

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

LCB File No. R094-06

Effective July 14, 2006

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

AUTHORITY: §§1-27, NRS 449.037.

A REGULATION relating to facilities for transitional living for released offenders; establishing requirements governing the licensure and operation of such facilities; establishing the qualifications and duties of administrators of such facilities; and providing other matters properly relating thereto.

Section 1. Chapter 449 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 26, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 26, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Administrator” means a person:*

1. Whose name appears on a license issued by the Bureau as administrator of record for a facility; and

2. Who is legally responsible for the management of the facility.

Sec. 4. *“Facility” means a facility for transitional living for released offenders as defined in NRS 449.0055.*

Sec. 5. *“Resident ” means a person who:*

1. Is a person who has been released from prison as that term is defined in subsection 2 of NRS 449.0055; and

2. Is admitted to a facility.

Sec. 6. 1. *“Supportive services” mean services provided by a facility, directly or indirectly through arrangements with other providers, which are intended to assist a resident with reintegration into the community.*

2. Those services may include, without limitation:

(a) Referrals and the provision of information concerning:

(1) Health care, including mental health care;

(2) Access to housing, benefits or employment;

(3) Resume writing; and

(4) Required counseling for sex offenders.

(b) Training concerning:

(1) Life skills;

(2) Resume writing; and

(3) Any other topic pursuant to the policies of the facility.

Sec. 7. *An administrator must:*

1. Be at least 21 years of age;

2. Have the physical examination or certification required by paragraph (a) of subsection 3 of NAC 441A.375 for a person employed in a facility for the dependent; and

3. Maintain evidence that he satisfies the requirements of this section in a file that is maintained on the premises of the facility.

Sec. 8. *An administrator shall:*

- 1. Post the license issued by the Bureau in a conspicuous place within the facility.*
- 2. Organize and manage the facility.*
- 3. Establish policies, procedures and rules for the operation of the facility, including, without limitation, the policies and procedures required to be established by section 10 of this regulation.*
- 4. Ensure that the records of the facility are maintained in accordance with the requirements of the policies, procedures and rules for the operation of the facility established pursuant to subsection 3.*
- 5. Ensure that the facility complies with any applicable state statutes and regulations and local ordinances.*
- 6. Ensure that the residents of the facility are afforded the opportunity to exercise their individual rights in a manner consistent with the rules of the facility.*
- 7. Ensure that the facility is maintained in a safe and clean condition.*
- 8. Review and approve changes in the policies and procedures established pursuant to subsection 3 at least annually. This review must be signed and dated.*

Sec. 9. *An administrator shall ensure that:*

- 1. Alcohol or drugs are not allowed on the premises of the facility;*
- 2. The policies, procedures and rules established pursuant to section 8 of this regulation are carried out;*
- 3. Each resident complies with those policies, procedures and rules;*
- 4. The facility provides an environment that will facilitate the reintegration of the residents of the facility into the community; and*

5. The operation of the facility is not compromised by a resident who violates the policies, procedures or rules of the facility.

Sec. 10. 1. *An administrator shall establish written policies and procedures concerning:*

(a) The manner in which records of residents will be maintained and protected against unauthorized use;

(b) The disclosure of confidential information about residents;

(c) The criteria the facility will use to determine whether to:

(1) Admit a resident to the facility; and

(2) Discharge a resident from the facility;

(d) The discharge of a resident for a violation of the rules of the facility;

(e) The discharge of a resident for the use of alcohol or drugs;

(f) The rights and responsibilities of a resident; and

(g) The evacuation of residents in case of fire or other emergency as required by section 25 of this regulation.

2. The administrator shall maintain a manual of policies, procedures and rules of the facility that includes, without limitation, the policies and procedures established pursuant to subsection 1. The manual must be available on the premises of the facility at all times.

Sec. 11. *An administrator shall ensure that the facility does not admit more residents to the facility than the number of beds for which it is licensed.*

Sec. 12. 1. *In addition to satisfying the requirements of NAC 449.011, an applicant for a license to operate a facility must include with his application a statement indicating whether he will be operating a facility:*

(a) That only provides a housing and living environment;

(b) That provides or arranges for the provision of supportive services for residents of the facility to assist the residents with reintegration into the community, in addition to providing a housing and living environment; or

(c) That provides or arranges for the provision of alcohol and drug abuse programs, in addition to providing a housing and living environment and providing or arranging for the provision of other supportive services.

2. If the applicant wishes to operate a facility described in paragraph (c) of subsection 1, the applicant must:

(a) Obtain certification of its program pursuant to subsection 4 of NRS 458.025 and include evidence of that certification with his application; and

(b) Satisfy the requirements set forth in NAC 449.019 to 449.153, inclusive, for a facility for the treatment of abuse of alcohol or drugs.

