

PROPOSED REGULATION OF THE
STATE BOARD OF HEALTH

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PROPOSED REGULATION OF THE DIVISION OF PUBLIC AND BEHAVIORAL HEALTH

AUTHORITY: NRS 449.0302, SB 71, SB 324, SB 388, & SB 482 OF THE 2017 LEGISLATIVE SESSION

Italics: New proposed language

~~[bracketed, red strikethrough]~~: Omitted regulatory language

Section 1. Chapter 449 of NAC is hereby amended by adding thereto the provisions set forth in sections 2 to 9 inclusive of this regulation.

Sec. 2

As used in Sections 3 to 7:

1. "Attendant" means a person who is employed or contracted by an agency for the purpose of providing non-medical services to a client.

2. "Client" means an elderly person or a person with a disability who desires the provision of non-medical services in the home in which the person lives.

3. "Employment agency" has the meaning ascribed in Section 2 of Senate Bill 388 of the 2017 legislative session.

4. "Non-medical services" has the meaning ascribed to "Nonmedical services related to personal care to elderly persons or persons with disabilities" in Section 3 of Senate Bill 388 of the 2017 legislative session.

Sec. 3

1. Each license issued to operate an employment agency that contracts with persons to provide nonmedical services related to personal care to elderly persons or persons with disabilities, including an internet-based employment agency, is separate and distinct and is issued to a specific person to operate the agency at a specific location. An entity may operate an agency at multiple work stations if the agency maintains the records for the clients, attendants, other members of the staff of the agency and operations of the agency at the specific location designated on the license. All records must be made available to the Division upon request, including but not limited to, during an inspection or a complaint investigation.

2. The name of the person who is designated as responsible for the conduct of the agency must appear on the face of the license.

3. Each agency must retain proof that it is adequately covered against liabilities resulting from claims incurred during operation; and

4. The proof of liability coverage must be verified at the time the agency submits its initial application to the Division for a license and upon request by the Division.

Sec. 4

1. Each employment agency that contracts with persons to provide nonmedical services related to personal care to elderly persons or persons with disabilities must appoint an administrator. The administrator must:

- (a) Be at least 18 years of age;
- (b) Have a high school diploma or its equivalent;
- (c) Be responsible and mature and have the personal qualities which will enable the administrator to understand the problems of elderly persons and persons with disabilities;
- (d) Understand the provisions of this chapter and chapter 449 of NRS; and
- (e) Demonstrate the ability to read, write, speak and understand the English language.

2. The administrator of an employment agency that contracts with persons to provide nonmedical services related to personal care to elderly persons or persons with disabilities shall represent the licensee in the daily operation of the agency and shall appoint a person to exercise his or her authority in the administrator's absence. The responsibilities of an administrator include, without limitation:

- (a) Employing qualified personnel and arranging for their training;
- (b) Ensuring that only trained attendants are referred for contracts to a client;
- (c) Ensuring an initial assessment of the client is completed to ensure attendant can provide for the needs of the client;
- (d) Providing oversight to ensure needed services are being provided to the client;
- (e) Developing and implementing policies and procedures for the agency, including, without limitation, policies and procedures concerning terminating the non-medical services provided to a client; and
- (f) Designating one or more employees of the agency to oversee the employment agency during those times when the administrator is absent.

Sec. 5

Each attendant of an employment agency must:

1. Be at least 18 years of age;
2. Have documentation that the attendant has had the tests or obtained the certificates required by NAC 441A.375;
3. Be responsible and mature and have the personal qualities which will enable the attendant to understand the problems of elderly persons and persons with disabilities;
4. Understand the provisions of this chapter and chapter 449 of NRS;
5. Demonstrate the ability to read, write, speak and communicate effectively in English with the clients of the agency;
6. Demonstrate the ability to meet the needs of the clients of the agency; and
7. Receive annually not less than 8 hours of training related to providing for the needs of the clients of the agency and limitation of non-medical services the employment agency provides.
8. Each contracted attendant of an employment agency shall:
 - (a) Receive training:
 - (I) In the written documentation of:
 - (I) Non-Medical services provided to the clients of the agency;
 - (II) Verification of time records; and
 - (b) Receive training that is specifically related to the services provided by the agency, including, as applicable, training in the following topics:

(I) Duties and responsibilities of attendants and the appropriate techniques for providing personal care services;

(II) Recognizing and responding to emergencies, including, without limitation, fires and medical emergencies;

(III) Dealing with adverse behaviors;

(IV) The preparation and eating of meals;

(V) The elimination of wastes from the body such as routine bowel and bladder care;

(VI) Methods and techniques to prevent skin breakdown, contractures and falls;

(VII) Hand washing and infection control;

(VIII) Basic body mechanics, mobility and transfer techniques;

(IX) Bathing;

(X) In the rights of clients, including, without limitation, training in methods to protect client confidentiality pursuant to state and federal regulations;

(XI) Related to the special needs of elderly persons and persons with disabilities, including, without limitation, training in the sensory, physical and cognitive changes related to the aging process;

(XII) Maintenance of a clean and safe environment; and

(XIII) In first aid and cardiopulmonary resuscitation. A certificate in first aid and cardiopulmonary resuscitation issued by the American National Red Cross or an equivalent certificate will be accepted as proof of that training.

9. Each attendant of an agency must be evaluated and determined to be competent by the agency in the required areas of training set forth in this section.

