adding thereto the provisions set forth as sections 29 and 30 of this regulation.

Sec. 29. *“Licensed dietitian” has the meaning ascribed to it in NRS 640E.040.*

Sec. 30. *A licensee shall not employ or contract with a person to provide medical nutrition therapy or nutrition services unless the person is licensed pursuant to chapter 640E of NRS or exempt from such licensure.*

Sec. 31. NAC 449.002 is hereby amended to read as follows:

449.002 As used in NAC 449.002 to 449.99939, inclusive, *and sections 29 and 30 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 449.0022 to 449.0072, inclusive, *and section 29 of this regulation* have the meanings ascribed to them in those sections.

Sec. 32. NAC 449.147 is hereby amended to read as follows:

449.147 1. Facilities must serve at least three meals or their equivalent daily, at regular times, with not more than 14 hours between a substantial evening meal and breakfast. A second serving must be provided for those clients who desire one.

2. Menus must be planned and followed to meet the nutritional needs of the clients in accordance with the recommended dietary allowances of the Food and Nutrition Board of the Institute of Medicine of the National ~~Academy of Sciences.~~ *Academies.*

3. Therapeutic menus must be planned by a ~~registered~~ *licensed* dietitian or must be reviewed and approved by the client's attending or staff physician.

4. Menus must be in writing, planned in advance, dated and posted, and kept on file for 90 days. Any substitution must be noted on the written menus so that the menu on file reflects what was actually served.

5. Adequate facilities and equipment for the preparation, serving, refrigeration and storage of food in a sanitary manner must be provided.

6. A facility with more than 10 clients must:

(a) Comply with all applicable provisions of chapter 446 of NRS and the regulations adopted pursuant thereto;

(b) Obtain the necessary permits from the Health Division;

(c) Maintain a report of each inspection concerning the sanitation of the facility for at least 1 year after the date of the inspection; and

(d) Maintain a report of each corrective action taken to address a deficiency noted in a report described in paragraph (c) for at least 1 year after the date of the corrective action.

7. Clients needing special equipment, implements or utensils to assist them while eating must have such items provided.

8. If a facility operates on the cottage plan, provision must be made for food service that assures hot, palatable meals.

9. A ~~[qualified person]~~ *licensed dietitian* must be used as a consultant on planning meals and serving food. Consultation each month is required. ~~[A qualified person may be a person meeting the requirements for registration with the Commission on Dietetic Registration as either a registered dietitian or a registered dietetic technician.]~~

10. All facilities that contract with food management companies must comply with the applicable regulations of the Health Division as provided in chapter 446 of NAC.

Sec. 33. NAC 449.15351 is hereby amended to read as follows:

449.15351 1. Facilities shall serve at least three meals or their equivalent daily, at regular times, with not more than 14 hours between a substantial evening meal and breakfast. A second serving must be provided for those clients who desire one.

2. Menus must be planned and followed to meet the nutritional needs of the clients in accordance with the recommended dietary allowances recommended by the Food and Nutrition Board of the Institute of Medicine of the National ~~[Academy of Sciences.]~~ *Academies*.

3. Therapeutic menus must be planned by a ~~[registered]~~ *licensed* dietitian or must be reviewed and approved by the attending physician of the client or a staff physician.

4. Menus must be in writing, planned in advance, dated and posted, and kept on file at the facility for at least 90 days. Any substitution must be noted on the written menu so that the menu on file reflects what was actually served.

5. Adequate facilities and equipment for the preparation, serving, refrigeration and storage of food in a sanitary manner must be provided.

6. A facility with more than 10 clients shall:

(a) Comply with all applicable provisions of chapter 446 of NRS and the regulations adopted pursuant thereto;

(b) Obtain the necessary permits from the Health Division;

(c) Maintain a report of each inspection concerning the sanitation of the facility for at least 1 year after the date of the inspection; and

(d) Maintain a report of each corrective action taken to address a deficiency noted in a report described in paragraph (c) for at least 1 year after the date of the corrective action.

7. Clients needing special equipment, implements or utensils to assist them while eating must have such items provided.

8. If a facility operates on the cottage plan, provision must be made for food service that ensures hot, palatable meals.

9. A ~~professional, qualified person~~ *licensed dietitian* must be used as a consultant on planning meals and serving food. At least 4 hours of consultation each month is required. ~~[A person is qualified only if he or she meets the requirements for registration with the Commission on Dietetic Registration as a dietitian or dietetic technician.]~~

10. A facility that contracts with a food management company shall comply with all applicable regulations of the State Board of Health.

Sec. 34. NAC 449.2175 is hereby amended to read as follows:

449.2175 1. A residential facility shall have adequate facilities and equipment for the preparation, service and storage of food.

2. Tables and chairs must be of proper height and of sufficient number to provide seating for the number of residents authorized for the facility. They must be sturdy and have easily washable surfaces. Chairs must be constructed so that they do not overturn easily.

3. Menus must be in writing, planned a week in advance, dated, posted and kept on file for 90 days.

4. A resident who has been placed on a special diet by a physician or *licensed* dietitian must be provided a meal that complies with the diet. The administrator of the facility shall ensure that records of any modifications to the menu to accommodate for special diets prescribed by a physician or *licensed* dietitian are kept on file for at least 90 days.

5. Any substitution for an item on the menu must be documented and kept on file with the menu for at least 90 days after the substitution occurs. A substitution must be posted in a conspicuous place during the serving of the meal.

