

**ADOPTED REGULATION OF THE
STATE BOARD OF HEALTH**

LCB File No. R064-04

Effective August 4, 2004

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

AUTHORITY: §§1-24, NRS 442.007 and 449.037.

A REGULATION relating to the provision of neonatal care by hospitals; establishing requirements for hospitals providing different levels of neonatal care; establishing requirements for a hospital to obtain approval to increase its level of neonatal care; and providing other matters properly relating thereto.

Section 1. Chapter 442 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *“Advanced practitioner of nursing” has the meaning ascribed to it in NRS 632.012.*

Sec. 3. *In addition to the requirements set forth in NAC 442.390 and 442.401, level II specialty care facilities and level III subspecialty care facilities must meet the following requirements:*

1. The following support personnel must be available in level II specialty care facilities and level III subspecialty care facilities:

(a) At least one full-time social worker, licensed pursuant to chapter 641B of NRS, for every 30 beds in the facility. The social worker must have experience with the socioeconomic and psychosocial problems of high-risk women and fetuses, as defined in the Guidelines for

Perinatal Care adopted by reference pursuant to NAC 442.370, ill neonates and the families of ill neonates.

(b) *At least one occupational therapist or physical therapist with experience in the care of neonates.*

(c) *At least one registered dietitian or nutritionist who has special training in perinatal nutrition and can plan diets that meet the special needs of high-risk women and neonates.*

(d) *Personnel in the pharmacy, including, but not limited to, pharmacists and technicians, who will work to review continually their systems and process of administering medication to ensure that policies relating to the care of patients are maintained.*

2. *Level II specialty care facilities and level III subspecialty care facilities must have a policy for the use of interpreters to address the needs of patients and their families who do not speak English or are hearing impaired.*

3. *Level II specialty care facilities and level III subspecialty care facilities must:*

(a) *Demonstrate through quality assurance activities the ability of the facility to report and track data on morbidity and mortality; and*

(b) *Establish a policy for obstetricians, perinatologists, neonatologists and pediatricians to confer with other physicians, including physicians not located in the facility, to report trends and outcomes related to data on morbidity and mortality and other issues related to perinatology.*

Sec. 4. NAC 442.250 is hereby amended to read as follows:

442.250 As used in NAC 442.250 to ~~442.570,~~ 442.550, inclusive, *and sections 2 and 3 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC

442.270 to 442.350, inclusive, *and section 2 of this regulation* have the meanings ascribed to them in those sections.

Sec. 5. NAC 442.306 is hereby amended to read as follows:

442.306 “Level I ~~neonatal unit~~ *basic care facility*” means a hospital licensed by the Division to provide the neonatal services that are specified in NAC 442.380.

Sec. 6. NAC 442.308 is hereby amended to read as follows:

442.308 “Level II ~~neonatal unit~~ *specialty care facility*” means a hospital licensed by the Division to provide the neonatal services that are specified in NAC 442.390.

Sec. 7. NAC 442.310 is hereby amended to read as follows:

442.310 “Level III ~~neonatal unit~~ *subspecialty care facility*” means a hospital licensed by the Division to provide neonatal intensive care for infants as specified in NAC 442.401 and 442.430.

Sec. 8. NAC 442.370 is hereby amended to read as follows:

442.370 **1.** The ~~third~~ *current* edition of *Guidelines for Perinatal Care*, ~~published in 1992, excluding chapter 1,~~ *excluding the chapter concerning construction standards*, is adopted by reference as a minimum acceptable standard. This publication is available from the American Academy of Pediatrics, Publications Department, ~~P.O. Box 927,~~ *141 Northwest Point Boulevard*, Elk Grove Village, Illinois ~~60009-0927,~~ *60007-1098*, for the price of ~~[\$40.]~~ *\$70 for members or \$75 for nonmembers.*

2. The State Board of Health hereby adopts by reference:

(a) NFPA 101: Life Safety Code, in the form most recently published by the National Fire Protection Association, unless the Board gives notice that the most recent revision is not suitable for this State pursuant to subsection 3. A copy of the Code may be obtained from the

National Fire Protection Association at the Internet address <<http://www.nfpa.org>>, the NFPA at 11 Tracy Drive, Avon, Massachusetts 02322, or by telephone at 800.344.3555, for the price of \$55.80 for members or \$62 for nonmembers, plus \$7.95 for shipping and handling.

(b) Guidelines for Design and Construction of Hospital and Healthcare Facilities, in the form most recently published by the American Institute of Architects, unless the Board gives notice that the most recent revision is not suitable for this State pursuant to subsection 3. A copy of the guidelines may be obtained from the American Institute of Architects at the Internet address <<http://www.aia.org>>, the AIA Store at 1735 New York Avenue, N.W., Washington, D.C. 20006-5292 or by telephone at 800.242.3837, for the price of \$52.50 for members or \$75 for nonmembers, plus \$9 for shipping and handling.

