

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

**LCB File No. R112-12**

September 13, 2012

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

AUTHORITY: §§1-4, NRS 449.0302; §5, NRS 432A.077 and 449.0302.

A REGULATION relating to public health; revising the duties of the director of a home for individual residential care; prohibiting a person who requires regular injections from being a resident of a residential facility for groups unless the person can administer his or her own injections; removing the requirement that at least one registered nurse employed by a facility for refractive surgery be present at all times that a patient is present in the facility; repealing various provisions relating to public health; and providing other matters properly relating thereto.

**Section 1.** NAC 449.15523 is hereby amended to read as follows:

449.15523 The director of a home shall:

1. Post the license to operate the home in a conspicuous place within the home.
2. Ensure that the needs of each resident of the home are assessed upon admission of the resident to the home, and that the assessment is updated as the needs of the resident change. Such an assessment must include:

- (a) Documentation of the abilities of the resident to function independently; and

- (b) A complete list of the matters for which the resident requires assistance.

3. Ensure that the residents of the home:

- (a) Are treated with dignity and respect and are not abused, neglected or exploited; and

- (b) Receive:

- (1) The personal care they require;

- (2) A balanced daily diet that meets their nutritional needs;
- (3) Protective supervision and adequate services to maintain and enhance their physical, mental and emotional well-being; and
- (4) The names of, and the telephone numbers for the registration of complaints with, the Bureau and the Aging and Disability Services Division of the Department of Health and Human Services.

4. Ensure that a caregiver, who is capable of meeting the needs of the residents and has been trained in first aid and cardiopulmonary resuscitation, is on the premises of the home at all times when a resident is present.

~~[5. Ensure that appropriate sanitary procedures are carried out for the handling, cleaning and storage of linens and personal laundry in the home.]~~

**Sec. 2.** NAC 449.2728 is hereby amended to read as follows:

449.2728 1. A person who requires regular intramuscular, subcutaneous or intradermal injections must not be admitted to a residential facility or be permitted to remain as a resident of the facility unless the *person or resident is able to administer the* injections ~~[are administered by:~~

~~—(a) The resident ; or~~

~~—(b) A medical professional, or licensed practical nurse, acting within his or her authorized scope of practice and in accordance with all applicable statutes and regulations,~~

~~→ who has been trained to administer those injections.]~~ *to himself or herself.*

2. The caregivers employed by a residential facility with a resident who requires regular intramuscular, subcutaneous or intradermal injections shall ensure that:

(a) Sufficient amounts of medicines, equipment to perform tests, syringes, needles and other supplies are maintained and stored in a secure place in the facility; and

(b) Syringes and needles are disposed of appropriately in a sharps container which is stored in a safe place.

**Sec. 3.** NAC 449.4506 is hereby amended to read as follows:

449.4506 The administrator of a facility shall ensure that:

1. The facility is adequately staffed with qualified personnel who:

(a) Meet the needs of and ensure the safety of each person who visits the facility; and

(b) Satisfy any applicable statutory requirements for the provision of care.

2. The facility employs at least one full-time registered nurse licensed pursuant to chapter 632 of NRS to supervise and manage the care provided to patients in the facility.

3. ~~At least one registered nurse who is employed by the facility is present in the facility at all times that any patient is present in the facility.~~

~~4.]~~ Each member of the staff who provides patient care is adequately trained in emergency procedures and is currently certified to perform first aid and cardiopulmonary resuscitation. At least one member of the staff who is trained in emergency procedures and who has obtained the advanced certificate in first aid and adult cardiopulmonary resuscitation issued by the American Red Cross or an equivalent certification must be present in the facility whenever any patient is present in the facility.

~~5.]~~ 4. A separate personnel file is established and maintained for each member of the staff of the facility that includes:

(a) Proof of any training relating to emergency response required by the facility pursuant to the policies and procedures established by the facility pursuant to NAC 449.451;

(b) Such health records as are required by chapter 441A of NAC which include evidence that the member of the staff employed by the facility or under contract with the facility has had a skin test for tuberculosis in accordance with NAC 441A.375; and

(c) Evidence that the member of the staff employed by the facility or under contract with the facility has obtained any license, certificate or registration, and possesses the experience and qualifications, required for the position held by that person.

**Sec. 4.** NAC 449.99936 is hereby amended to read as follows:

449.99936 1. The amount of any monetary penalty owed by a Medicaid facility, if it has been determined, may be deducted from any money otherwise owed to the facility by the Division of Health Care Financing and Policy.

2. If the facility does not pay a monetary penalty by the date it is due and no extension of time to pay is granted, the Administrator of the Health Division shall notify the Administrator of the Division of Health Care Financing and Policy of the amount of the penalty due and owing and shall request withholding of the amount owed.

3. The Administrator of the Division of Health Care Financing and Policy shall take the appropriate steps to withhold the amount of the monetary penalty owed, including any interest and costs of collection, from the Medicaid payment otherwise due the facility. Money so withheld must be remitted to the Health Division for deposit ~~[in the special fund established]~~ pursuant to ~~[NAC 449.99912.]~~ *subsection 5 of NRS 449.163*. Money withheld for costs of collection must be applied by the Administrator of the Health Division to the account incurring the costs.

**Sec. 5.** NAC 432A.233, 432A.235, 449.99844 and 449.99912 are hereby repealed.

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## TEXT OF REPEALED SECTIONS

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**432A.233 Group homes for which license as nursery for infants and toddlers not required.** (NRS 432A.077) A group home is not required to be licensed as a nursery for infants and toddlers if the licensee does not provide care for more than eight children who are under 3 years of age.

**432A.235 Waiver of Board's regulations.** (NRS 432A.077)

1. A person who desires a waiver of all or any part of the Board's regulations concerning licensing must submit a completed application for the waiver to the Health Division or other appropriate agency for the licensing of facilities.

2. An application for a waiver filed with the Board must be submitted to the Board at its next regularly scheduled meeting if the waiver is filed 60 days before that meeting. The application must be accompanied by the recommendation of the Health Division and the appropriate agency for the licensing of facilities.

3. The Board will grant a waiver if it determines that good cause exists. The Board will not grant a waiver which will threaten public health or safety.

4. The Board will specify the length of time a waiver is in effect.

5. A waiver granted by the Board will be revoked before the expiration of the period of the waiver if, after a public hearing, the Board determines that the public health or safety is threatened or the basis upon which the waiver was granted no longer exists.

6. For the purposes of this section, “good cause” exists when an applicant is unduly burdened by a regulation of the Board and thereby suffers a severe hardship because of circumstances or conditions which are unique to the applicant.

**449.99844 Interpretation of provisions in accordance with federal standards.** (NRS 449.0302) With respect to facilities governed by the federal Medicare or Medicaid criteria, the provisions of NAC 449.9982 to 449.99939, inclusive, must be interpreted in accordance with applicable federal standards.

**449.99912 Disposition of money collected.** (NRS 449.0302)

1. Unless otherwise required by federal law, money collected by the Health Division as administrative sanctions must be deposited into a separate fund and applied to the protection of the health, safety, well-being and property of recipients, including residents of facilities that the Health Division finds deficient.

2. Any of the following applications of money collected, without limitation, are permissible:

- (a) Reimbursement of costs related to the operation of a facility pending correction of deficiencies or closure;
- (b) Reimbursement of residents for personal money lost; and
- (c) Payment of the cost of relocating residents to other facilities.