6. Each meal must provide a reasonable portion of the daily dietary allowances recommended by the Food and Nutrition Board [~~], National Academy of Sciences, National Research Council.] of the Institute of Medicine of the National Academies.~~

7. Meals must be nutritious, served in an appropriate manner, suitable for the residents and prepared with regard for individual preferences and religious requirements. At least three meals a day must be served at regular intervals. The times at which meals will be served must be posted. Not more than 14 hours may elapse between the meal in the evening and breakfast the next day.

Snacks must be made available between meals for the residents who are not prohibited by their physicians from eating between meals.

8. A resident must be served meals in his or her bedroom for not more than 14 consecutive days if the resident is temporarily unable to eat in the dining room because of an injury or illness. The facility may serve meals to other residents in their rooms upon request. If a meal is served to a resident in his or her room because the resident is unable to eat in the dining room, the facility shall maintain a record of the times and reasons for serving meals to the resident in his or her room.

9. A residential facility with more than 10 residents shall employ or otherwise obtain the services of a person to serve as a consultant for the planning and serving of meals who:

- (a) Is ~~registered as~~ a *licensed* dietitian ; ~~by the Commission on Dietetic Registration;~~ or
- (b) Is a graduate from an accredited college with a major in food and nutrition and has 2 years of supervisory experience in a medical facility or facility for the dependent or has participated in a course of training for a supervisor of the service of food.

10. The person providing services pursuant to subsection 9 shall provide those services not less than once each calendar quarter. The administrator of the facility shall keep a written record of the consultations on file at the facility. The consultations must include:

- (a) The development and review of weekly menus;
- (b) Training for the employees who work in the kitchen;
- (c) Advice regarding compliance with the nutritional program of the facility; and
- (d) Any observations of the person providing the services regarding the preparation and service of meals in the facility to ensure that the facility is in compliance with the nutritional program of the facility.

Sec. 35. NAC 449.3385 is hereby amended to read as follows:

449.3385 1. A hospital shall maintain an organized dietary service that is staffed by an adequate number of personnel. The hospital shall ensure that personnel are on duty to provide dietary services for at least 12 hours each day and that the personnel are competent to perform their duties as outlined in their job descriptions. The dietary service must be integrated with the other departments, units and services within the hospital.

2. The dietary service must be under the direction of a ~~registered~~ *licensed* dietitian or other professional person who:

(a) Is qualified in the field of institutional management, nutritional sciences or hotel restaurant management;

(b) Has completed an academic program in culinary arts; or

(c) Is certified as a dietary manager by the ~~Dietary Managers~~ Association *of Nutrition & Foodservice Professionals* and has additional work experience with medical and therapeutic diets.

3. The director of the dietary service may be employed on a full-time or part-time basis, or as a consultant.

4. A hospital shall have on staff a *licensed* dietitian ~~manager~~ or a consultant *who is licensed as a dietitian* who shall provide in-service training for all dietetic service personnel and maintain a record of the in-service training provided which includes a description of the subjects covered by the training, the date that the training was given, the duration of the training and a list of the persons who attended the training.

5. Personnel of the dietary service must:

(a) Be trained in basic techniques of food sanitation;

(b) While working in the dietary service, be clean and wear clean clothing, including a cap or hairnet, or both; and

(c) Be excluded from duty when affected by a skin infection or communicable disease.

6. If an employee of the dietary service has a beard or moustache, or both, which is not closely cropped, the employee shall cover the beard or moustache, or both, while on duty.

Sec. 36. NAC 449.339 is hereby amended to read as follows:

449.339 1. A hospital shall carry out a program for the systematic nutritional risk-screening of its patients to detect actual and potential malnutrition at an early stage.

2. A hospital shall ensure that each patient maintains acceptable parameters of nutritional status, including, without limitation, body weight and protein levels, unless the patient's clinical condition demonstrates that the maintenance of those parameters is not possible.

3. A patient who is fed by an enteral feeding system must receive the appropriate treatment and services to prevent complications to the extent possible.

4. Parenteral nutrition support must be used to nourish a patient who meets clinical guidelines that are developed in accordance with nationally recognized standards of practice and approved by the medical staff of the hospital.

5. A patient must receive a therapeutic diet when it is determined that he or she has a nutritional problem.

6. The director of the dietary service shall develop and carry out policies and procedures for nutritional care and dietetic services. The policies and procedures must be readily available to nursing, dietary and medical staff. The director shall evaluate the policies and procedures for nutritional care and services provided by the dietary service on a regular basis and revise those policies and procedures as necessary.

7. If it is determined that the nutritional status of a patient is at risk, nutritional care for that patient must be:

(a) Planned and provided based on an assessment of his or her nutritional status by a ~~registered~~ *licensed* dietitian or the attending physician, or both; and

(b) Integrated into his or her plan of care.

↳ The response of the patient must be monitored and reassessed as needed.

8. Pertinent dietary information must be included in a patient's transfer records or discharge records, or both, to ensure continuity of nutritional care.

Sec. 37. NAC 449.4082 is hereby amended to read as follows:

449.4082 1. Adequate facilities and equipment for the preparation, service and storage of food must be provided and meet the standards of the Division.

2. The dining area must be separated from the area used to prepare food.

3. Tables and chairs must be of proper height and of sufficient number to provide seating for the number of clients authorized for the facility. They must be sturdy and have easily washable surfaces. Chairs must be constructed so that they do not overturn easily. Tables must be designed to accommodate persons in wheelchairs.

