

LCB File No. R053-02

**PROPOSED REGULATION OF THE HEALTH DIVISION
OF THE DEPARTMENT OF HUMAN RESOURCES**

(Replaces Initial Draft posted on 4/09/02)

NOTICE OF PUBLIC WORKSHOPS

NOTICE IS HEREBY GIVEN that the State Health Division will hold public hearing and act on amendments to Nevada Administrative Code (NAC) 449. There will be two workshops held on the following dates, times, and locations:

<p>April 24, 2002 LAS VEGAS NEVADA</p> <p>Clark County District Health Department 625 Shadow Lane Clemens Room Las Vegas, Nevada Time: 8:30 a.m. – 10:00 a.m.</p> <p>Medical and Other Related Facilities Fees</p> <p>Facilities for Refractive Laser Surgery</p> <p>Administrative Sanctions</p> <p>Facilities for Treatment with Narcotics</p>	<p>April 25, 2002 RENO NEVADA</p> <p>Washoe County District Health Department 1001 E. 9th Street South Auditorium Reno, Nevada Time: 1:30 p.m. – 3:00 p.m.</p> <p>Medical and Other Related Facilities Fees</p> <p>Facilities for Refractive Laser Surgery</p> <p>Administrative Sanctions</p> <p>Facilities for Treatment with Narcotics</p>
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The regulations will be presented at the June 14, 2002, Board of Health meeting. It will be held at the Washoe County District Health Department, 1001 East 9th Street, South Auditorium, Reno, Nevada at 9:00 a.m.

FEES

The purpose of the proposed revised regulations for fees, Nevada Administrative Code (NAC) 449.013, NAC 449.016 and NAC 449.0168 is to amend existing regulations governing the amount of initial and annual renewal fees charged to certain medical facilities licensed pursuant to NRS 449.0151, facilities for the dependent licensed pursuant to NRS 440.0045, regulation of other facilities licensed pursuant to NRS 449.038, businesses that provide referrals to residential facilities for groups licensed pursuant to NRS 449.0305 and homes for individual residential care licensed pursuant to NRS 449.249. The proposed revised regulation also adds initial and annual renewal fees charged to mobile units and a facility for refractive laser surgery. The need for the proposed revision to NAC 449.013, NAC 449.016 and NAC 449.0168 is directly related to the

legislatively budgeted cost of the State agency to perform current state licensure activities in State Fiscal Year 03 (July 1, 2002 – June 30, 2003) pursuant to Nevada Revised Statutes (NRS) Chapter 449. The proposed fee increase is calculated to generate revenue sufficient to cover existing personnel and operating costs, without adding new staff or activities. Without the adoption of the proposed fee increases, the State Agency will collect approximately 556 thousand dollars less than the budgeted cost of conducting state licensure activities. Since State Fiscal Year 1994 (July 1, 1993- June 30, 1994) state licensure activities have been funded exclusively through licensure fees contained in NAC 449.013, NAC 449.016 and NAC 449.0168. The adverse economic effect identified as resulting from the proposed regulation changes is that the annual cost to obtain/renew a license to operate facilities will increase as identified in the table below:

<i>FACILITY TYPE</i>	<i>Current Initial Fee/Per Bed Fee Charged for State Licensure</i>	<i>Proposed Initial Fee/Per Bed Fee to be Charged for State Licensure</i>	<i>Current Annual Renewal Fee/Per Bed Fee Charged for State Licensure</i>	<i>Proposed Annual Renewal Fee/ Per Bed Fee to be Charged for State Licensure</i>
<i>Facility for Skilled Nursing</i>	<i>\$1,200 /\$75</i>	<i>\$2,200 /\$90</i>	<i>\$1,100 /\$75</i>	<i>\$1,100 / \$45</i>
<i>Hospital</i>	<i>\$5,000 /\$77</i>	<i>\$10,000 /\$90</i>	<i>\$1,100/\$77</i>	<i>\$5,000 / \$45</i>
<i>Rural Hospital</i>	<i>\$750 /\$45</i>	<i>\$ 1,500/\$90</i>	<i>\$ 750/\$45</i>	<i>\$ 750 / \$45</i>
<i>Intermediate Care Facility for Persons with Mental Retardation or Developmental Disabilities</i>	<i>\$ 750 /\$50</i>	<i>\$1,300/\$80</i>	<i>\$ 600/\$35</i>	<i>\$ 650/ \$40</i>
<i>Intermediate Care Facility</i>	<i>\$1,200/\$75</i>	<i>\$1,200/\$90</i>	<i>\$600/\$75</i>	<i>\$600/ \$45</i>
<i>A Residential Facility for Groups</i>	<i>\$ 500/ \$50</i>	<i>\$2,130/\$260</i>	<i>\$ 300/\$35</i>	<i>\$1,065/\$130</i>
<i>A Facility for the Treatment of Abuse of Alcohol or Drugs</i>	<i>\$500/ \$50</i>	<i>\$ 500/ \$50</i>	<i>\$ 300/\$35</i>	<i>\$300/\$35</i>
<i>A Facility for Hospice Care</i>	<i>\$1,200/ \$50</i>	<i>\$1,540/ \$100</i>	<i>\$ 600/\$35</i>	<i>\$ 770/\$50</i>
<i>A Home for Individual Residential Care</i>	<i>\$ 100 /\$50</i>	<i>\$ 840/ \$320</i>	<i>\$ 100/\$35</i>	<i>\$ 420/\$160</i>
<i>A Facility for Modified Medical Detoxification</i>	<i>\$500/\$50</i>	<i>\$ 680/ \$90</i>	<i>\$300/\$35</i>	<i>\$ 340/ \$45</i>
<i>Ambulatory Surgery Center</i>	<i>\$1,200</i>	<i>\$1,580</i>	<i>\$ 600</i>	<i>\$790</i>
<i>Facility for the Treatment of Irreversible Renal Disease</i>	<i>\$1,200</i>	<i>\$1,650</i>	<i>\$ 600</i>	<i>\$ 825</i>
<i>Home Health Agency (or Subunit of a Home Health Agency)</i>	<i>\$1,200</i>	<i>\$2,170</i>	<i>\$ 600</i>	<i>\$1,085</i>
<i>Branch Office of a Home Health Agency</i>	<i>\$ 500</i>	<i>\$1,240</i>	<i>\$ 100</i>	<i>\$ 620</i>
<i>A rural clinic</i>	<i>\$1,200</i>	<i>\$1,710</i>	<i>\$ 600</i>	<i>\$ 855</i>
<i>An Obstetric Center</i>	<i>\$1,200</i>	<i>\$1,200</i>	<i>\$ 600</i>	<i>\$ 600</i>

<i>A Program of Hospice Care</i>	\$1,200	\$1,540	\$ 600	\$ 770
<i>An Independent Center for Emergency Medical Care</i>	\$1,200	\$1,420	\$ 600	\$ 710
<i>A Nursing Pool</i>	\$ 750	\$1,540	\$ 600	\$ 770
<i>A Facility for Treatment with Narcotics</i>	\$ 750	\$1,340	\$ 600	\$ 670
<i>A Medication Unit</i>	\$ 500	\$ 500	\$ 100	\$ 100
<i>A Referral Agency</i>	\$ 750	\$1,420	\$ 600	\$ 710
<i>A Halfway House for Recovering Alcohol and Drug Abusers</i>	\$500	\$1,320	\$ 300	\$ 660
<i>A Facility for Refractive Laser Surgery</i>		\$3,545		\$3,000
<i>A Mobile Unit</i>		\$1,500		\$ 750

The proposed fees will have a beneficial economic effect on the facilities in that collection of the fee will allow the State Agency the ability to continue to perform state licensure activities in a timely manner. State licensure is a condition of federal participation in a hospital, rural hospital, skilled nursing and nursing facilities, a nursing pool, an intermediate care facility for persons with mental retardation or persons with developmental disabilities, ambulatory surgery centers, facilities for the treatment of irreversible renal disease, hospice and home health agencies, (the ability to be reimbursed for servicing Medicare and Medicaid clients) payment. Increased fees will ensure that facilities will be able to be reimbursed for serving Medicare and Medicaid clients in addition to being reimbursed for serving private pay patients and private insurance covered patients. Adverse and beneficial effects on the public, both immediate and long term: none identified. The proposed fee will have a beneficial economic effect on the public in that collection of the fee will allow the State Agency the ability to continue to perform state licensure activities in a timely manner and the quality of patient care being provided by facilities will continue to be monitored and complaints investigated. Additionally, with state licensure functions being performed, new facilities will be able to be licensed thereby increasing the public care options. The proposed amendments to the regulation will increase some of the facilities annual renewal fees to address the projected cost of completing NRS mandated surveys and priority one and priority two level complaints. There is no duplication or overlap of other state or local government agency's regulations. Additionally, there is no overlap or duplication of a federal agency's regulations.

