

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

LCB File No. R104-12

Effective October 24, 2014

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

AUTHORITY: §§1 and 2, NRS 439.890; §3, NRS 439.835 and 439.890; §§4-8, NRS 439.847 and 439.890.

A REGULATION relating to public health; establishing requirements for facilities for skilled nursing to report certain patient safety information and certain other health information; revising provisions relating to reports concerning the health and safety of patients at certain facilities; and providing other matters properly relating thereto.

Legislative Counsel's Digest

Existing law requires certain medical facilities that provide medical care and services to an average of 25 or more patients each day to submit information relating to infections and procedures to the National Healthcare Safety Network and authorizes all other medical facilities to submit such information. (NRS 439.847) Senate Bill No. 338 enacted during the 2011 Legislative Session requires facilities for skilled nursing that provide medical care and services to an average of 25 or more patients each day to submit such information and authorizes all other facilities for skilled nursing to submit such information. (Chapter 366, Statutes of Nevada 2011, pp. 2125-26) Existing regulations provide a formula for determining the average number of patients who have received services and care from a hospital or other medical facility. (NAC 439.925) **Section 4** of this regulation provides a formula for making that determination for a facility for skilled nursing.

Section 5 of this regulation requires each facility for skilled nursing that is required to participate in the National Healthcare Safety Network to comply with all requirements and guidelines of the Network in the same fashion as a medical facility and sets forth the administrative requirements for each facility for skilled nursing. **Section 6** of this regulation sets forth the data that facilities for skilled nursing must submit and revises the data that certain medical facilities are required to submit to the Network, including, without limitation, the influenza vaccination rate of the healthcare personnel at the facility.

Sections 7 and 8 of this regulation make facilities for skilled nursing subject to provisions relating to reporting, confidentiality, auditing and submission of data applicable to medical facilities.

Section 1. Chapter 439 of NAC is hereby amended by adding thereto a new section to read as follows:

“Facility for skilled nursing” has the meaning ascribed to it in NRS 449.0039.

Sec. 2. NAC 439.900 is hereby amended to read as follows:

439.900 As used in NAC 439.900 to 439.945, inclusive, *and section 1 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 439.901 to 439.912, inclusive, *and section 1 of this regulation* have the meanings ascribed to them in those sections.

Sec. 3. NAC 439.915 is hereby amended to read as follows:

439.915 1. A report submitted pursuant to NRS 439.835 must be submitted in the format prescribed pursuant to subsection 4 and must include, without limitation:

- (a) The unique identification code assigned to the medical facility by the ~~Health~~ Division pursuant to subsection 5;
- (b) The name of the person who is making the report;
- (c) The date on which the sentinel event occurred;
- (d) The date ~~and time~~ that the medical facility was notified of the occurrence of the sentinel event;
- (e) If the patient resides in this State, the county in which the patient resides;
- (f) If the patient does not reside in this State, the state or country in which the patient resides;
- (g) The date of birth of the patient;
- (h) The ~~gender~~ *sex* of the patient;
- (i) A description of the sentinel event; and
- (j) The department of the medical facility at which the sentinel event occurred.

2. Within 45 days after receiving notification or becoming aware of the occurrence of a sentinel event pursuant to subsection 1 or 2 of NRS 439.835, the patient safety officer of the medical facility in which the sentinel event occurred must submit a second report to the ~~Health~~ Division. A report required by this subsection must be submitted in the format prescribed pursuant to subsection 4 and must include, without limitation:

(a) The factors that contributed to the sentinel event, including, without limitation:

- (1) Any medical or other condition of the patient;
- (2) Any policy, procedure or process of the medical facility;
- (3) Any environmental condition of the medical facility;
- (4) Any behavior of a member of the staff of the medical facility;
- (5) Any situation present at the medical facility; and
- (6) Any problem involving communication or documentation at the medical facility.

(b) The corrective actions, if any, identified pursuant to NAC 439.917 that will be taken by the medical facility to address the factors that contributed to the sentinel event, including, without limitation:

- (1) A review of the policies, procedures or processes of the medical facility;
- (2) Any change or development of the policies, procedures or processes of the medical facility;
- (3) Any disciplinary actions taken against a member of the staff of the medical facility by the medical facility;
- (4) Any environmental or equipment changes made in the medical facility;
- (5) Any education or retraining provided to the staff of the medical facility;
- (6) The date by which each corrective action will be completed; and

(7) The title of the person who is responsible for overseeing each corrective action.

(c) A copy of the plan to remedy the causes or contributing factors, or both, of the sentinel event developed pursuant to subsection 3 of NAC 439.917 or the statement prepared pursuant to subsection 4 of that section.