4. Meals must be served by employees who have received training in the sanitary preparation and handling of food.

5. Each meal must provide one-third of the daily nutritional allowances recommended by the Food and Nutrition Board of the *Institute of Medicine of the* National ~~Academy of Sciences.~~ *Academies.*

6. Any client who is in the facility for 5 hours or more a day must be served a meal. If he or she is in the facility for more than 6 hours in any day, additional nourishment must be provided.

7. Meals must be served in a manner suitable for the client and prepared with regard for individual preferences and religious requirements. Special diets and nourishment must be provided as ordered by the client's physician. If meals are prepared within the facility, the facility must consult with a ~~registered~~ *licensed* dietitian for at least 4 hours each month on the planning and serving of meals. If meals are prepared outside of and delivered to the facility, the facility shall develop and provide an alternative for any client on a special diet. The facility shall not accept a client who requires a special diet if it cannot develop an alternative which conforms to the client's prescribed diet.

Sec. 38. NAC 449.541 is hereby amended to read as follows:

449.541 1. Each facility shall establish and comply with a policy which specifies that the services provided to each patient of the facility are coordinated using an interdisciplinary team.

The interdisciplinary team must consist of:

- (a) The primary dialysis physician of the patient;
- (b) A registered nurse;
- (c) A social worker; and
- (d) A *licensed* dietitian.

2. Each interdisciplinary team specified in subsection 1 shall develop a written, individualized and comprehensive plan to provide care to the patient for whom the plan is prepared. The plan must:

(a) Specify the services that are required to address the medical, psychological, social and functional needs of the patient; and

- (b) Include a statement setting forth the objectives for providing treatment to the patient.

3. Each plan for the care of a patient prepared pursuant to the provisions of subsection 2 must include:

(a) If required to ensure the provision of safe care for the patient, evidence of coordination with any other provider of service for the patient, including a hospital, long-term care facility, an agency that provides residential or community support services, or a provider of transportation; and

(b) Evidence indicating that:

(1) The provisions of the plan were disclosed to the patient or his or her legal representative; and

(2) The patient or his or her legal representative was provided an opportunity to participate in and discuss the preparation of the plan.

4. Each plan for the care of a patient must be:

(a) Prepared within 30 days after the patient is admitted to the facility; and

(b) Revised at least once every 6 months or immediately after the occurrence of any change in the medical, nutritional or psychosocial condition of the patient.

5. Each member of the interdisciplinary team shall periodically evaluate the progress of the patient toward achieving the objectives specified in the plan. Any action taken by a member of the interdisciplinary team, if the objectives are not achieved, must be documented and included in the clinical record of the patient.

Sec. 39. NAC 449.544 is hereby amended to read as follows:

449.544 1. Each facility shall provide nutrition services to each patient of the facility and the provider of care for that patient to maximize the nutritional status of the patient.

2. The *licensed* dietitian for a patient of a facility shall:

- (a) Conduct an assessment of the nutrition of the patient;
- (b) Participate in a team review of the progress of the patient in accordance with the provisions of NAC 449.541;
- (c) After consulting with the physician of the patient, recommend a therapeutic diet for the patient based on:
 - (1) The cultural preferences of the patient;
 - (2) Changes in the treatment of the patient; and
 - (3) The nutritional requirements of the patient;
- (d) Except as otherwise provided in subsection 7:
 - (1) Counsel the patient and the provider of care for that patient, if required, concerning any diet prescribed for the patient at the facility; and
 - (2) Monitor the patient's adherence and response to that diet;
- (e) Refer the patient for assistance with any resources that are available to the patient, including, without limitation, financial assistance, community resources or assistance at the residence of the patient;
- (f) Participate in activities conducted at the facility to ensure the quality of the facility; and
- (g) Monitor the nutritional status of the patient to determine the need for intervention and follow-up by the facility. In making that determination, the *licensed* dietitian shall consider:
 - (1) Changes in the weight of the patient;
 - (2) The chemistry of the blood of the patient;
 - (3) The adequacy of the dialysis treatment provided to the patient; and
 - (4) Changes in the medication prescribed for the patient.

3. Each facility shall collect data to assess the nutritional status of a patient of the facility not later than 2 weeks after the patient is admitted to the facility or immediately after the patient receives seven treatments at the facility, whichever occurs later. A comprehensive assessment of the nutritional status of the patient must be completed within 30 days after the patient is admitted to the facility or immediately after the patient receives 13 treatments at the facility, whichever occurs later. Such an assessment must include a determination by the dietitian of the degree to which the patient understands the diet prescribed for him or her by the facility.

4. Each facility shall, annually or more often if required by the circumstances concerning the treatment of the patient, revise the comprehensive assessment of the nutritional status of each patient specified in subsection 3.

5. Each facility shall employ or contract with a *licensed* dietitian to provide nutrition services for each patient of the facility. If a facility provides treatment for 100 or more patients, the facility shall ensure that one full-time equivalent *licensed* dietitian is available at the facility.

6. Nutrition services must be available at each facility during scheduled periods for treatment. The facility may require a patient to obtain an appointment with a *licensed* dietitian before receiving those services.

7. The provisions of paragraph (d) of subsection 2 do not apply to a correctional institution.

Sec. 40. NAC 449.547 is hereby amended to read as follows:

449.547 1. If a facility provides training to a patient of the facility concerning the performance of dialysis by the patient, a licensed nurse who has at least 12 months of experience in the applicable dialysis modality, including hemodialysis or peritoneal dialysis, must be responsible for training the patient and each member of the family of the patient who intends to

assist the patient in conducting the dialysis. The licensed nurse shall supervise all other members of the staff of the facility who assist in providing that training.

