

**LCB File No. R204-99**

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

NOTICE OF PUBLIC HEARING

**NOTICE IS HEREBY GIVEN that the State Board of Health will hold public hearing and act on amendments to Nevada Administrative Code (NAC) 449 Residential Facilities for Groups and NAC 445A Certification of Environmental Testing Laboratories.** The hearing is scheduled to begin at 9:00 a.m. on Friday, December 10, 1999, at the Grant Sawyer Building, Room 4401, 555 E. Washington Avenue, Las Vegas, Nevada.

RESIDENTIAL FACILITIES FOR GROUPS

In July 1999, the Legislature passed new legislation that pertains to the regulations for Residential Facilities for Groups. On August 2, 1999 the Bureau received #R052-99 that contains modifications to NAC 449.156 to 449.2766. After review of these modifications and in light of the new laws, it has been determined there is a need to make further revisions to these regulations. New language and modifications to existing language has been established in the following areas: NAC 449.163, 449.213(3), 449.2752, 449.2718(1)(b), 449.2734(2), 449.2742(6), 449.2748(1)(2) & (3), 449.2742(3), 449.200(2), 449.2706, and 449.2736.

The proposed regulation changes are meant to clarify current requirements and to provide more specific direction to providers when providing services to residents.

The proposed regulation changes present no anticipated effect to the public. There is no anticipated additional cost to the agency for enforcement of the proposed regulation changes.

The proposed regulation changes will not affect changes to other governmental agencies and do not overlap/duplicate other regulations.

The proposed regulation changes do not have a counterpart in the Code of Federal Regulations. There are no fees associated with the proposed regulation changes.

CERTIFICATION OF ENVIRONMENTAL TESTING LABORATORIES

The purpose of the proposed amendment is to restore the meaning and intent that was lost during LCB formatting of LCB File No. R048-99. The sections in question are sections 26, 29(3), 30(5)(a)(b) & (c), 30(6), 31(4)(b), 32(1), 34(3)(b), 34(4), 35(1), 35(3), 35(4), 35(5), 37(1), 37(7), 39(4), (42)(1)(q), and 44(4).

The affected regulation concerns certification of environmental laboratories analyzing drinking water related samples.

The regulation has beneficial effect upon the regulated business. It defines operating protocol that is consistent with EPA procedures and enables the laboratories to participate in the National Environmental Laboratory Accrediting Program (NELAP) if they desire. It ensures a level playing field with in-state and out-of-state competition.

The regulation has beneficial effect upon the public. It provides the regulatory framework to ensure that drinking water related samples are analyzed properly.

There are no anticipated cost increases associated with enforcement of the proposed regulation changes.

The regulation enables Nevada laboratories to participate in NELAP, which is federally sponsored through the US Environmental Protection Agency (EPA).

The provisions of regulation are in accord with those of the EPA and reference the federal standard.

There are no new fees associated with the regulation change and the existing fee schedule is maintained.

Members of the public may make oral comments at this meeting. Persons wishing to submit written testimony or documentary evidence in excess of two typed, 8-1/2" x 11" pages must submit the material to the Board's Secretary by November 25, 1999.

Secretary, State Board of Health  
Nevada State Health Division  
Capitol Complex  
505 E. King Street, Room 201  
Carson City, NV 89701-4797

Written comments, testimony, or documentary evidence in excess of two typed pages will not be accepted at the time of the hearing. The purpose of this requirement is to allow Board members adequate time to review the documents.

Members of the public who are disabled and require special accommodations or assistance at the meeting are required to notify Yvonne Sylva, Secretary, Board of Health, in writing at the Nevada State Health Division, 505 E. King Street, Room 201, Carson City, NV 89701, or by calling (702) 687-4740.

A copy of this notice and the proposed regulation amendments are on file for inspection at the following locations during normal business hours:

Bureau of Licensure and Certification, 1550 E. College Pkwy, Suite 158, Carson City, Nevada (702) 687-4475).

Bureau of Licensure and Certification, 4220 S. Maryland Parkway, Suite 810, Las Vegas, Nevada (702) 486-6515.

Bureau of Licensure and Certification, 1755 E. Plumb Lane, Suite 241, Reno, Nevada (702) 688-2888

Emergency Medical Services, 850 Elm Street, Elko, Nevada (702) 753-1154.

Emergency Medical Services, 100 Frankie, Tonopah, Nevada (702) 482-3722.

