

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

**LCB File No. R122-16**

August 4, 2016

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

AUTHORITY: §§1-9, NRS 449.0302.

A REGULATION relating to medical facilities; revising certain publications adopted by reference as standards for construction of certain medical facilities; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law requires the State Board of Health to adopt licensing standards for various medical facilities. (NRS 449.0302) Existing regulations adopt certain publications by reference as standards for the construction of those facilities. (NAC 449.0105) This regulation revises the publications adopted by reference.

**Section 1.** NAC 449.0105 is hereby amended to read as follows:

449.0105 1. The State Board of Health hereby adopts by reference:

(a) *NFPA 101: Life Safety Code*, in the form most recently published by the National Fire Protection Association, unless the Board gives notice that the most recent revision is not suitable for this State pursuant to subsection 2. A copy of the code may be obtained from the National Fire Protection Association at 11 Tracy Drive, Avon, Massachusetts 02322, at the Internet address <http://www.nfpa.org> or by telephone at (800) 344-3555, for the price of ~~(\$55.80)~~ *\$88.20* for members or ~~(\$62)~~ *\$98.00* for nonmembers, plus ~~(\$7.95)~~ *, for a printed copy, \$9.95* for ~~shipping and~~ handling.

(b) *NFPA 99: ~~Standard for~~ Health Care Facilities ~~Code~~*, in the form most recently published by the National Fire Protection Association, unless the Board gives notice that the most recent revision is not suitable for this State pursuant to subsection 2. A copy of the standard may be obtained from the National Fire Protection Association at 11 Tracy Drive, Avon, Massachusetts 02322, at the Internet address <http://www.nfpa.org> or by telephone at (800) 344-3555, for the price of ~~[\$41.63]~~ *\$65.25* for members or ~~[\$46.25]~~ *\$72.50* for nonmembers, plus ~~[\$7.95]~~, *for a printed copy, \$9.95* for ~~shipping and~~ handling.

(c) *Guidelines for Design and Construction of ~~Hospital and Health Care~~ Hospitals and Outpatient Facilities*, in the form most recently published by the ~~American~~ *Facility Guidelines Institute*, ~~of Architects~~, unless the Board gives notice that the most recent revision is not suitable for this State pursuant to subsection 2. A copy of the guidelines may be obtained from the ~~American~~ *Facility Guidelines Institute* ~~of Architects~~ at ~~the AIA Store, 1735 New York Avenue, NW, Washington, D.C. 20006-5292,~~ *AHA Services, Inc., P.O. Box 933283, Atlanta, Georgia 31193-3283*, at the Internet address ~~http://www.aia.org~~ <http://www.fgiguilines.org/> or by telephone at (800) ~~242-3837,~~ *242-2626*, for the price of ~~[\$52.50 for members or \$75 for nonmembers, plus \$9 for shipping and handling.]~~ *\$200*.

(d) *Guidelines for Design and Construction of Residential Health, Care, and Support Facilities*, in the form most recently published by the *Facility Guidelines Institute*, unless the Board gives notice that the most recent revision is not suitable for this State pursuant to subsection 2. A copy of the guidelines may be obtained from the *Facility Guidelines Institute* at *AHA Services, Inc., P.O. Box 933283, Atlanta, Georgia 31193-3283*, at the Internet address <http://www.fgiguilines.org/> or by telephone at (800) 242-2626, for the price of \$200.

2. The State Board of Health will review each revision of the publications adopted by reference pursuant to subsection 1 to ensure its suitability for this State. If the Board determines that a revision is not suitable for this State, the Board will hold a public hearing to review its determination within ~~6~~ 12 months after the date of the publication of the revision and 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 pursuant to subsection 1.

**Sec. 2.** NAC 449.3154 is hereby amended to read as follows:

449.3154 1. Except as otherwise provided in this section, a hospital shall comply with the provisions of *NFPA 101: Life Safety Code*, adopted by reference pursuant to NAC 449.0105.