3. A report submitted pursuant to subsection 1 must indicate the date ~~and time~~ that the report was submitted to the ~~Health~~ Division. Proof satisfactory to the ~~Health~~ Division of the date ~~and time~~ that a report was submitted includes:

(a) The postmark on the package in which the report was submitted to the ~~Health~~ Division;

(b) The ~~time~~ *date* stamp created by a facsimile machine used to transmit the report to the ~~Health~~ Division;

(c) The electronic ~~time~~ *date* stamp created by a program of electronic mail used to transmit the report to the ~~Health~~ Division; and

(d) Any other evidence acceptable to the ~~Health~~ Division, as indicated on the form created by the ~~Health~~ Division pursuant to subsection 4.

4. The ~~Health~~ Division shall develop the format for each report required by subsection 1 or 2, which must require, without limitation, the reporting of information relating to *sentinel* events ~~. [on the list of serious reportable events contained in the most recent version of “Serious Reportable Events in Healthcare,” issued by the National Quality Forum, which is hereby adopted by reference.]~~ The ~~Health~~ Division shall distribute copies of the forms created pursuant to this subsection to each medical facility in this State. The ~~Health~~ Division shall notify medical facilities that an update to a form is available within 30 days after making a change to a form.

5. The ~~{Health}~~ Division shall assign a unique identification code to each medical facility in this State, to be used on the reports required by subsections 1 and 2.

~~{6. The most recent edition of "Serious Reportable Events in Healthcare," which is adopted by reference in subsection 4, may be obtained free of charge from the National Quality Forum, 601 13th Street, N.W., Suite 500 North, Washington, D.C. 20005, or on the Internet at <http://www.qualityforum.org/Publications.aspx>. If the State Board of Health determines that a revision is not suitable for this State, the Board will:~~

~~—(a) Hold a public hearing to review its determination within 6 months after the date of the publication of the revision; and~~

~~—(b) Give notice of that hearing.~~

~~→ If, after the hearing, the Board does not revise its determination, the Board will give notice within 30 days after the hearing that the revision is not suitable for this State. If the Board does not give such notice, the revision becomes part of the publication adopted by reference in subsection 4.]~~

Sec. 4. NAC 439.925 is hereby amended to read as follows:

439.925 For purposes of subsection 1 of NRS 439.847, to determine whether a medical facility *or a facility for skilled nursing* provides medical services and care to an average of 25 or more patients during each business day in the immediately preceding calendar year, the ~~{Health}~~ Division shall:

1. For a hospital described in NRS 439.805, divide the total number of inpatients admitted to the hospital during the preceding calendar year by 365.

2. *For a facility for skilled nursing, divide the sum of the daily censuses of patients during the preceding calendar year by 365.*

3. For a medical facility other than a hospital, divide the total number of patients seen by the medical facility in the immediately preceding calendar year by the total number of days on which the medical facility was open for business during that calendar year.

Sec. 5. NAC 439.930 is hereby amended to read as follows:

439.930 1. Each medical facility *or facility for skilled nursing* that participates in the National Healthcare Safety Network shall:

(a) Subscribe to the National Healthcare Safety Network user group designated by the ~~Health~~ Division.

(b) Comply with the requirements of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services for enrolling and maintaining enrollment in the National Healthcare Safety Network.

(c) Comply with all definitions, methods, requirements and procedures established by the Centers for Disease Control and Prevention when collecting and submitting data to the National Healthcare Safety Network.

(d) Designate a person employed by the ~~medical~~ facility to act as the facility administrator for the National Healthcare Safety Network.

(e) Designate the persons at the ~~medical~~ facility who are authorized to access the National Healthcare Safety Network, if the ~~medical~~ facility determines that such access is necessary.

(f) Complete all training required by the Centers for Disease Control and Prevention for participation in the National Healthcare Safety Network and ensure that the facility administrator designated pursuant to paragraph (d) and each person who is authorized to access the National Healthcare Safety Network pursuant to paragraph (e) have been properly trained.

2. The person designated as the facility administrator for the National Healthcare Safety Network pursuant to paragraph (d) of subsection 1 is the person at the medical facility *or facility for skilled nursing* who is primarily responsible for accessing the National Healthcare Safety Network and submitting the required data to the National Healthcare Safety Network. The facility administrator must:

(a) Have authority to access all data of the ~~medical~~ facility that is required for submitting information to the National Healthcare Safety Network;

(b) Be able to certify authorized users who have been designated pursuant to paragraph (e) of subsection 1 by the ~~medical~~ facility to access the National Healthcare Safety Network and assist those persons in accessing the National Healthcare Safety Network; and

(c) Be responsible for accepting official documents and correspondence from the Centers for Disease Control and Prevention and the administrator of the National Healthcare Safety Network.