10. Each attendant of an agency must have evidence of successful completion of the training required pursuant to this section within the 12 months immediately preceding the date on which the attendant first begins providing care to a client.

Sec. 6

The employment agency must:

1. Ensure attendants referred for contract or providing services on behalf of the employment agency are only providing services to clients per SB 388 Section 3 of the 2017 session.

2. Before initiation of non-medical services to a client by a contracted attendant, the employment agency must provide information on fees for non-medical services to be provided to the client.

Sec. 7

Each employment agency must:

1. Make available files of the attendant or contracted attendant, providing non-medical services, to the Division.

2. Pay for necessary travel and expenses for periodic inspections or complaint investigations necessary for inspections by the Division for an employment agency located out of the State.

3. Ensure the employment agency is informing clients that they are not an "Agency to provide nursing in the home" as defined in NRS 449.0015 and are limited to services authorized at NRS 449.1935 as modified by SB 388, Section 12 of the 2017 session.

Sec. 8

1. Pursuant to subsection (b) of Section 1.8 of SB 482 a health care facility located in a county whose population is 100,000 or more and which is licensed to have more than 70 beds may, not later than 30 days after an investigation or inspection, appeal a finding concerning a violation of the provisions of Section 1.8 of Senate Bill 482 and NRS 449.241 to 449.2428, or request a follow-up inspection. If requesting an appeal, the following procedures must be followed:

(1) Submit in writing, this may be via an electronic format or paper format, to the Chief of the Bureau of Health Care Quality and Compliance a request to appeal a finding concerning a violation of the provisions of section 1.8 of SB 482 or NRS 449.241 to 449.2428. The written request must include the following information:

(a) Upon receipt of the statement of deficiencies issued by the Division, the facility must prepare and submit to the Division an appeal document which disputes the specific findings.

(b) The appeal document must be separate from the required plan of correction and must be sent not later than 30 days after an investigation or inspection.

(c) The appeal document must identify each violation by TAG number, if applicable, as found in the statement of deficiencies.

(d) The appeal document must clearly identify the reason for the dispute and the evidence which identifies why the Division's finding was in error. The document must include pertinent evidence to justify the dispute.

2. Facilities may not use the appeal process to delay the formal imposition or effective date of administrative sanctions in accordance with NAC 449.9982 to NAC 449.99939.

3. If the facility appeals according to the criteria outlined in subsection 1 of this section and if the facility has submitted all the required information in subsection 1 of this section, the Division has 30 days to review the appeal documents and notify the facility whether the appeal was denied or granted. The Division does not have to provide a response to an appeal unless all the provisions in subsection 1 are met.

4. If a facility is not in agreement with the determination of the appeal by the Chief of the Bureau of Health Care Quality and Compliance, the facility may request a review of the appeal document by the Administrator of the Division of Public and Behavioral Health for a final determination. A decision by the Administrator is final and no further opportunities for appeal will be provided.

Sec. 9

1. Each posting of the Centers for Medicare and Medicaid Services star rating by a medical facility or facility for the dependent required by subsection 2 of Section 1.5 of Senate Bill 482 of the 2017 legislative session must:

(a) Be posted as a sign not less than 8 1/2 inches in height and 11 inches in width, with margins not greater than 1 inch on any side;

(b) Be posted in a conspicuous place near each entrance to the facility that is regularly used by the public. Each entrance to the facility means all entrances to buildings covered under the facility's license that is regularly used by the public;

(c) Be written using a single typeface in not less than 20-point type; and

(d) Have the name of the facility and be titled “Centers for Medicare and Medicaid Services Star Rating”.

2. If a medical facility or facility for the dependent does not have a Centers for Medicare and Medicaid Services star rating, including a rating showing an asterisk instead of a star, the facility is not required to post a star rating.

Sec. 10 NAC 449.013 is hereby amended to read as follows:

1. Except as otherwise provided in NAC 449.0168, an applicant for a license to operate any of the following facilities, programs of hospice care or agencies must pay to the Division of Public and Behavioral Health the following nonrefundable fees:

(a) An ambulatory surgical center.....	\$9,784
(b) A home office or subunit agency of a home health agency.....	5,168
(c) A branch office of a home health agency.....	5,358
(d) A rural clinic.....	4,058
(e) An obstetric center.....	1,564
(f) A program of hospice care.....	7,054
(g) An independent center for emergency medical care.....	4,060
(h) A nursing pool.....	4,602
(i) A facility for treatment with narcotics.....	5,046
(j) A medication unit.....	1,200
(k) A referral agency.....	2,708
(l) A facility for refractive surgery.....	6,700
(m) A mobile unit.....	2,090
(n) An agency to provide personal care services in the home.....	1,374
(o) A facility for the care of adults during the day allowed to be occupied by not more than 50 clients at one time.....	1,164
(p) A facility for the care of adults during the day allowed to be occupied by more than 50 clients at one time.....	1,753
<u>(q) An Employment agency to provide non-medical services in the home.....</u>	<u>1,400</u>

2. An applicant for the renewal of such a license must pay to the Division of Public and Behavioral Health the following nonrefundable fees:

