

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

LCB File No. R204-99

December 9, 1999

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

AUTHORITY: §§1-10, NRS 449.037.

Section 1. Chapter 449 of NAC is hereby amended by adding thereto a new section to read as follows:

“Dietary supplement” has the meaning ascribed to it in 21 U.S.C. 321 (ff) as that section existed on August 17, 1999.

Sec. 2. NAC 449.156 is hereby amended to read as follows:

449.156 As used in NAC 449.156 to 449.2766, inclusive, unless the context otherwise requires, the words and terms defined in NAC 449.1565 to 449.176, inclusive, *and section 1 of this regulation* have the meanings ascribed to them in those sections.

Sec. 3. NAC 449.200 is hereby amended to read as follows:

449.200 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]~~ *If the administrator of the residential facility is the owner of the residential facility [], a residential facility must keep a personnel file for the administrator that fulfills the requirements set forth in subsections 1 and 3, except for the requirement set forth in paragraph (f) of subsection 1.*

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.

Sec. 4. NAC 449.213 is hereby amended to read as follows:

449.213 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 a washer or dryer is located outside the residential facility, the washer or dryer must be in a room or 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.

Sec. 5. NAC 449.2718 is hereby amended to read as follows:

449.2718 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

~~f:~~

~~— (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.

Sec. 6. NAC 449.2734 is hereby amended to read as follows:

449.2734 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]~~ *who has* a pressure or stasis ulcer *or who is at risk of developing 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 ~~[]~~; *and*

(c) Before a caregiver provides care to a person who has a pressure or stasis ulcer or who is at risk of developing a pressure or stasis ulcer, the caregiver must receive training related to the prevention and care of pressure sores from a medical professional who is trained to provide care for that condition.

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

Sec. 7. NAC 449.2736 is hereby amended to read as follows:

449.2736 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 *written* 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 *written* request will be met by the caregivers employed by the facility.

3. *A written request submitted to the division pursuant to this section must be received:*

(a) *Before the administrator admits a resident; or*

(b) *At the onset of a medical condition set forth in NAC 449.271 to 449.2734, inclusive.*

4. A residential facility must receive the permission requested pursuant to subsection 1 before the facility admits a resident who is otherwise prohibited from being admitted to the facility pursuant to NAC 449.271 to 449.2734, inclusive.

5. A residential facility may retain a resident who is otherwise prohibited from remaining as a resident of the facility pursuant to NAC 449.271 to 449.2734, inclusive, for 10 days after the facility submits to the division the written request required pursuant to subsection 1.

Sec. 8. NAC 449.2742 is hereby amended to read as follows:

449.2742 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, without limitation, any over-the-counter medication or dietary supplement*, 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 a 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. If a physician orders a change in the amount or times medication is to be administered to a resident ~~[, the]~~ :

(a) *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]~~ ;

(b) *Within 5 days after the change is ordered:*

(1) A copy of the 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.] ; and~~

(2) The medication container must indicate that a change has occurred; and

(c) If the label prepared by a pharmacist does not match the order or prescription written by a physician, the physician, registered nurse or pharmacist must interpret that order or prescription and, within 5 days after the change is ordered, the interpretation must be included in the record maintained pursuant to NAC 449.2744.

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. If the medication of a resident is discontinued or if the expiration date of the medication of a resident has passed, an employee of a residential facility must destroy the medication, by an acceptable method of destruction, in the presence of a witness and note the destruction of the medication in the record maintained pursuant to NAC 449.2744. Flushing contents of vials, bottles or other containers into a toilet shall be deemed to be an acceptable method of destruction of medication.

Sec. 9. NAC 449.2748 is hereby amended to read as follows:

449.2748 1. Medication , *including, without limitation, any over-the-counter medication*, 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. Medication stored in a refrigerator, *including, without limitation, any over-the-counter medication*, must be kept in a locked box unless the refrigerator is locked or is located in a locked room.

3. Medication, *including, without limitation, any over-the-counter medication or dietary supplement*, 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.

Sec. 10. NAC 449.2752 is hereby repealed.

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TEXT OF REPEALED SECTION

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.