3. The State Board of Health will review each revision of the publications adopted by reference pursuant to subsections 1 and 2 to ensure its suitability for the State. If the Board determines that the revision is not suitable for this State, it will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the Board does not revise its determination, the Board will give notice that the revision is not suitable for this State within 30 days after the hearing. If the Board does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 1 or 2.

Sec. 9. NAC 442.380 is hereby amended to read as follows:

442.380 1. A ~~hospital providing neonatal care at level I must:~~

~~—(a) Be able to:~~

~~—(1) Provide care for] level I basic care facility must be able to provide:~~

(a) A newborn nursery for the routine care of apparently normal neonates [;

~~— (2) Provide cardiopulmonary resuscitative services for neonates; and~~

~~— (3) Identify, stabilize and prepare] who have demonstrated successful adaptation to extrauterine life.~~

(b) Resuscitation and stabilization of all neonates born in the hospital.

(c) Evaluation and continuing care of healthy neonates.

(d) Identification, stabilization and preparation of neonates for transport to a level II specialty care facility or level III ~~[neonatal unit,]~~ subspecialty care facility, as appropriate.

~~[(b) Except as otherwise provided in subsection 2,]~~

(e) A policy that clearly delineates when consultation with a level II specialty care facility or level III subspecialty care facility is required to prevent rapid or further deterioration of a neonate and prevent delay in treatment at a higher level of care.

(f) Visitation between the neonate and the parents and siblings of the neonate.

(g) Collection and retrieval of data as required pursuant to the Guidelines for Perinatal Care adopted by reference pursuant to NAC 442.370.

2. The hospital providing care as a level I basic care facility must have a written agreement with each level III ~~[neonatal unit]~~ subspecialty care facility to which it refers neonates. The agreement must include provisions for the level III ~~[unit]~~ subspecialty care facility to provide:

~~[(1)] (a) Education in perinatal care, including neonatal resuscitation, for the staff of the level I ~~[neonatal unit; and~~~~

~~— (2)] basic care facility; and~~

(b) Technical assistance in the development of a program of quality assurance for the care provided to neonates by the level I ~~[neonatal unit].~~

~~—2.— A hospital providing care at level I] *basic care facility.*~~

3. *A level I basic care facility* that is unable to secure the agreements required by ~~[paragraph (b) of subsection 1]~~ *subsection 2* shall document the efforts it made to secure the agreements and develop a plan to provide level I *basic care* services in the absence of such agreements.

Sec. 10. NAC 442.390 is hereby amended to read as follows:

442.390 ~~{A hospital providing neonatal care at level II must:~~

~~—1.— Be able to:~~

~~—(a) Provide care for normal neonates;~~

~~—(b) Provide cardiopulmonary resuscitative services;~~

~~—(c) Provide care]~~

1. A level II specialty care facility must be able to provide:

(a) The basic care services as described under subsection 1 of NAC 442.380.

(b) Intermediate care for a minimum of six neonates.

(c) Stabilization of severely ill neonates before transfer to a level III subspecialty care facility.

(d) Treatment for moderately ill neonates that were carried to term and larger preterm neonates.

(e) Collection and retrieval of data as required pursuant to the Guidelines for Perinatal Care adopted by reference pursuant to NAC 442.370.

(f) Continuing care of neonates who have a low weight at birth and are not ill but require frequent feeding or require more hours of nursing than normal neonates.

(g) Intermediate care of sick neonates who do not require intensive care but require 6 to 12 hours of nursing care each day. Neonates who require complex care, such as assisted ventilation for more than several hours, will be moved to a level III subspecialty care facility.

(h) Cardiopulmonary resuscitative services and continuous monitoring of cardiopulmonary status.

(i) Care in excess of its designated level for a neonate for not more than 24 hours, while identifying, stabilizing and preparing a high-risk or critically ill neonate for transport to a level III ~~neonatal unit;~~

~~*(d) Provide continuing] subspecialty care facility.*~~

(j) Continuing care for convalescing neonates transported from level III ~~neonatal units; and~~

~~*(e) Provide care that meets the total anticipated medical needs of the patient for the duration of his admission.*~~

~~*2. Have a medical director of the neonatal unit who is a pediatrician with special interest, experience and training in the care of neonates.*~~

~~*3. Except as otherwise provided in this subsection,] subspecialty care facilities.*~~

(k) Gavage feeding.

(l) Pharmacy services, including parenteral nutritional solutions, 24 hours per day.

(m) Laboratory consultation services 24 hours per day.

(n) Radiological services, such as X-ray, diagnostic imaging procedures and consultation services, 24 hours per day.

(o) Certified or registered respiratory therapists trained in neonatology on staff 24 hours per day.