2. If a patient of a facility performs dialysis for himself or herself at the patient's residence, the facility shall provide the following services to the patient:

- (a) A yearly physical examination;
- (b) Monthly communication from a member of the staff of the facility by:
 - (1) Telephone;
 - (2) Visits to the facility by the patient; or
 - (3) Visits to the patient's residence by a member of the staff;
- (c) A visit to the facility at least once every 3 months;
- (d) Communication with the appropriate member of the interdisciplinary team that is established for the patient pursuant to the provisions of NAC 449.541;
- (e) Routine laboratory work in accordance with the policy of the facility; and
- (f) A method by which the patient may contact a member of the staff of the facility, including the primary physician of the patient, at any time if an emergency concerning the condition of the patient occurs.

3. If a patient of a facility performs hemodialysis for himself or herself at the patient's residence, the facility shall provide the following services to the patient:

- (a) Surveillance of the patient's home adaptation, including provisions for visits to his or her residence;
- (b) Consultation with a registered nurse, social worker and *licensed* dietitian;
- (c) A system for maintaining a record of treatment that ensures continuity of care for the patient;

- (d) Installation and maintenance of the equipment required to perform the hemodialysis;
- (e) Testing and appropriate treating of the water used for the hemodialysis; and
- (f) Ordering of supplies on a continual basis.

Sec. 41. NAC 449.5475 is hereby amended to read as follows:

449.5475 If a facility provides continuous ambulatory peritoneal dialysis for a patient of the facility, the facility shall provide the following services to the patient:

- 1. Consultation with a registered nurse, social worker and *licensed* dietitian;
- 2. A system for maintaining a record of treatment that ensures continuity of care for the patient; and
- 3. Ordering of supplies on a continual basis.

Sec. 42. NAC 449.549 is hereby amended to read as follows:

449.549 If a facility provides continuous cycling peritoneal dialysis to a patient of the facility, the facility shall provide the following services to the patient:

- 1. Surveillance of the patient's home adaptation, including provisions for visits to his or her residence;
- 2. Consultation with a registered nurse, social worker and *licensed* dietitian;
- 3. A system for maintaining a record of treatment that ensures continuity of care for the patient;
- 4. Installation and maintenance of the equipment required to perform the dialysis; and
- 5. Ordering of supplies on a continual basis.

Sec. 43. NAC 449.5535 is hereby amended to read as follows:

449.5535 1. Each nurse employed by a facility must be licensed to practice nursing in this State.

2. Except as otherwise provided in subsection 3, each nurse of a facility who is assigned charge responsibilities must:

(a) Be a registered nurse; and

(b) Have at least 6 months of experience as a nurse in performing hemodialysis or in providing nursing care for a patient with permanent kidney failure. The experience required pursuant to the provisions of this paragraph must be obtained within the 2 years immediately preceding the date on which the nurse is assigned charge responsibilities by the facility.

3. The provisions of paragraph (b) of subsection 2 do not apply to a registered nurse who holds a current certificate in nephrology nursing or hemodialysis issued by a board that is nationally recognized.

4. Each charge nurse of a facility shall:

(a) Make daily assignments based on the requirements of each patient of the facility for treatment;

(b) Provide immediate supervision of the care provided to each of those patients;

(c) Conduct an assessment of a patient of the facility if required by the circumstances concerning the treatment of the patient; and

(d) Communicate with the patient's physician and the social worker and *licensed* dietitian of the facility concerning the treatment of the patient.

5. If a facility provides training concerning self-care for patients of the facility, a registered nurse who has at least 12 months of experience in performing dialysis and experience in the applicable dialysis modality must:

(a) Be responsible for training the patient and each member of the family of the patient who intends to assist the patient in providing care for the patient; and

(b) Supervise other members of the staff of the facility who assist in providing that training.

Sec. 44. NAC 449.555 is hereby amended to read as follows:

449.555 Each dietitian employed by a facility must ~~;~~

~~—1.— Be registered or eligible for registration by the Commission on Dietetic Registration for the American Dietetic Association; and~~

~~—2.— After becoming registered or eligible for registration, obtain at least 1 year of experience in clinical dietetics or work under the supervision of a dietitian who is qualified pursuant to this section.]~~ *be a licensed dietitian.*

Sec. 45. NAC 449.558 is hereby amended to read as follows:

449.558 1. Each facility shall establish a system for preparing and maintaining a clinical record for each patient of the facility. The system must be developed to ensure that the care provided to each patient of the facility is:

- (a) Completely and accurately documented;
- (b) Readily available for retrieval by the facility; and
- (c) Systematically organized to facilitate the compilation and retrieval of information.

2. If the facility maintains any clinical record on microfilm, optical disc or by any other electronic means, the facility shall ensure that the clinical record is available for review by the Bureau within 48 hours after the facility receives a request for the clinical record from the Bureau.

3. All information concerning the medical history or care provided to or treatment received by a patient at the facility must be:

- (a) Maintained in the clinical record of the patient; and
- (b) Protected by the facility against theft, loss or damage.

4. Each facility shall establish an area in which to store the clinical records of the facility. The area must be separate from any area of the facility that is used to provide treatment for patients of the facility and must have adequate space for reviewing, dictating, sorting or recording the information included in the clinical records. If a facility uses an optical disc, microfilm or any other electronic means to create or maintain a clinical record, the area used to store the clinical record must have adequate space for transcribing the information created or maintained on the optical disc, microfilm or by any other electronic means. If the facility determines that the clinical record of a patient of the facility is active, the facility shall store the active clinical record at the site of the facility.

