

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

LCB File No. R069-04

Effective August 4, 2004

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

AUTHORITY: §§1-7, NRS 449.037.

A REGULATION relating to facilities for modified medical detoxification; adopting by reference construction and maintenance standards; requiring facilities for modified medical detoxification to comply with such construction and maintenance standards; revising certain provisions regarding the provision of dietary services at facilities for modified medical detoxification; revising provisions regarding sanitation requirements; requiring compliance with certain standards for the design, construction, equipment and maintenance of such facilities; revising provisions regarding fire safety and plans for disasters at such facilities; 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 449.15351 is hereby amended to read as follows:

449.15351 1. Facilities shall serve at least three meals or their equivalent daily, at regular times, with not more than 14 hours between a substantial evening meal and breakfast. A second serving must be provided for those clients who desire one.

2. Menus must be planned and followed to meet the nutritional needs of the clients in accordance with the recommended dietary allowances recommended by the Food and Nutrition Board of the National Research Council, National Academy of Sciences.

3. Therapeutic menus must be planned by a registered dietitian or must be reviewed and approved by the attending physician of the client or a staff physician.

4. Menus must be in writing, planned in advance, dated and posted, and kept on file at the facility for at least 90 days. Any substitution must be noted on the written menu so that the menu on file reflects what was actually served.

5. Adequate facilities and equipment for the preparation, serving, refrigeration and storage of food *in a sanitary manner* must be provided. ~~and must meet the regulations of the State Board of Health, including, without limitation, the regulations set forth in chapter 446 of NAC.~~

6. *A facility with more than 10 clients shall:*

(a) Comply with all applicable provisions of chapter 446 of NRS and the regulations adopted pursuant thereto;

(b) Obtain the necessary permits from the Bureau of Health Protection Services of the Health Division;

(c) Maintain a report of each inspection concerning the sanitation of the facility 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.

7. Clients needing special equipment, implements or utensils to assist them while eating must have such items provided.

~~[7.]~~ 8. If a facility operates on the cottage plan, provision must be made for food service that ensures hot, palatable meals.

~~[8.]~~ 9. A professional, qualified person must be used as a consultant on planning meals and serving food. At least 4 hours of consultation each month is required. A person is qualified only if he meets the requirements for registration with the Commission on Dietetic Registration as a dietitian or dietetic technician.

~~[9.]~~ 10. A facility that contracts with a food management company shall comply with all applicable regulations of the State Board of Health.

Sec. 3. NAC 449.15355 is hereby amended to read as follows:

449.15355 1. ~~[Each facility shall meet all state and local environmental health standards.~~
~~—2.— A facility that provides dietary services shall have food service equipment of appropriate quality and type for the type of food service program used by the facility. The equipment must comply with the regulations set forth in chapter 446 of NAC.~~
~~—3.— All environmental health inspection reports must be on file in each facility. Any deficiencies must be corrected within 90 days after they become apparent and must be documented in the file.~~
~~—4.]~~ The premises and equipment of each facility must be maintained in a *safe, functional and* sanitary condition. Each facility shall have the necessary cleaning and maintenance equipment with sufficient storage areas and appropriate procedures to maintain a clean and orderly establishment. Janitorial supplies, including, without limitation, aerosols, must be stored

in areas separate from clean linen, food and other supplies. The storage of dirty linen must be separate from the storage of clean linen, food and other supplies.

~~[5.]~~ 2. Items for personal use, including, without limitation, combs, toothbrushes, towels and bar soap , must not be shared by clients.

~~[6.]~~ 3. Restrooms or lavatories for the staff of a facility must be provided with soap dispensers and individual, disposable towels.

4. *Each facility shall ensure that the environment of the facility is free of hazards that may cause accidents.*

5. *Each facility shall maintain an effective program to control pests and rodents in order to ensure that the facility is free from pests and rodents.*

6. *Each facility shall provide safe and comfortable levels of temperature in the facility. The temperature of the facility must be maintained at a level that is not less than 71 degrees Fahrenheit and not more than 81 degrees Fahrenheit.*

Sec. 4. NAC 449.15359 is hereby amended to read as follows:

449.15359 1. ~~[Before the]~~ *Except as otherwise provided in subsection 4, before any new construction of a facility or ~~[an alteration to]~~ any remodeling of an existing facility is begun:*

(a) ~~[A]~~ *The facility must submit a* copy of the building plans ~~[drawn to scale must be submitted]~~ *for the new construction or remodeling* to the entity designated to review such plans by the Health Division pursuant to the provisions of NAC 449.0115 . ~~[:and]~~ *The entity's review of those plans is advisory only and does not constitute approval for licensure of the facility.*

(b) The building plans must be approved by the Health Division.

