

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

LCB File No. R111-12

November 7, 2013

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

AUTHORITY: §§1-5, NRS 449.0302.

A REGULATION relating to medical and other related facilities; providing for background investigations of certain applicants for a license; requiring certain actions to be taken with respect to an employee, employee of a temporary employment service or independent contractor of certain facilities, hospitals, agencies, programs and homes pending completion of a background investigation or correction of information received as a result of such an investigation; providing for disciplinary action for failing to provide necessary information to complete a background investigation; and providing other matters properly relating thereto.

Section 1. Chapter 449 of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. *As used in sections 2, 3 and 4 of this regulation, unless the context otherwise requires, “Central Repository” means the Central Repository for Nevada Records of Criminal History.*

Sec. 3. 1. *If the Central Repository notifies the Division that it is unable to complete an investigation pursuant to NRS 449.122 because:*

(a) Additional information is required, the Division shall send a notice to the applicant or licensee directing the applicant or licensee to provide the Division and the Central Repository with the information or proof that the information cannot be obtained within 30 days after the date on which the notice was sent by the Division.

(b) Criminal charges against the applicant or licensee are pending, the Division shall notify the applicant or licensee that he or she is required to:

(1) Notify the Division of the date of each court proceeding relating to the charges; and

(2) Provide the Central Repository with any information relating to the final disposition of the charges as soon as the information is available.

2. The Division may deny an application for a license of an applicant or revoke the license of a licensee who fails to comply with the provisions of this section.

3. The Division may delay taking any action concerning an application until the Central Repository completes its investigation.

Sec. 4. 1. *If the Central Repository notifies the administrator of, or the person licensed to operate, a facility, hospital, agency, program or home that it is unable to complete an investigation pursuant to NRS 449.123 because:*

(a) Additional information is required, the administrator of, or the person licensed to operate, the facility, hospital, agency, program or home shall, within 10 working days after receiving the notice from the Central Repository, send a notice to the employee, employee of a temporary employment service or independent contractor directing the employee, employee of a temporary employment service or independent contractor to provide the administrator of, or the person licensed to operate, the facility, hospital, agency, program or home and the Central Repository with the information or proof that the information cannot be obtained within 30 days after the date on which the notice was sent by the administrator of, or the person licensed to operate, the facility, hospital, agency, program or home.

(b) Criminal charges against the employee, employee of a temporary employment service or independent contractor are pending, the administrator of, or the person licensed to operate,

the facility, hospital, agency, program or home shall notify the employee, employee of a temporary employment service or independent contractor that he or she is required to:

(1) Notify the administrator of, or the person licensed to operate, the facility, hospital, agency, program or home of the date of each court proceeding relating to the charges; and

(2) Provide the Central Repository with any information relating to the final disposition of the charges as soon as the information is available.

2. The administrator of, or the person licensed to operate, the facility, hospital, agency, program or home shall terminate the employment of an employee or the contract with an independent contractor or notify the temporary employment service that its employee is prohibited from providing services for the facility, hospital, agency, program or home upon determining that the employee, employee of a temporary employment service or independent contractor has willfully failed to comply with the provisions of this section.

3. Pending the completion of an investigation of an employee, employee of a temporary employment service or independent contractor of a facility, hospital, agency, program or home for which the Central Repository has provided notice pursuant to subsection 1 that it is unable to complete the investigation for a reason stated in subsection 1, and during any period in which an employee, employee of a temporary employment service or independent contractor has to correct information provided by the Central Repository pursuant to NRS 449.125, the administrator of, or the person licensed to operate, a facility, hospital, agency, program or home shall take actions to ensure the safety of its patients, residents or clients, including:

(a) Prohibiting the employee, employee of a temporary employment service or independent contractor from working at the facility, hospital, agency, program or home by placing the employee, employee of a temporary employment service or independent contractor on leave;

(b) Requiring the employee, employee of a temporary employment service or independent contractor to be under the direct supervision and observation of an employee of the facility, hospital, agency, program or home while caring for any patient, client or resident of the facility, hospital, agency, program or home;

(c) Conducting an investigation into the circumstances of the record of criminal history to determine and carry out any measures that the facility, hospital, agency, program or home identifies as necessary to ensure the safety of its patients, residents or clients if the employee, employee of a temporary employment service or independent contractor cares for patients, residents or clients; or

(d) Taking any combination of the actions set forth in paragraph (a), (b) or (c).

4. As used in this section, “facility, hospital, agency, program or home” has the meaning ascribed to it in NRS 449.119 and includes an intermediary service organization for the purpose of carrying out sections 2, 3 and 4 of this regulation.

Sec. 5. NAC 449.3971 is hereby repealed.

TEXT OF REPEALED SECTION

449.3971 Applicant required to submit fingerprints to Central Repository for Nevada Records of Criminal History for report on background. (NRS 239B.010, 449.0302)

1. In addition to the requirements set forth in NAC 449.011, each applicant for a license to operate an agency shall submit to the Central Repository for Nevada Records of Criminal

History two complete sets of fingerprints for submission to the Federal Bureau of Investigation for its report.

2. The Central Repository for Nevada Records of Criminal History shall determine whether the applicant has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.174 and immediately inform the administrator of the agency, if any, and the Health Division of whether the applicant has been convicted of such a crime.