2. A level II specialty care facility must have a medical director who is:

(a) A neonatologist or a pediatrician who is certified by the American Board of Pediatrics and has special interest, experience or subspecialty certification in neonatal or perinatal medicine;

(b) Not a medical director of more than two level II specialty care facilities;

(c) Responsible for the care of neonates in the level II specialty care facility and consults with level I basic care facilities for possible admissions to the level II specialty care facility and with level III subspecialty care facilities for possible transfers from the level II specialty care facility to a level III subspecialty care facility;

(d) A supervisor of the advanced nurse practitioners in the level II specialty care facility; and

(e) Able to ensure qualified coverage in his absence by other neonatologists or pediatricians with special training and interest in neonatology.

3. The level II specialty care facility must be staffed in accordance with the current edition of the Guidelines for Perinatal Care adopted by reference pursuant to NAC 442.370 and must provide nursing staff trained in the care of high-risk neonates. The nursing staff must be supervised by a qualified registered nurse who shall coordinate the care of the neonates in the level II specialty care facility and assist the medical director in the management of the level II specialty care facility.

4. The level II specialty care facility shall have a written agreement with each level III ~~[neonatal unit]~~ subspecialty care facility to which it refers neonates. The agreement must include provisions for:

(a) The education in perinatal care, including neonatal resuscitation, of the staff of the level II ~~[neonatal unit.]~~ specialty care facility;

(b) Technical assistance in the development of a program of quality assurance for the care provided to neonates by the level II ~~[neonatal unit.]~~ *specialty care facility*; and

(c) The return of neonates to the level II ~~[neonatal unit.]~~ *specialty care facility* for care.

~~[→ A hospital providing care at]~~

5. A level II *specialty care facility* that is unable to secure the agreements required in ~~[this]~~ subsection 4 shall document the efforts it made to secure the agreements and develop a plan to provide level II *specialty care* services in the absence of such agreements.

~~[4.— Be able at all times to care for infants in need of gavage feeding or continuous monitoring of cardiopulmonary status.~~

~~—5.— Provide at least X-ray diagnostic imaging procedures and consultation services 24 hours per day.~~

~~—6.— Provide pharmacy services including parenteral nutritional solutions 7 days per week.~~

~~—7.— Provide laboratory and consultation services 24 hours per day.]~~

Sec. 11. NAC 442.401 is hereby amended to read as follows:

442.401 1. A ~~[hospital which provides neonatal care at]~~ level III *subspecialty care facility* must:

(a) Be able to care for ~~[normal]~~ neonates as provided by NAC 442.390;

(b) Provide ~~[six]~~ *nine* or more beds for the intensive care of neonates;

(c) Provide and adhere to a formal, written plan for in-house coverage of the level III ~~[unit]~~ *subspecialty care facility* by neonatologists, pediatricians, qualified physicians and advanced practitioners of nursing, taking into consideration the condition and medical needs of the neonates requiring level III *subspecialty* care; and

(d) Have formal, written agreements with each level I *basic care facility* and level II ~~[neonatal unit]~~ *specialty care facility* from which it receives neonates. The agreement must include provisions for:

(1) Education in perinatal care, including neonatal resuscitation, for the staff of the level I *basic care facilities* and level II ~~[neonatal units]~~ *specialty care facilities* on at least an annual basis; and

(2) Technical assistance in the development of a program of quality assurance for the care provided to neonates by the level I *basic care facilities* and level II ~~[neonatal units]~~

~~—2.— A level III unit] specialty care facilities.~~

2. A level III subspecialty care facility that refuses to enter into the required agreements with a level I *basic care facility* or level II ~~[unit]~~ *specialty care facility* shall show sufficient reason for the refusal and notify the level I *basic care facility* or level II ~~[unit]~~ *specialty care facility* in writing of the reasons for refusal.

3. If, after an investigation by the ~~[State Health Officer or his designee]~~ *Division* into the circumstances of the refusal of the level III ~~[unit]~~ *subspecialty care facility* to enter into an agreement with a level I *basic care facility* or level II ~~[unit]~~ *specialty care facility*, there is a finding that the level III ~~[unit's]~~ *subspecialty care facility's* reasons for refusal are not sufficient, the ~~[State Health Officer]~~ *Division* may order the level III ~~[unit]~~ *subspecialty care facility* to enter into an acceptable agreement and set a time for compliance.

4. The medical director of a level III ~~[neonatal unit]~~ *subspecialty care facility* must:

(a) Be a neonatologist;

(b) Devote his full time to the direction of the ~~[unit;]~~ *facility*;

(c) Consider transferring a neonate who no longer requires level III *subspecialty* care to the hospital in which he was born; and

(d) Confer with the attending physician at the hospital in which the neonate was born and the parents or guardians of the neonate before he transfers a neonate to the hospital in which he was born.

5. The medical staff of the ~~unit~~ *facility* must:

(a) Include at least one pediatrician or qualified physician with special interest and experience in neonatology for each 10 beds, or fraction thereof, in the ~~unit~~ *facility*.

(b) Be comprised of physicians, not less than one-half of whom are neonatologists or are eligible to take the examination of the American Board of Pediatrics in neonatal-perinatal medicine.

