

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

LCB File No. R068-04

Effective August 4, 2004

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

AUTHORITY: §§1-5, NRS 449.037.

A REGULATION relating to hospitals; adopting by reference certain construction and maintenance standards; requiring hospitals to comply with such construction and maintenance standards; requiring a hospital to obtain approval of building plans for new construction or remodeling from the Health Division; revising provisions relating to the sanitation inspection reports of and the dietetic services provided by a hospital; and providing other matters properly relating thereto.

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

1. 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 2. A copy of the code may be obtained from the National Fire Protection Association at 11 Tracy Drive, Avon, Massachusetts 02322, at the Internet address <<http://www.nfpa.org>> 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) NFPA 99: Standard for Health Care Facilities, 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 2. A copy of the standard may be

obtained from the National Fire Protection Association at 11 Tracy Drive, Avon, Massachusetts 02322, at the Internet address <<http://www.nfpa.org>> or by telephone at 800.344.3555, for the price of \$41.63 for members or \$46.25 for nonmembers, plus \$7.95 for shipping and handling.

(c) Guidelines for Design and Construction of Hospital and Health Care 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 2. A copy of the guidelines may be obtained from the American Institute of Architects at the AIA Store, 1735 New York Avenue, NW, Washington, DC 20006-5292, at the Internet address <<http://www.aia.org>> 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.

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

Sec. 2. NAC 449.3154 is hereby amended to read as follows:

449.3154 1. Except as otherwise provided in this section, ~~newly constructed hospitals and existing hospitals~~ *a hospital* shall comply with the ~~current edition~~ *provisions* of *NFPA 101: Life Safety Code*, ~~published by the National Fire Protection Association, which is hereby~~

adopted by reference ~~[. A copy of the code may be obtained from the National Fire Protection Association, 11 Tracy Drive, Avon, Massachusetts 02322, or by telephone at 800.344.3555, for the price of \$45.50 for members of the National Fire Protection Association, or \$50.50 for nonmembers, plus \$6.95 for shipping and handling.]~~ **pursuant to section 1 of this regulation.**

2. Except as otherwise provided in this section, ~~[newly constructed hospitals and existing hospitals shall]~~ **any new construction, remodeling or change in the use of a hospital must** comply with the ~~[current edition of]~~ *Guidelines for Design and Construction of Hospital and Health Care Facilities*, ~~[published by the American Institute of Architects, which is hereby]~~ adopted by reference ~~[, except that:~~

~~—(a) “Renovation,” Section 1.2 of the introduction to the guidelines does not apply; and~~

~~—(b) The guidelines do not apply to the]~~ **pursuant to section 1 of this regulation, unless the**

remodeling is limited to refurbishing **an area** of the hospital ~~[where the only changes being made are to the paint or the floor, window or]~~, **including, without limitation, painting the area, replacing the flooring in the area, repairing windows in the area and replacing window or wall coverings** ~~[.~~

~~→ A copy of the guidelines may be obtained from AIA Rizzoli Bookstore, 1735 New York Avenue, N.W., Washington, D.C. 20006, or by telephone at 888.272.4115, for the price of \$60, plus \$5 for shipping and handling.~~

~~—3.—A]~~ **in the area.**

3. **Except as otherwise provided in subsection 4, a** hospital shall meet all applicable ~~[federal,]~~ :

(a) **Federal and** state laws;

(b) Local ordinances, including, without limitation, zoning ordinances; and ~~local laws and~~
~~comply with all applicable life~~

(c) Life safety, environmental, health, *fire and local* building ~~and fire codes and zoning~~
~~ordinances.] codes,~~

↪ *related to the construction and maintenance of the hospital.* If there are any differences between the state and local codes, the more restrictive standards apply.

