

**PROPOSED REGULATION OF THE
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH OF THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

LCB File No. R156-18

July 24, 2018

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

AUTHORITY: §§1-6, NRS 449.2425.

A REGULATION relating to health care facilities; providing for the star rating of certain health care facilities relating to staffing requirements; providing for a follow-up inspection or appeal after an inspection or investigation of certain health care facilities; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Division of Public and Behavioral Health of the Department of Health and Human Services to establish: (1) a system for awarding a star rating to certain health care facilities on compliance with certain requirements relating to staffing, which must be posted on the Internet website of the Division and in the facilities that are rated; and (2) procedures by which such a health care facility may appeal a finding of a violation of those requirements or request a follow-up inspection. (NRS 449.2425) **Sections 3 and 4** of this regulation define terms used in provisions establishing the rating system and in procedures for requesting an appeal or follow-up inspection. **Section 5** of this regulation establishes the rating system and requires the Division to issue to each facility that is inspected or investigated a placard that states the name and rating of the facility. **Section 6** of this regulation prescribes the procedures for requesting an appeal or follow-up inspection.

Section 1. Chapter 449 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 6, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Deficiency” means a violation of NRS 449.241 to 449.2428, inclusive, as determined by the Division pursuant to an inspection conducted pursuant to NRS 449.132 or an investigation conducted pursuant to NRS 449.0307.*

Sec. 4. *“Facility” means 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.*

Sec. 5. *After each inspection or investigation described in paragraph (a) of subsection 1 of NRS 449.2425, the Division will:*

1. Assign to the facility that was inspected or investigated a rating of:

(a) Five stars if the Division determined from the inspection or investigation that the facility has no deficiencies.

(b) Four stars if the Division determined from the inspection or investigation that the facility has at least one deficiency designated as severity level one and no deficiencies designated as severity level two, three or four pursuant to NAC 449.99861.

(c) Three stars if the Division determined from the inspection or investigation that the facility has at least one deficiency designated as severity level two and no deficiencies designated as severity level three or four pursuant to NAC 449.99861.

(d) Two stars if the Division determined from the inspection or investigation that the facility has at least one deficiency designated as severity level three and no deficiencies designated as severity level four pursuant to NAC 449.99861.

(e) One star if the Division determined from the inspection or investigation that the facility has at least one deficiency designated as severity level four pursuant to NAC 449.99861.

2. Issue to the facility that was inspected or investigated a placard that:

(a) States the name of the facility and the star rating assigned to the facility pursuant to subsection 1;

(b) Is not less than 8.5 inches in height and 11 inches in width, with margins not greater than 1 inch on any side;

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

(d) Is titled “Nevada Division of Public and Behavioral Health - Requirements Relating to Staffing based on NRS 449.241 to 449.2428, inclusive - Star Rating.”

Sec. 6. 1. A facility may request a follow-up inspection or an appeal within 30 days after an investigation or inspection described in paragraph (a) of subsection 1 of NRS 449.2425 by submitting, in the form prescribed by the Division.

2. A request for an appeal made pursuant to subsection 1 must:

(a) Specify each finding of a violation to be appealed, as identified by the number ascribed to the violation by the Division in the statement of deficiencies provided to the facility;

(b) The reasons that the facility is disputing the finding of a violation;

(c) Include any evidence to support reversing the finding of the Division; and

(d) Be submitted separately from the plan of correction submitted to the Bureau pursuant to NAC 449.9987.

3. A facility shall not request a follow-up inspection or an appeal pursuant to this section for the purpose of delaying the imposition or effective date of an administrative sanction pursuant to NAC 449.9982 to 449.99939, inclusive.

4. Not later than 30 days after receiving a request for an appeal pursuant to subsection 1 that meets the requirements of subsection 2, the Division will notify the facility that submitted the request of the determination of the Division concerning the appeal.

5. A facility aggrieved by a determination of the Division pursuant to subsection 3 may appeal that determination to the Administrator of the Division by submitting a request for a final appeal to the Administrator, in the form prescribed by the Division, not later than 30 days after receiving notification of the determination. The determination of the Administrator concerning such an appeal is a final decision for the purpose of judicial review.