

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

LCB File No. R016-20

May 11, 2020

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

AUTHORITY: §§1-6, 8-13, 20-34, NRS 449.0302; §7, NRS 449.0302 and 449.101; §§14-18,
NRS 449.0302 and 449.103; §19, NRS 449.0302 and 449.104.

A REGULATION relating to health care; setting forth specific types of prohibited discrimination; prohibiting certain facilities from discriminating against a patient or resident of the facility based on the source of payment for services provided; requiring certain facilities to post certain notices and information and to provide written copies of certain statements, notices and information to patients or residents of the facilities; requiring the statements, notices and information that a facility posts to meet certain posting requirements; clarifying how a patient or resident or authorized representative of a patient or resident provides express permission in certain situations; requiring certain facilities to provide cultural competency training through a course or program approved by the Director of the Department of Health and Human Services; establishing procedures for obtaining approval for such a course or program; requiring certain facilities to ensure that a patient or resident is addressed by his or her preferred name and pronoun in accordance with his or her gender identity and to adapt the records of the patient or resident to reflect diverse gender identities and expressions; requiring certain statements, notices and information be provided in English and certain other languages; requiring certain facilities to designate a representative of the facility to ensure compliance with discrimination and cultural competency statutes and regulations; requiring certain facilities to provide the Division of Public and Behavioral Health of the Department and the Department certain information upon request; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Health to adopt regulations as it deems necessary or convenient to carry out the provisions governing the licensing, regulating and staffing of medical facilities and other related entities. (NRS 449.0302)

Existing law prohibits medical facilities, facilities for the dependent or certain other licensed facilities and any employee or independent contractor of such facilities from discriminating in the admission of, or the provision of services to, a patient or resident based wholly or partially on the actual or perceived race, color, religion, national origin, ancestry, age,

gender, physical or mental disability, sexual orientation, gender identity or expression or human immunodeficiency virus status of the patient or resident or any person with whom the patient or resident associates. Existing law requires such facilities to develop and carry out policies to prevent the specific types of prohibited discrimination described in regulations adopted by the Board and meet any other requirements prescribed by regulations of the Board. (NRS 449.101) Existing law requires the Board to adopt such regulations that prescribe the specific types of prohibited discrimination. (NRS 449.0302) **Section 7** of this regulation prescribes the specific types of prohibited discrimination, including: (1) discrimination that results in a person not being treated with dignity; (2) indirect discrimination that may or may not be intentional and which results from the uniform application of policies in a nondiscriminatory manner; (3) discrimination which is based wholly or partially on the discriminated person associating with certain other persons; and (4) harassment or bullying of any kind of a person. **Section 8** of this regulation prohibits a facility from discriminating against a patient or resident based on the source of payment for the services provided.

Existing law requires a medical facility, facility for the dependent or certain other licensed facilities to post prominently in the facility and include on any Internet website used to market the facility a statement saying that the facility does not discriminate and does not permit discrimination based on certain criteria. (NRS 449.101) **Section 9** of this regulation further requires such facilities to post prominently in the facility and on any Internet website used to market the facility: (1) notice that a patient or resident who has experienced prohibited discrimination may file a complaint with the Division of Public and Behavioral Health of the Department of Health and Human Services; and (2) the contact information for the Division. **Section 10** of this regulation sets forth the specific requirements with which a statement, notice and information posted by a facility must comply, including: (1) how large the letters and the physical copy of the statement, notice and information must be; and (2) where such a statement, notice and information must be posted.

Section 11 of this regulation requires a medical facility, facility for the dependent or certain other licensed facilities to provide to a patient or resident, upon admission: (1) a written copy of the statement, notice and information required by existing law and **section 9**; and (2) a written notice that a patient or resident who has experienced prohibited discrimination may file a complaint with the facility in addition to the complaint that may be filed with the Division. **Section 12** of this regulation requires a facility to: (1) develop and adopt a written policy on how a complaint filed with the facility is documented, investigated and resolved; and (2) maintain a log that lists certain information.

Existing law requires a medical facility, facility for the dependent or certain other licensed facilities to prohibit employees or independent contractors of the facility who are not performing a physical examination or directly providing care to a patient or resident from being present during any portion of a physical examination or care during which the patient or resident is fully or partially unclothed without the express permission of the patient or resident or the authorized representative of the patient or representative. (NRS 449.102) **Section 13** of this regulation clarifies that to provide express permission, a patient or resident or the authorized representative of the patient or resident must provide such permission in writing.

