

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

LCB File No. R108-98

July 9, 1998

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

AUTHORITY: §§ 2-28, NRS 449.037 and 449.038; §§ 29 and 30, NRS 449.037 and 449.050.

Section 1. Chapter 449 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 28, inclusive of this regulation.

Sec. 2. *“Department” means the department of human resources.*

Sec. 3. *As used in sections 3 to 28, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 4, 5 and 6 of this regulation have the meanings ascribed to them in those sections.*

Sec. 4. *“Client” means a person who is placed in a home for persons with developmental disabilities and receives services provided by the home.*

Sec. 5. *“Home for persons with developmental disabilities” means a home that:*

1. Is paid for by the welfare division or the mental hygiene and mental retardation division of the department; and

2. Provides housing to not more than six persons who are mentally retarded.

Sec. 6. *“Mental retardation” has the meaning ascribed to it in NRS 433.174.*

Sec. 7. *Except as otherwise provided in this section, on or after the effective date of this regulation, before a home for persons with developmental disabilities may begin operation it*

must obtain a license from the bureau in the manner set forth in this chapter and comply with the provisions of NRS 449.040, 449.050 and 449.060. A home for persons with developmental disabilities that is in operation on the effective date of this regulation must obtain a license within 1 year after the effective date of this regulation.

Sec. 8. *1. A license to operate a home for persons with developmental disabilities must include, without limitation:*

- (a) The name of the director of the home;*
- (b) The name and address of the home; and*
- (c) The maximum number of clients authorized to live in the home.*

2. The license becomes invalid if the home is moved to a location other than the location stated on the license. The license may not be transferred to another owner.

3. A home for persons with developmental disabilities may be licensed as another type of facility if the home provides evidence satisfactory to the bureau that it complies with the requirements for that type of facility and can demonstrate that the clients will be protected and receive the necessary care and services.

4. The person designated on the license as the director must be the person who is legally responsible for the care of the persons who reside in the home and for the daily operation of the home.

Sec. 9. *1. An applicant for the renewal of a license to operate a home for persons with developmental disabilities must submit to the bureau a completed application on a form prescribed by the bureau and the fee for renewal required pursuant to NAC 449.016.*

2. The applicant for renewal must submit with the application required pursuant to subsection 1:

(a) The names of the director and the caregivers of the home and such other information relating to those persons as the bureau may require;

(b) A certificate of insurance stating that a policy of liability insurance has been purchased for the home;

(c) A copy of the current business license issued to the home or proof that the home has complied with local zoning ordinances; and

(d) Such other information and documentation as the bureau may require.

Sec. 10. *1. A separate personnel file must be maintained for each member of the staff of a home for persons with developmental disabilities.*

2. The personnel file for a member of the staff of a home for persons with developmental disabilities, other than a caregiver or the director of the facility, must include, without limitation:

(a) The name, address, telephone number and social security number of the employee;

(b) The date on which the employee began his employment at the home;

(c) Records relating to the training received by the employee;

(d) The health certificates required pursuant to chapter 441A of NAC for the employee;

(e) After the employee is certified to perform first aid and cardiopulmonary resuscitation, a copy of the certificate; and

(f) Proof that the home did not find any evidence that the employee has been convicted of a crime listed in NRS 449.188.

3. *Not later than 30 days after a person is employed at a home for persons with developmental disabilities, the person must be trained and certified in first aid and cardiopulmonary resuscitation.*

Sec. 11. *1. A home for persons with developmental disabilities must have a first-aid kit that is readily accessible. The first-aid kit must include, without limitation:*

(a) A germicide that is safe for use by humans;

(b) Adhesive bandages;

(c) A thermometer;

(d) Disposable gloves;

(e) A shield or mask with a mouthpiece for use by a person who is administering cardiopulmonary resuscitation; and

(f) Sterile gauze pads.

2. A home for persons with developmental disabilities must store medications in a separate container for each client in the home in a secured area. Medications that are:

(a) Managed by the client must be locked and kept in a specific area to which the director has access.

(b) For external use only must be kept in a separate locked area.

(c) Stored in a refrigerator must be kept in a locked box.

3. The director of a home for persons with developmental disabilities shall dispose of medication that is no longer taken by a client in the home or which has expired within 5 days after the date of its discontinued use or expiration. One other person must witness the disposal of such medication and the director shall maintain documentation of the date and manner in which he disposed of the medication.

Sec. 12. *1. A home for persons with developmental disabilities shall serve not less than three meals each day at established times when at least one client is home during those established times. Not more than 14 hours may elapse between the evening meal and breakfast on the following day.*

2. Each meal served by a home for persons with developmental disabilities must provide at least one-third of the daily dietary allowances recommended by the Food and Nutrition Board, National Academy of Sciences, National Research Council. The home shall provide a variety of choices of food which are adjusted for seasonal changes.

