

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

LCB File No. R104-12

October 23, 2012

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

AUTHORITY: §§1 and 2, NRS 439.890; §3, NRS 439.835 and 439.890; §§4-8, NRS 439.847 and 439.890.

A REGULATION relating to public health; establishing requirements for facilities for skilled nursing to report certain patient safety information and certain other health information; revising provisions relating to reports concerning the health and safety of patients at certain facilities; and providing other matters properly relating thereto.

Section 1. Chapter 439 of NAC is hereby amended by adding thereto a new section to read as follows:

“Facility for skilled nursing” has the meaning ascribed to it in NRS 449.0039.

Sec. 2. NAC 439.900 is hereby amended to read as follows:

439.900 As used in NAC 439.900 to 439.945, inclusive, *and section 1 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 439.901 to 439.912, inclusive, *and section 1 of this regulation* have the meanings ascribed to them in those sections.

Sec. 3. NAC 439.915 is hereby amended to read as follows:

439.915 1. A report submitted pursuant to NRS 439.835 must be submitted in the format prescribed pursuant to subsection 4 and must include, without limitation:

(a) The unique identification code assigned to the medical facility by the Health Division pursuant to subsection 5;

(b) The name of the person who is making the report;

(c) The date on which the sentinel event occurred;

(d) The date and time that the medical facility was notified of the occurrence of the sentinel event;

(e) If the patient resides in this State, the county in which the patient resides;

(f) If the patient does not reside in this State, the state or country in which the patient resides;

(g) The date of birth of the patient;

(h) The gender of the patient;

(i) A description of the sentinel event; and

(j) The department of the medical facility at which the sentinel event occurred.

2. Within 45 days after receiving notification or becoming aware of the occurrence of a sentinel event pursuant to subsection 1 or 2 of NRS 439.835, the patient safety officer of the medical facility in which the sentinel event occurred must submit a second report to the Health Division. A report required by this subsection must be submitted in the format prescribed pursuant to subsection 4 and must include, without limitation:

(a) The factors that contributed to the sentinel event, including, without limitation:

(1) Any medical or other condition of the patient;

(2) Any policy, procedure or process of the medical facility;

(3) Any environmental condition of the medical facility;

(4) Any behavior of a member of the staff of the medical facility;

(5) Any situation present at the medical facility; and

(6) Any problem involving communication or documentation at the medical facility.

(b) The corrective actions, if any, identified pursuant to NAC 439.917 that will be taken by the medical facility to address the factors that contributed to the sentinel event, including, without limitation:

- (1) A review of the policies, procedures or processes of the medical facility;
- (2) Any change or development of the policies, procedures or processes of the medical facility;
- (3) Any disciplinary actions taken against a member of the staff of the medical facility by the medical facility;
- (4) Any environmental or equipment changes made in the medical facility;
- (5) Any education or retraining provided to the staff of the medical facility;
- (6) The date by which each corrective action will be completed; and
- (7) The title of the person who is responsible for overseeing each corrective action.

(c) A copy of the plan to remedy the causes or contributing factors, or both, of the sentinel event developed pursuant to subsection 3 of NAC 439.917 or the statement prepared pursuant to subsection 4 of that section.

3. A report submitted pursuant to subsection 1 must indicate the date ~~and time~~ that the report was submitted to the Health Division. Proof satisfactory to the Health Division of the date ~~and time~~ that a report was submitted includes:

- (a) The postmark on the package in which the report was submitted to the Health Division;
- (b) The ~~time~~ *date* stamp created by a facsimile machine used to transmit the report to the Health Division;
- (c) The electronic ~~time~~ *date* stamp created by a program of electronic mail used to transmit the report to the Health Division; and

(d) Any other evidence acceptable to the Health Division, as indicated on the form created by the Health Division pursuant to subsection 4.

4. The Health Division shall develop the format for each report required by subsection 1 or 2, which must require, without limitation, the reporting of information relating to events on the list of serious reportable events contained in the most recent version of “Serious Reportable Events in Healthcare,” issued by the National Quality Forum, which is hereby adopted by reference. The Health Division shall distribute copies of the forms created pursuant to this subsection to each medical facility in this State. The Health Division shall notify medical facilities that an update to a form is available within 30 days after making a change to a form.

5. The Health Division shall assign a unique identification code to each medical facility in this State, to be used on the reports required by subsections 1 and 2.

6. The most recent edition of “Serious Reportable Events in Healthcare,” which is adopted by reference in subsection 4, may be obtained free of charge from the National Quality Forum, ~~[601-13th]~~ 1030 15th Street, N.W., Suite ~~[500-North,]~~ 800, Washington, D.C. 20005 , or on the Internet at <http://www.qualityforum.org/Publications.aspx>. If the State Board of Health determines that a revision is not suitable for this State, the Board will:

(a) Hold a public hearing to review its determination within 6 months after the date of the publication of the revision; and

(b) 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 in subsection 4.