2. *The Bureau shall not approve a facility for licensure until all construction is completed and a survey is conducted at the site of the facility.*

3. The Health Division shall not issue a license to operate a facility until ~~[all construction has been completed and the Health Division has conducted a survey at the site.]~~ *the Bureau has approved the construction of the facility.*

4. *The provisions of subsection 1 do not apply to plans for remodeling a facility if the remodeling is limited to refurbishing an area within the facility, including, without limitation, painting in the area, replacing flooring in the area, repairing windows in the area or replacing window and wall coverings in the area.*

Sec. 5. NAC 449.15361 is hereby amended to read as follows:

449.15361 1. ~~[The State Board of Health hereby adopts by reference:~~

~~—(a) NFPA 101: Life Safety Code, 1994 edition, published by the National Fire Protection Association. A copy of the code may be obtained from the National Fire Protection Association, 11 Tracy Drive, Avon, Massachusetts 02322, for the price of \$42.00 for members of the National Fire Protection Association, or \$46.75 for nonmembers, plus \$5.95 for handling.~~

~~—(b) NFPA 96: Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, in the form most recently published by the National Fire Protection Association. A copy of the code may be obtained from the National Fire Protection Association, 11 Tracy Drive, Avon, Massachusetts 02322, for the price of \$21.75 for members of the National Fire Protection Association, or \$24.25 for nonmembers, plus \$5.95 for shipping and handling.~~

~~—2.]~~ *Each facility must be designed, constructed, equipped and maintained in a manner that protects the health and safety of the clients and personnel of the facility and members of the general public.*

2. Each facility shall comply with all ~~[currently adopted]~~ *applicable:*

(a) *Federal and state laws;*

(b) *Local ordinances, including, without limitation, zoning ordinances; and*

(c) *Environmental, life safety, fire, health and ~~{zoning codes.}~~ local building codes,*

↪ related to the construction and maintenance of the facility. If there is a difference between state and local ~~{codes,}~~ *requirements,* the more stringent ~~{standards}~~ *requirements* apply.

3. *Each facility shall comply with the provisions of NFPA 101: Life Safety Code, as adopted by reference pursuant to section 1 of this regulation.* Facilities housing 17 *or more* clients ~~{or more}~~ shall meet the requirements of *the* chapter ~~{16,}~~ *entitled* “Hotel and Dormitories,” of *the edition of NFPA 101: Life Safety Code* ~~{, 1994 edition. Facilities}~~ *adopted by reference pursuant to section 1 of this regulation.* Those facilities housing *not more than* 16 clients ~~{or less}~~ shall meet the requirements of *the* chapter ~~{20,}~~ *entitled* “Lodging or Rooming Houses,” of *the edition of NFPA 101: Life Safety Code* ~~{1994 edition.}~~

~~—4.— New and remodeled facilities shall comply with all currently adopted building, electrical and plumbing codes.}~~ *adopted by reference pursuant to section 1 of this regulation.*

Sec. 6. NAC 449.15365 is hereby amended to read as follows:

449.15365 1. Devices for the detection of combustion other than heat detectors must be installed on the ceiling of each story of a facility, in front of doors to stairways in a facility, and at not more than 30 feet apart in the corridors of all floors of a facility, including, without limitation, the center. Smoke detectors must also be installed in the center of any lounge or recreational area of a facility. The smoke detectors may be single station units with an integral alarm.

2. Portable fire extinguishers must be installed throughout each facility at the direction of the fire authority having jurisdiction.

~~{3. Any facility with a kitchen range with an upper surface of not more than 15 square feet must provide the range with an exhaust hood having an automatic fire protection system in accordance with NFPA 96: Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, in the form most recently published by the National Fire Protection Association.~~

~~—4. Portable room heating devices are prohibited in facilities. Any heating device other than a central heating plant must be so designed and installed that combustible material will not be ignited by it or its appurtenance.~~

~~—5.] Each portable fire extinguisher available at a facility must be inspected, recharged and tagged at least once each year by a person certified by the State Fire Marshal to conduct such inspections.~~

3. A portable room-heating device may be used if the device:

(a) Is located 2 feet or more from any combustible material;

(b) Is plugged directly into a wall socket;

(c) Turns off automatically if tipped over; and

(d) Has no exposed heating elements.

4. Receptacles or outlets serviced by extension cords are prohibited in facilities.

~~{6.} 5. Rooms in which smoking is allowed by direction of the facility or the fire authority must be provided with plainly visible “Smoking Area” signs.~~

~~{7.} 6. Each facility shall conduct fire drills at least monthly , and a written record of each drill conducted must be retained in the facility ~~{}~~ *for not less than 12 months after the drill is conducted.*~~

Sec. 7. NAC 449.15367 is hereby amended to read as follows:

449.15367 1. Each facility shall develop a written plan for disasters that outlines procedures for members of the staff and clients to follow in case of fire or another emergency and provides for meeting the needs of clients if the facility must be evacuated or is destroyed.

2. A simple floor plan showing the routes for evacuating must be posted in prominent locations on each floor of the facility.

3. The facility shall notify the Bureau ~~if~~ *of the occurrence of* a fire or disaster ~~causes damage to the physical structure of~~ *in* the facility ~~in~~ *within 24 hours after the facility becomes aware of the fire or disaster.*

4. Each facility shall conduct a disaster drill at least annually and retain a written record of the drill in the facility ~~in~~ *for not less than 12 months after the drill is conducted.*

5. *Each facility shall adopt procedures to ensure that water is available to the essential areas of the facility if there is an interruption in the facility's normal supply of water.*

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R069-04**

The Health Division of the Department of Human Resources adopted regulations assigned LCB File No. R069-04 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 the Facilities for Modified Medical Detoxification 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, Facilities for Modified Medical Detoxification, and interested parties on February 27, 2004. The small business impact summary was available at both workshops.

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

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, Facilities for Modified Medical Detoxification, 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 Facilities for Modified Medical Detoxification.

(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.

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 throughout all facility types. Modified Medical Detoxification facilities with 10 or fewer clients will not be required to have a commercial grade kitchen.

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. Modified Medical Detoxification facilities with 10 or fewer clients will not be required to have a commercial grade kitchen

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.

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

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.