5. Each facility shall ensure that:

(a) The clinical record of a patient of the facility remains confidential and is retained in accordance with the provisions of NRS 629.051; and

(b) Each entry or other information that is placed in the clinical record regarding the delivery of care to the patient is not altered without evidence and explanation of that alteration. A signature stamp must not be used to authenticate an entry in the clinical record of a patient of the facility.

6. If a facility determines that a clinical record is inactive, the facility shall store that clinical record. The facility may store the record on microfilm, optical disc or by any other electronic means and may store the clinical record at a location other than at the site of the facility if the facility ensures that:

(a) The clinical record remains secure from unauthorized access at that location; and

(b) The record is readily retrievable for review by the Health Division.

7. Each clinical record must include:

- (a) Information concerning the identity of the patient for whom the clinical record is prepared;
- (b) Each written notice provided to the patient at the facility and each written consent obtained from the patient at the facility;
- (c) Each order prepared by a physician at the facility concerning the patient;
- (d) Each progress note prepared by the facility concerning the patient;
- (e) A list that specifies all problems incurred concerning the treatment and care of the patient;
- (f) The physical and medical history of the patient;
- (g) Each assessment concerning the patient prepared by a registered nurse, social worker or *licensed* dietitian employed by the facility;
- (h) The record of each medication administered by the facility to the patient:
 - (1) During treatment at the facility; or
 - (2) For use at his or her residence;
- (i) The record of each transfusion received by the patient at the facility;
- (j) Each laboratory report prepared or received by the facility concerning the patient;
- (k) Each diagnostic study concerning the patient that is ordered by the attending nephrologist;
- (l) Each appropriate record of hospitalization;
- (m) Each record of consultation with the patient that is requested by the attending nephrologist;
- (n) If practicable, the record of creation and revision of access for each dialysis treatment provided to the patient;

(o) Each plan prepared by the facility concerning the care of the patient, including the plan developed for the patient pursuant to the provisions of NAC 449.541 and all amendments to that plan;

(p) Evidence indicating that the facility has complied with the provisions of NAC 449.501 to 449.5795, inclusive, concerning the furnishing of educational materials to the patient;

(q) Each record of the daily treatment received by the patient at the facility; and

(r) A discharge summary, if the patient is discharged from the facility.

8. As used in this section, “progress note” means a note or other written statement that:

(a) Is signed and dated by a member of the staff of a facility; and

(b) Summarizes the facts concerning the care provided to a patient of the facility and the response of the patient to that care for the period specified in the note or other written statement.

Sec. 46. NAC 449.5715 is hereby amended to read as follows:

449.5715 Each instructor who provides instruction pursuant to a program of training specified in NAC 449.571 must be:

1. A physician who is qualified as a medical director in accordance with the provisions of NAC 449.5505;

2. A registered nurse who:

(a) Has at least 12 months of experience in performing hemodialysis obtained within the 2 years immediately preceding the date he or she begins instruction pursuant to the program; and

(b) Has provided to the facility a current written list concerning his or her knowledge and skills that is prepared pursuant to the provisions of NAC 449.5745;

3. A registered nurse who provides instruction for a course of training for a dialysis technician at an accredited college or university; or

4. A ~~qualified~~ *licensed* dietitian or social worker who provides instruction within his or her area of expertise.

Sec. 47. NAC 449.716 is hereby amended to read as follows:

449.716 1. At least three meals or their equivalent must be served daily at regular times with not more than 14 hours between a substantial evening meal and breakfast. A second serving must be provided for those residents who desire one.

2. Therapeutic diet menus must be planned by a ~~qualified~~ *licensed* dietitian or be reviewed and approved by the attending or staff physician.

3. Menus must be planned and followed to meet the nutritional needs of the residents in accordance with the orders of a physician and, to the extent medically possible, in accordance with the recommended dietary allowances of the Food and Nutrition Board of the Institute of Medicine of the National ~~Academy of Sciences.~~ *Academies*. Menus must be in writing, planned at least a week in advance, dated, posted and kept on file for 90 days. Any substitutions on a menu must be noted on the written menu so that the menu on file reflects what was actually served.

4. Adequate facilities and equipment for the preparation, serving, refrigeration and storage of food in a sanitary manner must be provided.

5. A facility with more than 10 clients shall:

(a) Comply with all applicable provisions of chapter 446 of NRS and the regulations adopted pursuant thereto;

(b) Obtain the necessary permits from the Health Division;

(c) Maintain a report of each inspection concerning the sanitation of the facility for at least 1 year after the date of the inspection; and

(d) Maintain a report of each corrective action taken to address a deficiency noted in a report described in paragraph (c) for at least 1 year after the date of the corrective action.

6. Residents needing special equipment, implements or utensils to assist them when eating must have those items provided.

7. Where a facility operates on the cottage plan, provision must be made for food service that ensures hot, palatable meals. If the cottage plan provides for a central dining area, walkways to the dining area providing protection from the elements must be provided.

8. A qualified professional person must be used as a consultant on meal planning and food service. Four hours of consultation each month is the minimum requirement. A qualified person is:

(a) A person who is ~~registered as a dietician with the Commission on Dietetic Registration of the American Dietetic Association;~~ *a licensed dietitian*; or

(b) A graduate from an accredited college with a major in food and nutrition who has 2 years of supervisory experience in health care institutions or who has participated in a food service supervisor's course.