To enable a medical facility, facility for the dependent and certain other facilities to more effectively treat patients or care for residents, existing law requires the Board, by regulation, to require such a facility to conduct training relating specifically to cultural competency for any agent or employee of the facility who provides care to a patient or resident of the facility so that such an agent or employee may better understand patients or residents who have different cultural backgrounds. Such training must be provided through a course or program that is approved by the Department. (NRS 449.103) **Section 14** of this regulation imposes the requirement that a facility conduct training relating specifically to cultural competency for any agent or employee of the facility who provides care to a patient or resident of the facility. **Section 14** further requires such cultural competency training to be provided through a course or program that is approved by the Director of the Department or his or her designee and to be assigned a course number by the Division.

Sections 15 and 33 of this regulation require a facility to submit to the Department the course or program through which a facility will provide the cultural competency training. **Section 15** requires certain information to also be provided to the Department, including evidence that the course or program includes the course materials required by **section 16** of this regulation. Upon receiving the information required by **section 15**, **section 17** of this regulation provides the procedure which the Department must complete before the Director of the Department or his or her designee approves or does not approve the course or program. Within 90 days of the course or program being approved, **section 18** of this regulation requires the facility to submit the approved course or program to the Division. **Section 18** requires the Division, upon receiving the approved course or program, to assign a course number to the approved course or program.

Existing law requires the Board to adopt regulations that require a medical facility, facility for the dependent and certain other facilities to: (1) develop policies to ensure that a patient or resident is addressed by his or her preferred name and pronoun and in accordance with his or her gender identity or expression; and (2) adapt electronic records to reflect the gender identities or expressions of patients or residents with diverse gender identities or expressions. (NRS 449.104) **Section 19** of this regulation establishes these requirements. and additionally requires: (1) the health records that a medical facility keeps to include certain information; and (2) the medical facility to develop a procedure to ensure the information of a patient or resident accurately reflects the diverse gender identities or expressions of patients or residents when interacting with insurance providers.

Section 20 of this regulation requires the statements, notices and information that are provided to patients or residents concerning prohibited discrimination be in English and in any other language the Department determines is appropriate based on the demographic characteristics of this State. In addition to these languages, **section 20** authorizes a facility to provide the statements, notices and information in any foreign language the facility may desire. **Section 20** requires a facility to make reasonable accommodations for patients or residents who: (1) do not read or speak English or any other language in which the statements, notices and information are written; and (2) have certain communication impairments.

Section 21 of this regulation requires a facility to designate a representative of the facility who is responsible for ensuring that the facility complies with the provisions of existing law and this regulation.

Upon request from the Division or Department, **section 22** of this regulation requires a facility to make available to the Division or Department documentation for the Division or Department to determine if the facility is complying with the provisions of this regulation and existing law.

Existing regulations prohibit various types of discrimination of a patient or resident. (NAC 449.153, 449.15369, 449.269, 449.355, 449.4083, 449.413, 449.731, 449.74375, 449.74455) **Section 34** of this regulation repeals these provisions since existing law and the provisions of this regulation replace these prohibitions. **Sections 24-32** of this regulation make conforming changes.

Section 1. Chapter 449 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 22, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 22, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Cultural competency training” means the training required by section 14 of this regulation.*

Sec. 4. *“Department” means the Department of Health and Human Services.*

Sec. 5. *“Director” means the Director of the Department.*

Sec. 6. *“Facility” means a medical facility, facility for the dependent or facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed.*

Sec. 7. *Pursuant to paragraph (e) of subsection 1 of NRS 449.0302 and paragraph (a) of subsection 2 of NRS 449.101, the specific types of prohibited discrimination include, without limitation:*

1. Discrimination that results in a person not being treated with dignity and which is based wholly or partially on the actual or perceived race, color, religion, national origin, ancestry, age, gender, physical or mental disability, sexual orientation, gender identity or expression or human immunodeficiency virus status of the patient or resident or any person with whom the patient or resident associates.

2. Indirect discrimination that may or may not be intentional and which results in the application of policies that are applied uniformly and in a nondiscriminatory manner by the facility.

3. Discrimination which is based wholly or partially on the person associating with other persons who:

(a) Are actually or perceived to be of a different race, color, religion, national origin, ancestry, age, gender, sexual orientation, gender identity or expression or human immunodeficiency virus status of the person; or

(b) Actually or are perceived to have a physical or mental disability.