HEALTH DIVISION

Bureau of Licensure and Certification

LCB File No. R204-99

Information Statement per NRS 233B.066

1. DESCRIPTION OF HOW PUBLIC COMMENT WAS SOLICITED, SUMMARY OF PUBLIC RESPONSE, AND AN EXPLANATION OF HOW OTHER INTERESTED PERSONS MAY OBTAIN A COPY OF THE SUMMARY.

Notice of public workshops held on October 28, 1999, in Reno and October 29, 1999, in Las Vegas was published in the Las Vegas Review Journal, Reno Gazette Journal, and Elko Daily Free Press on or before October 13, 1999. Notices of public workshops and proposed regulations were mailed to all county libraries in Nevada, residential facilities for groups, and interested parties.

Notice of public hearing regarding the Board's intent to adopt amendments was published in the Las Vegas Review Journal, Reno Gazette Journal, and Elko Daily Free Press on or before November 10, 1999. Notices of public hearing and proposed regulations were mailed to all county libraries in Nevada, residential facilities for groups, and interested parties on November 5, 1999.

In addition, copies of the proposed regulations were available during normal office hours at:

Bureau of Licensure and Certification - Carson City
Bureau of Licensure and Certification - Las Vegas
Bureau of Licensure and Certification - Reno
Nevada State Library
Emergency Medical Services - Elko
Emergency Medical Services - Tonopah

2. THE NUMBER OF PERSONS WHO:

(A) ATTENDED THE HEARING;

Approximately 42 people attended the December 10, 1999, Board of Health hearing.

(B) TESTIFIED AT EACH HEARING; AND

None.

(C) SUBMITTED TO THE AGENCY WRITTEN STATEMENTS.

None.

3. A DESCRIPTION OF HOW COMMENT WAS SOLICITED FROM AFFECTED BUSINESSES, A SUMMARY OF THEIR RESPONSE, AND AN EXPLANATION HOW OTHER INTERESTED PERSONS MAY OBTAIN A COPY OF THE SUMMARY

Comment was solicited from affected or potentially affected businesses by mailing appropriate facilities and all interested parties the proposed regulations and notice for the workshops and Board of Health hearing. Copies the workshop minutes and Board of Health hearing minutes may be obtained by calling the Bureau of Licensure and Certification at (775) 687-4475.

4. IF THE REGULATION WAS ADOPTED WITHOUT CHANGING ANY PART OF THE PROPOSED REGULATION, A SUMMARY OF THE REASONS FOR ADOPTING THE REGULATION WITHOUT CHANGE.

None.

5. THE ESTIMATED ECONOMIC EFFECT OF THE REGULATION ON THE BUSINESS WHICH IT IS TO REGULATE AND ON THE PUBLIC. THESE MUST BE STATED SEPARATELY, AND IN EACH CASE MUST INCLUDE:

- (A) BOTH ADVERSE AND BENEFICIAL EFFECTS; AND**
- (B) BOTH IMMEDIATE AND LONG TERM EFFECTS.**

The proposed regulation changes present no anticipated effect to the public.

6. THE ESTIMATED COST TO THE AGENCY FOR ENFORCEMENT OF THE PROPOSED REGULATION.

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

7. A DESCRIPTION OF ANY REGULATIONS OF OTHER STATE OR GOVERNMENT AGENCIES WHICH THE PROPOSED REGULATION OVERLAPS OR DUPLICATES AND A STATEMENT EXPLAINING WHY THE DUPLICATION OR OVERLAPPING IS NECESSARY. IF THE REGULATION OVERLAPS OR DUPLICATES A FEDERAL REGULATION, NAME THE REGULATING FEDERAL AGENCY.

None.

8. IF THE REGULATION INCLUDES PROVISION WHICH ARE MORE STRINGENT THAN A FEDERAL REGULATION WHICH REGULATES THE SAME ACTIVITY, A SUMMARY OF SUCH PROVISION.

None.

9. IF THE REGULATION PROVIDES A NEW FEE OR INCREASES AN EXISTING FEE, THE TOTAL ANNUAL AMOUNT THE AGENCY EXPECTS TO COLLECT AND THE MANNER IN WHICH THE MONEY WILL BE USED.

None.