

**ADOPTED REGULATION OF THE DIVISION OF HEALTH
CARE FINANCING AND POLICY OF THE DEPARTMENT
OF HEALTH AND HUMAN SERVICES**

LCB File No. R099-12

Effective October 4, 2013

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

AUTHORITY: §1, NRS 439A.220 and 439A.230; §2, NRS 439A.270 and 439A.290.

A REGULATION relating to health care; revising provisions governing programs to increase public awareness of health care information concerning the hospitals and surgical centers for ambulatory patients in this State; and providing other matters properly relating thereto.

Section 1. NAC 439A.830 is hereby amended to read as follows:

439A.830 1. For purposes of paragraph (d) of subsection 2 of NRS 439A.220, the Department will:

- (a) Determine and make publicly available a list of the ~~{50 most frequent}~~ diagnosis-related groups for inpatients of hospitals that will be included in the program to increase public awareness of health care information concerning hospitals;
- (b) Determine and make publicly available a list of the 50 medical treatments for outpatients of hospitals that will be included in the program to increase public awareness of health care information concerning hospitals; and
- (c) Review each list once every 2 years and update the list as the Department determines necessary.

2. When selecting and updating the list of the ~~50 most frequent~~ diagnosis-related groups pursuant to paragraph (a) of subsection 1, the Department will use the information reported on the universal billing forms submitted pursuant to NAC 449.963.

3. When selecting and updating the list of the 50 medical treatments for outpatients of hospitals pursuant to paragraph (b) of subsection 1, the Department will consider, without limitation:

- (a) Recommendations of the State Board of Health;
- (b) Input received from the general public; and
- (c) The medical treatments for outpatients of hospitals that were most frequently performed by the hospitals in this State during the immediately preceding 2 years, as reported on the universal billing forms submitted pursuant to NAC 449.963.

4. As used in this section, “diagnosis-related group” has the meaning ascribed to it in NRS 439A.220.

Sec. 2. NAC 439A.835 is hereby amended to read as follows:

439A.835 The Department will:

- 1. Update the information contained on the Internet website established and maintained pursuant to NRS 439A.270 at least quarterly.
- 2. At least once every 2 years, review the information contained on the Internet website established and maintained pursuant to NRS 439A.270 to determine whether the information or the Internet website should be expanded, modified or otherwise altered. In making such determination, the Department will consider, without limitation, whether new measures of quality have been endorsed by the Agency for Healthcare Research and Quality ~~H~~ *of the United States Department of Health and Human Services*, the National Quality Forum, *the* Centers for

Medicare and Medicaid Services of the United States Department of Health and Human Services, a quality improvement organization of the Centers for Medicare and Medicaid Services or The Joint Commission.

3. Before including any information on the Internet website established and maintained pursuant to NRS 439A.270, use nationally accepted standards to audit the health information to ensure the completeness and accuracy of the information.

4. Provide on the Internet website established and maintained pursuant to NRS 439A.270 a link to the Internet website of the Health Division of the Department which contains information on sentinel events reported pursuant to NRS 439.800 to 439.890, inclusive.

5. Provide on the Internet website established and maintained pursuant to NRS 439A.270 a report of potentially preventable readmissions of patients who received acute care hospital services from a hospital other than a critical access hospital, using the information reported on the universal billing forms submitted pursuant to NAC 449.963. The Department will annually update the report provided pursuant to this subsection.

6. To the extent that money is available for that purpose, provide on the Internet website established and maintained pursuant to NRS 439A.270 the name of each physician who performed a surgical procedure in a hospital or surgical center for ambulatory patients in this State and the total number of surgical procedures performed by the physician, reported by principal diagnosis and, if the information is available, by diagnosis-related group.

7. As used in this section:

(a) "Acute care hospital services" means services ordinarily furnished in a hospital for the care and treatment of an inpatient under the direction of a physician or dentist which are furnished in an institution that:

(1) Is maintained primarily for the care and treatment of patients with disorders other than mental illness;

(2) Is licensed as a hospital by the Health Division of the Department;

(3) Meets the requirements for participation as a provider for Medicare; and

(4) Has in effect a utilization review plan for any patient who is a recipient of Medicaid which complies with 42 C.F.R. § 482.30.

(b) “Critical access hospital” means a hospital which has been certified as a critical access hospital by the Secretary of Health and Human Services pursuant to 42 U.S.C. § 1395i-4(e).

(c) “Diagnosis-related group” has the meaning ascribed to it in NRS 439A.220.

**Legislative Review of Adopted Regulations as Required by NRS 233B.066
Nevada Regulation Amendment R099-12**

The following statement is submitted for adopted amendments to Nevada Regulation Amendment R099-12.

1. A clear and concise explanation of the need for the adopted regulation.

The regulation is needed to be in compliance with Senate Bills approved in the 2011 Legislative session. The legislation expanded on the State's duty to determine and make publicly available health care information on diagnosis-related groups for inpatients of hospitals that will be included in the program to increase awareness of information concerning hospitals and surgical centers for ambulatory patient.

The proposed changes to the NAC 439A.830 will increase the amount of health care information available to the public concerning hospitals by removing the limit of "50 most frequent" from the list of diagnosis-related groups for inpatients. This is in compliance with SB 264.