4. *A hospital which is inspected and approved by the State Public Works Board in accordance with the provisions set forth in chapter 341 of NRS and chapter 341 of NAC is not required to comply with any applicable local building codes related to the construction and maintenance of the hospital.*

5. A complete copy of the building plans for new construction and remodeling of a hospital, drawn to scale, must be submitted to the entity designated to review such plans by the Health Division pursuant to the provisions of NAC 449.0115.

~~5.]~~ *Before the construction or remodeling may begin, plans for the construction or remodeling must be approved by the Health Division.*

6. The Bureau shall not approve the licensure of a hospital until all construction has been completed and a survey is conducted at the site. The plan review is only advisory and does not constitute prelicensing approval.

~~6.]~~ 7. Notwithstanding any provision of this section to the contrary, a hospital which was licensed on January 1, 1999, shall be deemed to be in compliance with this section if the use of the physical space in the hospital does not change and the existing construction of the hospital does not have any deficiencies which are likely to cause serious injury, serious harm or impairment to public health and welfare.

Sec. 3. NAC 449.3156 is hereby amended to read as follows:

449.3156 1. Notwithstanding any provision of NAC 449.3154 to the contrary, a hospital shall be deemed to be in compliance with ~~[NAC 449.3154]~~ *the provisions of the Guidelines for Design and Construction of Hospital and Health Care Facilities, adopted by reference pursuant to section 1 of this regulation*, if:

(a) The hospital submitted architectural plans to the Bureau ~~[of Licensure and Certification of the Health Division of the Department of Human Resources]~~ on or before February 1, 1999;

(b) The hospital began construction on or before August 1, 1999;

(c) The plans were determined by the Bureau ~~[of Licensure and Certification]~~ to be in compliance with the provisions of *this* chapter ~~[449 of NAC]~~ that were in effect on December 1, 1998; ~~[and]~~

(d) The hospital is built in accordance with those provisions ;

(e) The use of the physical space in the hospital has not changed; and ~~[does not have any]~~

(f) There are no deficiencies *in the construction of the hospital* which are likely to cause serious injury, serious harm or impairment to public health and welfare.

2. If there are deficiencies that are likely to cause serious injury, serious harm or impairment to public health and welfare, the hospital shall take immediate action to correct the deficiencies or the hospital will not be allowed to continue to operate.

Sec. 4. NAC 449.338 is hereby amended to read as follows:

449.338 1. A hospital shall provide for the general dietary needs of its patients, including the preparation of modified special diets.

2. Adequate space for the preparation and service of food must be provided. Equipment for the preparation and service of food must be placed to provide aisles of sufficient width to permit easy movement of personnel, mobile equipment and supplies.

3. Well-ventilated food storage areas of adequate size must be provided.

4. Adequate space must be maintained to accommodate equipment, personnel and procedures necessary for the proper cleaning and sanitizing of dishes and other utensils.

5. Office or other suitable space must be provided for the dietitian and dietetic service supervisor.

6. In providing for the preparation and serving of food, a hospital shall:

(a) Comply with the standards prescribed in chapter 446 of NRS and the regulations adopted pursuant thereto; ~~and~~

(b) Obtain the necessary permits from the Bureau of Health Protection Services of the Health Division ~~[of the Department of Human Resources.];~~

(c) Maintain a report of each inspection concerning the sanitation of the hospital for at least 1 year after the date of the inspection; and

(d) Maintain a report of each corrective action taken to address a deficiency noted in a report described in paragraph (c) for at least 1 year after the date of the corrective action.

Sec. 5. NAC 449.3385 is hereby amended to read as follows:

449.3385 1. A hospital shall maintain an organized dietary service that is staffed by an adequate number of personnel. The hospital shall ensure that personnel are on duty to provide dietary services for at least 12 hours each day and that the personnel are competent to perform their duties as outlined in their job descriptions. The dietary service must be integrated with the other departments, units and services within the hospital.