(c) Include a pediatric cardiologist who is certified by the American Board of Pediatrics, Subboard of *Pediatric* Cardiology, or a qualified physician whose specialty is pediatric cardiology. If a pediatric cardiologist or qualified physician is not available, a qualified pediatric cardiologist must be actively recruited and the hospital shall enter into agreements with other neonatal facilities to provide pediatric cardiology.

(d) Include:

(1) A pediatric surgeon who is certified by the American Board of Surgery, with special qualifications in pediatric surgery; or

(2) A qualified physician whose specialty is pediatric surgery,
↪ who is available 24 hours per day. If a pediatric surgeon or a qualified physician is not available, a qualified pediatric surgeon must be actively recruited and the hospital shall enter into agreements with other neonatal facilities to provide pediatric surgery.

6. At least one registered or certified respiratory therapist must be assigned to the ~~[unit]~~ *facility* for every five ~~[ventilators in use.]~~ *neonates on an assisted mode of ventilation, including Continuous Positive Airway Pressure.*

7. The nurse manager of the ~~[unit]~~ *facility* must:

(a) Be a registered nurse;

(b) Have not less than 3 years of clinical experience in level ~~[II or level III neonatal intensive]~~ *III subspecialty* care; and

(c) Devote his full time to the management of the ~~[unit]~~.

~~—8.— At least one licensed social worker must be assigned to the unit for every 20 beds in the unit.~~

~~—9.] level III subspecialty care facility.~~

8. The nurse manager and medical director of the ~~[unit]~~ *level III subspecialty care facility* shall identify the personnel and determine the educational requirements necessary to meet the needs of:

(a) The staff of the ~~[unit;]~~ *facility, which must:*

(1) Comply with the current edition of the Guidelines for Perinatal Care adopted by reference pursuant to NAC 442.370; and

(2) Include a nursing staff that has experience in the care of high-risk neonates; and

(b) Any outreach program.

~~[10.— The unit]~~

9. *The level III subspecialty care facility* shall provide transportation services for critically ill neonates. Personnel used for these services ~~[must include a physician or]~~ *may include physicians, advanced practitioners of nursing, [and] registered nurses, respiratory therapists,*

emergency medical technicians or such other personnel as the medical director deems appropriate.

~~11.10.~~ **10.** As used in this section, “qualified physician” means a physician licensed to practice in this State who:

- (a) Has been issued a credential to practice a specialty or a subspecialty in a hospital by the governing board of the hospital; and
- (b) Has, at any time, completed the occupational and educational requirements of a specialty board for the specialty or subspecialty in which he is practicing.

Sec. 12. NAC 442.411 is hereby amended to read as follows:

442.411 1. The Division shall provide a uniform application form for hospitals to apply for a designation as a level ~~I, II or III neonatal unit.~~ **II specialty care facility or level III subspecialty care facility.**

2. The application must include a statement:

- (a) Describing the qualifications of the hospital’s personnel to provide ~~intensive~~ **level II specialty care or level III subspecialty** care for neonates;
- (b) Describing the facilities and equipment to be used to provide ~~intensive~~ **level II specialty care or level III subspecialty** care for neonates;
- (c) Describing how the hospital’s facilities and personnel meet or exceed the standards established in NAC 442.250 to ~~442.570,~~ **442.550**, inclusive, for the level of neonatal care requested;
- (d) From the medical director of the proposed neonatal ~~unit~~ **facility** that the hospital has adequate facilities, equipment, personnel and policies and procedures to provide neonatal care at the level requested; and

(e) From the chief operating officer of the hospital that the hospital is committed to maintaining sufficient support personnel and equipment to provide neonatal care at the level requested.

3. An application for a designation as a level II *specialty care facility* or level III ~~neonatal unit~~ *subspecialty care facility* must be accompanied by an application fee of \$7,500, which, pursuant to subsection 6 of NAC 442.480, will be applied to the costs of the required inspection.

4. The Division is not required to grant a separate designation as a level I basic care facility. If a hospital elects to provide obstetrical services, the hospital must have a level I basic care facility in accordance with NAC 442.380 and 449.3645 to 449.367, inclusive.

Sec. 13. NAC 442.415 is hereby amended to read as follows:

442.415 If a hospital is required to obtain the approval of the Director of the Department of Human Resources pursuant to NRS 439A.100 in order to provide intensive care for neonates, the hospital's application for approval to be designated as a ~~neonatal unit~~ *level II specialty care facility or level III subspecialty care facility* must be accompanied by a letter of approval received from the Director.

Sec. 14. NAC 442.430 is hereby amended to read as follows:

442.430 A hospital seeking designation as a level III ~~neonatal unit for intensive care~~ *subspecialty care facility* must:

1. Demonstrate its capability to provide all required services and equipment, which include:
 - (a) The following services and equipment for the transportation of a neonate:
 - (1) A portable incubator;
 - (2) Resuscitation equipment;
 - (3) Oxygen, a means of application and a means to monitor levels of saturation;
 - (4) Portable cardiac and temperature monitoring equipment;

(5) A ventilator; and

(6) Continuous intravenous infusion equipment.