Sec. 48. NAC 449.74359 is hereby amended to read as follows:

449.74359 1. Each facility shall serve at least three meals or their equivalent daily, at regular times, with not more than 14 hours between a substantial evening meal and breakfast.

2. Additional food and between-meal nourishment must be provided to a patient when needed, based on an assessment of the medical condition of the patient.

3. Menus must be planned and followed to meet the nutritional needs of the patients in accordance with the recommended dietary allowances of the Food and Nutrition Board of the Institute of Medicine of the National ~~Academy of Sciences.~~ *Academies.*

4. Therapeutic menus must be planned by a ~~[registered]~~ *licensed* dietitian or must be reviewed and approved by the attending physician of the patient or the medical director of the facility.

5. Menus must be in writing, planned in advance, dated and posted, and kept on file at the facility for at least 90 days. Any substitution must be noted on the written menu so that the menu on file reflects what was actually served.

6. A ~~[person who meets the requirements for registration with the Commission on Dietetic Registration as a]~~ *licensed* dietitian ~~[or dietetic technician]~~ must be used as a consultant on planning meals and serving food. This person shall consult at least monthly with the staff of the facility.

7. The facility shall provide:

(a) Adequate facilities and equipment for the preparation, serving, refrigeration and storage of food in a sanitary manner;

(b) Storage space for dry foods, refrigerated food and frozen food;

(c) Any special equipment, implements or utensils that are needed by a patient to assist the patient in eating;

(d) Dining space for ambulatory patients, staff and visitors that is separate from sleeping areas, food preparation areas and distribution areas;

(e) Tables and chairs in the dining space that are sturdy and cleanable; and

(f) In each kitchen area:

(1) Sinks for washing hands with blade-type faucets, soap and paper towels for drying hands; and

(2) A separate janitors' closet for the storage of housekeeping chemicals and supplies which contains a floor sink with backflow prevention.

8. A facility with more than 10 patients shall:

(a) Comply with all applicable provisions of chapter 446 of NRS and the regulations adopted pursuant thereto;

(b) Obtain the necessary permits from the Health Division;

(c) Maintain a report of each inspection concerning the sanitation of the facility for at least 1 year after the date of the inspection; and

(d) Maintain a report of each corrective action taken to address a deficiency noted in a report described in paragraph (c) for at least 1 year after the date of the corrective action.

9. A facility that contracts with a food management company shall comply with all applicable regulations of the State Board of Health.

Sec. 49. NAC 449.74525 is hereby amended to read as follows:

449.74525 1. A facility for skilled nursing shall employ full-time, part-time or as a consultant, a person who is ~~registered as~~ a *licensed* dietitian . ~~by the Commission on Dietetic Registration of the American Dietetic Association.~~ If a ~~registered~~ *licensed* dietitian is not employed full-time, the facility shall designate a person to serve as the director of food service who receives frequently scheduled consultations from a ~~registered~~ *licensed* dietitian.

2. A facility shall employ an adequate number of qualified and competent personnel to provide food service to the patients in the facility.

3. Menus must be planned in advance and followed to meet the nutritional needs of the patients in the facility in accordance with the recommended dietary allowances of the Food and Nutrition Board of the Institute of Medicine of the National ~~Academy of Sciences.~~ *Academies.*

4. A facility shall provide to each patient in the facility:
 - (a) Food that is prepared to conserve the nutritional value and flavor of the food.
 - (b) Food that is nourishing, palatable, attractive and served at the proper temperature.
 - (c) A well-balanced diet that meets the daily nutritional and special dietary needs of the patient.
 - (d) Who refuses the food that is regularly served by the facility, a substitute of similar nutritional value.
5. A therapeutic diet served to a patient by a facility must be prescribed by the attending physician of the patient.
6. A facility shall serve to each patient in the facility at least three meals daily, at such times as are comparable to regular mealtimes within the community in which the facility is located. A snack must be offered to each patient daily at bedtime. Except as otherwise provided in this subsection, breakfast must be served not more than 14 hours after the previous evening meal. If a nourishing snack is served at bedtime, breakfast may be served not more than 16 hours after the previous evening meal if approved by a group of patients organized pursuant to NAC 449.74499.
7. A facility shall provide special eating equipment and utensils to each patient who requires them.
8. A facility shall:
 - (a) Comply with the applicable provisions of chapter 446 of NRS and the regulations adopted pursuant thereto and obtain such permits as are necessary from the Health Division for the preparation and service of food;
 - (b) Maintain a report of each inspection concerning the sanitation of the hospital for at least 1 year after the date of the inspection;

(c) Maintain a report of each corrective action taken to address a deficiency noted in a report described in paragraph (b) for at least 1 year after the date of the corrective action;

(d) Procure food from sources that are approved or considered satisfactory by federal, state and local authorities;

(e) Store, prepare and serve food under sanitary conditions; and

(f) Dispose of refuse and garbage properly.

Sec. 50. NAC 442.706 is hereby repealed.

TEXT OF REPEALED SECTION

442.706 “Registered dietitian” defined. (NRS 442.190) “Registered dietitian” means a person who holds a credential as a registered dietitian issued by the American Dietetic Association.