Copies may be obtained in person, by mail, or by calling (702) 687-4475. Copies are also available for review at all physical locations of program offices (see above) or the following main public libraries in each county:

- Carson City Library, 900 North Roop St.  
Carson City, NV 89701
- Churchill County Library, 533 S. Main St.  
Fallon, NV 89406
- Clark County Library, 4020 Maryland Parkway,  
Las Vegas, NV 89119
- Douglas County Library, 1625 Library Lane, (PO Box 337)  
Minden, NV 89423
- Elko County Library, 720 Court St.  
Elko, NV 89801
- Goldfield Public Library (Esmeralda Co.), Corner of Crook and Ramsey, (PO Box 430)  
Goldfield, NV 89013
- Eureka Branch Library, 10190 Monroe St.,  
Eureka, NV 89316
- Humboldt County Library, 85 East 5th St.,  
Winnemucca, NV 89445
- Battle Mountain Branch Library (Lander Co.), 6255 Broad St.,  
Battle Mountain, NV 89820
- Lincoln County Library, 63 Maine St., (PO Box 330)  
Pioche, NV 89043
- Lyon County Library, 20 Nevin Way,  
Yerington, NV 89447
- Mineral County Library, 125 A St., (PO Box 1390)  
Hawthorne, NV 89415
- Pershing County Library, 125 Central, (PO Box 781)  
Lovelock, NV 89419
- Storey County Library, 95 South R St., (PO Box 14)  
Virginia City, NV 89440
- Tonopah Public Library (Nye Co.), 171 Central, (PO Box 449)  
Tonopah, NV 89049
  
- Washoe County Library, 301 South Center St., (PO Box 2151)

- Reno, NV 89505
- White Pine County Library, 950 Campton St.,  
Ely, NV 89301

Per NRS 233B.064(2), upon adoption of any regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

**PROPOSED REGULATION OF THE STATE BOARD OF HEALTH**  
**RESIDENTIAL FACILITIES FOR GROUPS**

EXPLANATION - Italicized material is new; material in   is to be deleted.  
NOTE: Only those sections being changed are provided in this document.

**Section 1** NAC 449.200 is hereby amended to read as follows:  
**NAC 449.200 Personnel files. (NRS 449.037)**

1. Except as otherwise provided in subsection 2, a separate personnel file must be kept for each member of the staff of a facility and must include:

- (a) The name, address, telephone number and social security number of the employee;
- (b) Proof that the employee is not less than 18 years of age;
- (c) The date on which the employee began his employment at the residential facility;
- (d) Records relating to the training received by the employee;
- (e) The health certificates required pursuant to chapter 441A of NAC for the employee;
- (f) Evidence that the references supplied by the employee were checked by the residential

facility; and

- (g) Evidence of compliance with NRS 449.176 to 449.185, inclusive.

2. ~~A residential facility is not required to keep a personnel file for the administrator of the residential facility if the administrator is the owner of the residential facility.~~ *If the facility Administrator is also the owner, the personnel file for the administrator must include all of the requirements found in subsections 1 and 3 inclusive, with the exception of 1(f).*

3. The personnel file for a caregiver of a residential facility must include, in addition to the information required pursuant to subsection 1, a certificate stating that the caregiver is currently certified to perform first aid and cardiopulmonary resuscitation;

4. The administrator may keep the personnel files for the facility in a locked cabinet and may, except as otherwise provided in this subsection, restrict access to this cabinet by other employees of the facility. Copies of the documents which are evidence that an employee has been certified to perform first aid and cardiopulmonary resuscitation and that the employee has been tested for tuberculosis must be available for review at all times. The administrator shall make the personnel files available for inspection by the bureau within 72 hours after the bureau requests to review the files.

**Section 2** NAC 449.213 is hereby amended to read as follows:

**NAC 449.213 Laundry and linen services. (NRS 449.037)**

1. A residential facility shall:

(a) Provide laundry and linen services on the premises of the facility; or

(b) Contract with a commercial laundry for the provision of those services.

2. A residential facility that provides its own laundry and linen services must have accommodations which are adequate for the proper and sanitary washing and finishing of linen and other washable goods.

3. The laundry room in a residential facility must be situated in an area which is separate from an area where food is stored, prepared or served. The laundry must be adequate in size for the needs of the facility and maintained in a sanitary manner. The laundry room must contain at least one washer and at least one dryer. All the equipment must be kept in good repair. All dryers must be ventilated to outside the building. *If the washer and dryer are located outside the facility, they must be located in an enclosure.*

4. Laundry may be sanitized by the use of heat or chemicals. If laundry is sanitized by the use of heat, precautions must be taken to ensure that a resident, member of the staff of the facility or other person in the facility is not burned by water from a sink or bathtub. Delicate clothing may be washed in a sink or bathtub. The sink or bathtub in which the clothes are washed must be sanitized immediately after it is used for that purpose.