(b) Participation in services for each neonate while he remains in the hospital and after release from the hospital, coordinating those services and cooperating with the Division in providing the data concerning those services ~~+~~, *including referring all neonates with birth defects, as defined in NRS 442.310, to the Bureau of Early Intervention Services of the Division for review of program eligibility.*

(c) A program for perinatal education, offered for all physicians, nurses, respiratory therapists, nurses specializing in community health, advanced practitioners of nursing, physician assistants, specialists in the development of children, nutritionists and social workers within the area the hospital serves.

(d) The following diagnostic imaging procedures and associated consultation services 24 hours per day:

(1) X ray;

(2) Ultra-sound;

(3) Fluroscopy X ray;

(4) Computerized axial tomography;

(5) Nuclear medicine; and

(6) Echo cardiography.

(e) Pharmacy services including parenteral nutritional solutions, 7 days per week.

(f) Laboratory and associated consultation services 24 hours per day.

2. Provide medical personnel, equipment and services required for a neonate in need of intensive care, and a system for consultation between medical personnel and for the use of equipment and services.

3. Adopt a written policy which contains:

(a) The description of the system for neonatal intensive care;

(b) The description of the system for transportation and referral for intensive care;

(c) The plan to provide continuing education of personnel providing neonatal services within those hospitals which make referrals to the level III ~~neonatal unit;~~ *subspecialty care facility*; and

(d) A method for evaluating the plan required by paragraph (c).

4. Demonstrate its intent to provide services to any neonate requiring intensive care regardless of race, religion, color, national origin or ability to pay.

5. Demonstrate its capability to conduct continuing analysis of each neonate , as appropriate , and coordinate that care by periodic conferences on mortality and morbidity.

6. Accept maternal transfers if indicated for care of a high-risk pregnancy regardless of the ability of the patient to pay for hospital services.

Sec. 15. NAC 442.440 is hereby amended to read as follows:

442.440 A hospital seeking designation as a level III ~~neonatal unit~~ *subspecialty care facility* must comply with the requirements set forth in NAC 442.430, as appropriate, and must develop and maintain a system which includes:

1. The education of personnel providing neonatal services in hospitals which make referrals to that ~~unit;~~ *level III subspecialty care facility*;

2. A service by telephone for 24 hours per day for consultation and referral;

3. The education of personnel at all usual sources of referrals concerning the identification and stabilization of a neonate at a stage which is considered a high risk; and

4. A program for the continuing analysis of and care for each neonate.

Sec. 16. NAC 442.461 is hereby amended to read as follows:

442.461 A ~~{neonatal-unit}~~ *level II specialty care facility or level III subspecialty care facility* shall:

1. Comply with the reporting requirements established by the Division;
2. Provide access to its facilities and records for inspection by the Division; and
3. Annually submit to the Division reports concerning the birth weight, survival, transfer and incidence of certain conditions of neonates in a format approved by the Division.

Sec. 17. NAC 442.471 is hereby amended to read as follows:

442.471 The Division shall conduct an examination on the site of each ~~{neonatal-unit}~~ *facility* designated at each level and review its performance at least once every 5 years.

Sec. 18. NAC 442.480 is hereby amended to read as follows:

442.480 1. A hospital may request the Division's approval to provide a new service for the ~~{intensive care of neonates.}~~ *level II specialty care of neonates after the hospital has operated a level I basic care facility for at least 6 months. A hospital may request the Division's approval to provide a new service for the level III subspecialty care of neonates after the hospital has operated a level II specialty care facility for at least 6 months.* The hospital may not provide a new service for the ~~{intensive}~~ *level II specialty care or level III subspecialty* care of neonates before it has received written approval for the service from the Division.

2. The Division shall send written notification to the hospital within ~~{10}~~ *45* working days after receiving the application. The notice must state:

- (a) Whether the application is complete; and
- (b) If the application is not complete, what is needed for completion.

3. The Division shall not approve an application for the provision of a new service for the ~~[intensive]~~ *level II specialty care or level III subspecialty* care of neonates before it ~~[has verified from]~~ *receives verification of* the findings of the site-inspection team that the hospital complies with the provisions of chapter 442 of NAC.

4. If a hospital has applied for a designation as a level II *specialty care facility* or level III ~~[neonatal unit;]~~ *subspecialty care facility*, the site-inspection team must include:

- (a) A neonatologist;
- (b) An obstetrician;
- (c) A nurse manager of a level III ~~[neonatal unit; and~~
~~—(d) A physician]~~ *subspecialty care facility; and*
(d) A health facilities surveyor who is employed by the Division.

↪ A hospital that has applied for permission from the Division to provide a new service of ~~[intensive]~~ *level II specialty care or level III subspecialty* care for neonates may request the disqualification of any member of the site-inspection team if the member is not qualified to serve on the team or has a conflict of interest. If the hospital proves the grounds for disqualification, that member must be disqualified from serving on the team.