4. Harassment or bullying of any kind of a person because of his or her actual or perceived race, color, religion, national origin, ancestry, age, gender, physical or mental disability, sexual orientation, gender identity or expression or human immunodeficiency virus status.

Sec. 8. A facility shall adopt and maintain policies and procedures for the transfer and discharge of, and the provision of services to, patients or residents in the facility which do not discriminate against a patient or resident based on the source of payment for the services provided.

Sec. 9. *In addition to the statement prescribed by paragraph (b) of subsection 2 of NRS 449.101, a facility shall post prominently in the facility and include on any Internet website to market the facility:*

- 1. Notice that a patient or resident who has experienced prohibited discrimination may file a complaint with the Division; and*
- 2. The contact information for the Division.*

Sec. 10. *1. The statement required to be posted pursuant to paragraph (b) of subsection 2 of NRS 449.101 and the notice and information required to be posted pursuant to subsection 3 of NRS 449.101 or section 9 of this regulation, as applicable, must:*

- (a) State the name of the facility; and*
- (b) When posted in the facility:*

(1) Be not less than 8.5 inches in height and 11 inches in width, with margins not greater than 0.5 inches on any side; and

(2) Be written using a single typeface in not less than 22-point type.

2. When posting prominently the statement required to be posted pursuant to paragraph (b) of subsection 2 of NRS 449.101 and the notice and information required to be posted pursuant to subsection 3 of NRS 449.101 or section 9 of this regulation, as applicable, the facility shall post the statement or notice and information in each:

- (a) Public entrance of the facility;*
- (b) Waiting room of the facility; and*
- (c) Public dining room of the facility.*

Sec. 11. *1. Upon admission of a patient or resident, the facility shall:*

(a) Provide the patient or resident with a written copy of the statement required pursuant to paragraph (b) of subsection 2 of NRS 449.101 and the notice and information required pursuant to subsection 3 of NRS 449.101 or section 9 of this regulation, as applicable.

(b) Provide the patient or resident with a written notice that a patient or resident who has experienced prohibited discrimination may file a complaint with the facility. The written notice provided by the facility must include, without limitation:

(1) The contact information for the Division;

(2) A clear statement that such a complaint with the facility:

(I) May be filed in addition to the complaint that may be filed with the Division pursuant to subsection 3 of NRS 449.101 or section 9 of this regulation, as applicable; and

(II) Is not required to be filed for the patient or resident to file a complaint with the Division pursuant to subsection 3 of NRS 449.101 or section 9 of this regulation, as applicable; and

(3) The procedure that the facility uses to address such complaints with the facility and the timeframe for how long it will take the facility to address such complaints with the facility.

2. As used in this section, “prohibited discrimination” means the discrimination described in section 7 of this regulation and in subsection 1 of NRS 449.101.

Sec. 12. A facility shall:

1. Develop and adopt a written policy on how a complaint with the facility that is filed pursuant to paragraph (b) of subsection 1 of section 11 of this regulation is documented, investigated and resolved; and

2. Maintain a log that lists:

(a) All complaints with the facility that are filed pursuant to paragraph (b) of subsection 1 of section 11 of this regulation;

(b) The actions taken by the facility to investigate and resolve the complaint; and

(c) If no action was taken, an explanation as to why no action was taken.

Sec. 13. To provide express permission pursuant to subsection 2 of NRS 449.102, a patient or resident or the authorized representative of the patient or resident must provide permission in writing.

Sec. 14. 1. Pursuant to subsection 1 of NRS 449.103, within 30 business days after the course or program is assigned a course number by the Division pursuant to section 18 of this regulation or within 30 business days of any agent or employee being contracted or hired, whichever is later, and at least once each year thereafter, a facility shall conduct training relating specifically to cultural competency for any agent or employee of the facility who provides care to a patient or resident of the facility so that the agent or employee may:

(a) More effectively treat patients or care for residents, as applicable; and

(b) Better understand patients or residents who have different cultural backgrounds, including, without limitation, patients or residents who fall within one or more of the categories in paragraphs (a) to (f), inclusive, of subsection 1 of NRS 449.103.

2. The facility shall provide the training required by subsection 1 through a course or program that is approved by the Director of the Department or his or her designee pursuant to section 17 of this regulation and is assigned a course number by the Division pursuant to section 18 of this regulation.

3. The facility shall keep documentation in the personnel file of any agent or employee of the facility of the completion of the cultural competency training required pursuant to subsection 1.