**Section 3** NAC 449.2706 is hereby amended to read as follows:

**NAC 449.2706 Transfer of resident. (NRS 449.037)**

1. If a resident's condition deteriorates to such an extent that:

(a) The residential facility is unable to provide the services necessary to treat the resident properly; or

(b) The resident no longer complies with the requirements for admission to the facility, the facility shall ensure that the resident is transferred to another facility pursuant to NRS 449.700 and 449.705.

2. A resident, his next of kin and the responsible agency, if any, must be consulted and adequate arrangements must be made to meet the resident's needs through other means before he permanently leaves the facility.

*3. At the time a resident is discharged from the facility, a copy of the resident's medical record must accompany him/her pursuant to NRS 449.705.*

**Section 4** NAC 449.2718 is hereby amended to read as follows:

**NAC 449.2718 Residents requiring manual removal of fecal impactions or use of enemas or suppositories. (NRS 449.037)**

1. A person who requires the manual removal of fecal impactions or the use of enemas or suppositories must not be admitted to a residential facility or be permitted to remain as a resident of a residential facility unless:

- (a) The resident is able to provide the care for himself; or
- (b) The care is administered according to the ~~orders~~ *written instructions* of a physician by ~~the~~
  - ~~(1) The resident with the assistance of a caregiver; or~~
  - ~~(2) a~~ *a* medical professional who has been trained to provide that care.

2. The caregivers employed by a residential facility with a resident who requires the manual removal of fecal impactions or the use of enemas or suppositories shall ensure that privacy is afforded to the resident when that care is being provided.

**Section 5** NAC 449.2734 is hereby amended to read as follows:

**NAC 449.2734 Residents having tracheostomy or open wound requiring treatment by medical professional; residents having pressure or stasis ulcers. (NRS 449.037)**

1. A person who has a tracheostomy or an open wound that requires treatment by a medical professional shall not be admitted to a residential facility or be permitted to remain as a resident of a residential facility unless:

- (a) The wound is in the process of healing or the tracheostomy is stable or can be cared for by the resident without assistance;
- (b) The care is provided by or under the supervision of a medical professional who has been trained to provide that care; or



(c) The wound is the result of surgical intervention and care is provided as directed by the surgeon.

2. If a person with a pressure or stasis ulcer is admitted to a residential facility or permitted to remain as a resident of a residential facility:

(a) The condition must have been diagnosed by a physician; and

(b) The condition must be cared for by a medical professional who is trained to provide care for that condition.

*(c) The facility must ensure all caregivers who care for residents at risk for pressure sore development and those residents who already have pressure sores be trained by a medical professional in the techniques for preventing pressure sores and aiding in their resolution prior to provision of this type of care. Record of the training must be maintained in employee personnel files.*

3. The administrator of the facility shall ensure that records of the care provided pursuant to subsection 2 are maintained at the facility. The records must include an explanation of the cause of the pressure or stasis ulcer.

**Section 6** NAC 449.2736 is hereby amended to read as follows:

**NAC 449.2736 Request to exempt certain residents from restrictions; contents of request.  
(NRS 449.037)**

1. The administrator of a residential facility may submit to the division a written request for permission to admit or retain a resident who is prohibited from being admitted to a residential facility or remaining as a resident of the facility pursuant to NAC 449.271 to 449.2734, inclusive.

2. A request submitted pursuant to this section must include, without limitation:

(a) Records concerning the resident's current medical condition, including updated medical reports, other documentation of current health, a prognosis and the expected duration of the condition;

(b) A plan for ensuring that the resident's medical needs can be met by the facility;

(c) A plan for ensuring that the level of care provided to the other residents of the facility will not suffer as a result of the admission or retention of the resident who is the subject of the request; and

(d) A statement signed by the administrator of the facility that the needs of the resident who is the subject of the request will be met by the caregivers employed by the facility.