2. Except as otherwise provided in this section, any new construction, remodeling or change in the use of a hospital must comply with the ~~{Guidelines for Design and Construction of Hospital and Health Care Facilities,}~~ *applicable provisions of the guidelines* adopted by reference ~~{pursuant to}~~ *in paragraphs (c) and (d) of subsection 1 of* NAC 449.0105, unless the remodeling is limited to refurbishing an area of the hospital, including, without limitation, painting the area, replacing the flooring in the area, repairing windows in the area and replacing window or wall coverings in the area.

3. Except as otherwise provided in subsection 4, a hospital shall meet all applicable:

- (a) Federal and state laws;
- (b) Local ordinances, including, without limitation, zoning ordinances; and
- (c) Life safety, environmental, health, fire and local building codes,

↪ related to the construction and maintenance of the hospital. If there are any differences between the state and local codes, the more restrictive standards apply.

4. A hospital which is inspected and approved by the State Public Works Division of the Department of Administration in accordance with the provisions set forth in chapter 341 of NRS and chapter 341 of NAC is not required to comply with any applicable local building codes related to the construction and maintenance of the hospital.

5. A complete copy of the building plans for new construction and remodeling of a hospital, drawn to scale, must be submitted to the entity designated to review such plans by the Division of Public and Behavioral Health pursuant to the provisions of NAC 449.0115. Before the construction or remodeling may begin, plans for the construction or remodeling must be approved by the Division of Public and Behavioral Health.

6. The Bureau shall not approve the licensure of a hospital until all construction has been completed and a survey is conducted at the site. The plan review is only advisory and does not constitute prelicensing approval.

7. Notwithstanding any provision of this section to the contrary, a hospital which was licensed on January 1, 1999, shall be deemed to be in compliance with this section if the use of the physical space in the hospital does not change and the existing construction of the hospital does not have any deficiencies which are likely to cause serious injury, serious harm or impairment to public health and welfare.

**Sec. 3.** NAC 449.3156 is hereby amended to read as follows:

449.3156 1. Notwithstanding any provision of NAC 449.3154 to the contrary, a hospital shall be deemed to be in compliance with the *applicable* provisions of the ~~Guidelines for Design~~

~~and Construction of Hospital and Health Care Facilities,]~~ *guidelines* adopted by reference ~~[pursuant to]~~ *in paragraphs (c) and (d) of subsection 1 of* NAC 449.0105, if:

- (a) The hospital submitted architectural plans to the Bureau on or before February 1, 1999;
- (b) The hospital began construction on or before August 1, 1999;
- (c) The plans were determined by the Bureau to be in compliance with the provisions of NAC 449.002 to 449.99939, inclusive, that were in effect on December 1, 1998;
- (d) The hospital is built in accordance with those provisions;
- (e) The use of the physical space in the hospital has not changed; and
- (f) There are no deficiencies in the construction of the hospital which are likely to cause serious injury, serious harm or impairment to public health and welfare.

2. If there are deficiencies that are likely to cause serious injury, serious harm or impairment to public health and welfare, the hospital shall take immediate action to correct the deficiencies or the hospital will not be allowed to continue to operate.

**Sec. 4.** NAC 449.685 is hereby amended to read as follows:

449.685 1. A facility must be designed, constructed, equipped and maintained in a manner that protects the health and safety of the patients and personnel of the facility and members of the general public.

2. Except as otherwise provided in this section and NAC 449.732 to 449.743, inclusive:

(a) A facility shall comply with the provisions of *NFPA 101: Life Safety Code*, adopted by reference pursuant to NAC 449.0105.

(b) Any new construction, remodeling or change in the use of a facility must comply with the ~~Guidelines for Design and Construction of Hospital and Health Care Facilities,]~~ *applicable provisions of the guidelines* adopted by reference ~~[pursuant to]~~ *in paragraphs (c) and (d) of*

*subsection 1 of* NAC 449.0105, unless the remodeling is limited to refurbishing an area within the facility, including, without limitation, painting the area, replacing the flooring in the area, repairing windows in the area, and replacing window or wall coverings in the area.