2. The dietary service must be under the direction of a registered dietitian or other professional person who ~~is~~:

(a) *Is qualified in the field of institutional management, ~~or~~ nutritional sciences ~~or~~ hotel restaurant management;*

(b) *Has completed an academic program in culinary arts; or*

(c) *Is certified as a dietary manager by the Dietary Managers Association and has additional work experience with medical and therapeutic diets.*

3. The director of the dietary service may be employed on a full-time or part-time basis, or as a consultant.

~~3.~~ 4. A hospital shall have on staff a dietitian manager or consultant who shall provide in-service training for all dietetic service personnel and maintain a record of the in-service training provided which includes a description of the subjects covered by the training, the date that the training was given, the duration of the training and a list of the persons who attended the training.

~~4.~~ 5. Personnel of the dietary service must:

(a) Be trained in basic techniques of food sanitation;

(b) While working in the dietary service, be clean and wear clean clothing, including a cap or hairnet, or both; and

(c) Be excluded from duty when affected by a skin infection or communicable disease.

~~5.~~ 6. If an employee of the dietary service has a beard or moustache, or both, which is not closely cropped, the employee shall cover the beard or moustache, or both, while he is on duty.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R068-04**

The Health Division of the Department of Human Resources adopted regulations assigned LCB File No. R068-04 which pertain to chapter 449 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 all 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.

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, Hospitals, and interested parties on February 27, 2004. The small business impact summary was available at both workshops.

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.

Larry Farr, City of Reno, Fire Department, stated that he was overall pleased with the uniform codes for plan review.

Teresa Peavy, Director of Advocacy, Dietary Managers Association, provided a letter dated May 14, 2004, in support to the current proposed rules for Hospitals regarding dietary services.

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 the Hospital regulations.

(C) SUBMITTED TO THE AGENCY WRITTEN STATEMENTS.

Teresa Peavy, CAE, Director of Advocacy, Dietary Mangers Association, submitted a written statement for the Workshops in support to the current proposed rules for Hospitals regarding dietary services.

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.

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: The plan review will have an associated fee as determined by the entity conducting the review on behalf of the state.

Beneficial: Regulations addressing plan review, construction standards, dietary services and disaster planning will be more consistent. Hospital regulations for dietetic services director qualifications will allow easier recruitment for this position.

Anticipated effects on the public:

Adverse: None

Beneficial: The proposed regulations will require the majority of facilities to have a plan review ensuring a safe environment for the public.

(B) BOTH IMMEDIATE AND LONG TERM EFFECTS.

Anticipated effects on the business which NAC 449 regulates.

Immediate: None.

Long-term: Regulations addressing plan review, construction standards, dietary services and disaster planning will be more consistent throughout all facility types. Hospital regulations for dietetic services director qualifications will allow easier recruitment for this position.

Anticipated effects on the public:

Immediate: None

Long-term: The proposed regulations will require the majority of facilities to have a plan review thus ensuring a safe environment for the public.

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

There will be additional staff time to register plans for the facilities that will now be required to have a plan review.

The plan review will have an associated fee as determined by the entity conducting the review on behalf of the state.

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.

No other fee increases are associated with the proposed regulations.

SMALL BUSINESS IMPACT STATEMENT

Plan Review and Dietary Services

Background:

The purpose of the proposed revised regulations for plan review is to require a review of architectural plans for the majority of facility types.

The construction standards regulations were revised to adopt by reference the National Fire Protection Association's (NFPA) 101 Life Safety Code, and the NFPA 99 Health Facilities Standards and the American Institute of Architects Guidelines for Design and Construction of Hospitals and Health Care Facilities throughout all applicable facility types. The revisions included changing the "Uniform Building Code" to local building codes due to changes being made on a national level from the "Uniform Building Code" to the International Codes or the National Fire Protection 5000 codes. It is the intent of the Bureau of Licensure and Certification (BLC) to eliminate a conflict between the state requirements and the local requirements in the area of the building codes.