(a) An ambulatory surgical center.....	\$4,892
(b) A home office or subunit agency of a home health agency.....	2,584
(c) A branch office of a home health agency.....	2,679
(d) A rural clinic.....	2,029
(e) An obstetric center.....	782
(f) A program of hospice care.....	3,527
(g) An independent center for emergency medical care.....	2,030
(h) A nursing pool.....	2,301
(i) A facility for treatment with narcotics.....	2,523

unit.....	(j) A	medication	600
agency.....	(k) A	referral	1,354
surgery.....	(l) A	facility for refractive	3,350
(m) A mobile unit.....			1,045
(n) An agency to provide personal care services in the home.....			687
(o) A facility for the care of adults during the day allowed to be occupied by not more than 50 clients at one time.....			814
(p) A facility for the care of adults during the day allowed to be occupied by more than 50 clients at one time.....			1,227
<u>(q) An Employment agency to provide non-medical services in the home....</u>			<u>700</u>

3. An application for a license is valid for 1 year after the date on which the application is submitted. If an applicant does not meet the requirements for licensure imposed by chapter 449 of NRS or the regulations adopted pursuant thereto within 1 year after the date on which the applicant submits his or her application, the applicant must submit a new application and pay the required fee to be considered for licensure.

Sec. 11 NAC 449.196 is hereby amended to read as follows:

1. A caregiver of a residential facility must:
 - (a) Be at least 18 years of age;
 - (b) Be responsible and mature and have the personal qualities which will enable him or her to understand the problems of elderly persons and persons with disabilities;
 - (c) Understand the provisions of NAC 449.156 to 449.27706, inclusive, and sign a statement that he or she has read those provisions;
 - (d) Demonstrate the ability to read, write, speak and understand the English language;
 - (e) Possess the appropriate knowledge, skills and abilities to meet the needs of the residents of the facility; and
 - (f) Receive annually not less than 8 hours of training related to providing for the needs of the residents of a residential facility.

2. An employee of a residential facility that provides the services outlined in Section 2 of Senate Bill 324 of the 2017 legislative session must receive training and demonstrate an understanding for each task the employee performs, including:

(a) How to check, record and report the temperature, blood pressure, apical or radial pulse, respiration or oxygen saturation of residents who have provided consent for the employee to check the resident's vital signs. The employee must follow the manufacturer's instructions for equipment used to obtain the resident's vital signs.

(b) How to safely administer insulin via an auto-injection device approved by the Food and Drug Administration for use in the home to residents who have provided consent and furnished by a registered pharmacist as directed by a physician. The employee must follow the manufacturer's instructions for the auto-injection insulin device.

(c) How to safely use a blood glucose monitoring device approved by the Food and Drug Administration for use in the home to conduct a blood glucose test on a resident who has consented for the employee to provide blood glucose testing or assist in conducting the blood

glucose testing. The employee must follow the manufacturer's instructions for the blood glucose monitoring device.

3. For each task performed in subsection 2, an employee shall receive training prior to, annually and when devices used are changed for obtaining a resident's vital signs, administering insulin via an auto-injection device and for blood glucose monitoring devices.

4. Each employee who performs blood glucose tests shall do so in conformance with the Clinical Laboratory Improvement Amendments of 1988, Public Law No. 100-578, 42 U.S.C. § 263a, if applicable, and any other applicable federal law or regulation.

5. If performing weights on residents who have provided consent to be weighed, an employee shall receive training on how to accurately perform weights.

6. The training provided in subsections 2 and 5 must include how to accurately perform each task, how to interpret and record the information obtained from performing the task, what actions must be taken based on the information obtained, including, but not limited to when the resident's physician must be notified and must follow nationally recognized infection control guidelines, such as those of the Centers for Disease Control and Prevention, when performing the tasks.

7. Each training listed in subsections 2 (a), (b), (c), which must also include the training requirements of subsection 6, must be provided by a Nevada licensed physician, physician assistant, licensed nurse or by an employee of a residential care facility that has had the training provided by the Nevada licensed physician, physician assistant or license nurse, who has one year of experience performing the task he or she is performing and who has demonstrated competency in performing the test.

~~[2.]~~ 5. If a resident of a residential facility uses prosthetic devices or dental, vision or hearing aids, the caregivers employed by the facility must be knowledgeable of the use of those devices.

~~[3.]~~ 6. If a caregiver assists a resident of a residential facility in the administration of any medication, including, without limitation, an over-the-counter medication or dietary supplement, the caregiver must:

(a) Before assisting a resident in the administration of a medication, receive the training required pursuant to paragraph (e) of subsection 6 of NRS 449.0302, which must include at least 16 hours of training in the management of medication consisting of not less than 12 hours of classroom training and not less than 4 hours of practical training, and obtain a certificate acknowledging the completion of such training;

(b) Receive annually at least 8 hours of training in the management of medication and provide the residential facility with satisfactory evidence of the content of the training and his or her attendance at the training;

(c) Complete the training program developed by the administrator of the residential facility pursuant to paragraph (e) of subsection 1 of NAC 449.2742; and

(d) Annually pass an examination relating to the management of medication approved by the Bureau.

Sec. 12 NAC 449.197 is hereby amended to read as follows: A member of the staff of a residential facility shall not provide medical services to a resident of the facility, except as allowed in Section 11, unless the member of the staff is a medical professional.