FACILITIES FOR REFRACTIVE LASER SURGERY

Senate Bill 483, passed by the 2001 legislative session, requires the State Board of Health to adopt regulations for the licensure of facilities for refractive laser surgery. The bill also requires that these facilities file a surety bond to provide indemnification to certain patients. The proposed regulations were developed to meet the requirements of the bill and to set standards for the regulation of LASIK facilities. The proposed regulations include, in addition to the requirements for the surety bond, requirements for the administration of the facility, staff requirements, provisions for patient records, policies and procedures, quality improvement, and patient services. The proposed regulations also include regulations that govern patient rights, safety requirements for equipment and lasers, and regulations for the maintenance of the physical environment. It is anticipated that there will be a beneficial effect on the businesses covered by

these regulations. Facilities that provide quality service will have the added benefit of licensure to attest to their compliance with a set standard. Facilities that fall below this standard will be required to bring their services up to a community standard. The anticipated cost to the facilities will be the cost of the licensure fees. A small business impact statement is being prepared and will be distributed at local workshops. There will be an economic impact on Bureau of Licensure and Certification based on the need for provider education, administrative time for license application, surveyor time for licensure surveys and complaint investigations. The proposed regulations do not duplicate the regulations of any other state or federal agency.

ADMINISTRATIVE SANCTIONS

The regulations for Administrative Sanctions have had no revisions since their adoption in 1991. The revised regulation is needed to improve the enforcement mechanisms in place for medical facilities and facilities for the dependent. These regulations will allow for improved efficiency in implementing administrative sanctions and tracking those sanctions. The revised regulations will: i) Eliminate the mandatory imposition of sanctions for widespread deficiencies that are a potential harm to a recipient and allow imposition of such to be at the discretion of the agency. ii) Modify the terms and conditions for monitoring sanctions, allowing for monitoring to take place but not requiring the specific appointment of a monitor. iii) Add language to clarify sample size for current recipients, reduce the size of a sample during follow-up surveys, and allow for a sample of one for complaint investigations while limiting the scope score to a level of one. iv) Increase the amount of per-instance monetary penalties. v) Change from four different levels of scope to three levels of scope when assessing the number of recipients affected by a deficient practice. vi) Change language to reflect name changes from the federal Health Care Financing Administration to the Centers for Medicare and Medicaid Services (CMS), and the state Welfare Division to the Division for Health Care Financing and Policy (DHCFP). It is anticipated that affected businesses will see a long-term impact from this modification. Beneficial effects will include a reduction in the numbers of sanctions issued for deficient practices that are widespread potential for harm. Adverse effects would be experienced by facilities that do not comply with regulations, particularly causing actual harm to recipients, who could be subject to higher monetary sanction penalties. Long-term effects are anticipated for the public through streamlining of agency resources allowing better implementation of administrative sanctions that will impact on quality of care provided by licensed providers. The agency does not anticipate an increased cost to implement the proposed regulation changes. The Bureau of Licensure and Certification has been implementing these regulations for the past nine years. Adoption of the proposed modifications will improve the agency's ability to streamline the imposition of sanctions. These regulations do not overlap other state or local regulations. These regulations overlap the regulations of the Centers for Medicare and Medicaid Services that govern enforcement remedies in nursing homes. The existing regulations contain provisions to impose sanctions that limit occupancy or ban admissions of any recipient. This regulation is more stringent than the corresponding regulations found in the Centers for Medicare and Medicaid Services federal enforcement regulations for nursing homes. The federal regulations provide for the imposition of a ban on payment for new admissions or all admissions for Medicare or Medicaid recipients. The proposed regulation does not create any new fees. It does establish an increase in the amount of monetary penalties imposed on a one-time basis.