3. A facility shall be deemed to be in compliance with the provisions of subsection 2 if the facility is licensed on February 1, 2004, the use of the physical space in the facility is not changed and there are no deficiencies in the construction of the facility that are likely to cause serious injury, harm or impairment to the public health and welfare.

4. Except as otherwise provided in subsection 5, a facility shall comply with all applicable:

(a) Federal and state laws;

(b) Local ordinances, including, without limitation, zoning ordinances; and

(c) Life safety, environmental, health, fire and local building codes,

↳ related to the construction and maintenance of the facility. If there is a difference between state and local requirements, the more stringent requirements apply.

5. A facility which is inspected and approved by the State Public Works Division of the Department of Administration in accordance with the provisions set forth in chapter 341 of NRS and chapter 341 of NAC is not required to comply with any applicable local building codes relating to the construction and maintenance of the facility.

6. A facility shall submit building plans for new construction or remodeling to the entity designated to review such plans by the Division of Public and Behavioral Health pursuant to NAC 449.0115. The entity's review of those plans is advisory only and does not constitute approval for the licensing of the facility. Before the construction or remodeling may begin, the plans for the construction or remodeling must be approved by the Division of Public and

Behavioral Health. The Bureau shall not approve a facility for licensure until all construction is completed and a survey is conducted at the site of the facility.

**Sec. 5.** NAC 449.74413 is hereby amended to read as follows:

449.74413 1. The owner of a facility for skilled nursing shall, at least 30 days before there is a change of ownership, change of use or change in the construction of the facility, notify the Bureau of that change. If the facility is not in compliance with the ~~{Guidelines for Design and Construction of Hospital and Health Care Facilities}~~ *applicable provisions of the guidelines* adopted by reference ~~{pursuant to}~~ *in paragraphs (c) and (d) of subsection 1 of* NAC 449.0105, the notice must identify those provisions of the guidelines with which the facility has failed to comply.

2. Upon a change in use or change in the construction of a facility, the facility must comply with the ~~{Guidelines for Design and Construction of Hospital and Health Care Facilities}~~ *applicable provisions of the guidelines adopted by reference in paragraphs (c) and (d) of subsection 1 of NAC 449.0105* before admitting patients to the area that is being changed or is under construction.

**Sec. 6.** NAC 449.74543 is hereby amended to read as follows:

449.74543 1. A facility for skilled nursing must be designed, constructed, equipped and maintained in a manner that protects the health and safety of the patients and personnel of the facility and members of the general public.

2. Except as otherwise provided in this section:

(a) A facility for skilled nursing shall comply with the provisions of *NFPA 101: Life Safety Code*, adopted by reference pursuant to NAC 449.0105.

(b) Any new construction, remodeling or change in use of a facility for skilled nursing must comply with the ~~{Guidelines for Design and Construction of Hospital and Health Care Facilities,}~~ *applicable provisions of the guidelines* adopted by reference ~~{pursuant to}~~ *in paragraphs (c) and (d) of subsection 1 of* NAC 449.0105, unless the remodeling is limited to refurbishing an area within the facility, including, without limitation, painting the area, replacing the flooring, repairing windows, or replacing window and wall coverings.

3. A facility for skilled nursing shall be deemed to be in compliance with the provisions of subsection 2 if:

(a) The facility is licensed on January 1, 1999, the use of the physical space in the facility is not changed and there are no deficiencies in the construction of the facility that are likely to cause serious injury, harm or impairment to the public health and welfare; or

(b) The facility has submitted building plans to the Bureau before February 1, 1999, and:

(1) The Bureau determines that the plans comply with standards for construction in effect before December 11, 1998;

(2) The facility is constructed in accordance with those standards;

(3) Construction of the facility is begun before August 1, 1999; and

(4) There are no deficiencies in the construction of the facility that are likely to cause serious injury, harm or impairment to the public health and welfare.