Sec. 15. *1. Within 90 days after a facility is licensed to operate, the facility must submit to the Department on a form prescribed by the Department the course or program which the facility will use to provide cultural competency training. The facility may:*

(a) Develop or operate the course or program; or

(b) Contract with a third party to develop and operate the course or program.

2. The course or program submitted by the facility pursuant to subsection 1 must address patients or residents who have different cultural backgrounds from that of the agent or employee of the facility, including, without limitation, patients or residents who fall within one or more of the categories in paragraphs (a) to (f), inclusive, of subsection 1 of NRS 449.103.

3. When a facility submits a course or program pursuant to subsection 1, the facility must also provide to the Department the following information for the instructor of the course or program:

(a) The application of the instructor who will teach the course or program;

(b) Three letters of recommendation for the instructor, including, without limitation, at least one letter of recommendation in which the recommender has knowledge of the methods the instructor uses in teaching a cultural competency course or program; and

(c) The resume of the instructor of the course or program that includes, without limitation, the education, training and experience the instructor has in providing cultural competency training.

4. Except as otherwise provided in subsection 5, when a facility submits a course or program pursuant to subsection 1, the facility must also provide to the Department:

(a) The syllabus of the course or program;

(b) The following information:

(1) The name of the facility;

(2) The address of the facility;

(3) The electronic mail address of the facility;

(4) The license number of the facility; and

(5) The name and contact information of a person who represents the facility and who can discuss the course or program submitted by the facility pursuant to subsection 1;

(c) If the facility contracts with a third party who develops and operates the course or program, the following information:

(1) The name of the third party;

(2) The address of the third party;

(3) The electronic mail address of the third party; and

(4) The name and contact information of a person who represents the third party and who can discuss the course or program submitted by the facility pursuant to subsection 1;

(d) Evidence that the subjects covered by the course or program include, without limitation, the course materials required by section 16 of this regulation;

(e) A sample sign-in sheet for the course or program that contains:

(1) The dates of the course or program; and

(2) A place for a participant of the course or program to print and sign his or her name;

(f) A sample evaluation form that a participant of the course or program may complete at the end of the course or program which evaluates:

(1) The content of the course or program;

(2) The instructor of the course or program; and

(3) The manner in which the course or program is presented to the participant; and

(g) A sample document that a participant of the course or program may complete at the end of the course or program in which the participant can perform a self-evaluation.

5. A facility may submit a course or program pursuant to subsection 1 without submitting the information required in subsection 4 if the course or program:

(a) Is provided by:

(1) A nationally recognized organization, as determined by the Director of the Department;

(2) A federal, state or local government agency; or

(3) A university or college that is accredited in the District of Columbia or any state or territory of the United States; and

(b) Provides proof of completion upon the participant of the course or program completing the course or program that the Director or his or her designee determines to be satisfactory.

6. When a facility submits pursuant to subsection 1 a course or program that is described in subsection 5, the facility must also provide to the Department:

(a) The name of the course or program;

(b) The name of the organization, agency, university or college providing the course or program;

- (c) If the course or program is provided online, the URL of the course or program;*
- (d) If the course or program is provided through a training system, access to the training system;*
- (e) If the course or program is not provided online or through a training system, the syllabus of the course or program;*
- (f) The following information:*
 - (1) The name of the facility;*
 - (2) The address of the facility;*
 - (3) The electronic mail address of the facility;*
 - (4) The license number of the facility; and*
 - (5) The name and contact information of a person who represents the facility and who can discuss the course or program submitted by the facility pursuant to subsection 1; and*
- (g) Any other information the Department requests to assist the Director or his or her designee in determining whether or not to approve the course or program pursuant to section 17 of this regulation.*

7. As used in this section, “URL” means the Uniform Resource Locator associated with an Internet website.

Sec. 16. 1. *A course or program subject to the requirements of subsection 4 of section 15 of this regulation must include, without limitation, the following course materials:*

- (a) An overview of cultural competency;*
- (b) An overview of implicit bias and indirect discrimination;*
- (c) The common assumptions and myths concerning stereotypes and examples of such assumptions and myths;*