FACILITIES FOR TREATMENT WITH NARCOTICS; MEDICATION UNITS

On January 17, 2001, the Federal oversight of Narcotic Treatment Centers was moved from the Food and Drug Administration to the Substance Abuse and Mental Health Services Administration (SAMHSA). The Code of Federal Regulations (CFR) 21, Part 291 was repealed and replaced by 42 CFR Part 8. This change requires that all Facilities for Treatment with Narcotics must be certified by the Centers for Substance Abuse Treatment (CSAT) of SAMHSA in order to provide treatment. The Nevada Administrative Code (NAC) Chapter 449 regulations for Facilities for Treatment with Narcotics currently references the repealed section of the Code of Federal Regulations. The proposed changes to NAC Chapter 449 will change the references to the repealed CFR and add the newly adopted Code of Federal Regulations. There will be no economic impact on the Bureau of Licensure and Certification due to the fact that surveys are already being conducted in these facilities and licensing fees are already in place. There will be no increase to licensing fees due to the adoption of these proposed changes. The proposed regulations reference the regulations of the Substance Abuse and Mental Health Services Administration of Federal government but do not duplicate these regulations. A small business impact statement is being prepared and will be distributed at public workshops.

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 Shirley A. Rains, Administrative Assistant IV, no later than April 12, 2002, at the following address:

Bureau of Licensure and Certification
1550 E. College Parkway, Suite #158
Carson City, Nevada 89706

Members of the public who are disabled and require special accommodations or assistance at the workshop are to notify Shirley A. Rains, Administrative Assistant IV, in writing at the Bureau of Licensure and Certification, 1550 E. College Parkway, Suite 158, Carson City, Nevada 89706, no later than April 12, 2002.

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 (775) 687-4475.

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

Emergency Medical Services, 850 Elm Street, Elko, Nevada (775) 753-1154.

Emergency Medical Services, 100 Frankie, Tonopah, Nevada (775) 482-3722.

Copies may be obtained in person, by mail, or by calling (775) 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
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 HEALTH DIVISION OF THE DEPARTMENT OF HUMAN RESOURCES

(Replaces Initial Draft posted on 4/09/02)

FACILITIES FOR TREATMENT WITH NARCOTICS; MEDICATION UNITS

General Provisions

EXPLANATION – Matter *italicized* is new; matter in brackets ~~omitted~~ material

NAC 449.154 Definitions. (NRS 449.037, 449.038) As used in NAC 449.154 to 449.15485, inclusive, unless the context otherwise requires, the words and terms defined in NAC 449.1541 to 449.15435, inclusive, have the meanings ascribed to them in those sections.

Section 1. *“Accreditation” defined. “Accreditation” has the meaning described in 42 C.F.R. Chapter 1, Part 8.*

Section 2. *“Accreditation body” defined. “Accreditation body” has the meaning described in 42 C.F.R. Chapter 1, Part 8.*

Section 3. *“Bureau” defined. “Bureau” means the bureau of licensure and certification in the department of human resources.*

Section 4. *“Certification” defined. “Certification” has the meaning described in 42 C.F.R. Chapter 1, Part 8.*

Section 5. *“Interim Maintenance” defined. “Interim Maintenance” has the meaning described in 42 C.F.R. Chapter 1, Part 8.*

Section 6. *“LAAM” defined. “LAAM” means Levomethadyl acetate.*

Section 7. *“SAMHSA” defined. “SAMHSA” means the Substance Abuse and Mental Health Services Administration of the United States Department of Health and Human Resources.*

NAC 449.1541 “Bureau of alcohol and drug abuse” defined. (NRS 449.037, 449.038) “Bureau of alcohol and drug abuse” means the bureau of alcohol and drug abuse in the department of human resources.

NAC 449.15415 “DEA” defined. (NRS 449.037, 449.038) “DEA” means the Drug Enforcement Administration of the United States Department of Justice

Section 8. NAC 449.1542 is hereby amended to read as follows:

NAC 449.1542 “Facility for treatment with narcotics” defined. (NRS 449.037, 449.038) “Facility for treatment with narcotics” means any person or any public or private facility that provides a narcotic treatment program described in *42 C.F.R. Chapter 1, Part 8.* ~~[21 C.F.R. Part 291]~~

Section 9. NAC 449.15425 is hereby amended to read as follows:
~~[NAC 449.15425 “FDA” . (NRS 449.037, 449.038) “FDA” means the Food and Drug Administration of the United States Department of Health and Human Services.]~~

NAC 449.1543 “Medical director” defined. (NRS 449.037, 449.038) “Medical director” means a physician who is licensed to practice medicine in this state and who is responsible for the administration of all medical services at a facility for treatment with narcotics or a medication unit and for ensuring that the facility or the medication unit complies with all applicable federal, state and local laws and regulations.