Sec. 6. NAC 439.935 is hereby amended to read as follows:

439.935 1. Each hospital described in NRS 439.805 that is required to participate in the National Healthcare Safety Network shall:

(a) Submit data to the National Healthcare Safety Network relating to all central line-associated bloodstream infection events.

(b) *Commencing not later than January 1, 2015, submit data to the National Healthcare Safety Network concerning the influenza vaccination rate of the health care personnel of the hospital.*

2. Each hospital described in NRS 439.805 that is required to participate in the National Healthcare Safety Network and that is not designated as a psychiatric hospital pursuant to NRS 449.202 shall:

(a) Commencing not later than February 1, 2011, submit data to the National Healthcare Safety Network relating to the ~~nosocomial~~ ***healthcare-associated*** methicillin-resistant Staphylococcus aureus infection rate of patients for each patient care location within the hospital ~~. that has been identified by the Centers for Disease Control and Prevention.~~

~~—(e)~~ ***(b)*** Commencing not later than February 1, 2011, submit to the National Healthcare Safety Network the incident rate of hospital-onset methicillin-resistant Staphylococcus aureus bloodstream infections, which must be based on clinical cultures, for each patient care location within the hospital ~~. that has been identified by the Centers for Disease Control and Prevention.~~

~~—(d)~~ ***(c)*** Commencing not later than February 1, ~~2011,~~ ***2015***, implement the ~~Antimicrobial Use and Resistance Option within the Medication-Associated Module~~ ***Multidrug-Resistant Organism and Clostridium difficile Infection Module*** of the Patient Safety Component of the National Healthcare Safety Network.

~~—(e)~~ ***(d)*** Commencing not later than June 1, 2012, submit data to the National Healthcare Safety Network concerning surgical site infections relating to a:

- (1) Coronary artery bypass graft with both chest and donor site incisions;
- (2) Hip prosthesis;
- (3) Knee prosthesis; and
- (4) Laminectomy.

~~{1}~~ 3. Each hospital shall continue to report the information required pursuant to ~~{this}~~ subsection *1 or 2* to the National Healthcare Safety Network at the times and in the manner prescribed by the National Healthcare Safety Network for submission of that information.

~~{2}~~ 4. Each surgical center for ambulatory patients described in NRS 439.805 that is required to participate in the National Healthcare Safety Network shall ~~{submit}~~ :

(a) Submit data to the National Healthcare Safety Network concerning surgical site infections relating to a:

- ~~{a}~~ *(1)* Gallbladder surgery;
- ~~{b}~~ *(2)* Open reduction of a fracture;
- ~~{e}~~ *(3)* Herniorrhaphy; and
- ~~{d}~~ *(4)* Breast surgery.

(b) Commencing not later than October 1, 2014, submit data to the National Healthcare Safety Network concerning the influenza vaccination rate of the health care personnel of the center.

↪ Each surgical center for ambulatory patients shall continue to report the information required pursuant to this subsection to the National Healthcare Safety Network at the times and in the manner prescribed by the National Healthcare Safety Network for submission of that information.

~~{3}~~ 5. Each independent center for emergency medical care described in NRS 439.805 that is required to participate in the National Healthcare Safety Network shall submit data to the National Healthcare Safety Network concerning the influenza vaccination rate of the health care personnel of the center. Each independent center for emergency medical care shall continue to report the information required pursuant to this subsection to the National Healthcare Safety

Network at the times and in the manner prescribed by the National Healthcare Safety Network for submission of that information.

~~4.4~~ 6. Each obstetric center described in NRS 439.805 that is required to participate in the National Healthcare Safety Network shall submit data to the National Healthcare Safety Network concerning the influenza vaccination rate of the health care personnel of the center. Each obstetric center shall continue to report the information required pursuant to this subsection to the National Healthcare Safety Network at the times and in the manner prescribed by the National Healthcare Safety Network for submission of that information.

7. Each facility for skilled nursing that is required to participate in the National Healthcare Safety Network shall, commencing not later than:

(a) January 1, 2015, submit data to the National Healthcare Safety Network relating to all catheter-associated urinary tract infections.

(b) October 1, 2015, carry out the Summary Method of the Vaccination Module of the Patient Safety Component of the National Healthcare Safety Network.

(c) January 1, 2016, carry out the Clostridium difficile infection surveillance option of the Multidrug-Resistant Organism and Clostridium difficile Infection Module of the Patient Safety Component of the National Healthcare Safety Network.

