

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

**LCB File No. R114-10**

March 21, 2012

(Certain sections previously contained in this regulation have been removed for separate consideration; see LCB File No. R001-11)

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

AUTHORITY: §1, NRS 449.171; §2, NRS 449.0302 and 449.160.

A REGULATION relating to public health; prescribing provisions for the maintenance of medical records removed from certain medical facilities by the Health Division of the Department of Health and Human Services; providing for the period of retention of medical records in the control of the Health Division; providing penalties; 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. If the Health Division takes control of the medical records of a medical facility or a facility for the dependent pursuant to NRS 449.171, the Health Division:*

*(a) May remove any or all of the medical records and store them in a manner that ensures the safety of the medical records.*

*(b) May contract with a person or governmental entity to ensure the safety of the medical records.*

*(c) Shall determine the costs for maintaining the medical records and require the medical facility or facility for the dependent, as applicable, to pay those costs. The costs must be assessed beginning on the date on which the Health Division obtains control of the medical*

*records and ending on the date on which the medical records are destroyed or returned to the facility pursuant to subsection 3. The medical facility or facility for the dependent, as applicable, shall pay the costs within 30 days after receipt of notice of the amount owed.*

*2. If the Health Division contracts with a person or governmental entity pursuant to paragraph (b) of subsection 1, the Health Division shall ensure that the person or governmental entity complies with the provisions of subsection 2 of NRS 449.171.*

*3. The Health Division may:*

*(a) Unless a longer period is required by federal law, destroy a medical record upon expiration of the period of retention required by NRS 629.051; or*

*(b) Return a medical record to the medical facility or facility for the dependent, as applicable, if the license of the facility is reinstated or the facility restores its operation.*

*4. If the Health Division determines that a medical record in the control of the Health Division will be destroyed in accordance with subsection 3, the Health Division shall, for a period of not less than 30 days, post on an Internet website maintained by the Health Division and in other locations as determined by the Health Division a notice informing the patients of the medical facility or facility for the dependent, as applicable, how to obtain a medical record before it is destroyed.*

*5. If a medical facility or facility for the dependent fails to pay the amount owed pursuant to paragraph (c) of subsection 1, the Health Division may suspend or revoke the license of the medical facility or facility for the dependent pursuant to NAC 449.0118.*

**Sec. 2.** NAC 449.0118 is hereby amended to read as follows:

449.0118 In addition to the grounds set forth in NRS 449.160 and any other grounds specifically applicable to a particular license, the Health Division may deny an application for a license or may suspend or revoke a license upon any of the following grounds:

1. The failure or refusal of an applicant or licensee to comply with any of the provisions of chapter 449 of NRS or the regulations adopted by the State Board of Health.
2. The failure or refusal of an applicant or licensee to comply with a reasonable order from the Health Division to remove a resident from a facility or program.
3. Operating a facility or program without a license, if a license is required before operating.
4. Accepting for care, at any given time, more residents than the number specified in the license.
5. The failure or refusal of a licensee to return an adequate plan of correction to the Health Division within 10 days after the receipt by the licensee of a statement of deficiencies.
6. The failure or refusal to cooperate fully with an investigation or inspection by the Bureau.
7. Misappropriation of the property of a resident of a facility.
8. Abuse, neglect or exploitation of an infirm, mentally retarded or disabled person, or of a person who is 60 years of age or older.
9. *The failure of a medical facility or facility for the dependent to pay the costs for the maintenance of medical records of the facility required pursuant to paragraph (c) of subsection 1 of section 1 of this regulation.*