Sec. 13 NAC 449.2726 is hereby amended to read as follows:

1. A person who has diabetes must not be admitted to a residential facility or be permitted to remain as a resident of a residential facility unless:

(a) The resident's glucose testing is performed by:

(1) The resident himself or herself without assistance; or

(2) ~~[A medical laboratory licensed pursuant to chapter 652 of NRS]~~ By an employee who performs the resident's glucose testing or assists a resident to conduct glucose testing on himself or herself. The glucose testing must be performed in conformance with the Clinical Laboratory Improvement Amendments of 1988, Public Law No. 100-578, 42 U.S.C. § 263a, if applicable, and any other applicable federal law or regulation, with the consent of the resident using a device for monitoring blood glucose approved by the Food and Drug Administration for use in the home. The blood glucose monitoring device must be used for one person only; and

(b) The resident's medication is administered:

- (1) By the resident himself or herself without assistance;
- (2) By a medical professional, or licensed practical nurse, who is:

~~(I) Not employed by the residential facility;~~

~~(H) (I)~~ Acting within his or her authorized scope of practice and in accordance with all applicable statutes and regulations; and

~~(HH) (II)~~ Trained to administer the medication; or

(3) If the conditions set forth in subsection 2 are satisfied, with the assistance of a caregiver employed by the residential facility.

(4) For the purposes of subsection 1(2), a glucose test must be performed in conformance with the Clinical Laboratory Improvement Amendments of 1988, Public Law No. 100-578, 42 U.S.C. § 263a, if a resident is physically or mentally not capable of performing his or her own glucose testing per federal law. If a resident is physically or mentally not capable of performing his or her own glucose testing, the employee is deemed to be responsible for performing the resident's glucose testing.

2. A caregiver or employee administering insulin via an auto-injection device employed by a residential facility may assist a resident in the administration of the medication prescribed to the resident for his or her diabetes if:

(a) The resident's physical and mental condition is stable and is following a predictable course.

(b) The amount of the medication prescribed to the resident for his or her diabetes is at a maintenance level and does not require a daily assessment, including, but not limited to use of sliding scale insulin therapy.

(c) A written plan of care by a physician or registered nurse has been established that:

(1) Addresses possession and assistance in the administration of the medication for the resident's diabetes; and

(2) Includes a plan, which has been prepared under the supervision of a registered nurse or licensed pharmacist, for emergency intervention if an adverse condition results.

(d) The medication prescribed to the resident for his or her diabetes is not administered by injection or intravenously~~[-]~~, except, an employee may administer or assist in administering with the consent of the resident, insulin using an auto-injection device approved by the Food and Drug Administration for use in the home that is furnished by a registered pharmacist as directed by a physician.

(e) The caregiver has successfully completed training and examination approved by the Division regarding the administration of such medication.

3. The caregivers employed by a residential facility with a resident who has diabetes 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;

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

(c) The caregivers responsible for the resident have received instruction in the recognition of the symptoms of hypoglycemia and hyperglycemia by a medical professional who has been trained in the recognition of those symptoms.

4. The caregivers employed by a residential facility with a resident who has diabetes and requires a special diet shall provide variations in the types of meals served and make available food substitutions in order to allow the resident to consume meals as prescribed by the resident's physician. The substitutions must conform with the recommendations for food exchanges contained in the *Exchange Lists For Meal Planning*, published by the American Diabetes Association, Incorporated, and the American Dietetic Association, which is hereby adopted by reference. A copy of the publication may be obtained from the American Diabetes Association, Incorporated, Order Fulfillment Department, P.O. Box 930850, Atlanta, Georgia 31193-0850, at a cost of \$2.50.

Sec. 14 NAC 449.2728 is hereby amended to read as follows:

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 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 ~~or~~ or

(c) An employee who administers or assists in administering insulin using an auto-injection device approved by the Food and Drug Administration for use in the home that is furnished by a registered pharmacist as directed by a physician.

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. 15 NAC 449.361 is hereby amended to read as follows:

1. A hospital shall have a well-organized plan that provides for 24-hour nursing services. The nursing services must be furnished or supervised by a registered nurse.

2. The governing body and the hospital shall ensure that the nursing services provided at the hospital are provided in accordance with all applicable federal and state laws and regulations.

3. The nursing service shall have a sufficient number of licensed registered nurses, licensed practical nurses and other personnel to provide nursing care to all patients as needed. A sufficient number of registered nurses and other members of the nursing staff must be on duty at all times to ensure that proper care is provided to each patient. A person who is not a registered nurse may be assigned to care for a patient, if:

(a) The extent of care provided by the person is consistent with his or her education and experience and is within his or her scope of practice; and

(b) The person is supervised by a registered nurse while providing that care.

4. A hospital shall have a system for determining the nursing needs of each patient. The system must include assessments made by a registered nurse of the needs of each patient and the provision of staffing based on those assessments.

5. The plan for providing nursing services must include a plan of administrative authority and a delineation of responsibilities for patient care.

6. A hospital shall ensure that the nursing staff develops and keeps current a plan for nursing care for each inpatient.

7. The nursing services must be under the direct supervision of a chief administrative nurse. The chief administrative nurse must be knowledgeable, skilled and competent in clinical practice and nursing management. The chief administrative nurse shall direct and supervise the nursing services in compliance with chapter 632 of NRS and nationally recognized professional standards for organized nursing services.

8. The chief administrative nurse shall define the policies, procedures and standards relating to the provision of nursing services and shall ensure that the members of the nursing staff carry out those policies, procedures and standards. The policies, procedures and standards must be documented and accessible to each member of the nursing staff in written or electronic form. The chief administrative nurse must approve each element of the policies, procedures and standards before the element may be used or put into effect.