3. A home for persons with developmental disabilities shall provide an appropriate diet for a client who has a prescription for a special diet.

4. A home for persons with developmental disabilities shall document the selection of food that it provides reflecting the personal choice of each client and the provisions made for special dietary and nourishment requirements. The home shall maintain such documentation in its files for not less than 90 days.

5. A home for persons with developmental disabilities must have adequate facilities and equipment for the preparation, service and storage of food.

6. The refrigerator at a home for persons with developmental disabilities must be maintained at a temperature not to exceed 40 degrees Fahrenheit and the freezer and any compartment in the freezer must be maintained at a temperature not to exceed zero degrees Fahrenheit.

Sec. 13. *1. Except as otherwise provided in this subsection, the division shall withhold the issuance or renewal of a license to a home for persons with developmental disabilities that*

has five or more clients unless it has installed a complete automatic sprinkler system for extinguishing fires which complies with the provisions of chapter 477 of NRS and any local ordinances relating to the installation of automatic sprinkler systems. A home for persons with developmental disabilities that has five or more clients which is in operation on the effective date of this regulation may obtain and renew a license without having installed a sprinkler system, but must comply with the provisions of this section by not later than July 1, 2000.

2. A home for persons with developmental disabilities that does not have an automatic sprinkler system shall serve only clients who are physically and mentally capable of moving from the room in which they sleep to outside of the facility in 4 minutes or less without the assistance of another person.

3. The director of a home for persons with developmental disabilities shall ensure that the home complies with the regulations adopted by the state fire marshal pursuant to chapter 477 of NRS and any local ordinances relating to safety from fire. The home must be approved for residency by the state fire marshal.

4. Each window and door of a home for persons with developmental disabilities that may be used as an exit must be unobstructed and easy to open. The home shall not cover any window or door with security bars.

5. A home for persons with developmental disabilities shall install a smoke detector, which is connected to electricity with a battery back-up, in each bedroom, common area, laundry room and attached garage. The smoke detectors must be maintained in proper operating condition at all times and must be tested monthly. The results of the test must be recorded and maintained at the home.

6. *A home for persons with developmental disabilities shall have at least one portable fire extinguisher for every 75 feet of the home with at least one fire extinguisher on each floor. Each fire extinguisher must be mounted on or attached to a wall. Portable fire extinguishers must be inspected, recharged and tagged at least once each year by a person certified by the state fire marshal to conduct such inspections.*

7. *A drill for evacuation in the event of a fire must be performed monthly on an irregular schedule and in various simulated areas. The home shall maintain in its files a written record of each drill.*

8. *Portable heaters and space heaters may not be used in a home for persons with developmental disabilities.*

9. *A home for persons with developmental disabilities shall provide adequate proof to the bureau that it has complied with the requirements of this section as a condition to licensure and renewal of a license, including, without limitation, a copy of the approval for residency from the state fire marshal.*

Sec. 14. 1. *A client of a home for persons with developmental disabilities must not share a bedroom with more than one other client. A bedroom that is shared by two clients must have at least 120 square feet of floor space. A bedroom that is occupied by only one client must have at least 100 square feet of floor space.*

2. *Each window in a bedroom in a home for persons with developmental disabilities must have a height of not less than 24 inches and a width of not less than 20 inches. The windows must have a sill that is not more than 44 inches above the floor.*

3. *Each client must be provided with:*

(a) At least 10 square feet of space for storage in a bedroom for each bed in the bedroom;
and

(b) At least 24 inches of space in a permanent or portable closet for hanging garments.

4. Each bedroom in a home for persons with developmental disabilities must have appropriate furniture and linens, including, without limitation, a separate bed for each person sharing the bedroom with a comfortable and clean mattress, two clean sheets per bed, sufficient blankets, at least one pillow and pillowcase per bed and a bedspread for each bed. Linens must be changed at least once each week and more often if necessary. Additional bedding, including, without limitation, mattress pads and rubber or protective mattress coverings must be provided if necessary.

5. Bedrooms must be provided for employees and their families who live at the home.

Sec. 15. *1. Each home for persons with developmental disabilities must have a telephone that is accessible for clients in the home to make local telephone calls.*

2. A list of telephone numbers to be called in case of an emergency must be located near the telephone.

Sec. 16. *1. Each home for persons with developmental disabilities must maintain the interior and exterior of the home so that it is clean and free of hazardous conditions.*

2. Each home for persons with developmental disabilities must have not less than 15 square feet of common space for each client.

3. A home for persons with developmental disabilities shall provide appropriate furnishings that are maintained in clean and good repair.