- (d) An overview of social determinants of health;*
 - (e) An overview of best practices when interacting with persons who fall within one or more of the categories in paragraphs (a) to (f), inclusive, of subsection 1 of NRS 449.103;*
 - (f) An overview of gender, race and ethnicity;*
 - (g) An overview of religion;*
 - (h) An overview of sexual orientation and gender identities or expressions;*
 - (i) An overview of mental and physical disabilities;*
 - (j) Examples of barriers to providing care;*
 - (k) Examples of language and behaviors that are discriminatory; and*
 - (l) Examples of a welcoming and safe environment.*
- 2. The course materials included in a course or program, including, without limitation, the course materials required by subsection 1, must include, without limitation:*
- (a) Evidence-based, peer-reviewed sources;*
 - (b) Source materials that are used in universities or colleges that are accredited in the District of Columbia or any state or territory of the United States;*
 - (c) Source materials that are from nationally recognized organizations, as determined by the Director of the Department;*
 - (d) Source materials that are published or used by federal, state or local government agencies; or*
 - (e) Other source materials that are deemed appropriate by the Department.*
- 3. The Department must:*
- (a) Publish a copy of the requirements set forth in subsections 1 and 2 on its Internet website; and*

(b) Provide a copy of the requirements set forth in subsections 1 and 2 to a facility upon request by the facility.

Sec. 17. 1. The Department shall review the course or program information submitted pursuant to section 15 of this regulation and, if applicable, section 16 of this regulation within 60 days after receipt. During this review process, the Department may have the course or program reviewed by a person who is an expert on cultural competency or a committee of persons who are experts on cultural competency.

2. If the information that is provided to the Department meets the requirements set forth in sections 15 and 16, if applicable, of this regulation, the Director or his or her designee may approve the course or program. If the information that is provided to the Department does not meet the requirements set forth in sections 15 and 16, if applicable, of this regulation, the Director or his or her designee shall not approve the course or program.

3. Within 5 business days after completing the review of the information pursuant to subsection 1, the Director or his or her designee shall:

(a) Notify the facility that submitted the information whether the course or program is approved or not approved pursuant to subsection 2; and

(b) If the Director or his or her designee does not approve the course or program, inform the facility of any additional information that the facility needs to submit for the course or program to be approved.

4. The facility shall submit the additional information that the facility needs to submit pursuant to paragraph (b) of subsection 3 within 45 days after being notified that the course or program is not approved pursuant to paragraph (a) of subsection 3. Upon receiving the additional information, the Director or his or her designee may approve the course or

program. If the additional information is not received or fails to include all of the information that the Director or his or her designee informed the facility that it needed to submit, the Director or his or her designee shall not approve the course or program.

5. Any course or program approved pursuant to this section may be provided:

(a) Online;

(b) Through a training system; or

(c) In person.

Sec. 18. Within 90 days after the course or program of the facility has been approved pursuant to section 17 of this regulation, the facility shall submit the approved course or program to the Division. Upon receiving the approved course or program, the Division shall assign a course number to the approved course or program.

Sec. 19. 1. A facility shall:

(a) Develop policies to ensure that a patient or resident is addressed by his or her preferred name and pronoun and in accordance with his or her gender identity or expression; and

(b) Adapt electronic records and any paper records the facility has to reflect the gender identities or expressions of patients or residents with diverse gender identities or expressions, including, without limitation:

(1) If the facility is a medical facility, adapting health records to meet the medical needs of patients or residents with diverse sexual orientations and gender identities or expressions, including, without limitation, integrating information concerning sexual orientation and gender identity or expression into electronic systems for maintaining health records; and

(2) If the facility is a facility for the dependent or other residential facility, adapting electronic records and any paper records the facility has to include the preferred name and pronoun and gender identity or expression of a resident.

2. The health records adapted pursuant to subparagraph (1) of paragraph (b) of subsection 1 must include, without limitation:

(a) The preferred name and pronoun of the patient or resident;

(b) The gender identity or expression of the patient or resident;

(c) The gender identity or expression of the patient or resident that was assigned at the birth of the patient or resident;

(d) The sexual orientation of the patient or resident; and

(e) If the gender identity or expression of the patient or resident is different than the gender identity or expression of the patient or resident that was assigned at the birth of the patient or resident:

(1) A history of the gender transition and current anatomy of the patient or resident;
and

(2) An organ inventory for the patient or resident which includes, without limitation, the organs:

(I) Present or expected to be present at the birth of the patient or resident;

(II) Hormonally enhanced or developed in the patient or resident; and

(III) Surgically removed, enhanced, altered or constructed in the patient or resident.

3. A medical facility that has adapted health records pursuant to subparagraph (1) of paragraph (b) of subsection 1 shall develop a procedure to ensure the information of a patient or resident accurately reflects the diverse gender identities or expressions of patients or

residents with diverse gender identities or expression when interacting with insurance providers.