NAC 449.15435 “Medication unit” defined. (NRS 449.037, 449.038) “Medication unit” means any person or any public or private facility that:

1. Is established as part of or operates in conjunction with a facility for treatment with narcotics but is separated geographically from the facility for treatment with narcotics; and
2. Is limited to:
 - (a) Administering or dispensing narcotics; and
 - (b) Collecting specimens in accordance with chapter 652 of NRS for drug testing or analysis relating to treatment with narcotics.

Section 10. NAC 449.1544 is hereby amended to read as follows:

NAC 449.1544 Health division is state authority for federal regulations. (NRS 449.037, 449.038) The health division is the state authority for the purposes of *42 C.F.R. Chapter 1, Part 8*. ~~[21 C.F.R. Part 291]~~

Licensing

Section 11. NAC 449.15445 is hereby amended to read as follows:

NAC 449.15445 License and federal approval required to operate facility or unit. (NRS 449.037, 449.038)

1. A person or a public or private facility shall not operate or provide the services of a facility for treatment with narcotics or represent that it operates or provides the services of a facility for treatment with narcotics, unless the person or the public or private facility is:

(a) Licensed by the health division pursuant to NAC 449.154 to 449.15485, inclusive, to operate the facility for treatment with narcotics; and

(b) *Certified by SAMHSA pursuant to 42 C.F.R. Chapter 1, Part 8* ~~[Approved by the FDA pursuant to 21 C.F.R. Part 291]~~ to operate the facility for treatment with narcotics.

2. A person or a public or private facility shall not operate or provide the services of a medication unit or represent that it operates or provides the services of a medication unit, unless the person or the public or private facility is:

(a) Licensed by the health division pursuant to NAC 449.154 to 449.15485, inclusive, to operate the medication unit and the facility for treatment with narcotics that is associated with the medication unit; and

(b) *Certified by SAMHSA pursuant to 42 C.F.R. Chapter 1, Part 8* ~~[Approved by the FDA pursuant to 21 C.F.R. Part 291]~~ to operate the medication unit and the facility for treatment with narcotics that is associated with the medication unit.

Reviser's Note.

The regulation of the state board of health filed with the secretary of state on April 15, 1998 (LCB File No. R229-97), the source of NAC 449.154 to 449.15485, inclusive, became effective on that date and contains the following provisions not included in NAC:

"1. Notwithstanding the provisions of sections 12 and 14 of this regulation [NAC 449.15445 and 449.1545], each person or public or private facility that was approved by the health division to operate a facility for treatment with narcotics or a medication unit before the effective date of this regulation may operate, without a license, the facility for treatment with narcotics or medication unit for which it was approved for a period not to exceed 1 year after the effective date of this regulation.

2. To operate the facility for treatment with narcotics or the medication unit after the period set forth in subsection 1, the person or the public or private facility must file an application for a license pursuant to sections 4 to 20, inclusive, of this regulation [NAC 449.154 to 449.15485, inclusive] not later than 1 year after the effective date of this regulation. If the person or the public or private facility timely files such an application, the person or the public or private facility may continue to operate, without a license, the facility for treatment with narcotics or the medication unit until a final decision on the application for the license has been made pursuant to chapters 439 and 449 of NAC."

Section 12. NAC 449.1545 is hereby amended to read as follows:

NAC 449.1545 Filing requirements. (NRS 449.037, 449.038)

1. If a person or a public or private facility wants to operate a facility for treatment with narcotics or a medication unit, the person or the public or private facility must:

(a) File with **SAMHSA** ~~[the FDA]~~ an application for **certification** ~~[approval]~~ pursuant to **42 C.F.R. Chapter 1, Part 8** ~~[21 C.F.R. Part 291]~~;

(b) File with the bureau an application for a license pursuant to NAC 449.011 and include with the application **proof of application for accreditation if an approved accreditation body exists and** any other information requested by the bureau; and

(c) Demonstrate that the proposed facility for treatment with narcotics or the proposed medication unit is able to comply with the requirements set forth in NAC 449.1548.