*3. A request submitted pursuant to this section must be received prior to admission or at the onset of a resident's declining condition.*

*4. Permission from the Bureau must be received prior to the admission of a resident that is the subject of such a request.*

*5. The resident may be retained for 10 days pending approval of the written request for permission to retain a resident.*

**Section 7** NAC 449.2742 is hereby amended to read as follows:

**NAC 449.2742 Administration of medication: Responsibilities of administrator, caregiver and employee of facility. (NRS 449.037)**

1. The administrator of a residential facility that provides assistance to residents in the administration of medications shall:

(a) Ensure that a physician, pharmacist or registered nurse who does not have a financial interest in the facility:

(1) Reviews for accuracy and appropriateness, at least once every 6 months, the regimen of drugs taken by each resident of the facility, including, without limitation, any over-the-counter medications and dietary supplements taken by a resident; and

(2) Provides a written report of that review to the administrator of the facility;

(b) Include a copy of each report submitted to the administrator pursuant to paragraph (a) in the file maintained pursuant to NAC 449.2749 for the resident who is the subject of the report; and

(c) Make and maintain a report of any actions that are taken by the caregivers employed by the facility in response to a report submitted pursuant to paragraph (a).

2. Within 72 hours after the administrator of the facility receives a report submitted pursuant to paragraph (a) of subsection 1, a member of the staff of the facility shall notify the resident's physician of any concerns noted by the person who submitted the report. The report must be reviewed and initialed by the administrator.

3. Before assisting a resident in the administration of *any* medication, *including dietary supplements*, a caregiver must obtain written information describing the side effects, possible adverse reactions, contraindications and toxicity of the medication.

4. Except as otherwise provided in this subsection, a caregiver shall assist in the administration of medication to a resident if the resident needs the caregiver's assistance. A caregiver may assist the ultimate user of controlled substances or dangerous drugs only if the conditions prescribed in subsection 6 of NRS 449.037 are met.

5. An over-the-counter medication or dietary supplement may be given to a resident only if the resident's physician has approved the administration of the medication or supplement or the facility is ordered to do so by another physician. The administration of over-the-counter medications and dietary supplements must be included in the record required pursuant to NAC 449.2744.

6. ~~¶¶~~ *When* a physician orders a change in the amount or times medication is to be administered to a resident, the caregiver responsible for assisting in the administration of the medication shall comply with the order and note the change in the record maintained pursuant to NAC 449.2744. ~~[An order or prescription signed by the physician must be included in the record and a label prepared by a pharmacist that matches the order or prescription must be attached to the container for the medication within 5 days after the change is ordered.]~~ *When a change occurs, a copy of the prescription signed by the physician must be included in the record. A matching label prepared by a licensed pharmacist must be attached to the medication container or a written interpretation of the prescription by a physician, registered nurse or licensed pharmacist must be included in the resident's record. In addition, the medication container must be marked to indicate that a change has occurred.*

7. An employee of a residential facility shall not draw medication into a syringe or administer an injection unless authorized by law to do so.

*8. When a resident's medication is discontinued or expires, the medication must be destroyed. The destroyed medication must be recorded pursuant to NAC 449.2744.*

**Section 8** NAC 449.2748 is hereby amended to read as follows:

**NAC 449.2748 Storage of medication; return of medication to resident or another facility after transfer or discharge of resident. (NRS 449.037)**

1. *All* Medication, *including over the counter medications* stored at a residential facility must be stored in a locked area that is cool and dry. The caregivers employed by the facility shall ensure that any medication or medical or diagnostic equipment that may be misused or appropriated by a resident or any other unauthorized person is protected. Medications for external use only must be kept in a locked area separate from other medications. A resident who is capable of administering medication to himself without supervision may keep his medication in his room if the medication is kept in a locked container for which the facility has been provided a key.

2. Medications *and over the counter medications* stored in a refrigerator must be kept in a locked box unless the refrigerator is locked or is located in a locked room.

3. *All* Medication, *including dietary supplements* must be:

(a) Plainly labeled as to its contents, the name of the resident for whom it is prescribed and the name of the prescribing physician; and

(b) Kept in its original container until it is administered.

4. When a resident is discharged from a residential facility, all medications prescribed for the resident must be provided to the resident or to the facility to which he is transferred.

**Section 9** NAC 449.163 is hereby amended to read as follows:

~~[NAC 449.163 "Home for individual residential care" defined. (NRS 449.037)~~

~~"Homes for individual care" has the meaning ascribed to it in NRS 449.0105.]~~

**Section 10** NAC 449.2752 is hereby amended to read as follows:

**NAC 449.2752 Residential facility that provides care to females during pregnancy:**

**Location of facility; training for caregivers. (NRS 449.037)**

1. A residential facility that provides care to females during pregnancy must not be located more than 15 minutes away from a hospital or obstetric center.

2. Within 60 days after being employed by such a facility, a caregiver must receive not less than 4 hours of training related to the normal course of pregnancy.

3. As used in this section, "residential facility that provides care to females during pregnancy" means a residential facility that provides care to four or more females who are in need of assistance and supervision during pregnancy or after delivery.