Sec. 20. 1. *Except as otherwise provided in subsection 2, the statements, notices and information required by sections 2 to 22, inclusive, of this regulation and NRS 449.101 to 449.104, inclusive, must be in English and, as appropriate for a facility, in any other language the Department determines is appropriate based on the demographic characteristics of this State. In addition to the notices and information provided in English and any other language the Department determines is appropriate based on the demographic characteristics of this State, a facility may provide the statements, notices and information in any foreign language the facility may desire.*

2. *A facility must make reasonable accommodations in providing the statements, notices and information described in subsection 1 for patients or residents who:*

(a) Are unable to read;

(b) Are blind or visually impaired;

(c) Have communication impairments; or

(d) Do not read or speak English or any other language in which the statements, notices and information are written pursuant to subsection 1.

Sec. 21. *A facility shall designate a representative of the facility who shall be responsible for ensuring that the facility is in compliance with sections 2 to 22, inclusive, of this regulation and NRS 449.101 to 449.104, inclusive.*

Sec. 22. *Upon request from the Division or Department, a facility shall make available to the Division or Department documentation for the Division or Department to determine if the facility is complying with sections 2 to 22, inclusive, of this regulation and NRS 449.101 to*

449.104, inclusive. If the Division or Department obtains personally identifiable information of a patient or resident through such a request, the Division or Department shall maintain the confidentiality of such information.

Sec. 23. NAC 449.0034 is hereby amended to read as follows:

449.0034 ~~["Facility"]~~ *Except as otherwise defined in section 6 of this regulation, "facility"* means a medical facility, facility for the dependent, ~~home for individual residential care~~ *an employment agency that contracts with persons in this State to provide certain nonmedical services described in subsection 1 of NRS 449.03005, a facility which is otherwise required by regulations adopted by the Board pursuant to NRS 449.0303 to be licensed* or a referral agency.

Sec. 24. NAC 449.019 is hereby amended to read as follows:

449.019 As used in NAC 449.019 to ~~449.153,~~ *449.150*, inclusive, unless the context otherwise requires, the words and terms defined in NAC 449.022 to 449.072, inclusive, have the meanings ascribed to them in those sections.

Sec. 25. NAC 449.111 is hereby amended to read as follows:

449.111 1. The administrator is responsible to the governing body for the operation of the facility in accordance with established policy.

2. The administrator shall:

(a) Organize the administrative functions of the program, delegate duties and establish a formal means of accountability on the part of subordinates.

(b) Ensure that a written manual defining program policies and procedures is prepared, regularly revised and updated. The manual must:

(1) Contain all of the required written policies, procedures, definitions, lists and other documentation required by NAC 449.019 to ~~449.153,~~ **449.150**, inclusive.

(2) Be available to members of the staff at all times at designated and convenient locations.

(c) Appoint a person of majority age to act for him or her during any absence.

Sec. 26. NAC 449.121 is hereby amended to read as follows:

449.121 A social model detoxification program may be offered to clients in:

1. Residential programs that offer detoxification services;
2. A licensed facility for modified medical detoxification pursuant to NAC 449.15311 to ~~449.15369,~~ **449.15367**, inclusive; or
3. A medically managed intensive detoxification program.

Sec. 27. NAC 449.15311 is hereby amended to read as follows:

449.15311 As used in NAC 449.15311 to ~~449.15369,~~ **449.15367**, inclusive, unless the context otherwise requires, the words and terms defined in NAC 449.15313 to 449.15321, inclusive, have the meanings ascribed to them in those sections.

Sec. 28. NAC 449.15339 is hereby amended to read as follows:

449.15339 1. The administrator of a facility is responsible to the governing body of the facility for the operation of the facility in accordance with the policies and procedures of the facility.

2. The administrator shall:

(a) Organize the administrative functions of the program, delegate duties and establish a formal means of accountability on the part of subordinates.

(b) Ensure that a written manual defining the policies and procedures of the program is prepared, regularly revised and updated. The manual must:

(1) Contain all policies and procedures of the facility, including, without limitation, definitions and other documentation required by NAC 449.15311 to ~~449.15369;~~ **449.15367**, *inclusive*; and

(2) Be available to members of the staff of the facility at all times at designated and convenient locations.

(c) Appoint a person who has attained the age of majority to act for him or her during any extended absence.