2. A person or a public or private facility must file an application for a license for each facility for treatment with narcotics that it wants to operate, whether or not the person or the public or private facility is already licensed to operate one or more other facilities for treatment with narcotics.

3. A person or a public or private facility must file an application for a license for each medication unit that it wants to operate, whether or not the person or the public or private facility is already licensed to operate one or more other medication units.

4. The health division will make a recommendation of approval to SAMSHA if the facility;

(a) Submits all items required pursuant to NAC 449.011; and

(b) Provides evidence satisfactory to the health division that the facility is in substantial compliance with all requirements of 42 C.F.R. Chapter 1, Part 8.

Reviser's Note.

The regulation of the state board of health filed with the secretary of state on April 15, 1998 (LCB File No. R229-97), the source of NAC 449.154 to 449.15485, inclusive, became effective on that date and contains the following provisions not included in NAC:

"1. Notwithstanding the provisions of sections 12 and 14 of this regulation [NAC 449.15445 and 449.1545], each person or public or private facility that was approved by the health division to operate a facility for treatment with narcotics or a medication unit before the effective date of this regulation may operate, without a license, the facility for treatment with narcotics or medication unit for which it was approved for a period not to exceed 1 year after the effective date of this regulation.

2. To operate the facility for treatment with narcotics or the medication unit after the period set forth in subsection 1, the person or the public or private facility must file an application for a license pursuant to sections 4 to 20, inclusive, of this regulation [NAC 449.154 to 449.15485, inclusive] not later than 1 year after the effective date of this regulation. If the person or the public or private facility timely files such an application, the person or the public or private facility may continue to operate, without a license, the facility for treatment with narcotics or the medication unit until a final decision on the application for the license has been made pursuant to chapters 439 and 449 of NAC."

Section 13. NAC 449.15455 is hereby amended to read as follows:

NAC 449.15455 Investigation and preclicensure survey; approval or denial of application; notice of decision. (NRS 449.037, 449.038)

1. If an application for a license is filed pursuant to NAC 449.1545, the bureau shall conduct pursuant to NAC 449.0112:

- (a) An investigation; and
- (b) Except as otherwise provided in NAC 449.1546, a preclicensure survey.

2. The investigation and any preclicensure survey conducted by the bureau must include, but are not limited to, an evaluation of whether the proposed facility for treatment with narcotics or the proposed medication unit is able to comply with the requirements set forth in NAC 449.1548.

~~[3.— After completing its investigation and any preclicensure survey, the bureau shall submit to the administrator of the health division, or his designee, a recommendation concerning whether the application for the license should be approved or denied.~~

~~—4.— The administrator of the health division, or his designee, shall approve or deny the application for the license.~~

~~—5.— Not later than 30 days after the decision of the administrator of the health division, or his designee, the bureau shall provide notice of the decision to the person or the public or private facility that filed the application for the license. If the decision is a denial of the application for the license, the notice provided by the bureau must also comply with NAC 449.15475.]~~

Section 14. NAC 449.1546 is hereby amended to read as follows:

NAC 449.1546 Certification [Aacreditation] may be accepted in lieu of [preclicensure] resurvey [survey] or other site survey. (NRS 449.037, 449.038) If a facility for treatment with narcotics or a medication unit is *certified by SAMHSA, [aacredited by the bureau of alcohol and drug abuse,]* the health division ~~[or the bureau, as appropriate,]~~ may accept that *certification [aacreditation]* in lieu of conducting a *resurvey [preclicensure]* survey pursuant to NAC 449.15455] or any other site survey, if the health division ~~[or the bureau, as appropriate,]~~ receives certification ~~[from the bureau of alcohol and drug abuse]~~ that the facility or the medication unit is *certified by SAMHSA, [aacredited]* and in compliance with all applicable provisions of *42 C.F.R. Chapter 1, Part 8, [21 C.F.R. Parts 291 and 1300 to 1316,]* inclusive.