HEALTH DIVISION
Bureau of Healthcare Quality and Compliance
December 14, 2012
LCB File # R090-12

Information Statement per NRS 233B.066

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Public comment was solicited by the Notice of Public Hearing posted at Health Division locations, State Library and Archives, county libraries and mailed notification of the Notice of Public Hearing to affected stakeholders. In addition, an informal workgroup including dietitians was established and met several times in 2011 to work on the proposed regulations. A public workshop was held in Carson City and Las Vegas via videoconference on November 2, 2012. The following is a summary of the testimony provided during the State Board of Health Public Hearing on December 14, 2012:

Concern was expressed by a Board Member about the renewal fee for dietitians being higher than the renewal fee for music therapists. The Health Division provided the following explanation:

1. Dietitians had more complexity to them that would require more work, for example, possible workload involving waivers of the required examination and a larger complaint workload.
2. A budget analysis of the workload to run a dietitian regulatory and licensing program was conducted. The renewal fee of \$200 every 2 years would be the required amount to cover the costs to operate the program.
3. The Board Member took a hand count of those who supported the fees and 6 individuals raised their hand in support. No one raised their hand in opposition. Two dietitians testified in support of the fees as they were. A third person testified that the Autism certification fee structure was higher. That these were a fair fee structure and she wished the Autism ones were just as low as these.

No one testified in opposition to the proposed regulations.

A summary of the Hearing for Amendment of Nevada Administrative Code (NAC) 640E, "Dietetics", NAC 432A, "Services and Facilities for Care of Children", NAC 442, "Maternal and Child Health; Abortion", NAC 446, "Food Establishments", NAC 449, "Medical and Other Related Facilities", and NAC 459, "Hazardous Materials", LCB File No. R090-12 can be obtained by contacting the Bureau of Health Care Quality and Compliance, 727 Fairview Drive, Suite E, Carson City, Nevada, 89701.

2. The number of persons who:
 - (a) Attended the hearing;
 - (b) Testified at each hearing; and
 - (c) Submitted to the agency written statements.

Fifty people attended the hearing. Leticia Metherell, Health Facilities Inspection Manager for the Bureau of Health Care Quality and Compliance presented the proposal to amend Nevada Administrative Code, (NAC) 640E, “Dietetics”, NAC 432A, “Services and Facilities for Care of Children”, NAC 442, “Maternal and Child Health; Abortion”, NAC 446, “Food Establishments” and NAC 449, “Medical and Other Related Facilities”. Three individuals provided testimony in support of the proposed regulations, no one testified in opposition. A summary of the testimony can be found in number 1 above. No one provided written statements at the public hearing.

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.

A small business impact questionnaire and workshop notice which included information on how to obtain a copy of the proposed regulations and proposed changes to the proposed regulations were sent to registered dietitians in Nevada, child care facilities, food establishments, the Maternal and Child Health Advisory Board and stakeholders, the Maternal and Child Health Coalition and all impacted Chapter 449 facilities. The workshop notice, draft regulations and proposed changes to the draft regulations were also posted on the Health Division’s website, distributed through the Health Division’s List Serv and posted in accordance with open meeting law. Out of 2,498 small business impact questionnaires distributed, only 26 responses were received. The following is a summary of the 26 responses:

Summary of Response

Summary Of Comments Received			
(26 responses were received out of 2,498 small business impact questionnaires distributed)			
Will a specific regulation have an adverse economic effect upon your business?	Will the regulation (s) have any beneficial effect upon your business?	Do you anticipate any indirect adverse effects upon your business?	Do you anticipate any indirect beneficial effects upon your business?
No – 19 responses Yes – 2 responses Left Blank – 5	No – 19 responses Yes – 2 responses Left Blank - 5	No – 20 responses Yes – 1 responses Left Blank - 5	No – 20 responses Yes – 1 responses Left Blank - 5
<u>Comments:</u> Has nothing related to my business not required LCB File No. R090-12 – please be sure to include a provision for dietitians from other states e.g. CA, to obtain licensure. Our R.D. is based in Truckee, CA. With our proximity to the state	<u>Comments:</u> Has nothing related to my business I’m following the training classes which I attend it help me a lot. People looking for nutrition information or services may look	<u>Comments:</u> Not required Possibly – if licensure is expensive, the R.D. may pass the cost on to us. We already use a licensed Nutritionist/Dietician; we do background	<u>Comments:</u> Not required With the formation of a complaint procedure and advisory group, I believe my business would be provided with more constructive

<p>border such a provision is necessary.</p> <p>I have to have my 15 hour training every month I'm doing fire drill every 3 months disaster</p> <p>I am sure I meet licensure requirements and that the fee will not be a significant impact. Advertising changes to include licensure will also be minimal for me.</p>	<p>for licensure instead of not knowing what credential to look for to receive accurate, safe, evidence-based information.</p>	<p>checks.</p>	<p>feedback than currently receiving if the occasion for a complaint arose.</p>
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Number of Respondents out 2,498	Adverse economic effect?	Beneficial effect?	Indirect adverse effects?	Indirect beneficial effects?
26	2	2	1	1

In addition to the summary provided above, 2 questionnaires were not submitted in time to include in the small business impact summary. In summary, both stated the regulations would have an indirect adverse effect as well as an adverse economic effect upon their business and would have no indirect beneficial effect or beneficial effect upon their business. Comments included: “Will add unnecessary financial burden without providing any added benefit to my business or my clients. I may also be in the position of not providing some services that I already do.” “Some very vulnerable people may not be able to receive nutrition services.” “Yearly fee add an undue economic impact for dietitians working part-time providing small contracts in the rural areas.” “The exemptions for those who can provide nutrition services are extensive. The NRS is meaningless to me and my clients currently do not require it.” “Reduction in the number of hours an agency that can provide nutrition services.” “I would probably have to give up some of my small contracts with the increase in operating costs.” “I currently pay self-employment tax, federal tax, workman’s comp and liability insurance for about \$5,000.00 of income during the year. As you can see this poses a proportionally higher impact compared to a full-time RD. If anything there should be an option for part-time dietitians to pay a lower fee.”