4. Except as otherwise provided in subsection 5, a facility for skilled nursing shall comply with all applicable:

(a) Federal and state laws;

(b) Local ordinances, including, without limitation, zoning ordinances; and

(c) Life safety, environmental, health, fire and local building codes,

↪ related to the construction and maintenance of the facility. If there is a difference between state and local requirements, the more stringent requirements apply.

5. A facility for skilled nursing which is inspected and approved by the State Public Works Division of the Department of Administration in accordance with the provisions set forth in chapter 341 of NRS and chapter 341 of NAC is not required to comply with any applicable local building codes related to the construction and maintenance of the facility.

6. A facility for skilled nursing shall submit building plans for new construction or remodeling to the entity designated to review such plans by the Division of Public and Behavioral Health pursuant to NAC 449.0115. The entity's review of those plans is advisory only and does not constitute approval for the licensing of the facility. Before the construction or remodeling may begin, the plans for the construction or remodeling must be approved by the Division of Public and Behavioral Health. The Bureau shall not approve a facility for licensure until all construction is completed and a survey is conducted at the site of the facility.

**Sec. 7.** NAC 449.97026 is hereby amended to read as follows:

449.97026 1. Except as otherwise provided in subsection 5, a parent facility or independent facility which is issued a license to operate a mobile unit shall ensure that the mobile unit complies with the *applicable* provisions ~~entitled "Mobile, Transportable and Relocatable Units" set forth in section 12 of the Guidelines for Design and Construction of Hospital and Health Care Facilities,~~ *of the guidelines* adopted by reference ~~pursuant to~~ *in paragraphs (c) and (d) of subsection 1 of* NAC 449.0105.

2. Except as otherwise provided in subsection 4, before any new construction of a mobile unit or any remodeling of an existing mobile unit is begun:

(a) The parent facility or independent facility that applies for the license to operate the mobile unit or that has been issued the license to operate the mobile unit must submit a copy of the building plans for the new construction or remodeling to the entity designated to review such plans by the Division pursuant to the provisions of NAC 449.0115; and

(b) The building plans must be approved by the Division.

3. The building plans submitted for review and approval as required pursuant to subsection 2 must be drawn to scale and include a statement indicating:

(a) The services and procedures that will be provided at the mobile unit; and

(b) Each staging area designated by the parent facility or independent facility for the mobile unit.

4. A parent facility or independent facility is not required to submit plans for remodeling to the entity designated to review such plans by the Division pursuant to the provisions of NAC 449.0115 if the remodeling is limited to refurbishing an area within a mobile unit, including, without limitation, painting the area, replacing the flooring in the area, repairing the windows in the area, and replacing window or wall coverings in the area.

5. A parent facility or independent facility which is issued a license to operate a mobile facility shall ensure that the mobile unit for which the license is issued:

(a) Complies with any applicable zoning regulation for each staging area designated for the mobile unit;

(b) Is of sufficient size and is arranged in a manner that is appropriate to provide the services for which the mobile unit is licensed;

(c) Is furnished with the appropriate equipment to provide for the comfort and safety of each patient who receives services at the mobile unit;

(d) Is maintained in good repair and in a clean and sanitary manner; and

(e) During any period in which the operator of the mobile unit provides services at the mobile unit:

(1) Is located and illuminated in such a manner that each patient who receives services at the mobile unit may safely and comfortably enter and exit the mobile unit; and

(2) Complies with any applicable statute, ordinance or regulation relating to the parking of the mobile unit.

**Sec. 8.** NAC 449.9843 is hereby amended to read as follows:

449.9843 1. An ambulatory surgical center shall comply with the provisions of *NFPA 99: ~~Standard for~~ Health Care Facilities Code* concerning medical gases, adopted by reference pursuant to NAC 449.0105, and the provisions of *NFPA 101: Life Safety Code*, adopted by reference pursuant to NAC 449.0105.

