

PROPOSED REGULATION OF THE STATE BOARD OF HEALTH

LCB File No. R119-10

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

AUTHORITY: §§1-3, NRS 449.037.

Section 1 NAC 449.0118 is hereby amended to read as follows:

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, *or may revoke an endorsement authorized pursuant to NAC 449.2754 through NAC 449.2768*, 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.

(Added to NAC by Bd. of Health by R044-97, eff. 10-30-97)

Sec. 2 NAC 449.0119 is hereby amended to read as follows:

An applicant or licensee who is aggrieved by an action of the Health Division relating to the denial, suspension or revocation of a license *or endorsement* may appeal pursuant to the procedures set forth in NAC 439.300 to 439.395, inclusive.

(Added to NAC by Bd. of Health by R044-97, eff. 10-30-97)

Sec. 3 NAC 449.196 is hereby amended to read as follows:

1. A caregiver of a residential facility must:
 - (a) Be at least 18 years of age;
 - (b) Be responsible and mature and have the personal qualities which will enable him to understand the problems of the aged and disabled;
 - (c) Understand the provisions of NAC 449.156 to 449.27706, inclusive, and sign a statement that he has read those provisions;
 - (d) Demonstrate the ability to read, write, speak and understand the English language;

(e) Possess the appropriate knowledge, skills and abilities to meet the needs of the residents of the facility; and

(f) Receive annually not less than 8 hours of training related to providing for the needs of the residents of a residential facility.

2. If a resident of a residential facility uses prosthetic devices or dental, vision or hearing aids, the caregivers employed by the facility must be knowledgeable of the use of those devices.

3. If a caregiver assists a resident of a residential facility in the administration of any medication, including, without limitation, an over-the-counter medication or dietary supplement, *and before a caregiver may assist a resident in this manner*, the caregiver must:

(a) Receive ~~[in addition to the]~~ training required pursuant to NRS 449.037(6)(e), at least ~~[3]~~ *16* hours of training in the management of medication ~~[-The caregiver must receive the training], which includes at least 12 hours of classroom training and at least 4 hours of practical training;~~

(b) Receive at least 8 additional hours of training in the management of medication at least ~~[every 3 years]~~ *once each year thereafter* and provide the residential facility with satisfactory evidence of the content of the training and his attendance at the training; and

~~[(b)]~~ *(c) At least [every 3 years] once every year*, pass an examination relating to the management of medication approved by the Bureau.

Sec. 4 NAC 449.229 is hereby amended to read as follows:

1. The administrator of a residential facility shall ensure that the facility complies with the regulations adopted by the State Fire Marshal pursuant to chapter 477 of NRS and all local ordinances relating to safety from fire. The facility must be approved for residency by the State Fire Marshal.

2. If, during a survey of a residential facility, the Bureau suspects a violation of State Fire Marshal codes or regulations, or building ordinances, codes or requirements, then the Bureau shall refer the issue to the appropriate agency for investigation.

~~[2. A residential facility shall have a plan for the evacuation of residents in case of fire or other emergency. The plan must be:~~

~~—(a) Understood by all employees;~~

~~—(b) Posted in a common area of the facility; and~~

~~—(c) Discussed with each resident at the time of his admission.~~

~~—3. A drill for evacuation must be performed monthly on an irregular schedule, and a written record of each drill must be kept on file at the facility for not less than 12 months after the drill.~~

~~—4. Portable fire extinguishers 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. A portable heater or space heater must not be used in a residential facility unless the heater:~~

~~—(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.~~

~~—6. A fireplace must be equipped with glass doors or a metal screen to prevent ashes or burning wood from falling outside the fireplace.~~

~~—7. 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.~~
- ~~—8. The windows and doors of a residential facility must not be covered with security bars.~~
- ~~—9. Smoke detectors 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.]~~

3. ~~[10.]~~ An exit door in a residential facility must not be equipped with a lock that requires a key to open it from the inside unless approved by the State Fire Marshal or his designee.