The regulations addressing the dietary personnel of hospitals were revised to allow the director of the dietetic services department to have professional qualifications in the area of professional chef, hotel-restaurant management, or is certified at minimum as a dietary manager and has additional work experience with medical-therapeutic diets.

The regulations addressing the requirement for a food establishment permit issued by the Bureau of Health Protection Services (BHPS), in Intermediate Care Facilities, Facilities for the Treatment of Alcohol and Drug Abuse, Modified Medical Detoxification Facilities were revised to require facilities with more than 10 clients/residents to have an inspection and permit.

Interested individuals can obtain a copy of the information packet, including the Small Business Impact Questionnaire, sent to all licensed facilities, from Shirley Rains, Administrative Assistant III, Bureau of Licensure and Certification, 1550 East College Parkway, Suite 158, Carson City, Nevada 89703

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

Pursuant to NRS 233B.0608 (2) (a), the BLC has requested input from operators of the following facility types:

- Obstetric Care
- Facilities for the Treatment of drug and Alcohol Abuse
- Facilities for Treatment of Irreversible Renal Disease
- Hospitals
- Independent Centers for Emergency Medical Care

Mobile Units
 Facilities for Modified Medical Detoxification
 Facilities for the Care of Adults During the Day
 Surgical Centers for Ambulatory Patients
 Intermediate Care Facilities

A Small Business Impact Statement Questionnaire was sent to the facilities in the table above along with written correspondence detailing the proposed amendments, including a copy of the proposed regulations, on February 27, 2004. The questions on the questionnaire were:

- 2) Will a specific regulation have an adverse economic effect upon your business?
- 3) Will the regulation(s) have any beneficial effect upon your business?
- 4) Do you anticipate any indirect adverse effects upon your business?
- 5) Do you anticipate any indirect beneficial effects upon your business?

Facility Type	Number of Responses
Ambulatory Surgery Center	3
Hospital	4
End Stage Renal Dialysis Center	1

Saint Rose Dominican Hospitals responded by indicating the regulations will have an adverse economic effect upon our business. A comment was included that stated they feel plan review should be conducted early in the process for identification of any potential oversight in the specifications before the licensing inspection is conducted.

This respondent states that NAC 449.3156(1) (d) should read ...the use of the physical space has not changed in such a way to not comply with the Guidelines for Design and Construction of Hospitals and Health Care Facilities or cause serious injury, serious harm or impairment to public health and welfare.

Additionally, this respondent stated that the regulations at NAC 449.3385(2) will have a beneficial effect upon the hospital because the changes in the regulation will make this position much easier to fill, and still contains the clinical dietetic advantages.

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 and both direct and indirect effects.

There will be an added economic effect to those facilities previously not required to submit architectural plans for review, however, the benefit in identifying potential non-compliance at a point where changes must be made to plans, rather than a constructed building, balance the costs of the plan review.

The proposed revisions to the dietary personnel requirements will not have additional economic effect on a facility.

The regulations revising the requirement for facilities with more than 10 clients/residents to have an inspection and permit issued by the Bureau of Health Protection Services (BHPS), in Intermediate Care Facilities, Facilities for the Treatment of Alcohol and Drug Abuse, Modified Medical Detoxification Facilities provides a cost saving in these facilities not being required to purchase commercial grade kitchen equipment to obtain a food establishment permit in a facility with less than 10 clients.

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

The BLC considered the impact of facilities in certain counties with populations over 50,000 of the potential of having multiple building codes adopted. The BLC revised the construction standards regarding building codes to eliminate duplicity and possible contradictory requirements.

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

The estimated cost to the agency for enforcement of the proposed amendments to NAC 449.016 and 449.0168 is negligible.

5. Total amount BLC expects to collect from any fees and the manner in which the money will be used.

The revisions to the plan review and dietary services regulations will not increase licensing fees.

6. An explanation of why any duplicative or more stringent provisions than federal, state or local standards regulating the same activity are necessary.

No duplication or more stringent provision are either created or already in existence.