(d) October 1, 2016, carry out the Influenza Vaccination Module of the Healthcare Personnel Safety Component of the National Healthcare Safety Network.

↪ Each facility for skilled nursing shall continue to report the information required pursuant to this subsection to the National Healthcare Safety Network at the times and in the manner prescribed by the National Healthcare Safety Network for submission of that information.

~~15.1~~ 8. A physician who performs a medical procedure at a medical facility that is required to report to the National Healthcare Safety Network shall report to the medical facility any facility-acquired infection which is diagnosed at a follow-up examination of the patient and which resulted from the medical procedure performed at the medical facility.

~~16.1~~ 9. A medical facility *or a facility for skilled nursing* shall report all confirmed and all suspected instances of a facility-acquired infection acquired at another medical facility *or facility for skilled nursing* to the medical facility *or facility for skilled nursing* in which the infection was acquired. The medical facility *or facility for skilled nursing* which reports a confirmed or suspected instance of a facility-acquired infection pursuant to this subsection shall keep a record of that report for not less than 3 years after making such report.

Sec. 7. NAC 439.940 is hereby amended to read as follows:

439.940 1. Except as otherwise provided in this section and NRS 239.0115, information provided to the ~~Health~~ Division through the National Healthcare Safety Network and any additional information requested by the ~~Health~~ Division is confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

2. The ~~Health~~ Division shall annually prepare and post on the Internet website maintained by the ~~Health~~ Division a report of aggregated data provided to the National Healthcare Safety Network.

3. The ~~Health~~ Division may prepare and post on the Internet website maintained by the ~~Health~~ Division a report of the data provided by a specific medical facility ~~H~~ *or facility for skilled nursing*, including, without limitation, infections tracked by the medical facility ~~H~~ *or facility for skilled nursing*, infection rates reported by the medical facility *or facility for skilled nursing* and the name of the medical facility ~~if~~.

~~—(a) The medical facility has given the Health Division permission to make such a report available to the public; and~~

~~—(b) The data released pursuant to this subsection does not reveal the identity or otherwise compromise the confidentiality of a medical facility that is included in the report of aggregated data posted pursuant to subsection 2 and which has not given the Health Division permission to report data specific to that medical facility.] *or facility for skilled nursing.*~~

4. The ~~H~~Health Division shall:

(a) Ensure that the name and other personally identifying information regarding each patient are kept confidential when preparing the report.

(b) Adhere to standard methods of suppressing protected health information and reporting to ensure that the identity of a patient is not revealed and to preserve patient confidentiality.

5. The ~~H~~Health Division may, at such times as it deems necessary, audit a medical facility *or a facility for skilled nursing* that participates in the National Healthcare Safety Network to ensure the accuracy of information submitted by the medical facility ~~H~~ *or facility for skilled nursing*, including, without limitation, data relating to facility-acquired infections, health care records and tests.

Sec. 8. NAC 439.945 is hereby amended to read as follows:

439.945 ~~H~~ If a medical facility *or a facility for skilled nursing* participates in the National Healthcare Safety Network, the chief executive officer of the medical facility ~~H~~ *or facility for skilled nursing*, or the officer's designee, shall, on or before March 1 of each year, submit to the ~~H~~Health Division a signed statement certifying that the medical facility *or facility for skilled nursing* has processes in place to ensure that the data relating to facility-acquired

infections submitted to the National Healthcare Safety Network is accurate and meets the requirements of NAC 439.900 to 439.945, inclusive.

~~{2. The signed statement required by subsection 1 must be mailed to the Bureau of Health Care Quality and Compliance, 727 Fairview Drive, Suite E, Carson City, Nevada 89701.}~~

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
LCB File # R104-12

Information Statement per NRS 233B.066

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

Nevada Revised Statute (NRS) 439.847, added to NRS in 2009, requires the Nevada Division of Public and Behavioral Health to collect and publish data from skilled nursing facilities (SNFs) reported through the National Healthcare Safety Network (NHSN) as soon as the module becomes available. Currently only hospitals and ambulatory surgery centers with a specified number of patients per day are required to report to the Division through NHSN. The system currently supports the enrollment of long-term care/skilled nursing facilities in a limited fashion, though much work is currently being done to enhance the features and functionality for this facility type. The system collects data for long-term care/skilled nursing facilities on a few key infection control indicators that pertain to patient and healthcare personnel safety. For patient safety, catheter-associated urinary tract infections (CAUTIs) and multi-drug resistant organisms (MDROs), including *Clostridium difficile*, may be reported. For healthcare personnel safety, exposure to blood and/or other bodily fluids and influenza vaccine coverage and/or influenza exposure management may also be reported. The data collected through NHSN must be compiled into a report that lists facility-specific data by rate and total number and provided to the Center for Health Information Analysis (CHIA) to display on their website (NRS 439A.270) as required by the statute.