Sec. 4. NAC 439.925 is hereby amended to read as follows:

439.925 For purposes of subsection 1 of NRS 439.847, to determine whether a medical facility *or a facility for skilled nursing* provides medical services and care to an average of 25 or more patients during each business day in the immediately preceding calendar year, the Health Division shall:

1. For a hospital described in NRS 439.805, divide the total number of inpatients admitted to the hospital during the preceding calendar year by 365.
2. *For a facility for skilled nursing, divide the sum of the daily censuses of patients during the preceding calendar year by 365.*
3. For a medical facility other than a hospital, divide the total number of patients seen by the medical facility in the immediately preceding calendar year by the total number of days on which the medical facility was open for business during that calendar year.

Sec. 5. NAC 439.930 is hereby amended to read as follows:

439.930 1. Each medical facility *or facility for skilled nursing* that participates in the National Healthcare Safety Network shall:

- (a) Subscribe to the National Healthcare Safety Network user group designated by the Health Division.
- (b) Comply with the requirements of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services for enrolling and maintaining enrollment in the National Healthcare Safety Network.
- (c) Comply with all definitions, methods, requirements and procedures established by the Centers for Disease Control and Prevention when collecting and submitting data to the National Healthcare Safety Network.

(d) Designate a person employed by the **[medical]** facility to act as the facility administrator for the National Healthcare Safety Network.

(e) Designate the persons at the **[medical]** facility who are authorized to access the National Healthcare Safety Network, if the **[medical]** facility determines that such access is necessary.

(f) Complete all training required by the Centers for Disease Control and Prevention for participation in the National Healthcare Safety Network and ensure that the facility administrator designated pursuant to paragraph (d) and each person who is authorized to access the National Healthcare Safety Network pursuant to paragraph (e) have been properly trained.

2. The person designated as the facility administrator for the National Healthcare Safety Network pursuant to paragraph (d) of subsection 1 is the person at the medical facility *or facility for skilled nursing* who is primarily responsible for accessing the National Healthcare Safety Network and submitting the required data to the National Healthcare Safety Network. The facility administrator must:

(a) Have authority to access all data of the **[medical]** facility that is required for submitting information to the National Healthcare Safety Network;

(b) Be able to certify authorized users who have been designated pursuant to paragraph (e) of subsection 1 by the **[medical]** facility to access the National Healthcare Safety Network and assist those persons in accessing the National Healthcare Safety Network; and

(c) Be responsible for accepting official documents and correspondence from the Centers for Disease Control and Prevention and the administrator of the National Healthcare Safety Network.

Sec. 6. NAC 439.935 is hereby amended to read as follows:

439.935 1. Each hospital described in NRS 439.805 that is required to participate in the National Healthcare Safety Network shall:

(a) Submit data to the National Healthcare Safety Network relating to all central line-associated bloodstream infection events.

(b) *Commencing not later than January 1, 2015, submit data to the National Healthcare Safety Network concerning the influenza vaccination rate of the healthcare personnel of the hospital.*

2. Each hospital described in NRS 439.805 that is required to participate in the National Healthcare Safety Network and that is not designated as a psychiatric hospital pursuant to NRS 449.202 shall:

(a) Commencing not later than February 1, 2011, submit data to the National Healthcare Safety Network relating to the ~~nosocomial~~ *healthcare-associated* methicillin-resistant Staphylococcus aureus infection rate of patients for each patient care location within the hospital . ~~that has been identified by the Centers for Disease Control and Prevention.~~

~~(e)~~ (b) Commencing not later than February 1, 2011, submit to the National Healthcare Safety Network the incident rate of hospital-onset methicillin-resistant Staphylococcus aureus bloodstream infections, which must be based on clinical cultures, for each patient care location within the hospital . ~~that has been identified by the Centers for Disease Control and Prevention.~~

~~(d)~~ (c) Commencing not later than February 1, ~~2011,~~ **2016**, implement the Antimicrobial Use and Resistance Option within the Medication-Associated Module of the Patient Safety Component of the National Healthcare Safety Network.

~~(e)~~ (d) Commencing not later than June 1, 2012, submit data to the National Healthcare Safety Network concerning surgical site infections relating to a:

- (1) Coronary artery bypass graft with both chest and donor site incisions;
- (2) Hip prosthesis;
- (3) Knee prosthesis; and
- (4) Laminectomy.

~~1~~ 3. Each hospital shall continue to report the information required pursuant to ~~this~~ subsection *1 or 2* to the National Healthcare Safety Network at the times and in the manner prescribed by the National Healthcare Safety Network for submission of that information.

~~2~~ 4. Each surgical center for ambulatory patients described in NRS 439.805 that is required to participate in the National Healthcare Safety Network shall ~~submit~~ :

(a) *Submit* data to the National Healthcare Safety Network concerning surgical site infections relating to a:

- ~~(a)~~ (1) Gallbladder surgery;
- ~~(b)~~ (2) Open reduction of a fracture;
- ~~(c)~~ (3) Herniorrhaphy; and
- ~~(d)~~ (4) Breast surgery.