3. If the applicant wishes to operate a facility described in paragraph (b) or (c) of subsection 1 which has residents who are under the supervision of a parole officer, the applicant must:

(a) Obtain the approval of the Division of Parole and Probation of the Department of Public Safety; and

(b) Include evidence of that approval with his application.

Sec. 13. 1. An administrator shall ensure that the facility:

(a) Has a safe and sufficient supply of water, adequate drainage and an adequate system for the disposal of sewage; and

(b) Complies with all local ordinances and state and federal laws and regulations relating to zoning, sanitation, safety and accessibility to persons with disabilities.

2. A container used to store garbage outside of a facility must be kept reasonably clean and must be covered in such a manner that rodents are unable to get inside the container. At least once each week, the container must be emptied and the contents of the container must be removed from the premises of the facility.

3. To the extent practicable, the premises of the facility must be kept free from:

(a) Offensive odors;

(b) Hazards, including obstacles that impede the free movement of residents within and outside the facility;

(c) Insects and rodents; and

(d) Accumulations of dirt, garbage and other refuse.

4. The administrator shall ensure that the premises of the facility are clean and that the interior, exterior and landscaping of the facility are well maintained.

5. All windows that are capable of being opened in the facility and all doors that are left open to provide ventilation for the facility must be screened to prevent the entry of insects.

6. The administrator shall ensure that electrical lighting is maintained in the facility as necessary to ensure the comfort and safety of the residents of the facility.

7. The temperature in the facility must be maintained at a level that is not less than 68 degrees Fahrenheit and not more than 82 degrees Fahrenheit.

8. The administrator shall ensure that any pest control work performed at the facility is performed by a person licensed to engage in pest control pursuant to chapter 555 of NRS.

Sec. 14. 1. *An administrator shall ensure that laundry facilities are provided in the facility commensurate with the number of residents in the facility. At least one washer and at least one dryer must be provided in the facility.*

2. The laundry area in a facility must be maintained in a sanitary manner. All the equipment in the laundry area must be maintained in good working condition. All dryers must be ventilated to the outside of the building.

Sec. 15. *1. The kitchen in a facility and the equipment in the kitchen must be clean and must allow for the sanitary preparation of food. The equipment must be in good working condition.*

2. Perishable food must be refrigerated at a temperature of 40 degrees Fahrenheit or less. Frozen food must be kept at a temperature of 0 degrees Fahrenheit or less.

3. Food must not be stored in any area in which cleaning or pest control products are stored.

4. A facility with more than 10 residents must:

(a) Comply with applicable provisions of 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.

5. The equipment used for cooking and storing food in a facility with more than 10 residents must be inspected and approved by the Bureau of Health Protective Services of the Health Division and the state and local fire safety authorities.

Sec. 16. *1. A bedroom in a facility that is used by more than one resident must have at least 50 square feet of floor space for each resident who resides in the bedroom. A bedroom that is occupied by only one resident must have at least 80 square feet of floor space.*

2. The arrangement of the beds and other furniture in the bedroom must accommodate the residents occupying the bedroom in comfort and safety.

3. *A bed with a comfortable and clean mattress must be provided for each resident. The bed must be made with a mattress cover, two clean sheets, a blanket, a pillow and a bedspread. Linens must be changed at least once each week and more often if the linens become dirty.*

4. *Each mattress used in a facility must comply with the provisions of NRS 444.010 to 444.040, inclusive, and the regulations adopted pursuant thereto.*

Sec. 17. *A hall, stairway, unfinished attic, garage, storage area or shed or other similar area of a facility must not be used as a bedroom. Any other room must not be used as a bedroom if it is used for any other purpose.*

Sec. 18. 1. *All bathrooms and toilet facilities in the facility must be sufficiently lighted.*

2. *Each facility must have:*

(a) *A flush toilet and lavatory for each four residents; and*

(b) *A tub or shower for each six residents.*

3. *Each resident must have his own towels and washcloths. Paper towels may be used for hand towels. The towels and washcloths must be changed as often as is necessary to maintain cleanliness, but in no event less often than once each week. A soap dispenser that provides liquid or granular soap may be used instead of individual bars of soap.*

Sec. 19. 1. *A first-aid kit must be available at the facility. The first-aid kit must include, without limitation:*

(a) *A germicide safe for use by humans;*

(b) *Sterile gauze pads;*

(c) *Adhesive bandages, rolls of gauze and adhesive tape;*

(d) *Disposable gloves;*

(e) A shield or mask to be used by a person who is administering cardiopulmonary resuscitation; and

(f) A thermometer or other device that may be used to determine the bodily temperature of a person.

