

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

**LCB File No. R077-04**

May 19, 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 surgical centers for ambulatory patients; adopting by reference certain construction and maintenance standards; requiring surgical centers for ambulatory patients to comply with such construction and maintenance standards; requiring surgical centers for ambulatory patients to obtain approval of building plans for new construction or remodeling from the Health Division; revising the definition of “surgery” as it applies to surgical centers for ambulatory patients; 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 \$62.00 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 \$75.00 for nonmembers, plus \$9.00 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 449.9743 is hereby amended to read as follows:

449.9743 “Surgery” means the treatment of a human being by a physician using one or more of the following procedures:

1. Cutting into any part of the body using a scalpel, electrocautery or any other means for diagnosis or the removal or repair of diseased or damaged tissue, organs, tumors or foreign bodies.

2. The reduction of a fracture or the dislocation of a bone, joint or bony structure.

3. The repair of a malformation of the body resulting from an injury, a birth defect or another cause, that requires cutting and manipulation or a suture.

4. An instrumentation of the uterine cavity of a woman for diagnostic or therapeutic purposes, including the procedure commonly known as dilation and curettage.

5. Any instrumentation of, or injection of a substance into, the uterine cavity of a woman to terminate a pregnancy.

6. Any procedure to sterilize a human being.

7. An endoscopic procedure.

8. A laproscopic procedure.

***9. Injection of a substance into the body for the treatment of pain.***

**Sec. 3.** NAC 449.9843 is hereby amended to read as follows:

449.9843 1. ~~Except as otherwise provided in this section:~~

~~(a)~~ An ambulatory surgical center shall comply with *the provisions of NFPA 99: Standard for Health Care Facilities concerning the administration of medical gases, adopted by reference pursuant to section 1 of this regulation, and* the provisions of *NFPA 101: Life Safety Code*, adopted by reference pursuant to ~~[NAC 449.9841]~~

~~(b)~~ *section 1 of this regulation.*

2. Any *new* construction, ~~[or]~~ remodeling *or change in the use* of an ambulatory surgical center must comply with the *Guidelines for Design and Construction of Hospital and ~~[Healthcare]~~ Health Care Facilities*, adopted by reference pursuant to ~~[NAC 449.9841:~~  
~~—(1) Except for section 1.2 of the introduction to the guidelines governing renovations;~~  
~~—(2) Unless] section 1 of this regulation, unless~~ the remodeling is limited to refurbishing an area within the center, including, without limitation, painting the area, replacing flooring ~~[;]~~ *in the area*, repairing windows ~~[, or]~~ *in the area and* replacing window or wall coverings ~~[; and~~  
~~—(3) Except for those provisions of the guidelines related to rooms for the use of lasers.~~  
~~—(c) Any construction or remodeling of a room for the use of lasers in an ambulatory surgical center must comply with the provisions of “Standard 9.5F2” of the American Institute of Architects, adopted by reference pursuant to NAC 449.9841.~~  
~~—2.] in the area.~~

3. An ambulatory surgical center shall be deemed to be in compliance with the provisions of *subsection 2 of NAC 449.983 and* subsection ~~[H]~~ 2 if:

(a) The center is licensed on February 1, 1999, the use of the physical space in the center is not changed and there are no deficiencies in the construction of the center that are likely to cause serious injury, harm or impairment to the public health and welfare; or

(b) The center has submitted building plans to the Bureau before February 1, 1999, and:

(1) The Bureau determines that the plans comply with standards for construction in effect before December 11, 1998;

(2) The center is constructed in accordance with those standards;

(3) Construction of the center is begun before August 1, 1999; and

(4) There are no deficiencies in the construction of the center that are likely to cause serious injury, harm or impairment to the public health and welfare.

~~{3-}~~ 4. An ambulatory surgical center shall comply with all applicable:

- (a) Federal and state laws;
- (b) Local ordinances, including, without limitation, zoning ordinances; and
- (c) Life safety, environmental, health, *fire and local* building ~~{and fire}~~ codes.

↪ If there is a difference between state and local requirements, the more stringent requirements apply.

~~{4-}~~ 5. An ambulatory surgical center ~~{may}~~ *shall* submit building plans for new construction or remodeling to the entity designated to review such plans by the Health Division pursuant to NAC 449.0115. The entity's review of those plans is advisory only and does not constitute approval for the licensing of the center. *Before the construction or remodeling may begin, the plans for the construction or remodeling must be approved by the Health Division.* The Bureau shall not approve a center for licensure until all construction is completed and a survey is conducted at the site of the center.

**Sec. 4.** NAC 449.9935 is hereby amended to read as follows:

449.9935 1. The operating and recovery rooms of an ambulatory surgical center must be used exclusively for surgical procedures.

2. *Except as otherwise provided in subsection 3, surgical procedures must be conducted in a class A, B or C operating room in accordance with chapter 9 of the Guidelines for Design and Construction of Hospital and Health Care Facilities, adopted by reference pursuant to section 1 of this regulation.*

*3. If an ambulatory surgical center is licensed to perform only endoscopic procedures, such procedures may be conducted in an endoscopy suite in accordance with chapter 9 of the Guidelines for Design and Construction of Hospital and Health Care Facilities, adopted by reference pursuant to section 1 of this regulation.*

4. A registered nurse experienced in surgical procedures shall supervise the operating room.

~~[3.]~~ 5. Only a registered nurse may function as the circulating nurse in the operating room.

~~[4.]~~ 6. The operating room must be equipped with:

(a) A system for making emergency calls;

(b) Oxygen;

(c) Mechanical ventilatory assistance equipment, including, without limitation, a manual breathing bag and a ventilator;

(d) Cardiac monitoring equipment;

(e) Laryngoscopes and endotracheal tubes; and

(f) Suction equipment.

~~[5.]~~ 7. If the operating team consists of persons who are not physicians, such as a dentist, a podiatrist or a nurse, a physician must be on the premises and immediately available in case of an emergency. As used in this subsection, “immediately available” means the physician is sufficiently free from other duties to be able to respond rapidly to the emergency.

**Sec. 5.** NAC 449.9825 and 449.9841 are hereby repealed.

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**TEXT OF REPEALED SECTIONS**

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**449.9825 Emergency electrical power. (NRS 449.037)** The administrator shall ensure that the center has adequate emergency electrical power in accordance with NFPA 99: Standard for Health Care Facilities, adopted by reference pursuant to NAC 449.9841.

**449.9841 Adoption by reference of standards for construction. (NRS 449.037)**

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, 11 Tracy Drive, Avon, Massachusetts 02322, or by telephone at 800.344.3555, for the price of \$45.50 for members or \$50.50 for nonmembers, plus \$6.95 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, 11 Tracy Drive, Avon, Massachusetts 02322, or by telephone at 800.344.3555, for the price of \$33.50 for members or \$37.25 for nonmembers, plus \$5.95 for shipping and handling.

(c) 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 2. A copy of the guidelines may be obtained from the 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.

(d) “Standard 9.5F2,” governing the construction of rooms for the use of lasers, 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 standard may be obtained from the 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.

2. The State Board of Health shall review each revision of the publications adopted by reference pursuant to subsection 1 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.