9. A hospital shall ensure that its patients receive proper treatment and care provided by its nursing services in accordance with nationally recognized standards of practice and physicians' orders.

10. In accordance with section 1.8 of SB482 of the 2017 legislative session, facilities will be assigned a star rating to rate the facility's compliance with NRS 449.241 to 449.2428. After any periodic inspection or complaint investigation, the findings will be reviewed, and a star rating will be assigned based on whether any violations of the statutory requirements were cited and based on the severity of those citations as follows:

a) no deficiencies will result in a 5-star rating;

b) any deficiency rated at severity 1 will result in a 4-star rating;

c) any deficiency rated at severity 2 will result in a 3-star rating;

d) any deficiency rated at severity 3 will result in a 2-star rating;

e) any deficiency rated at severity 4 will result in a 1-star rating;

11. The Division will issue a placard with the star rating. The placard shall have the following minimum components:

(a) Be issued on an 8 1/2 inch in height and 11 inches in width, with margins not greater than 1 inch on any side, piece of paper;

(b) Be written using a single typeface in not less than 20-point type;

(c) Have the number of stars issued by the Division;

(d) Be titled "Nevada Division of Public and Behavioral Health - Requirements Relating to Staffing based on NRS 449.241 to NRS 449.2428 - Star Rating"; and

(e) Have the name of the facility.

Sec. 16 NAC 449.3952 is hereby amended to read as follows:

1. An intermediary service organization shall make available to a personal assistant employed by the intermediary service organization all training required pursuant to NAC 449.39519 and, at the request of a client, such additional training for a personal assistant as necessary to support the plan of care for the person with a disability, including, without limitation:

[+.] (a) General training for the personal assistant;

~~[2.]~~ *(b)* Protocols for a personal assistant, including, without limitation, the rights and responsibilities of a client and of a personal assistant;

~~[3.]~~ *(c)* The manner in which to groom and dress the person with a disability;

~~[4.]~~ *(d)* Procedures for bathing and maintaining proper hygiene for a person with a disability, including, without limitation, bed-bath and tub-bath techniques;

~~[5.]~~ *(e)* Caring for the bowel, bladder and skin of a person with a disability, including, without limitation, information concerning caring for a catheter, the identification and control of infection, common bowel problems, the early recognition of skin problems, the prevention of pressure sores and the routine inspection of skin;

~~[6.]~~ *(f)* Assistive technology, including, without limitation, examples of assistive technology, how assistive technology can be used by the personal assistant and resources from which assistive technology may be obtained;

~~[7.]~~ *(g)* Nutrition and food preparation, including, without limitation, information about preparing balanced meals, addressing special dietary needs or restrictions, guidelines for hydration and the proper handling and storage of food; and

~~[8.]~~ *(h)* The manner in which to maintain health records, including, without limitation, illustrations of how information should be conveyed in a written or dictated form to assure confidentiality and a means to ensure that the person with a disability receives services as outlined in the plan of care.

2. An employee of an intermediary service organization that provides the services outlined in Section 3 of Senate Bill 324 of the 2017 legislative session must receive training and demonstrate an understanding for each task the employee performs, including:

(a) How to check, record and report the temperature, blood pressure, apical or radial pulse, respiration or oxygen saturation of residents who have provided consent for the employee to check the resident's vital signs. The employee must follow the manufacturer's instructions for equipment used to obtain the resident's vital signs.

(b) How to safely administer insulin via an auto-injection device approved by the Food and Drug Administration for use in the home to residents who have provided consent and furnished by a registered pharmacist as directed by a physician. The employee must follow the manufacturer's instructions for the auto-injection insulin device.

(c) How to safely use a blood glucose monitoring device approved by the Food and Drug Administration for use in the home to conduct a blood glucose test on a resident who has consented for the employee to provide blood glucose testing or assist in conducting the blood glucose testing. The employee must follow the manufacturer's instructions for the blood glucose monitoring device.

3. For each task performed in subsection 2, an employee shall receive training prior to, annually and when devices used are changed for obtaining a resident's vital signs, administering insulin via an auto-injection device and for blood glucose monitoring devices.

4. Each employee who performs blood glucose tests shall do so in conformance with the Clinical Laboratory Improvement Amendments of 1988, Public Law No. 100-578, 42 U.S.C. § 263a, if applicable, and any other applicable federal law or regulation.

5. If performing weights on residents who have provided consent to be weighed, an employee shall receive training on how to accurately perform weights.

6. The training provided in subsections 2 and 5 must include how to accurately perform each task, how to interpret and record the information obtained from performing the task, what actions must be taken based on the information obtained, including, but not limited to when the resident's physician must be notified and must follow nationally recognized infection control guidelines, such as the Centers for Disease Control and Prevention, when performing the tasks.

7. Each training listed in subsections 2 (a), (b), (c), which must also include the training requirements of subsection 6, must be provided by a Nevada licensed physician, physician

assistant, licensed nurse or by an employee that has had the training provided by the Nevada licensed physician, physician assistant or license nurse, who has one year of experience performing the task he or she is performing and who has demonstrated competency in performing the task.

8. If an employee employed by the intermediary service organization is performing glucose testing or assisting a client in the performance of glucose testing, it must be performed in conformance with the Clinical Laboratory Improvement Amendments of 1988, Public Law No. 100-578, 42 U.S.C. § 263a, if applicable, and any other applicable federal law or regulation.