2. Except for first aid in an emergency, no treatment or medication may be administered to a resident.

Sec. 20. 1. Medication for self-administration may be kept at the facility. That medication must:

(a) Except as otherwise provided in subsection 3, be disposed of immediately when it expires or when a physician orders the medication to be discontinued;

(b) Be stored and controlled in a manner that protects the medication from unauthorized use; and

(c) Not be used by more than one of the residents.

2. Medication kept at the facility must be controlled and distributed in a manner that is consistent with applicable state and federal law.

3. The provisions of paragraph (a) of subsection 1 do not apply to over-the-counter medication.

Sec. 21. An administrator shall ensure that:

1. The facility has at least one telephone that is in good working condition in the facility; and

2. The telephone number of the facility is listed in the telephone directory.

Sec. 22. 1. An administrator shall notify the Bureau within 24 hours after the occurrence of an incident that:

(a) Involved significant harm to a resident of the facility if the resident of the facility required medical treatment as a result of the incident;

(b) May cause imminent danger to the health or safety of a resident of the facility; or

(c) May jeopardize the integrity of the operation of the facility.

2. The administrator shall report to the Health Division any fire or other disaster that takes place in the facility within 24 hours after the fire or other disaster occurs.

3. The administrator shall notify the Division of Parole and Probation of the Department of Public Safety of the occurrence of any of the incidents described in this section.

Sec. 23. *An administrator shall ensure that:*

1. A resident of the facility is not abused, neglected or exploited by another resident of the facility or any person who is visiting the facility;

2. A resident is not prohibited from speaking to any person who advocates for the rights of the residents of the facility;

3. Each resident is treated with respect and dignity;

4. The facility provides a safe and comfortable environment;

5. A resident is not prohibited from interacting socially in a manner that is consistent with the rules of the facility;

6. To the extent practicable and in a manner that is consistent with the rules of the facility, each resident is allowed to make his own decisions;

7. The telephone number of the local office of the Bureau and the name and telephone number of the administrator is conspicuously posted on the premises of the facility; and

8. Each resident of the facility is allowed to exercise his right to vote.

Sec. 24. 1. *An administrator shall ensure that the facility maintains a separate file for each resident of the facility and retains the file for at least 5 years after the resident permanently leaves the facility. The file must be kept locked in a location that is protected against unauthorized use. Each file must contain the information obtained by the facility that is related to the resident, including, without limitation:*

- (a) The full name, address and date of birth of the resident;*
- (b) The address and telephone number of any next of kin or guardian of the resident;*
- (c) Evidence of compliance with the provisions of NAC 441A.380;*
- (d) A list of the rules of the facility that is signed by the resident; and*
- (e) The name and telephone number of the parole officer of the resident, if any.*

2. *Except as otherwise provided in this subsection, the file of the resident must be kept confidential. The file of a resident must be made available upon request at any time to an employee of the Bureau who is acting in his capacity as an employee of the Bureau.*

Sec. 25. 1. *An administrator shall ensure that the facility complies with the regulations adopted by the State Fire Marshal pursuant to chapter 477 of NRS and any local ordinances relating to safety from fire.*

2. *A facility with more than 16 beds must be equipped with a sufficient number of sprinklers to cover the entire area of the facility.*

3. *The administrator shall ensure that the facility has a plan for the evacuation of residents in case of fire or other emergency. The plan must be:*

- (a) Understood by all residents;*
- (b) Posted in a common area of the facility; and*
- (c) Discussed with each resident at the time of his admission.*

4. At least one portable fire extinguisher must be available at the facility. Any portable fire extinguishers available at the 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.

5. The administrator shall ensure that a written policy on smoking is developed and carried out by the facility. The policy must be:

- (a) Developed with the purpose of preventing a fire caused by smoking in the facility; and*
- (b) Posted in a common area of the facility.*

6. Smoke detectors installed in a facility must be maintained in proper operating condition at all times and must be tested monthly. The results of the tests conducted pursuant to this subsection must be recorded and maintained at the facility.

7. If an automatic fire sprinkler system is installed in a facility, the system must be inspected:

- (a) Not less than once each calendar quarter by a person who understands the manner in which the system operates and the manner in which the system must be maintained; and*
- (b) Not less than once each calendar year by a person who is licensed to inspect such a system pursuant to the provisions of chapter 477 of NAC.*

Sec. 26. 1. *An administrator shall develop a written plan for disasters that outlines procedures for members of the staff of the facility and residents of the facility to follow in case of a disaster or other emergency. The plan must include, without limitation, provisions outlining procedures to be followed with regard to:*

- (a) Workplace threats and violence, bomb threats, and the possession of firearms or explosives by a resident;*
- (b) Medical emergencies;*

(c) Natural disasters typical of the particular geographic area in which the facility is located; and

(d) Other disasters, including, without limitation, a power failure, an interruption in the normal supply of water to the facility and threats by terrorists.

