

**REVISED PROPOSED REGULATION OF THE
HOUSING DIVISION OF THE DEPARTMENT
OF BUSINESS AND INDUSTRY**

LCB File No. R018-06

March 30, 2006

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

AUTHORITY: §§1-9, NRS 319.140 and 319.147.

A REGULATION relating to affordable housing; establishing requirements for certification of certain assisted living facilities by the Housing Division of the Department of Business and Industry for the purpose of providing services pursuant to the home and community-health based services waiver authorized by the Federal Government; and providing other matters properly relating thereto.

Section 1. Chapter 319 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 9, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Assisted living facility” has the meaning ascribed to it in paragraph (a) of subsection 3 of NRS 422.2708.*

Sec. 4. *“Declaration of restrictive covenants and conditions” has the meaning ascribed to it in NAC 319.958.*

Sec. 5. *“Sponsor” means a person, government, governmental agency or political subdivision of a government who has applied for and received tax credits for an assisted living facility pursuant to the provisions of NAC 319.951 to 319.998, inclusive, or any other person*

government, governmental agency or political subdivision of a government who has an ownership interest in an assisted living facility that is financed through such tax credits or through other public funds.

Sec. 6. If the sponsor of an assisted living facility that satisfies the requirements of paragraphs (a) to (d), inclusive, of subsection 1 of NRS 319.147 wishes to obtain certification for the assisted living facility from the Division for the purpose of providing services pursuant to the provisions of the home and community-based services waiver which are amended pursuant to NRS 422.2708, the sponsor must submit to the Division:

- 1. A request for certification on a form provided by the Division; and*
- 2. A copy of his completed Internal Revenue Service Form 8609 or other appropriate form.*

Sec. 7. Before the Division will certify an assisted living facility for which a sponsor requests certification pursuant to section 6 of this regulation, the Division will:

- 1. Verify that the construction of the assisted living facility is complete.*
- 2. Verify that a certificate of occupancy for the assisted living facility has been issued by the authority having jurisdiction to issue such a certificate of occupancy.*
- 3. Conduct an inspection and review of the assisted living facility to determine whether it was constructed in accordance with the applicable requirements of the Division. The inspection and review must include, without limitation, an evaluation of:*
 - (a) The amenities provided in the assisted living facility;*
 - (b) The number and type of living units provided in the assisted living facility; and*
 - (c) Any weatherization measures used in the construction of the assisted living facility.*

4. Review the contract terms of the service provider for the assisted living facility, including, without limitation, the contract terms concerning the services offered and provided to the tenants of the assisted living facility, to determine if those terms comply with the applicable requirements of the Division. The Division will not rate the quality of the services offered in the assisted living facility or certify or verify the standards of medical practice used in the assisted living facility as part of the review it conducts pursuant to this subsection.

5. If the assisted living facility is financed through tax credits relating to low-income housing, record a declaration of restrictive covenants and conditions for the assisted living facility, unless a declaration of restrictive covenants and conditions has already been recorded for the assisted living facility pursuant to the provisions of NAC 319.951 to 319.998, inclusive.

6. If the assisted living facility is financed through tax credits relating to low-income housing, verify that the incomes of the tenants residing at the assisted living facility satisfy the requirements of the declaration of restrictive covenants and conditions described in subsection 5.

7. If the assisted living facility is financed through tax credits relating to low-income housing, verify that the rent charged to a tenant of the assisted living facility and any fee charged to a tenant of the assisted living facility comply with the provisions of 26 U.S.C. § 42 concerning low-income housing tax credits.

8. Verify that the assisted living facility complies with the Uniform Physical Condition Standards set forth in 24 C.F.R. § 5.703.

9. If the assisted living facility is financed through tax credits relating to low-income housing, verify that the assisted living facility complies with the qualified allocation plan as that term is defined in NAC 319.962.

10. Verify any other information that the Division determines is necessary to determine whether the assisted living facility satisfies the requirements set forth in this section and NRS 319.147.

Sec. 8. A sponsor who requests certification for an assisted living facility pursuant to section 6 of this regulation shall provide any information requested, in writing, by the Division for the purposes of verifying or obtaining information pursuant to section 7 of this regulation within 30 days after receipt of the request from the Division. If the sponsor fails to submit the information within 30 days after receipt of the request from the Division, the Division may deny the request for certification of the assisted living facility.

Sec. 9. If the Division approves a request for certification of an assisted living facility submitted to the Division pursuant to section 6 of this regulation, the Division will send a letter, signed by the Administrator, to the sponsor who requested certification for the assisted living facility by certified mail, return receipt requested, indicating that the assisted living facility is certified by the Division for the purpose of providing services pursuant to the provisions of the home and community-based services waiver which are amended pursuant to NRS 422.2708. The Division may also send a notice of the certification of the assisted living facility to any other person or entity the Division determines should receive notice of the certification.