4. *A home for persons with developmental disabilities must have an easy exit from the back of the home. Only a lock that is opened with a key may be used on a gate which is used as an egress from the yard behind the home. If such a lock is used, the key to the lock must be placed in an accessible location in the path of the egress.*

5. *Each bathroom, bedroom and closet in a home for persons with developmental disabilities which is equipped with a lock must open with a single motion from the inside.*

6. *Each window in a home for persons with developmental disabilities that may be opened and exterior door that is left open to provide ventilation must have a screen to prevent insects from entering the home.*

7. *A home for persons with developmental disabilities must provide adequate lighting as necessary to ensure the comfort and safety of the clients.*

8. *The temperature in a home for persons with developmental disabilities must be maintained at a level that is not less than 68 degrees Fahrenheit and not more than 82 degrees Fahrenheit.*

9. *The water temperature in a home for persons with developmental disabilities must be maintained at a safe level.*

Sec. 17. *1. Each home for persons with developmental disabilities must have:*

(a) A flush toilet and lavatory for each four clients; and

(b) A bathtub or shower for each six clients.

2. *Each bathtub and shower in a home for persons with developmental disabilities must have a surface that inhibits falling or slipping.*

3. *Each client in a home for persons with developmental disabilities must be provided with his own toiletries and a separate area in which to store his toiletries. Each client must also be provided with toilet paper, individual towels and wash cloths. Paper towels may be used for hand towels. Wash cloths and towels must not be shared.*

4. *Employees of the home for persons with developmental disabilities and their families who live at the home shall be deemed residents for the purposes of determining the number of toilets, lavatories and bathtubs or showers the home is required to have pursuant to this section.*

Sec. 18. *1. Each home for persons with developmental disabilities must provide laundry services that ensure appropriate and sanitary methods are used to handle, clean and store personal laundry and linens. The laundry of each client must not be commingled with the laundry of another person*

2. The laundry room at a home for persons with developmental disabilities must be adequate in size and maintained in a sanitary manner.

3. Laundry must be sanitized using either chemicals or heat.

Sec. 19. *Containers used to store garbage in the kitchen and laundry room of a home for persons with developmental disabilities must be covered with a lid unless the containers are kept in an enclosed cupboard that is clean and prevents infestation by rodents or insects.*

Sec. 20. *A separate file for each client of a home for persons with developmental disabilities must be maintained at the home. The file must include, without limitation, documentation that the provisions of NAC 441A.380 were complied with.*

Sec. 21. *1. An employee of a home for persons with developmental disabilities shall not handle a client's money without first being requested to do so in writing by the client or his representative.*

2. An accurate record must be kept of all money deposited with a home for persons with developmental disabilities for use by the client. The record must include, without limitation:

- (a) A separate accounting of the money held by the home on behalf of the client;*
- (b) Receipts for expenditures made by the home on behalf of the client; and*
- (c) A written acknowledgment by the client or his representative for each withdrawal.*

3. An employee of a home for persons with developmental disabilities shall not borrow money from a client of the home.

Sec. 22. *1. The director of a home for persons with developmental disabilities shall ensure that clients in the home:*

- (a) Are not abused, neglected or exploited;*
- (b) Are not prohibited from speaking with a person who is an advocate for clients of the home;*
- (c) Are treated with respect and dignity;*
- (d) Live in a safe and comfortable environment;*
- (e) Are allowed to interact socially and communicate with others without restriction and are allowed to hold private conversations;*
- (f) Are allowed to file a complaint or grievance and receive a response in a timely manner;*
- (g) Are informed in advance if they will be moved to a new room or will have a new roommate; and*

(h) Are allowed to initiate an advance directive or power of attorney for health care and to have compliance with the wishes set forth in such documents.

2. The director of a home for persons with developmental disabilities shall ensure that each client is afforded all rights guaranteed under the Constitution of the United States and the Constitution of the State of Nevada.

3. The director of a home for persons with developmental disabilities shall maintain and have available a list of the rights of clients as set forth in this section.

Sec. 23. *1. The director of a home for persons with developmental disabilities shall provide a procedure to respond immediately to grievances, incidents and complaints of clients. The procedure must include, without limitation, a method for ensuring that the director or his designee is notified of the grievance, incident or complaint.*

2. The director shall personally investigate any grievance, incident or complaint.

3. The director or his designee shall notify a client who filed a grievance or complaint or who reports an incident pursuant to this section in writing of the action taken in response to the grievance, complaint or report or inform the client of the reason why no action is necessary.

Sec. 24. *1. A home for persons with developmental disabilities must provide the services necessary to treat its clients properly. If necessary services for a particular client are not available, the home must transfer the client to another facility that can provide the appropriate services.*

2. Before a home for persons with developmental disabilities may transfer a client to another home, the director shall explain the reason for the transfer to the client and the

alternatives available to him, unless an immediate transfer is necessary and the client is unable to understand the explanation.