(b) *Submit data to the National Healthcare Safety Network concerning the influenza vaccination rate of the healthcare personnel of the center.*

↪ Each surgical center for ambulatory patients shall continue to report the information required pursuant to this subsection to the National Healthcare Safety Network at the times and in the manner prescribed by the National Healthcare Safety Network for submission of that information.

~~3~~ 5. Each independent center for emergency medical care described in NRS 439.805 that is required to participate in the National Healthcare Safety Network shall submit data to the

National Healthcare Safety Network concerning the influenza vaccination rate of the health care personnel of the center. Each independent center for emergency medical care shall continue to report the information required pursuant to this subsection to the National Healthcare Safety Network at the times and in the manner prescribed by the National Healthcare Safety Network for submission of that information.

~~[4.]~~ **6.** Each obstetric center described in NRS 439.805 that is required to participate in the National Healthcare Safety Network shall submit data to the National Healthcare Safety Network concerning the influenza vaccination rate of the health care personnel of the center. Each obstetric center shall continue to report the information required pursuant to this subsection to the National Healthcare Safety Network at the times and in the manner prescribed by the National Healthcare Safety Network for submission of that information.

7. Each facility for skilled nursing that is required to participate in the National Healthcare Safety Network shall, commencing not later than:

(a) January 1, 2013, submit data to the National Healthcare Safety Network relating to all catheter-associated urinary tract infections.

(b) October 1, 2013, implement the Summary Method of the Vaccination Module of the Patient Safety Component of the National Healthcare Safety Network.

(c) January 1, 2014, implement the Clostridium difficile infection surveillance option of the Multidrug-resistant Organism and Clostridium difficile Infection Module of the Patient Safety Component of the National Healthcare Safety Network.

(d) October 1, 2014, implement the Influenza Vaccination Module of the Patient Safety Component of the National Healthcare Safety Network.

↪ *Each facility for skilled nursing shall continue to report the information required pursuant to this subsection to the National Healthcare Safety Network at the times and in the manner prescribed by the National Healthcare Safety Network for submission of that information.*

~~15.1~~ 8. A physician who performs a medical procedure at a medical facility that is required to report to the National Healthcare Safety Network shall report to the medical facility any facility-acquired infection which is diagnosed at a follow-up examination of the patient and which resulted from the medical procedure performed at the medical facility.

~~16.1~~ 9. A medical facility *or a facility for skilled nursing* shall report all confirmed and all suspected instances of a facility-acquired infection acquired at another medical facility *or facility for skilled nursing* to the medical facility *or facility for skilled nursing* in which the infection was acquired. The medical facility *or facility for skilled nursing* which reports a confirmed or suspected instance of a facility-acquired infection pursuant to this subsection shall keep a record of that report for not less than 3 years after making such report.

Sec. 7. NAC 439.940 is hereby amended to read as follows:

439.940 1. Except as otherwise provided in this section and NRS 239.0115, information provided to the Health Division through the National Healthcare Safety Network and any additional information requested by the Health Division is confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

2. The Health Division shall annually prepare and post on the Internet website maintained by the Health Division a report of aggregated data provided to the National Healthcare Safety Network.

3. The Health Division may prepare and post on the Internet website maintained by the Health Division a report of the data provided by a specific medical facility ~~1~~ *or facility for*

skilled nursing, including, without limitation, infections tracked by the medical facility ~~[]~~ *or facility for skilled nursing*, infection rates reported by the medical facility *or facility for skilled nursing* and the name of the medical facility ~~[, if:~~

~~—(a) The medical facility has given the Health Division permission to make such a report available to the public; and~~

~~—(b) The data released pursuant to this subsection does not reveal the identity or otherwise compromise the confidentiality of a medical facility that is included in the report of aggregated data posted pursuant to subsection 2 and which has not given the Health Division permission to report data specific to that medical facility.] *or facility for skilled nursing.*~~

4. The Health Division shall:

(a) Ensure that the name and other personally identifying information regarding each patient are kept confidential when preparing the report.

(b) Adhere to standard methods of suppressing protected health information and reporting to ensure that the identity of a patient is not revealed and to preserve patient confidentiality.

5. The Health Division may, at such times as it deems necessary, audit a medical facility *or a facility for skilled nursing* that participates in the National Healthcare Safety Network to ensure the accuracy of information submitted by the medical facility ~~[]~~ *or facility for skilled nursing*, including, without limitation, data relating to facility-acquired infections, health care records and tests.

Sec. 8. NAC 439.945 is hereby amended to read as follows:

439.945 ~~[]~~ If a medical facility *or a facility for skilled nursing* participates in the National Healthcare Safety Network, the chief executive officer of the medical facility ~~[]~~ *or facility for skilled nursing*, or the officer's designee, shall, on or before March 1 of each year,

submit to the Health Division a signed statement certifying that the medical facility *or facility for skilled nursing* has processes in place to ensure that the data relating to facility-acquired infections submitted to the National Healthcare Safety Network is accurate and meets the requirements of NAC 439.900 to 439.945, inclusive.

~~[2. The signed statement required by subsection 1 must be mailed to the Bureau of Health Care Quality and Compliance, 727 Fairview Drive, Suite E, Carson City, Nevada 89701.]~~