

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

LCB File No. R170-12

July 24, 2012

(Note: This regulation is comprised of the provisions from LCB File No. 181-09 relating to the definition of “physician” for purposes of regulating ambulatory surgical centers and certain other provisions relating to the governance and services provided by ambulatory surgical centers)

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

AUTHORITY: §§ 1-6, NRS 449.0302.

A REGULATION relating to medical facilities; revising provisions governing ambulatory surgical centers; and providing other matters properly relating thereto.

Section 1. NAC 449.9741 is hereby amended to read as follows:

449.9741 “Physician” means a person who is licensed to practice ~~[medicine]~~ :

1. *Medicine* pursuant to chapter 630 of NRS ~~[or to practice osteopathic]~~ ;
2. *Osteopathic* medicine pursuant to chapter 633 of NRS ~~[]~~ ; *or*
3. *Podiatric medicine pursuant to chapter 635 of NRS.*

Sec. 2. NAC 449.980 is hereby amended to read as follows:

449.980 The governing body shall ensure that:

1. Each patient of the center is under the care of a physician.
2. Each patient admitted to the center receives a presurgical evaluation conducted by a physician within the 7 days immediately preceding the date of the patient’s surgery.
3. A physician is on the premises of the ambulatory surgical center and immediately available at all times when there are patients in the operating rooms or the recovery room of the

center. As used in this subsection, “immediately available” means the physician is ~~free from other duties to be~~ ~~able~~ ~~to~~ ~~respond~~ ~~rapidly~~ ~~to~~ ~~an~~ ~~emergency~~. ~~is sufficiently~~

4. An annual operating budget and a plan for capital expenditures are established.
5. The center is adequately staffed and equipped.
6. There is documentation in the files of the center of:
 - (a) The qualifications of all persons under contract with the center; and
 - (b) Whether such persons who work at the center and have exposure to patients have been screened for communicable diseases as described in NAC 441A.375.
7. The center establishes and maintains a program for the prevention and control of infections and communicable diseases as required pursuant to NAC 449.98452.
8. The center adopts, enforces and at least annually reviews written policies and procedures required by NAC 449.971 to 449.996, inclusive, including an organizational chart. These policies and procedures must:
 - (a) Be approved annually by the governing body.
 - (b) Provide that a surgical procedure may be performed on a patient only with the consent of the patient or the patient’s legal representative, except in an emergency.
 - (c) Include procedures for the periodic review and amendment, as deemed appropriate, of the scope of the procedures performed at the center.

Sec. 3. NAC 449.9812 is hereby amended to read as follows:

449.9812 1. The administrator of an ambulatory surgical center shall establish a program for quality assurance for the center.

2. The program for quality assurance must include, without limitation:
 - (a) Periodic reviews of the clinical responsibilities and authority of the members of the staff.

(b) Periodic evaluations of members of the staff that are conducted by their peers.

(c) Procedures for the supervision of the professional and technical activities of the members of the staff.

(d) Periodic evaluations that are conducted to determine whether the clinical and administrative policies of the center are cost-effective. The evaluations required by this paragraph must not be limited to the cost-effectiveness of the administrative policies of the center.

(e) Procedures for identifying and correcting any problems or concerns that provide an opportunity for all members of the staff who are health care practitioners to participate in the program for quality assurance.

(f) Techniques for self-assessment that are required to be used by the members of the staff and provide for an examination of the manner in which care has been, is and will be provided and the quality of the care provided.

(g) Procedures for identifying and addressing any problems or concerns related to the care provided to patients using the medical records of the center and any other sources of data that may be useful to identify previously unrecognized concerns, and for assessing the frequency, severity and sources of suspected problems and concerns. The procedures must include, without limitation, procedures for assessing:

(1) The clinical performances of members of the staff who are health care practitioners;

(2) The standards used for the maintenance of medical records;

(3) The procedures used to control the quality of radiological, pathological, laboratory and pharmaceutical services provided by the center;

(4) The procedures used to control the quality of other professional and technical services provided by the center;

(5) The care and services provided by the extended recovery unit, if such a unit is operated by the center;

(6) The procedures used to control infection; and

(7) The satisfaction of patients who have been treated at the center.