5. The review by the site-inspection team must include an inspection and appraisal of:

- (a) The facilities and equipment for neonatal care;
- (b) The services to be provided for neonatal care;
- (c) The qualifications of the personnel providing neonatal care;

(d) The programs of training relating to neonatal medicine for physicians, nurses, respiratory therapists, nurses specializing in community health, advanced practitioners of nursing, physician assistants, specialists in the development of children, nutritionists and social workers within the area the hospital serves;

(e) The plan for employment of professional personnel and the organizational structure for providing neonatal care;

(f) The records and procedures for maintaining records used for providing neonatal services;

(g) The system for referrals to or from the program;

(h) The plan to provide continuing education of personnel providing neonatal services in hospitals which make referrals to the level III ~~{neonatal unit;}~~ *subspecialty care facility*;

(i) The arrangements for transportation to and from the level III ~~{neonatal unit;}~~ *subspecialty care facility*;

(j) The arrangements for educating all sources of referral in the identification and stabilization of any neonate who needs to be referred; and

(k) Any other documents and materials required by the Division.

6. The costs of the inspection by the site-inspection team for level II *specialty care facilities* and level III ~~{units}~~ *subspecialty care facilities* must be paid by the hospital that was inspected.

The Division shall apply the application fee collected pursuant to subsection 3 of NAC 442.411 to the satisfaction, in whole or in part, of such costs.

7. The Division shall notify the hospital of its decision concerning the application within 15 working days after the Division receives the findings of the site-inspection team. An approval by the Division is effective for 5 years.

Sec. 19. NAC 442.501 is hereby amended to read as follows:

442.501 The Division may deny, suspend or revoke the right of a hospital to provide level II *specialty care* or level III *subspecialty* care for neonates for the failure of the hospital to:

1. Comply with the provisions of NAC 442.250 to ~~442.570,~~ 442.550, inclusive; or
2. Pay the costs associated with an inspection made by a site-inspection team.

Sec. 20. NAC 442.511 is hereby amended to read as follows:

442.511 1. The Division shall give a hospital written notice in the manner prescribed in chapter 439 of NAC before it:

(a) Denies an application of a hospital to provide ~~intensive~~ *level II specialty care or level III subspecialty* care for neonates;

(b) Revokes its approval of a hospital to provide ~~intensive~~ *level II specialty care or level III subspecialty* care for neonates; or

(c) Suspends its approval of a hospital to provide ~~intensive~~ *level II specialty care or level III subspecialty* care for neonates.

2. A hospital may appeal any decision made by the Division pursuant to subsection 1 in the manner prescribed in NAC 439.190 to 439.395, inclusive.

Sec. 21. NAC 442.520 is hereby amended to read as follows:

442.520 The Division may revoke a hospital's designation as a ~~neonatal unit for intensive~~ *level II specialty care facility or level III subspecialty care facility* if the hospital:

1. Uses unlicensed beds in its level II *specialty care facility* or level III ~~neonatal unit;~~ *subspecialty care facility*;

2. Fails to provide the services required for a ~~neonatal unit~~ *level II specialty care facility or level III subspecialty care facility* at its designated level or provides care in excess of its designated level;

3. Fails to comply with the criteria and standards for a ~~{neonatal-unit}~~ *level II specialty care facility or level III subspecialty care facility* at its designated level;
4. Maintains a policy for admission to the ~~{neonatal-unit}~~ *level II specialty care facility or level III subspecialty care facility* which discriminates on the basis of financial resources, race, color, religion or national origin;
5. Fails to correct the deficiencies specified by the Division within the time set;
6. Fails to provide the required continuing analysis in accordance with the criteria set by the Division;
7. Fails to provide systems for continuing care and consultation with the referral ~~{neonatal-unit,}~~ *facility*, if applicable; or
8. Holds itself out to the public as anything other than as designated by the Division.

Sec. 22. NAC 442.540 is hereby amended to read as follows:

442.540 A ~~{neonatal-unit}~~ *level I basic care facility, level II specialty care facility or level III subspecialty care facility* shall accept any neonate transported to or back to that ~~{unit,}~~ *facility*, as appropriate, without regard to the ability of the parents or guardian of the neonate to pay for the care to be provided to the neonate.

Sec. 23. NAC 442.550 is hereby amended to read as follows:

442.550 A system of cooperation to ensure the quality of care provided must be established between a level III ~~{neonatal-unit and neonatal-units}~~ *subspecialty care facility and facilities* that refer neonates to it. Records must be kept by each ~~{unit}~~ *facility* of any problems and solutions discussed among the ~~{units}~~ *facilities* in order to maintain a minimum standard for the quality of the care provided. The records are part of the quality assurance program records of the hospital.