9. If applicable, as used in subsection 8, means if an employee performs the client's glucose testing it must be performed in conformance with the Clinical Laboratory Improvement Amendments of 1988, Public Law No. 100-578, 42 U.S.C. § 263a in accordance with federal law.

10. For the purposes of subsection 9, if a client is physically or mentally not capable of performing his or her own glucose testing, then the employee is deemed to be responsible for performing the client's glucose testing.

11. An employee who provides insulin via an auto-injection device may assist a client if:

(a) The client's physical and mental condition is stable and is following a predictable course; and

(b) The amount of insulin prescribed to the client for his or her diabetes is at a maintenance level and does not require a daily assessment, including, but not limited to use of sliding scale insulin therapy.

Sec. 17 NAC 449.3977 is hereby amended to read as follows:

1. Each attendant of an agency shall:

(a) Obtain a working knowledge of the provisions of this chapter which govern the licensing of agencies before providing personal care services to the clients of the agency. The agency must provide a copy of those provisions to an attendant before the attendant may provide personal care services to the clients of the agency.

(b) Participate in and complete a training program before independently providing personal care services to the clients of the agency. The training program must include an opportunity for the attendant to receive on-the-job instruction provided to clients of the agency, as long as the administrator of the agency or the administrator's designee provides supervision during this instruction to determine whether the attendant is able to provide personal care services successfully and independently to the client.

(c) Receive training:

(1) In the written documentation of:

(I) Personal care services provided to the clients of the agency; and

(II) Verification of time records.

(2) In the rights of clients, including, without limitation, training in methods to protect client confidentiality pursuant to state and federal regulations.

(3) Related to the special needs of elderly persons and persons with disabilities, including, without limitation, training in the sensory, physical and cognitive changes related to the aging process.

(4) Related to communication skills, including, without limitation, active listening, problem solving, conflict resolution and techniques for communicating through alternative modes with persons with communication or sensory impairments.

(5) In first aid and cardiopulmonary resuscitation. A certificate in first aid and cardiopulmonary resuscitation issued by the American National Red Cross or an equivalent certificate will be accepted as proof of that training.

(6) That is specifically related to the personal care services provided by the agency, including, as applicable, training in the following topics:

(I) Duties and responsibilities of attendants and the appropriate techniques for providing personal care services;

(II) Recognizing and responding to emergencies, including, without limitation, fires and medical emergencies;

(III) Dealing with adverse behaviors;

(IV) Nutrition and hydration, including, without limitation, special diets and meal preparation and service;

(V) Bowel and bladder care, including, without limitation, routine care associated with toileting, routine maintenance of an indwelling catheter drainage system such as emptying the bag and positioning, routine care of colostomies such as emptying and changing the bag, signs and symptoms of urinary tract infections, and common bowel problems, including, without limitation, constipation and diarrhea;

(VI) Skin care, including, without limitation, interventions that prevent pressure sores, routine inspections of the skin and reporting skin redness, discoloration or breakdown to the client or a representative of the client and to the administrator of the agency or the administrator's designee;

(VII) Methods and techniques to prevent skin breakdown, contractures and falls;

(VIII) Hand washing and infection control;

(IX) Body mechanics, mobility and transfer techniques, including, without limitation, simple nonprescribed range of motion; and

(X) Maintenance of a clean and safe environment.

2. Each attendant of an agency must be evaluated and determined to be competent by the agency in the required areas of training set forth in paragraph (c) of subsection 1.

3. Each attendant of an agency must have evidence of successful completion of a training program that includes the areas of training set forth in paragraph (c) of subsection 1 within the 12 months immediately preceding the date on which the attendant first begins providing care to a client.

4. An employee of an agency to provide personal care services in the home who provides the services outlined in Section 2 of Senate Bill 324 of the 2017 legislative session must receive training and demonstrate an understanding for each task the employee performs, including:

(a) How to check, record and report the temperature, blood pressure, apical or radial pulse, respiration or oxygen saturation of residents who have provided consent for the employee to check the resident's vital signs. The employee must follow the manufacturer's instructions for equipment used to obtain the resident's vital signs.

(b) How to safely administer insulin via an auto-injection device approved by the Food and Drug Administration for use in the home to residents who have provided consent and furnished by a registered pharmacist as directed by a physician. The employee must follow the manufacturer's instructions for the auto-injection insulin device.

(c) How to safely use a blood glucose monitoring device approved by the Food and Drug Administration for use in the home to conduct a blood glucose test on a resident who has consented for the employee to provide blood glucose testing or assist in conducting the blood glucose testing. The employee must follow the manufacturer's instructions for the blood glucose monitoring device.