Sec. 29. NAC 449.154973 is hereby amended to read as follows:

449.154973 1. In addition to satisfying the requirements of NAC 449.011, an applicant for a license to operate a facility must include with his or her application a statement indicating whether he or she will be operating a facility:

(a) That only provides a housing and living environment;

(b) That provides or arranges for the provision of supportive services for residents of the facility to assist the residents with reintegration into the community, in addition to providing a housing and living environment; or

(c) That provides or arranges for the provision of alcohol or other substance use disorder programs, in addition to providing a housing and living environment and providing or arranging for the provision of other supportive services.

2. If the applicant wishes to operate a facility described in paragraph (c) of subsection 1, the applicant must:

(a) Obtain certification of its program pursuant to paragraph (d) of subsection 1 of NRS 458.025 and include evidence of that certification with his or her application; and

(b) Satisfy the requirements set forth in NAC 449.019 to ~~449.153,~~ 449.150, inclusive, for a facility for the treatment of abuse of alcohol or drugs.

3. If the applicant wishes to operate a facility described in paragraph (b) or (c) of subsection 1 which has residents who are under the supervision of a parole officer, the applicant must:

(a) Obtain the approval of the Division of Parole and Probation of the Department of Public Safety; and

(b) Include evidence of that approval with his or her application.

Sec. 30. NAC 449.74311 is hereby amended to read as follows:

449.74311 As used in NAC 449.74311 to ~~449.74375,~~ 449.74373, inclusive, unless the context otherwise requires, the words and terms defined in NAC 449.74313 to 449.74325, inclusive, have the meanings ascribed to them in those sections.

Sec. 31. NAC 449.74341 is hereby amended to read as follows:

449.74341 1. The administrator of a facility is responsible to the governing body of the facility for the operation of the facility in accordance with the policies and procedures of the facility.

2. The administrator shall:

(a) Organize the administrative functions of each program, delegate duties and establish a formal means of accountability on the part of subordinates.

(b) Ensure that a written manual defining the policies and procedures of each program is prepared, regularly revised, and updated at least annually. The manual must:

(1) Contain all policies and procedures of the facility, including, without limitation, definitions and other documentation required by NAC 449.74311 to ~~449.74375,~~ 449.74373, inclusive; and

(2) Be available to members of the staff of the facility at all times at designated and convenient locations.

(c) Appoint a person who is qualified by education, experience and training to act as administrator in his or her absence.

(d) Notify the Bureau within 24 hours after the administrator becomes aware of:

(1) The death of a patient at the facility; or

(2) The elopement from the facility of an at-risk patient.

Sec. 32. NAC 449.99718 is hereby amended to read as follows:

449.99718 1. A recovery center must be designed, constructed, equipped and maintained in a manner that protects the health and safety of the patients and personnel of the recovery center and members of the general public.

2. A recovery 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,

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

3. Except as otherwise provided in this section:

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

(b) Any new construction, remodeling or change in use of a recovery center must comply with the *Guidelines for Design and Construction of Hospitals and Outpatient Facilities*, as adopted by reference pursuant to NAC 449.0105, unless the remodeling is limited to refurbishing an area within the recovery center, including, without limitation, painting the area, replacing the flooring, repairing windows or replacing window and wall coverings.

4. A recovery center shall be deemed to be in compliance with the provisions of subsection 3 if:

(a) The recovery center:

(1) Was licensed as a facility for intermediate care pursuant to NRS 449.040 to 449.094, inclusive, before September 21, 2017;

(2) Is seeking to change its operation as an intermediate care facility to a recovery center;

(3) Does not change the use of the physical space in the recovery center; and

(4) Does not have any deficiencies in the construction of the recovery center that are likely to cause serious injury, harm or impairment to the health and welfare of the public; or

(b) Before September 21, 2017, the recovery center initially applied for licensure as an intermediate care facility pursuant to NRS 449.040 to 449.094, inclusive, and:

(1) The recovery center submitted building plans to the Division in the manner set forth in NAC 449.0115;

(2) The Division determines that the plans comply with the standards for construction of intermediate care facilities, which are set forth in NAC 449.685 to ~~449.731,~~ 449.728, inclusive;

(3) Construction of the recovery center has commenced;

(4) The center is constructed in accordance with such standards; and

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

5. A recovery 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 recovery center. Before the construction or remodeling may begin, the plans for the construction or remodeling must be approved by the Division. The Division shall not approve a recovery center for licensure until all construction or remodeling has been completed and a survey is conducted at the site of the recovery center.