Sec. 24. NAC 442.792 is hereby amended to read as follows:

442.792 1. The prenatal services covered under the program include:

(a) Routine prenatal care, as recommended by the American College of Obstetricians and Gynecologists, except that coverage is limited to:

- (1) Two ultrasound procedures during a pregnancy;
- (2) Office visits;
- (3) Pap smears;
- (4) Drug screening;
- (5) Testing of urine by urinalysis and dipstick;
- (6) Testing of hemoglobin, hematocrit, blood type and blood grouping;
- (7) Testing for human immunodeficiency virus, Rh factor, rubella and sickle cell;
- (8) When medically indicated, testing for tuberculosis; and

(9) Testing and treatment for sexually transmitted diseases, except that a person who tests positive for the human immunodeficiency virus will be referred to the appropriate state or federal program for treatment and follow-up services.

(b) The provision of not more than 300 tablets of prenatal vitamins, as prescribed by a provider.

(c) In the case of a documented high-risk pregnancy or when otherwise medically indicated:

(1) The transportation of the mother to a hospital that is designated as a level II *specialty care facility* or level III ~~[neonatal unit]~~ *subspecialty care facility* pursuant to NAC 442.250 to ~~[442.570,]~~ *442.550*, inclusive; and

(2) Ultrasound procedures, fetal assessments, nonstress tests and contraction stress tests.

(d) Neonatal transport, if the criteria established pursuant to NAC 442.250 to ~~[442.570,]~~ *442.550*, inclusive, are met.

(e) Complications of pregnancy, childbirth and puerperium.

(f) Services directed toward the prevention of disabling conditions of children and pregnant women.

(g) Amniocentesis if:

(1) The mother had a previous child with an eligible medical condition at birth;

(2) The mother is a carrier of a condition that is related to her gender;

(3) The mother and father are carriers of a trait that leads to disability;

(4) The mother or father has a sibling with neural tube defects;

(5) The mother is over 35 years of age and has at least one other risk factor; or

(6) The mother has an abnormal test of maternal serum alpha feta protein.

↪ Genetic counseling by a genetic counselor, if available, must be obtained as a prerequisite for the coverage of amniocentesis under the program.

(h) A class for the cessation of smoking. Coverage is limited to reimbursement of the provider in the amount of not more than \$50 upon the client's completion of the class.

2. Prenatal services provided under the program are limited to those which are directed solely to the promotion of a favorable outcome of a pregnancy. Services related to maternal labor and the delivery of a fetus or infant are not covered.

Sec. 25. NAC 442.570 is hereby repealed.

TEXT OF REPEALED SECTION

442.570 Reimbursement of neonatal units. (NRS 442.007, 449.037)

1. A hospital which has provided services for care of a neonate may not receive reimbursement from the program unless it has obtained, from the Division, a written designation as a level II or level III neonatal unit.

2. A level II neonatal unit must be reimbursed by the Division for stabilizing and preparing a high risk or critically ill neonate for transport to a level III unit. Authorized transport from the unit must be reimbursed by the Division if:

- (a) The transportation is eligible for reimbursement under the program;
- (b) The person transported meets the requirements for eligibility under the program; and
- (c) The provider of the service has a memorandum of understanding with the program concerning such transportation.

3. A level III neonatal unit must be reimbursed by the Division for direct services eligible under the program and provided within the nursery for infants born in that hospital. The provider of the service of initial, authorized transportation from the unit or transportation back to the unit must be reimbursed by the Division for the costs of the transportation if:

- (a) The transportation is eligible for reimbursement under the program;
- (b) The person transported meets the requirements for eligibility under the program; and

(c) The provider of the service has a memorandum of understanding with the program concerning such transportation.

4. Reimbursement for services provided by a neonatal unit will be made at the lowest rate that equivalent services are available within the region where that unit is located.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R064-04**

The State Board of Health adopted regulations assigned LCB File No. R064-04 which pertain to chapter 442 of the Nevada Administrative Code on June 25, 2004.

Notice date: 5/25/2004
Hearing date: 6/25/2004

Date of adoption by agency: 6/25/2004
Filing date: 8/4/2004

INFORMATIONAL STATEMENT

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.

A Small Business Impact Questionnaire was mailed to the Hospitals on February 27, 2004. Attachment A is the Small Business Impact Statement Questionnaire. Attachment B is a copy of the small business impact summary. BLC determined there would be no economic impact as none of the licensed facilities providing this service meet the definition of a small business as defined in NRS 233B.

Notice of public workshops held on March 29, 2004, in Las Vegas and on April 1, 2004, in Reno was published in the Las Vegas Review Journal and Reno Gazette Journal on March 10, 2004. Notices of public workshops, and proposed regulations were mailed to all county libraries in Nevada, licensed hospitals, and interested parties on February 27, 2004. The small business impact summary was available at both workshops.

One comment was received during public workshops:

Carol Martin, UMC, stated that they strongly recommend the neonatal regulations be adopted.

Notice of public hearing regarding the Board's intent to adopt amendments was published in the Las Vegas Review Journal and Reno Gazette Journal on May 25, 2004. Notices of public hearing, and proposed regulations were mailed to all county libraries in Nevada, Hospitals, and interested parties on May 25, 2004. The notice of public hearing was mailed to the Clark County Health District and the Washoe County District Health Department on May 25, 2004.