The attached requested changes reflect the addition of language to specify reporting requirements of SNFs, as well as “clean-up” fixes to remove/edit current language.

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

A public workshop was held at Division of Public and Behavioral Health (Carson City) and video conferenced to Las Vegas on Wednesday, December 5, 2012 at 2PM. One member of the public attended and did not have any requested changes to the regulation as written in LCB File No. R104-12. No member of the public provided testimony at the workshop. Small business questionnaires and notices of the public workshop were mailed to all licensed hospitals and skilled nursing facilities. There were a total of 14 responses faxed or mailed back with none indicating that the regulation would have an effect on their business.

A summary of the Hearing for Amendment of Nevada Administrative Code, Chapter 439 can be obtained by contacting the Office of Public Health, Informatics and Epidemiology at, 4150 Technology Way, Suite 300, Carson City, NV 89701.

3. The number of persons who:

(a) Attended the hearing;

One member of the public attended the public hearing on Wednesday, December 5, 2012. Eighteen (18) individuals signed in at the March 28, 2014 Board of Health meeting, but it is unclear how many individuals came specifically to hear testimony on these proposed regulations.

(b) Testified at each hearing; and

No one from the public provided testimony at either public hearing for the proposed regulations.

(c) Submitted to the agency written statements.

No one submitted written statements for the public hearings.

4. For each person identified above, the following information if provided to the Division of Public and Behavioral Health: Name, telephone number, business address, business telephone number, electronic mail address and name of entity or organization represented. (Please see attached copies of sign-in sheet)

Eighteen (18) people were present at the Board of Health hearing, but it is unclear how many of those individuals came specifically to hear testimony on these proposed regulations. Kimisha Griffin, Health Program Specialist II for the Office of Public Health, Informatics and Epidemiology presented the proposal to amend Nevada Administrative Code, Chapter 439. No one provided testimony at the hearing.

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.

In November 2012, a small business impact questionnaire and workshop notice which included information on how to obtain a copy of the proposed regulations was sent to impacted facilities. The workshop notice and draft regulations were also, distributed through the Division of Public and Behavioral Health's List Serv and posted in accordance with open meeting law. Out of 101 small business impact questionnaires distributed, only 14 responses were received. The following is a summary of the 14 responses.

Summary of Response

Summary Of Comments Received (14 responses were received out of 101 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 - 14 Yes - 0	No -14 Yes - 0	No -14 Yes - 0	No -14 Yes - 0

Number of Respondents out 101	Adverse economic effect?	Beneficial effect?	Indirect adverse effects?	Indirect beneficial effects?
14	0	0	0	0

A summary of the Hearing for Amendment of Nevada Administrative Code, Chapter 439 can be obtained by contacting the Division of Public and Behavioral Health, 4150 Technology Way, Suite 300, Carson City, NV 89701.

6. 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 Division of Public and Behavioral Health has provided several opportunities for all licensed hospitals and skilled nursing facilities to provide input and comments over the past two years regarding the proposed addition to the regulations, including the economic impact the proposed regulations may have on their facility type. No modifications to the proposed regulations have been made as a result of this input. Workshops were held on December 5, 2012 in Carson City and Las Vegas allowing for further input by all licensed hospitals and skilled nursing facilities regarding the proposed regulations and how they will impact them. No comments were provided. As there was no objection to the proposed regulation to those who it would affect, the recommendation is that the regulations be adopted without any changes.

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

a. Both adverse and beneficial effects; and

- A. Beneficial effects: NRS 439.847 will result in reporting from SNFs in order to track infection rates for CAUTI, C. diff and provide influenza vaccination rates for healthcare workers in hospitals and SNFs. This regulation will allow the Division to determine what type of training is needed for healthcare workers in order to provide appropriate education to decrease infection rates in Nevada and to provide safer healthcare environments. Consumers will have access to infection rate data which would make them knowledgeable when choosing a healthcare provider.
- B. Adverse effects: Consumers may choose a different provider based upon this information.
- C. Immediate effects: Increased public awareness to and safety of healthcare environments.
- D. Long term effects: Increased public awareness and safety of healthcare environments.

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

The estimated cost to the Division of Public and Behavioral Health for enforcement of the proposed regulations is \$0.

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, name the regulatory federal agency.

There are no other regulations that overlap or duplicate the proposed regulations.

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

This section is not applicable to the proposed regulations.

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.

The proposed regulations do not add a new fee or increase an existing fee.