5. For each task performed in subsection 4, an employee shall receive training prior to, annually and when devices used are changed for obtaining a resident's vital signs, administering insulin via an auto-injection device and for blood glucose monitoring devices.
6. Each employee who performs blood glucose tests shall do so in conformance with the Clinical Laboratory Improvement Amendments of 1988, Public Law No. 100-578, 42 U.S.C. § 263a, if applicable, and any other applicable federal law or regulation.
7. If performing weights on residents who have provided consent to be weighed, an employee shall receive training on how to accurately perform weights.
8. The training provided in subsections 4 and 7 must include how to accurately perform each task, how to interpret and record the information obtained from performing the task, what actions must be taken based on the information obtained, including, but not limited to when the resident's physician must be notified and must follow nationally recognized infection control guidelines, such as the Centers for Disease Control and Prevention, when performing the tasks.
9. Each training listed in subsections 4 (a), (b), (c), which must also include the training requirements of subsection 8, must be provided by a Nevada licensed physician, physician assistant, licensed nurse or by an employee that has had the training provided by the Nevada licensed physician, physician assistant or license nurse, who has one year of experience performing the task he or she is performing and who has demonstrated competency in performing the task.
10. If an employee employed by an agency to provide personal care services in the home is performing glucose testing or assisting a client in the performance of glucose testing, it must be performed in conformance with the Clinical Laboratory Improvement Amendments of 1988, Public Law No. 100-578, 42 U.S.C. § 263a, if applicable, and any other applicable federal law or regulation.
11. If applicable, as used in subsection 10, means if an employee performs the client's glucose testing it must be performed in conformance with the Clinical Laboratory Improvement Amendments of 1988, Public Law No. 100-578, 42 U.S.C. § 263a in accordance with federal law.
12. For the purposes of subsection 11, if a client is physically or mentally not capable of performing his or her own glucose testing, then the employee is deemed to be responsible for performing the client's glucose testing.
13. An employee who provides insulin via an auto-injection device may assist a client if:
 - (a) The client's physical and mental condition is stable and is following a predictable course and
 - (b) The amount of insulin prescribed to the client for his or her diabetes is at a maintenance level and does not require a daily assessment, including, but not limited to use of sliding scale insulin therapy.

Sec. 18 NAC 449.3978 is hereby amended to read as follows:

1. The administrator of an agency shall ensure that each attendant working for the agency is working within the attendant's scope of service and conducts himself or herself in a professional manner. An attendant is prohibited from providing any of the services listed in subsection 2 to a client.
2. The services an attendant must not provide to a client include, without limitation:
 - (a) Insertion or irrigation of a catheter;

(b) Irrigation of any body cavity, including, without limitation, irrigation of the ear, insertion of an enema or a vaginal douche;

(c) Application of a dressing involving prescription medication or aseptic techniques, including, without limitation, the treatment of moderate or severe conditions of the skin;

(d) Administration of injections of fluids into veins, muscles or the skin~~(g)~~ with the exception of administering or assisting a client in the administration of insulin via an auto-injection device approved by the Food and Drug Administration for use in the home furnished by a registered pharmacist as directed by a physician, with the consent of the client to be administered or assisted in administering the insulin. The employee must have documented evidence of training related to the administration of insulin via an auto-injection device prior to administering insulin.

(e) Administration of medication, including, without limitation, the insertion of rectal suppositories, the application of a prescribed topical lotion for the skin and the administration of drops in the eyes;

(f) Performing physical assessments;

~~[(g) Monitoring vital signs;]~~

~~[(h) (g) Using specialized feeding techniques;~~

~~[(i) (h) Performing a digital rectal examination;~~

~~[(j) (i) Trimming or cutting toenails;~~

~~[(k) (j) Massage;~~

~~[(l) (k) Providing specialized services to increase the range of motion of a client;~~

~~[(m) (l) Providing medical case management, including, without limitation, accompanying a client to the office of a physician to provide medical information to the physician concerning the client or to receive medical information from the physician concerning the client; and~~

~~[(n) (m) Any task identified in [chapter 632](#) of NRS and the regulations adopted by the State Board of Nursing as requiring skilled nursing care, ~~[including, without limitation,]~~ except any services that are within the scope and practice of a certified nursing assistant.~~

Sec. 19 NAC 449.4079 is hereby amended to read as follows:

The facility must:

1. Provide each client with such assistance as necessary for the activities of daily living;
2. Provide activities for a client which are suited to his or her interests and capacities;
3. Observe the health of the client and notify his or her next of kin, guardian, or other person responsible for the client of any significant change in his or her physical or mental condition;
4. Establish procedures for the administration of medication to clients, either directly by the client or by an employee at the facility;
5. Provide fluids to clients as necessary to prevent dehydration;
6. Have at least one employee on the premises at all times who is trained to administer first aid and cardiopulmonary resuscitation;
7. Provide information to a client about other local, state and federal agencies in the area that may be able to assist the client and his or her family; and
8. Prepare a monthly calendar of activities at the facility and distribute the calendar to clients and their families.

9. Conduct blood glucose testing or assist a client in the performance of blood glucose testing on a person receiving such services from the facility, in conformance with the Clinical

Laboratory Improvement Amendments of 1988, Public Law No. 100-578, 42 U.S.C. § 263a, if applicable, and any other applicable federal law or regulation.

10. If applicable, as used in subsection 9, means if a facility performs the client's glucose testing it must be performed in conformance with the Clinical Laboratory Improvement Amendments of 1988, Public Law No. 100-578, 42 U.S.C. § 263a in accordance with federal law.

11. For the purposes of subsection 10, if a client is physically or mentally not capable of performing his or her own glucose testing, then the facility is deemed to be responsible for performing the client's glucose testing.

12. The device for monitoring blood glucose must be used for one person only.

13. The facility must have documented evidence of training for each employee who performs blood glucose testing prior to performing blood glucose tests and annually.