Copies of the workshop minutes and Board of Health hearing minutes may be obtained by calling the Bureau of Licensure and Certification at (775) 687-4475.

2. THE NUMBER OF PERSONS WHO:

(A) ATTENDED THE HEARING;

Approximately 69 people attended the June 25, 2004, Board of Health hearing.

(B) TESTIFIED AT EACH HEARING; AND

No one in attendance testified on Provision of Neonatal Care by Hospital.

(C) SUBMITTED TO THE AGENCY WRITTEN STATEMENTS.

No written testimony was submitted to the agency.

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, a small business impact questionnaire, a copy of the small business impact summary, and the notices for the workshops and Board of Health hearings. Copies of 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.

No testimony was received in opposition to the proposed regulation or which suggested changes to the proposed regulation.

The State Board of Health adopted the proposed amendments to NAC 442, "Provisions of Neonatal Care by Hospital," LCB File No. R064-04, with errata, as presented.

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

Anticipated effects on the business which NAC 449 regulates:

Adverse: None

Beneficial: Impose requirements in accordance with current construction and care standards.

Anticipated effects on the public:

Adverse: None

Beneficial: Construction and care standards will be current.

(B) BOTH IMMEDIATE AND LONG TERM EFFECTS.

Anticipated effects on the business which NAC 449 regulates:

Immediate: Construction and care standards will remain current.

Long-term: Construction and care standards will remain current.

Anticipated effects on the public:

Immediate: Construction and care standards will remain current.

Long-term: Construction and care standards will remain current.

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.

There is no duplication or overlap of other state or local government agency's regulations.

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

The proposed regulations do not overlap or duplicate federal regulations. The regulations do not have a counterpart in the code of federal regulations.

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.

SMALL BUSINESS IMPACT STATEMENT
(Nevada Revised Statutes 233B.0608)

Proposed Amendment of Nevada Administrative Code (NAC) 442.250 to 442.570
Provision of Neonatal Care by Hospital

PROPOSED REVISIONS TO REGULATIONS for Provision of Neonatal Care by Hospital have been generated by the Bureau of Licensure and Certification (BLC).

Background:

The regulations for the provision of neonatal care by hospitals were first added to NAC upon adoption by the State Board of Health in 1985. They were last amended in 1992. The proposed amendments are needed to bring the regulations into compliance with current standards of practice. The amendments are as follows: 1) the addition of the definition of an advanced practitioner of nursing; 2) modification of the definition of Level I Basic Care Facility, Level III Specialty Care Facility and Level III Subspecialty Care Facility; 3) the addition of the requirements for support personnel in the Level II Specialty and Level III Subspecialty Care Facilities; 4) by reference, the adoption of the most recently published Guidelines for Design and Construction of Hospital and Healthcare Facilities, the National Fire Protection Association's Life Safety Code, and Guidelines for Perinatal Care (excluding the chapter concerning construction standards); 5) the addition and deletion of language to bring all three levels of care into compliance with current standards of practice ; 6) clarification that a specialty designation is not needed for a Level I basic care facility; 7) the repeal of NAC 442.570 Reimbursement of neonatal units; and 8) clarification of those neonates who may require referral to the Bureau of Early Intervention Services.

BLC has determined that the adoption of these regulations should not create an economic impact on licensed facilities because the facilities currently providing this service do not qualify as small business as defined in Nevada Revised Statutes (NRS) 233B as a "business conducted for profit which employs fewer than 150 full-time or part-time employees." This small business impact statement complies with the requirements of NRS 233B.0609.

1. A description of the manner in which comment was solicited from affected small businesses, a summary and an explanation of the manner in which other interested parties may obtain a copy of the summary.

Provider comments were solicited during the revision process by the Board of Maternal-Child Health and each licensed provider received a Small Business Impact Questionnaire.

Copies of the summaries of these questionnaires are available from the office of the Bureau of Licensure and Certification 4220 South Maryland Parkway, Building D, Suite 810, Las Vegas, Nevada 89119. (702) 486-6515.

2. The estimated economic effect of the proposed regulation on the small business which it is to regulate including without limitation both adverse and beneficial effects.

N/A. The facilities currently providing this service do not qualify as a small business as defined in Nevada Revised Statutes (NRS) 233B.

3. A description of the methods the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

N/A. The facilities currently providing this service do not qualify as a small business as defined in Nevada Revised Statutes (NRS) 233B.

4. The estimated cost to the agency for enforcement of proposed regulations.

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

5. If the proposed 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.

There is no new or increased fee associated with the proposed regulations.

6. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

These regulations do not represent duplication on local or federal levels. The Nevada State BOH is responsible for generating regulations governing licensure of healthcare facilities pursuant to NRS 449.037(1). There is no equivalent responsibility on the local or federal level.

Summary of Responses:

There was only one response received from a provider who did not qualify as a small business as defined in Nevada Revised Statutes 233B.