The proposed changes to the NAC 439A.835 will expand the array of data by adding a report of potentially preventable readmissions of patients who received acute care hospital services and by establishing, to the extent of financial availability, the possibility to include individual information of physicians who performed a surgical procedure in a hospital or surgical center for ambulatory patients in Nevada. The changes are also addressing definitions for types of hospital services for accuracy. These changes are in compliance with SB 338 and SB 340.

2. 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.

Copies of the proposed regulations, notices of workshop, Notices of Intent to Act Upon the Regulation were emailed to all persons on the agency's mailing list for administrative regulations and made available at the DHCFP Carson City central office, 1100 E. Williams Street, Suite 101, Carson City, NV 89701; Las Vegas DHCFP, 1210 E. Valley View Blvd. Suite 104, Las Vegas, NV 89416 and the DHCFP Web site www.dhcfp.nv.us. It was posted to all county libraries in Nevada and the Nevada State Library. The Notice of Public Hearing and the regulation to be amended were on file at the State Library and Public Library in addition the text of the proposed regulation were available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at <http://www.leg.state.nv.us>, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public

On December 28, 2012 a Public Workshop was conducted via teleconference, in both Carson City and Las Vegas, at the Division of Health Care Financial and Policy (DHCFP) conference room. Three people testified at the Workshop and one submitted a written

statement. The Public Workshop Minutes contain a summary of the discussion held regarding the proposed regulation and are attached.

On February 14, 2013 a Public Hearing was held, via teleconference, in Carson City at the Nevada State Health Division and in Las Vegas at the Grant Sawyer Building. Three people attended in Carson City, and three people in Las Vegas, in addition to DHCFP staff and Senior DAG Darrell Faircloth.

At the Public Hearing public comment was made by Mr. Joseph Greenway who had a question regarding the posting of the operating physician name and whether it was by hospital in that it would show the physician's name and would it show the hospital. Ms. Prentice verified NRS 439A.270(3) says "Name of each physician who performed a surgical procedure in a hospital and the total number of surgical procedures performed by each physician in the hospital, reported for the most frequent surgical procedures..." This confirms the physician name shall be posted by hospital, reported by principal diagnosis in a diagnosis group. The Public Hearing Minutes contain a summary of the discussion held regarding the proposed regulation and are attached.

Additional information and minutes from the Public Workshop is available by contacting Debra Sisco at debra.sisco@dhcfp.nv.gov.

Interested persons may obtain a copy of the Public Hearing minutes on the web at www.dhcfp.nv.gov, Public Notices, Past Meeting Minutes, 2013, Nevada Administrative Code, and then click on PH 2-14-13 Minutes NAC.pdf or contact Rita Mackie at rmackie@dhcfp.nv.gov or 775/684-3681.

3. The Number persons who:

(a) Attended each hearing: December 28, 2012 - 9; February 14, 2013 – 7

(b) Testified at each hearing: December 28, 2012 - 3; February 14, 2013 – 1

(c) Submitted to the agency written comments:

One written comment from Nevada Hospital Association was submitted and read into the minutes of the Public Workshop and is attached.

4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting hearing:

(a) Name;

(b) Telephone number;

(c) Business address;

(d) Business telephone number;

(e) Electronic mail address; and

(f) Name of entity or organization represented.

See attached.

5. 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.

Comments were solicited from affected businesses in the same manner as they were solicited from the public.

Representatives of the Nevada Hospital Association submitted written comment at the public workshop and attended the Public Hearing.

The summary may be obtained as instructed in the response to question #1.

6. If the regulations was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The comments received were not related to the proposed NAC changes so the draft regulation did not require changes.

7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Both adverse and beneficial effects; and

The information provided on the website can be used by the health care facilities and physicians to evaluate the quality of care measurements provided to their patients.

The information provided will be a public resource for anyone to use to research facilities and physicians to make informed healthcare choices for themselves and their family members.

(b) Both immediate and long-term effects.

The information provided on the website will be a resource that health care facilities/businesses can use when evaluating their health care business practices and evaluate areas of their business that may have potential health care risks. The data provided is compiled over years so businesses can monitor short term and long term results from changes they make in their health care practices.

The public can view information regarding health care facilities which can assist members of the public in making informed health care choices for themselves and family members. Similar information can be viewed by the public as produced at the national level.

8. The estimated cost to the agency for enforcement of the adopted regulation.

There is no cost anticipated for the implementation of these changes. The data collection procedures were already implemented with the fulfillment of the requirements of AB146 of the 2011_ Legislative Session.

- 9. 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, the name of the regulating federal agency.**

There is no other state or federal regulations that overlap or duplicate the proposed regulation.

- 10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

N/A

- 11. 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.**

N/A

- 12. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?**

Each for-profit hospital and ambulatory surgery center which employs fewer than 150 employees has already incurred the expenses related to the creation of a specific Universal Billing electronic format, which contains discharge information for hospital inpatients, and is currently submitted quarterly to CHIA.

The data required to create and post the proposed additional reports is currently obtained from the Universal Billing form quarterly submitted to CHIA. The proposed changes to the regulation do not restrict the formation, operation or expansion of small businesses as the additional information requirements can be fulfilled by the Universal Billing electronic procedures currently in place.

There is no cost anticipated for the implementation of these changes. The data collection procedures were already implemented with the fulfillment of the requirements of AB146.