Sec. 5 NAC 449.2742 is hereby amended to read as follows:

1. The administrator of a residential facility that provides assistance to residents in the administration of medications shall:

(a) Ensure that a physician, pharmacist or registered nurse who does not have a financial interest in the facility:

(1) Reviews for accuracy and appropriateness, at least once every 6 months, the regimen of drugs taken by each resident of the facility, including, without limitation, any over-the-counter medications and dietary supplements taken by a resident; and

(2) Provides a written report of that review to the administrator of the facility;

(b) Include a copy of each report submitted to the administrator pursuant to paragraph (a) in the file maintained pursuant to NAC 449.2749 for the resident who is the subject of the report; ~~[and]~~

(c) Make and maintain a report of any actions that are taken by the caregivers employed by the facility in response to a report submitted pursuant to paragraph (a) ~~[and]~~;

(d) Obtain a medication certificate from a program approved by the Bureau that provides at least 16 hours of training in the management of medication, which includes at least 12 hours of classroom training and at least 4 hours of practical training;

(e) Receive at least 8 additional hours of training the management of medication at least once each year thereafter and maintain on file at the facility satisfactory evidence of the content of the training and his attendance at the training;

(f) At least once every year, pass an examination relating to the management of medication approved by the Bureau;

(g) Develop and maintain a facility medication plan to ensure the following;

(1) Prevent the use of outdated, damaged or contaminated medications;

(2) Each resident's prescription medications and any over-the-counter drugs and supplements ordered for the resident are filled and refilled in a timely manner to avoid missed dosages;

(3) Verification that medication orders have been accurately transcribed to Medication Administration Records (MAR);

(4) Monitoring of medication administration and the effective use of the MAR's for documentation;

(5) Staff who are administering medications meet the qualifications set forth in NRS 449.037(6);

(6) Staff who are responsible for administering medications are adequately supervised;

(7) Routine communication of issues or observations related to the medication administration to the prescribing physician or other physician; and

(8) Maintain reference materials including current drug guide or medication handbook that is no more than two years old, or provide quick access links online.

(h) Ensure that the facility has its own training program to provide, in addition to the training required by subsection 3 of NAC 449.196, an initial orientation on the medication plan to each new caregiver employed by the facility who assists with medication administration, and an annual facility refresher to any caregiver who assists with medication administration, including, without limitation, an over-the-counter medication or dietary supplement, and maintains documentation of that training program; and

(i) Be ultimately responsible for any assistance provided to a resident of the facility in the administration of medication.

2. Within 72 hours after the administrator of the facility receives a report submitted pursuant to paragraph (a) of subsection 1, a member of the staff of the facility shall notify the resident's physician of any concerns noted by the person who submitted the report. The report must be reviewed and initialed by the administrator.

3. Before assisting a resident in the administration of any medication, including, without limitation, any over-the-counter medication or dietary supplement, a caregiver must obtain written information describing the side effects, possible adverse reactions, contraindications and toxicity of the medication.

4. Except as otherwise provided in this subsection, a caregiver shall assist in the administration of medication to a resident if the resident needs the caregiver's assistance. A caregiver may assist the ultimate user of controlled substances or dangerous drugs only if the conditions prescribed in subsection 6 of NRS 449.037 are met.

5. An over-the-counter medication or a dietary supplement may be given to a resident only if the resident's physician has approved the administration of the medication or supplement in writing or the facility is ordered to do so by another physician. The over-the-counter medication or dietary supplement must be administered in accordance with the written instructions of the physician. The administration of over-the-counter medications and dietary supplements must be included in the record required pursuant to paragraph (b) of subsection 1 of NAC 449.2744.

6. Except as otherwise provided in this subsection, a medication prescribed by a physician must be administered as prescribed by the physician. If a physician orders a change in the amount or times medication is to be administered to a resident:

(a) The caregiver responsible for assisting in the administration of the medication shall:

(1) Comply with the order;

(2) Indicate on the container of the medication that a change has occurred; and

(3) Note the change in the record maintained pursuant to paragraph (b) of subsection 1 of NAC 449.2744;

(b) Within 5 days after the change is ordered, a copy of the order or prescription signed by the physician must be included in the record maintained pursuant to paragraph (b) of subsection 1 of NAC 449.2744; and

(c) If the label prepared by a pharmacist does not match the order or prescription written by a physician, the physician, registered nurse or pharmacist must interpret that order or prescription and, within 5 days after the change is ordered, the interpretation must be included in the record maintained pursuant to paragraph (b) of subsection 1 of NAC 449.2744.

7. If a resident refuses, or otherwise misses, an administration of medication, a physician must be notified within 12 hours after the dose is refused or missed.

8. An employee of a residential facility shall not draw medication into a syringe or administer an injection unless authorized by law to do so.