A summary of the Hearing for Amendment of Nevada Administrative Code (NAC) 640E, “Dietetics”, NAC 432A, “Services and Facilities for Care of Children”, NAC 442, “Maternal and Child Health; Abortion”, NAC 446, “Food Establishments”, NAC 449, “Medical and Other Related Facilities”, and NAC 459, “Hazardous Materials”, LCB File No. R090-12 can be

obtained by contacting the Bureau of Health Care Quality and Compliance, 727 Fairview Drive, Suite E, Carson City, Nevada 89701.

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. The statement should also explain the reasons for making any changes to the regulation as proposed.

The Board of Health approved not moving forward with adding a fee for the examination of an applicant for a license to the fee schedule in Section 5 proposed in the errata because of the significant confusion it generated.

There were two approved changes, both omissions noted below in ~~bold red, strikethrough~~ without brackets, made to the regulations:

The first change approved by the Board of Health in the errata, changes Section 44 by deleting all of subsection 2 from this section; the reason it was deleted is because once you are licensed you would not need oversight by another licensed dietitian.

Each dietitian employed by a facility must:

1. Be ~~registered or eligible for registration by the Commission on Dietetic Registration for the American Dietetic Association;~~ **a licensed dietitian.;** **and**
2. ~~[After becoming registered or eligible for registration, obtain]~~ **Obtain at least 1 year of experience in clinical dietetics or work under the supervision of a licensed dietitian who is qualified pursuant to this section.**

The second approved change in the errata omits Section 50, which adds the hazardous materials section, Chapter 459 to the proposed regulations as hazardous materials don't have anything to do with dietary services.

~~Chapter 459 of NAC is hereby amended by adding thereto a new section to read as follows:~~

~~A person licensed by the State Board of Health pursuant to NRS 459.010 to 459.290, inclusive, shall not employ or contract with a person to provide medical nutrition therapy or nutrition services unless the person is licensed pursuant to chapter 640E of NRS or exempt from such licensure.~~

Based on the feedback at the public hearing noted in Section 1 in support of the fee structure, no opposition to the fee structure at the public hearing and the analysis conducted by the Health Division revealing that the fees were comparable to the fees charged by other licensing boards as well as producing the required revenue to cover the costs to operate the program, no changes to the fee structure are being proposed.

These proposed regulations along with the errata were approved by the State Board of Health on December 14, 2012.

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:

- Beneficial effects: Protection of integrity of individual profession through regulation and licensing. Allows the public to more easily identify qualified individuals that provide the types of services provided by a dietitian by looking for licensed dietitians. Non-licensed individuals would not be allowed to practice dietetics in Nevada except as otherwise provided in law.
- Adverse effects: Increased costs associated with licensing fees, potential complaints and potential disciplinary action which may impact an applicant or licensee.
- Two dietitians testified during public workshop that the cost of licensing may be passed on to consumers.

b. Both immediate and long term effects.

- Immediate effects: Increased costs associated with licensing fees.
- Long term effects: Costs associated with licensing continues.
- Two dietitians testified during public workshop that the cost of licensing may be passed on to consumers.

NOTE: NRS Chapter 640E added in the 2011 legislative session requires the licensing and regulation of dietitians. In addition, NRS 640E.240 (2) reveals that the established fees must be set in such an amount as to reimburse the Board for the cost of carrying out the provisions of this chapter, except that no such fee may exceed \$250. Therefore, statutes and not regulations are directly related to any adverse economic effects.

6. The estimated cost to the agency for enforcement of the proposed regulation.

Estimated cost to the Health Division for enforcement of the proposed regulation is the cost associated with licensing and regulating dietitians including costs to license dietitians, regulate dietitians, develop regulations, process and investigate complaints, and provide technical assistance to the public relating to the licensing of dietitians and other associated costs. The proposed regulations establish a fee schedule to cover the daily operating costs of a dietitian licensing and regulatory program.

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 regulatory federal agency.

There is no known overlap or duplication of the proposed regulations with other state, federal, or other government agencies regulations.

8. The regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

Not applicable, as there are no known federal regulations that require the same activity.

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.

It is estimated, assuming the approximately 630 registered dietitians in Nevada apply for licensure, at \$200 per dietitian every 2 years that the Health Division will collect approximately \$126,000 initially and every 2 years which is equivalent to \$63,000 per year. This is based on the initial licensing and continued licensing renewal of these 630 registered dietitians (this may change as the number of dietitians' increases or decreases through the years). It does not include other miscellaneous fees that may be collected such as those collected for a late renewal, provisional or temporary license as there is no way to estimate how many the Health Division will receive of these, if any. These fees would be used to carry out the daily operating costs of a dietitian licensing and regulatory program.

10. If the proposed regulation is likely to impose a direct and significant economic burden upon a small business or directly restrict the formulation, operation or expansion of a small business. What methods did the agency use in determining the impact of the regulation on a small business?

It is not anticipated that these proposed regulations would impose a significant economic burden upon a small business. As noted on page 6, statutes directed the development of fees, and based on collaboration with the dietetics industry and the testimony in support by representatives of that industry, the economic impact is minimal.