(h) The maintenance of a record of all fires and deaths that have occurred at the center and the transfer of all patients from the center to a hospital.

(i) Procedures for assessing any actions taken to correct identified problems or concerns and for determining whether the actions taken have achieved or sustained the desired result and, if not, why not.

3. The members of the professional and administrative staffs of the center shall:

(a) Understand, support and participate in the program for quality assurance; and

(b) Participate in the resolution of any problems and concerns identified pursuant to the procedures required by subsection 2.

4. The members of the staff who are health care practitioners shall participate in the development and application of the criteria used to evaluate the care provided at the center and the evaluation of any problems and concerns identified pursuant to the procedures required by subsection 2.

5. Activities conducted pursuant to the program for quality assurance must be reported to the appropriate members of the staff and to the governing body. The administrator of the center shall establish procedures for carrying out any recommendations of the governing body.

6. As used in this section, “health care practitioner” means a person who is licensed or certified to provide health care services in this State, including, without limitation, a physician, dentist, ~~podiatrist,~~ and registered or licensed practical nurse.

Sec. 4. NAC 449.9835 is hereby amended to read as follows:

449.9835 1. If a licensee is a *sole* physician operator, the ambulatory surgical center operated by the licensee is not required to have a governing body or an administrator. In such a case, in the absence of a governing body or an administrator, the *sole* physician operator is responsible for complying with all the provisions of NAC 449.971 to 449.996, inclusive.

2. As used in this section, ~~“physician”~~ “*sole physician* operator” means a physician ~~or a podiatric physician licensed pursuant to chapter 635 of NRS~~ or a dentist licensed pursuant to chapter 631 of NRS who is operating an ambulatory surgical center for the purpose of performing surgery only upon his or her patients.

Sec. 5. NAC 449.9902 is hereby amended to read as follows:

449.9902 1. An ambulatory surgical center must be equipped with:

- (a) A cardiac defibrillator;
- (b) A tracheostomy set; and
- (c) Such other emergency medical equipment and supplies as are specified by the members of the medical staff.

2. A person trained in the use of emergency equipment and in cardiopulmonary resuscitation must be on the premises of the ambulatory surgical center and immediately available at all times when there is a patient in the center. As used in this subsection, “immediately available” means that the person is ~~sufficiently free from other duties to be~~ able to respond rapidly to an emergency.

6. NAC 449.9935 is hereby amended to read as follows:

449.9935 1. The operating and recovery rooms of an ambulatory surgical center must be used exclusively for surgical procedures.

2. Except as otherwise provided in subsection 3, surgical procedures must be conducted in a class A, B or C operating room in accordance with chapter 9 of the *Guidelines for Design and Construction of Hospital and Health Care Facilities*, adopted by reference pursuant to NAC 449.0105.

3. If an ambulatory surgical center is licensed to perform only endoscopic procedures, such procedures may be conducted in an endoscopy suite in accordance with chapter 9 of the *Guidelines for Design and Construction of Hospital and Health Care Facilities*, adopted by reference pursuant to NAC 449.0105.

4. A registered nurse experienced in surgical procedures shall supervise the operating room.

5. Only a registered nurse may function as the circulating nurse in the operating room.

6. The operating room must be equipped with:

(a) A system for making emergency calls;

(b) Oxygen;

(c) Mechanical ventilatory assistance equipment, including, without limitation, a manual breathing bag and a ventilator;

(d) Cardiac monitoring equipment;

(e) Laryngoscopes and endotracheal tubes; and

(f) Suction equipment.

7. If the operating team consists of persons who are not physicians, ~~[such as a dentist, a podiatrist or a nurse,]~~ a physician must be on the premises and immediately available in case of

an emergency. As used in this subsection, “immediately available” means the physician is ~~[sufficiently free from other duties to be]~~ able to respond rapidly to the emergency.