2. The plan must include, without limitation, provisions concerning the provision of temporary shelter and other services for residents of the facility who are required to evacuate the facility because of a disaster.

3. The provisions of the plan must be communicated to each member of the staff of the facility and each resident of the facility.

4. Each facility shall conduct a drill for evacuation of the facility at least once each quarter and shall ensure that each shift of the staff of the facility participates in such a drill at least annually.

5. Each facility shall retain a written record of each drill conducted pursuant to subsection 4 on file at the facility for not less than 12 months after the drill is conducted. The administrator shall make such records available for inspection by the Health Division upon request.

Sec. 27. NAC 449.0038 is hereby amended to read as follows:

449.0038 “Health Division” means the Health Division of the Department of *Health and* Human ~~Resources~~ *Services*.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R094-06**

The State Board of Health adopted regulations assigned LCB File No. R094-06 which pertain to chapter 449 of the Nevada Administrative Code on June 16, 2006.

Notice date: 5/17/2006
Hearing date: 6/16/2006

Date of adoption by agency: 6/16/2006
Filing date: 7/14/2006

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 potential Facilities for Transitional Living for Released Offenders, Facilities for the Treatment with Narcotics, and Halfway Houses for Recovering Alcohol and Drug Abusers on April 25, 2006. 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 May 17, 2006, in Reno and on May 19, 2006, in Las Vegas was published in the Las Vegas Review Journal and Reno Gazette Journal on May 1, 2006. Notices of public workshops, and proposed regulations were mailed to all county libraries in Nevada, potential Facilities for Transitional Living for Released Offenders, Facilities for the Treatment with Narcotics, Halfway Houses for Recovering Alcohol and Drug Abusers, and interested parties on April 25, 2006. On May 4, 2006, the Bureau of Licensure and Certification was informed that they could no longer use the room at the Reno location. Notice of public workshop change of location was published in the Las Vegas Review Journal and Reno Gazette Journal on May 12, 2006. Notice of public workshops change of location were mailed to all county libraries in Nevada, Facilities for Transitional Living for Released Offenders, Facilities for the Treatment with Narcotics, Halfway Houses for Recovering Alcohol and Drug Abusers, and interested parties on May 11, 2006. The Small Business Impact Summary was available at both workshops.

There were seven (7) individuals who provided comments at the workshops. There was overall support of the regulations. Concerns were about zoning, licensure fees being too high, the cost of bedding, and the requirements to have "support services" available will be another financial burden.

The bureau looks at the fees consistently to be sure it reflects the workload that it cost to charge licensure fees.

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 or before May 17, 2006. Notices of public hearing, and proposed regulations were mailed to all county libraries in Nevada, potential Facilities

for Transitional Living for Released Offenders, Facilities for the Treatment with Narcotics, and Halfway Houses for Recovering Alcohol and Drug Abusers, and interested parties on May 11, 2006. The notice of public hearing was mailed to Southern Nevada Health District and Southern Nevada County District Health Department on May 11, 2006.

The Legislative Council Bureau (LCB) had not completed the review of the proposed regulations until June 5, 2006. The LCB version was mailed out to the above mentioned parties on or before June 9, 2006.

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 136 people attended the June 16, 2006, Board of Health hearing.

(B) TESTIFIED AT EACH HEARING; AND

Ernest Brooks, stated that he was in favor of the state regulations, however, he was concerned with city zoning issues.

(C) SUBMITTED TO THE AGENCY WRITTEN STATEMENTS.

No written statements were submitted.

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: Facilities will be required to apply for a license with the State Health Division.

Beneficial: Facility licensure will reflect compliance with regulatory standards.

Anticipated effects on the public:

Adverse: None

Beneficial: Facility licensure will reflect compliance with regulatory standards.

(B) BOTH IMMEDIATE AND LONG TERM EFFECTS.

Anticipated effects on the business which NAC 449 regulates.

Immediate: Clients will receive services in a licensed facility.

Long-term: Clients will receive services in a licensed facility.

Anticipated effects on the public:

Immediate: Clients will receive services in a licensed facility.

Long-term: Clients will receive services in a licensed facility.

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.

These 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.

These amendments will not establish new funds. However, R0-95 Fees for Facility for Transitional Living for Released Offenders, will establish initial licensure and renewal fees. An applicant must pay to the Health Division the non refundable fee of \$2,010 for initial licensure and \$1,010 for annual renewal.