9. If the medication of a resident is discontinued, the expiration date of the medication of a resident has passed, or a resident who has been discharged from the facility does not claim the medication, an employee of a residential facility shall destroy the medication, by an acceptable method of destruction, in the presence of a witness and note the destruction of the medication in the record maintained pursuant to NAC 449.2744. ~~[Flushing contents of vials, bottles or other containers into a toilet shall be deemed to be an acceptable method of destruction of medication.]~~

Sec. 6 NAC 449.218 is hereby amended to read as follows:

1. If, during a survey of a residential facility, the Bureau suspects a violation of State Fire Marshal codes or regulations, or building ordinances, codes or requirements, then the Bureau shall refer the issue to the appropriate agency for investigation.

~~[1. A bedroom in a residential facility that is shared by two or three residents must have at least 60 square feet of floor space for each resident who resides in the bedroom. A resident may not share a bedroom with more than two other residents. A bedroom that is occupied by only one resident must have at least 80 square feet of floor space.]~~

2. Each bedroom in a residential facility must have one or more windows *to the outside* that can be opened from ~~[the]~~ inside *the room* without the use of tools or a door to the outside which is at least 36 inches wide and can be opened from the inside.

3. The combined size of the windows in a bedroom in a facility that was issued a license on or after January 14, 1997, must equal not less than 10 percent of the floor space in the room. ~~;~~ ~~and each bedroom window must:~~

~~—(a) Be not less than:~~

~~—(1) Twenty-four inches in height; and~~

~~—(2) Twenty inches in width; and~~

~~—(b) Have a sill that is not more than 44 inches above the floor.]~~

4. The arrangement of the beds and other furniture in the bedroom must provide privacy for and promote the safety of the residents occupying the bedroom. Adjustable curtains, shades, blinds or similar devices must be provided for visual privacy.

5. Each resident must be provided:

(a) At least 10 square feet of space for storage in a bedroom for each bed in the bedroom; and

(b) At least 24 inches of space in a permanent or portable closet for hanging garments.

6. A separate bed with a comfortable and clean mattress must be made available for each resident. The bed must be at least 36 inches wide. Two clean sheets, a blanket, a pillow and a bedspread must be available for each bed. Linens must be changed at least once each week and more often if the linens become dirty. Additional bedding, including protective mattress covers, must be provided if necessary.

7. Upon the request of a resident, a residential facility may authorize the resident to use personal furniture and furnishings that comply with the requirements of subsection 6 if their use does not jeopardize the health and safety of any of the residents of the facility.

8. There must be a light outside the entrance to each bedroom to provide a resident with adequate lighting to reach safely a switch for turning on a light fixture inside the bedroom. Upon the request of a resident, bedside lighting must be provided.

Sec. 7 NAC Chapter 449 is hereby amended to read as follows:

*Residential facility with repeated grades of “D”; application of sanctions.
If any residential facility receives two consecutive grades of “D” on any combination of surveys or resurveys, the Bureau will revoke the license of the facility pursuant to NRS 449.160 and NAC 449.0118.*

Sec. 8 NAC 449.99863 is hereby amended to read as follows:

The sanctions available for all facilities include:

1. The imposition of a plan of correction as directed by the Bureau;
2. The issuance of a provisional license as provided by [NRS 449.091](#);
3. The imposition of a limitation on the occupancy of a residential facility;
4. The imposition of a ban on admissions;
5. Monitoring of the facility by the Bureau;
6. The assessment of monetary penalties;
7. The requirement that the facility be managed temporarily by a person appointed by the Bureau; and
8. The denial, suspension or revocation of the license *or endorsement* of the facility.

Facilities for Refractive Surgery

These regulation changes are being proposed in accordance with Assembly Bill 196, of the 2009 legislative session.

Section 7. NAC 449.4502 is hereby amended to read as follows:

~~[NAC 449.4502—Applicability of provisions. The provisions of NAC 449.450 to 449.4526, inclusive, do not apply to an ophthalmologist licensed pursuant to chapter 630 of NRS or a doctor of osteopathy licensed pursuant to chapter 633 of NRS who provides other ophthalmological medical services in addition to the evaluation of refractive errors of the eye and the surgical treatment of patients by:~~

- ~~—1. Photorefractive keratectomy;~~
- ~~—2. Laser in situ keratomeleusis;~~
- ~~—3. Conductive keratoplasty;~~
- ~~—4. Implantation of an intraocular lens; or~~
- ~~—5. Any other available technology, technique or procedure which surgically treats refractive errors of the eye and which has been approved by the United States Food and Drug Administration.]~~