Section 15. NAC 449. 15465 is hereby amended to read as follows:

~~**[NAC 449.15465 — Letter of approval; withdrawal for noncompliance with regulations. (NRS 449.037, 449.038)**~~

~~—1.— If an application for a license is approved by the administrator of the health division, or his designee, pursuant to NAC 449.154 to 449.15485, inclusive, the health division shall issue a letter of approval to the FDA informing the FDA that the person or the public or private facility holding the license is approved to operate the facility for treatment with narcotics or the medication unit that is identified in the license.~~

~~—2.— A letter of approval issued by the health division to the FDA may be withdrawn if the health division determines that the facility for treatment with narcotics or the medication unit is not in compliance with any applicable provision of a federal, state or local law or regulation].~~

Section 16. NAC 449.1547 is hereby amended to read as follows:

NAC 449.1547 Suspension, revocation or cancellation of license; provisional license. (NRS 449.037, 449.038)

1. The health division may *deny*, suspend or revoke a license issued pursuant to NAC 449.154 to 449.15485, inclusive, or cancel such a license and issue a provisional license based upon any grounds for such action set forth in this chapter or chapter 449 of NRS.

2. *The health division may deny, suspend or revoke the license if a facility for treatment with narcotics or a medication unit operates without certification from SAMHSA.*

3. *The health division may deny, suspend or revoke a license if SAMHSA denies an application for certification.*

~~[2. The health division shall consider, without limitation, the seriousness of the violation and the frequency and duration of the violation in determining whether to suspend or revoke a license or cancel a license and issue a provisional license.]~~

Section 17. NAC 449.15475 is hereby amended to read as follows:

~~[NAC 449.15475 Notice of denial of application or other disciplinary action; appeals. (NRS 449.037, 449.038)]~~

~~—1. The health division or the bureau, as appropriate, shall provide notice of the denial of an application for a license, the withdrawal of a letter of approval or the imposition of any other disciplinary action in the manner set forth in NAC 439.300 to 439.395, inclusive.~~

~~—2. A person or a public or private facility that is aggrieved by the denial of an application for a license, the withdrawal of a letter of approval or the imposition of any other disciplinary action may appeal that action in the manner set forth in NAC 439.300 to 439.395, inclusive.]~~

Operation of Facility or Unit

Section 18. NAC 449.1548 is hereby amended to read as follows:

NAC 449.1548. Operational requirements. (NRS 449.037, 449.038) In addition to all other requirements set forth in NAC 449.154 to 449.15485, inclusive, each facility for treatment with narcotics and each medication unit shall:

1. Have a medical director who has a valid and current license to practice medicine in this state;

2. Employ, contract with or allow a person to act as an alcohol and drug abuse counselor only if the person is certified by the *board of examiners for alcohol and drug abuse counselors* ~~[bureau of alcohol and drug abuse]~~ to be such a counselor;

3. Obtain and maintain with the state board of pharmacy a valid and current registration relating to the use of narcotics;

4. Be in full compliance with all applicable provisions of *42 C.F.R. Chapter 1, Part 8*, ~~[21 C.F.R. Parts 291 and 1300 to 1316, inclusive]~~ all other applicable federal laws and regulations and all other requirements of *SAMHSA* ~~[the FDA]~~ and DEA;

5. Be in full compliance with all applicable provisions of chapters 449 and 453 of NRS and in substantial compliance with all applicable provisions of this chapter and chapter 453 of NAC;

6. Maintain records and documentation of treatment pursuant to NRS 453.690;

7. Provide the health division, the state board of pharmacy and the bureau of alcohol and drug abuse with access to all records and documentation relating to the purchase, distribution and use of narcotics;

8. Comply with the rules of confidentiality and privilege set forth in NRS 453.720;

9. Develop and maintain a system to ensure that prospective and existing clients are not receiving narcotics from any other facility for treatment with narcotics or any other medication unit; and

10. Comply with all applicable local laws and regulations, including, but not limited to, zoning laws and regulations.

Section 19. NAC 449.15485 is hereby amended to read as follows:

NAC 449.15485 Continuing review of operations; investigation of complaints. (NRS 449.037, 449.038)

1. The operation of a facility for treatment with narcotics or a medication unit is subject to continuing review by the health division.

2. The bureau shall investigate all complaints against a facility for treatment with narcotics or a medication unit directly or in conjunction with other federal, state or local governmental agencies, including, but not limited to **SAMHSA**, ~~the FDA~~, the DEA, the state board of pharmacy ~~for the bureau of alcohol and drug abuse~~.