Sec. 25. *1. A client of a home for persons with developmental disabilities must 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 other clients on the ground of race, color, national origin or disability.*

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

Sec. 26. *1. Except as otherwise provided in this subsection, the director of a home for persons with developmental disabilities shall ensure that at least one member of the staff of the home is present at the home at all times during which a client is on the premises. The home is not required to have a member of the staff present during any time determined by the interdisciplinary team of the mental hygiene and mental retardation division of the department that a client is capable of remaining unsupervised, if only clients for whom that determination was made are present.*

2. Each month a home for persons with developmental disabilities must develop and maintain a written schedule of the times during which specific members of the staff will be present at the home and the number of members of the staff assigned to each shift. Any change in the written schedule must be documented on the schedule. The written schedule must remain in the files of the home for not less than 90 days.

Sec. 27. *1. Each home for persons with developmental disabilities must have a written policy on admissions which includes, without limitation:*

(a) A statement of nondiscrimination regarding admission to the facility and treatment after admission; and

(b) The requirements for eligibility as a client.

2. A home for persons with developmental disabilities must not admit or retain a client who:

(a) Is bedfast;

(b) Must be confined to a locked area; or

(c) Requires skilled nursing or medical supervision for 24 hours a day.

Sec. 28. *A home for persons with developmental disabilities shall not restrain a client in any way including, without limitation, restraining the client through the use of a drug, physical force or a device, material or equipment, unless:*

1. The mental hygiene and mental retardation division of the department has provided written documentation approving the use of the restraint; and

2. The restraint is used to treat a medical or behavioral condition and is not used for convenience.

Sec. 29. NAC 449.013 is hereby amended to read as follows:

449.013 1. Except as otherwise provided in NAC 449.0168, an applicant for a license to operate any of the following medical facilities or programs of hospice care must pay to the health division the following nonrefundable fees:

(a) An ambulatory surgical center.....\$1,200

(b) A facility for the treatment of irreversible renal disease1,200

(c) A home office or subunit agency of a home health agency.....	1,200
(d) A branch office of a home health agency.....	500
(e) A rural clinic.....	1,200
(f) An obstetric center.....	1,200
(g) A program of hospice care.....	1,200
(h) An independent center for emergency medical care.....	1,200
(i) A nursing pool.....	750
(j) A facility for treatment with narcotics.....	750
(k) A medication unit.....	500

2. An applicant for the renewal of such a license must pay to the health division the

following nonrefundable fees:

(a) An ambulatory surgical center.....	\$600
(b) A facility for the treatment of irreversible renal disease.....	600
(c) A home office or subunit agency of a home health agency.....	600
(d) A branch office of a home health agency.....	100
(e) A rural clinic.....	600
(f) An obstetric center.....	600
(g) A program of hospice care.....	600
(h) An independent center for emergency medical care.....	600
(i) A nursing pool.....	600
(j) A facility for treatment with narcotics.....	600
(k) A medication unit.....	100

3. An application for a license is [only] valid for [the calendar year in] *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 [on or before December 31 of the year in] *within 1 year after the date* on which he submits his application, he must submit a new application and pay the required fee to be considered for licensure.

Sec. 30. NAC 449.016 is hereby amended to read as follows:

449.016 1. Except as otherwise provided in NAC 449.0168, an applicant for a license to operate any of the following medical facilities or facilities for the dependent must pay to the health division a nonrefundable fee of \$50 for each bed in the facility and the following nonrefundable fees:

- (a) A skilled nursing facility\$1,200
- (b) A hospital1,200
- (c) An intermediate care facility for the mentally retarded or persons with developmental disabilities.....750
- (d) An intermediate care facility, other than an intermediate care facility for the mentally retarded or persons with developmental disabilities.....1,200
- (e) A residential facility for groups.....500
- (f) A facility for the treatment of abuse of alcohol or drugs.....500
- (g) A freestanding facility for hospice care1,200
- (h) A home for persons with developmental disabilities400*

2. An applicant for the renewal of such a license must pay to the health division a nonrefundable fee of \$35 for each bed in the facility and the following nonrefundable fees:

(a) A skilled nursing facility	\$1,100
(b) A hospital	1,100
(c) A rural hospital	600
(d) An intermediate care facility for the mentally retarded or persons with developmental disabilities.....	600
(e) An intermediate care facility, other than an intermediate care facility for the mentally retarded or persons with developmental disabilities.....	600
(f) A residential facility for groups	300
(g) A facility for the treatment of abuse of alcohol or drugs	300
(h) A freestanding facility for hospice care	600
(i) <i>A home for persons with developmental disabilities.....</i>	<i>200</i>

3. An application for a license is [only] valid for [the calendar year in] *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 [on or before December 31 of the year in] *within 1 year after the date on* which he submits his application, he must submit a new application and pay the required fee to be considered for licensure.