14. Ensure each employee performing the tasks in this subsection, demonstrate an understanding of how to check, record and report the temperature, blood pressure, apical or radial pulse, respiration or oxygen saturation of clients who have provided consent for the employee to check the client's vital signs. The employee must follow the manufacturer's instructions for equipment used to obtain the resident's vital signs. The employee must have documented evidence of training related to checking, recording and reporting of client's vital signs; training must be completed prior to, annually and when the manufacturer of the equipment changes.

15. Ensure each employee who performs the task in this subsection demonstrates an understanding of how to safely administer insulin via an auto-injection device approved by the Food and Drug Administration for the use in the home and furnished by a registered pharmacist as directed by a physician for a client who has consented for the employee to provide the insulin or assist the client in providing the insulin. The employee must follow the manufacturer's instructions for the use of the auto-injection insulin device. The employee must have documented evidence of training related to the use of an auto-injection insulin device. The training must be prior to, annually and when the manufacturer of the auto-injection device changes.

16. Ensure each employee who performs the task in this subsection demonstrates an understanding of how to safely use a blood glucose monitoring device approved by the Food and Drug Administration for use in the home to conduct a blood glucose test on a client who has consented for the employee to provide the blood glucose testing or assist the client with conducting a blood glucose test; the client must follow the manufacturer's instructions for the use of the blood glucose monitoring device; and the blood glucose monitoring device must be used for one person only. The client must have documented evidence of training related to the use of a blood glucose monitoring device. The training must be prior to, annually and when the manufacturer of the blood glucose monitoring device changes.

17. The training provided in subsections 14 to 16 must include how to accurately perform each task, how to interpret and record the information obtained from performing the task, and what actions must be taken based on the information obtained, including, but not limited to when the client's physician must be notified and must follow nationally recognized infection control guidelines, such as the Centers for Disease Control and Prevention, when performing the tasks.

18. The training provided in subsections 14 to 16 must be provided by a Nevada licensed physician, physician assistant, licensed nurse or by an employee that has had the training provided by the Nevada licensed physician, physician assistant or license nurse, who has one year of experience performing the task he or she is performing and who has demonstrated competency in performing the task.

19. Ensures that an employee only administers insulin via an auto-injection device to a client, that has provided consent, if:

(a) The client's physical and mental condition is stable and is following a predictable course and

(b) The amount of insulin prescribed to the client for his or her diabetes is at a maintenance level and does not require a daily assessment, including, but not limited to use of sliding scale insulin therapy.

Sec. 20 NAC 449.99899 is hereby amended to read as follows:

1. In determining the amount of an initial monetary penalty the Bureau shall consider the severity alone if the severity level is four. In determining the amount of the monetary penalty where the severity level is less than four, both severity and scope must be considered. In determining whether to impose a daily monetary penalty, the Bureau shall consider the severity and scope and the factors indicated for increased and decreased penalties provided in [NAC 449.99902](#) and [449.99904](#).

2. For initial deficiencies with a severity level of four, an initial monetary penalty of ~~[\$1,000]~~ \$5,000 per deficiency must be imposed.

3. For initial deficiencies rated with a severity level of three and a scope level of three, a monetary penalty of ~~[\$800]~~ \$4,000 per deficiency must be imposed.

4. For initial deficiencies with a severity level of three and a scope level of two or less, an initial monetary penalty of ~~[\$400]~~ \$3,000 per deficiency must be imposed.

5. For initial deficiencies with a severity level of two and a scope level of three, an initial monetary penalty of ~~[\$200]~~ \$2,000 per deficiency may be imposed. The payment of this monetary penalty must be suspended if the facility has corrected the deficiencies within the time specified in the plan of correction approved by the Bureau.

6. When harm or risk of harm to more than one person occurs:

(a) At severity level of four, the monetary penalty will be double the amount established in subsection 2; and

(b) At severity level of three, the monetary penalty will be 1 and half the amount established in subsection 3 and 4.

~~7. [6].~~ In addition to any monetary penalty imposed pursuant to this section, the Bureau may impose a monetary penalty of not more than \$10 per recipient per day for each day the deficiency continues.

8. As used in this section, "harm or risk of harm" means a deficiency that resulted in harm or risk of harm at a severity level three as described in subsection 4 of NAC 449.99861 or a severity level four as described in subsection 5 of NAC 449.99861.

9. A facility, agency or home imposed a monetary penalty pursuant to this Section may, upon approval by the Division, use a monetary penalty that would otherwise be imposed by the Division to correct the violation(s) and to put measures in place to prevent the violation from reoccurring, in accordance with the following circumstances:

a) The Division may develop a directed plan of correction indicating how the monetary penalties are to be utilized by the facility;

b) The facility, agency or home must provide proof satisfactory to the Division that the money was used to correct the violation and prevent it from reoccurring. If the amount of the monetary penalty is greater than the cost to correct the violation, the facility, agency or home must pay to the Division the portion of the monetary penalty that was not used to correct the violation. All corrections must be accomplished within one year from the date of the approval to utilize

monetary penalties for this purpose, or any remaining portion of the monetary penalty must be paid to the Division.

c) The facility, agency or home will only be allowed to use the monetary penalties as outlined in subsection 9 once per violation of a Nevada Revised Statute or Nevada Administrative Code. Any subsequent violation of a Nevada Revised Statute or Nevada Administrative Code will result in full payment to the Division of the monetary penalty imposed.

Sec. 21 NAC 449.999 is hereby amended to read as follows:

In no event may the principal amount of the total daily monetary penalty assessed against any facility exceed [~~\$1,000~~] \$5,000 per deficiency per day.