Sec. 33. Notwithstanding the provisions of section 15 of this regulation, a facility licensed to operate on the effective date of this regulation must, within 90 days of the effective date of this regulation, submit to the Department of Health and Human Services the course or program required by section 15 of this regulation and, if applicable, the information required by section 16 of this regulation.

Sec. 34. NAC 449.153, 449.15369, 449.269, 449.355, 449.4083, 449.413, 449.731, 449.74375 and 449.74455 are hereby repealed.

TEXT OF REPEALED SECTIONS

449.153 Discrimination prohibited. 1. No facility may deny treatment to a prospective client on the grounds of race, color, age, disability or national origin.

2. No resident may be segregated, given separate treatment, restricted in the employment of any advantage or privilege enjoyed by others under the program or provided with any aid, treatment, services or other benefits which are different or provided in a different manner from that provided to others under the program, on the grounds of race, color, age, disability or national origin.

449.15369 Discrimination prohibited. 1. No facility that accepts a person for treatment for whom all or part of the payment for treatment is made from the money of the Division of Welfare and Supportive Services or any other agency funded in whole or in part by federal money may deny treatment to a prospective client on the grounds of race, color, national origin, age, gender or disability.

2. No client may be segregated, given separate treatment, restricted in the employment of any advantage or privilege enjoyed by others under the program or provided with any aid, treatment, services or other benefits which are different or provided in a different manner from that provided to others under the program on the grounds of race, color, national origin, age, gender or disability.

3. Employment practices of a facility, including, without limitation, hiring, firing, the rate of remuneration, assignments or work hours, may not be based on race, color, national origin, age, gender or disability.

449.269 Discrimination prohibited. 1. A resident of a residential facility shall not be segregated or restricted in the enjoyment of any advantage or privilege enjoyed by other residents, or provided with any assistance, service or other benefit which is different or provided in a different manner from that provided to other residents, on the ground of race, color, religion, national origin or disability.

2. The facility's policy regarding nondiscrimination must be posted in a public area of the facility.

449.355 Discrimination prohibited. A hospital shall not discriminate in the admission of, or the provision of services to, a person on the basis of his or her race, color, religion, national origin, age, gender, disability or ability to pay.

449.4083 Discrimination prohibited. 1. A client shall not be segregated or restricted in the enjoyment of any advantage or privilege enjoyed by other clients or provided with any assistance, service or other benefit which is different or provided in a different manner from that provided to others on the ground of race, color or national origin.

2. The facility's policy regarding nondiscrimination must be posted in a public area of the facility.

449.413 Discrimination prohibited. A psychiatric residential treatment facility shall not discriminate in the admission of, or the provision of services to, a person on the basis of his or her race, color, religion, national origin, ancestry, age, gender, disability, sexual orientation or gender identity or expression.

449.731 Discrimination prohibited. No facility accepting a person for resident care, for whom all or part of the payment for care is made from funds of the Division of Welfare and Supportive Services or any other agency funded in whole or part by federal funds, may deny admission to a prospective resident on the grounds of race, color or national origin. No resident may be segregated, given separate treatment, restricted in the enjoyment of any advantage or privilege enjoyed by others under the program or provided with any aid, care services or other benefits which are different or provided in a different manner from that provided to others under the program, on the grounds of race, color or national origin. Employment practices, including,

but not limited to, hiring, discharge, rate of remuneration, assignments or work hours scheduled, may not be based on discriminatory grounds.

449.74375 Discrimination prohibited. 1. No facility that accepts a person for treatment for whom all or part of the payment for treatment is made from federal or state money may deny treatment to a prospective patient on the grounds of race, color, national origin, age, gender or disability.

2. No patient may be segregated, given separate treatment, restricted in the employment of any advantage or privilege enjoyed by others under the program or provided with any aid, treatment, services or other benefits which are different or provided in a different manner from that provided to others under the program on the grounds of race, color, national origin, age, gender or disability.

3. Employment practices of a facility, including, without limitation, hiring, firing, the rate of remuneration, assignments or work hours, may not be based on race, color, national origin, age, gender or disability.

449.74455 Discrimination prohibited. 1. A patient in a facility for skilled nursing shall not be segregated or restricted in the enjoyment of an advantage or privilege enjoyed by other patients, or provided with any assistance, service or other benefit which is different or provided in a different manner from that provided to other patients, on the ground of race, color, religion, national origin or disability.

2. A facility for skilled nursing shall adopt and maintain policies and procedures for the transfer and discharge of, and the provision of services to, patients in the facility which do not discriminate against a patient based on the source of payment for the services provided.