2. Any new construction, remodeling or change in the use of an ambulatory surgical center must comply with the ~~*Guidelines for Design and Construction of Hospital and Health Care Facilities,*~~ *applicable provisions of the guidelines* adopted by reference ~~*pursuant to*~~ *in paragraphs (c) and (d) of subsection 1 of* NAC 449.0105, unless the remodeling is limited to refurbishing an area within the center, including, without limitation, painting the area, replacing flooring in the area, repairing windows in the area and replacing window or wall coverings in the area.

3. An ambulatory surgical center shall be deemed to be in compliance with the provisions of subsection 2 and subsection 2 of NAC 449.983 if:

(a) The center is licensed on February 1, 1999, the use of the physical space in the center is not changed and there are no deficiencies in the construction of the center that are likely to cause serious injury, harm or impairment to the public health and welfare; or

(b) The center has submitted building plans to the Bureau before February 1, 1999, and:

(1) The Bureau determines that the plans comply with standards for construction in effect before December 11, 1998;

(2) The center is constructed in accordance with those standards;

(3) Construction of the center is begun before August 1, 1999; and

(4) There are no deficiencies in the construction of the center that are likely to cause serious injury, harm or impairment to the public health and welfare.

4. An ambulatory surgical center shall comply with all applicable:

(a) Federal and state laws;

(b) Local ordinances, including, without limitation, zoning ordinances; and

(c) Life safety, environmental, health, fire and local building codes.

↪ If there is a difference between state and local requirements, the more stringent requirements apply.

5. An ambulatory surgical center shall submit building plans for new construction or remodeling to the entity designated to review such plans by the Division pursuant to NAC 449.0115. The entity's review of those plans is advisory only and does not constitute approval for the licensing of the center. Before the construction or remodeling may begin, the plans for the construction or remodeling must be approved by the Division. The Bureau shall not approve a center for licensure until all construction is completed and a survey is conducted at the site of the center.

**Sec. 9.** 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,~~ *applicable provisions of the guidelines* adopted by reference ~~pursuant to~~ *in paragraphs (c) and (d) of subsection 1 of* 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,~~ *applicable provisions of the guidelines* adopted by reference ~~pursuant to~~ *in paragraphs (c) and (d) of subsection 1 of* 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. Each employee of an ambulatory surgical center who provides medical services and care to a patient must be trained to carry out the medical services and care that the employee will provide.

7. 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 and airway tubes in sizes sufficient to meet the needs of the patients of the ambulatory surgical center; and

(f) Suction equipment.

8. The recovery room must:

(a) Meet nationally recognized standards of practice for postanesthesia care, as approved by the governing body, and maintain a copy of those standards at the ambulatory surgical center during all hours of operation and in a location which is accessible to the medical staff;

(b) Comply with the guidelines for postanesthesia patient classification and staffing recommendations as published in the *2010-2012 Perianesthesia Nursing Standards and Practice Recommendations*, which is adopted by reference in subsection 10;

(c) Be equipped with or have easily accessible a mobile cart which contains the equipment and supplies specified by the medical staff pursuant to subsection 3 of NAC 449.9902 needed to treat a patient with malignant hyperthermia; and

(d) Be equipped with all other equipment and supplies needed to safely care for patients.

9. If the operating team consists of persons who are not physicians, 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 able to respond rapidly to the emergency.

10. The *2010-2012 Perianesthesia Nursing Standards and Practice Recommendations*, published by the American Society of PeriAnesthesia Nurses is hereby adopted by reference. A copy of the standards may be obtained at a cost of \$60 for members and \$130 for nonmembers from the American Society of PeriAnesthesia Nurses by mail at 90 Frontage Road, Cherry Hill, New Jersey 08034-1424, by telephone at (877) 737-9696 or at the Internet address **<http://www.aspan.org>**.