

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

**LCB File No. R013-14**

February 18, 2014

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

AUTHORITY: §1, NRS 432A.077 and 432A.190; §2, NRS 432A.077, 432A.141 and 432A.170;  
§§3-6 and 8-12, NRS 432A.077; §7, NRS 432A.077 and 432A.177;

A REGULATION relating to children; establishing the amount and the procedure for the imposition of certain administrative fines by the Division of Public and Behavioral Health of the Department of Health and Human Services; revising provisions relating to background investigations of certain persons associated with child care facilities; revising provisions relating to the qualifications of directors of child care facilities; revising provisions relating to training of persons employed in and directors of child care facilities; and providing other matters properly relating thereto.

**Section 1.** Chapter 432A of NAC is hereby amended by adding thereto a new section to read as follows:

*1. If an inspection of a facility conducted pursuant to NRS 432A.180 reveals that the person who operates the facility is in violation of any provision of this chapter or chapter 432A of NRS, the Division may issue a notice of violation. The notice of violation must:*

- (a) Be in writing and describe with particularity the nature of the violation;*
- (b) Include the time permitted to correct the violation; and*
- (c) Inform the person who operates the facility of the provisions of subsections 2, 3 and 4.*

*2. The Division may impose an administrative fine:*

- (a) In the amount of \$100 for:*

*(1) An injury to a child which is the direct result of the negligence of the licensee or an employee of the licensee.*

*(2) The failure to satisfy the requirements of this chapter or chapter 432A of NRS relating to information on the background and personal history of all persons required to be investigated two or more times during the licensing period of the facility.*

*(3) The failure to satisfy the applicable requirements for the ratio of caregivers to children pursuant to this chapter or chapter 432A of NRS two or more times during the licensing period of the facility.*

*(4) The failure to satisfy the requirements of this chapter or chapter 432A of NRS for training of the caregivers in the facility by the end of the licensing period of the facility.*

*(b) Of not more than \$100 per day for the failure to correct any other violation of a provision of this chapter or chapter 432A of NRS within the time frame specified in the notice of violation.*

*3. The Division may impose an administrative fine of \$200 in addition to any administrative fine prescribed by subsection 2 if the violation of a provision of this chapter or chapter 432A of NRS resulted in an injury to any person.*

*4. A licensee upon whom the Division imposes an administrative fine pursuant to this section may appeal that action pursuant to the procedures set forth in NAC 439.300 to 439.395, inclusive.*

**Sec. 2.** NAC 432A.200 is hereby amended to read as follows:

432A.200 1. An application for an initial license to operate a facility must be:

- (a) Submitted to the Division on a form supplied by the Division; and
- (b) Accompanied by the following appropriate fee:

- (1) If the facility is to provide care for 5 or 6 children.....\$20
- (2) If the facility is to provide care for 7 or more but not more than 12 children .....60
- (3) If the facility is to provide care for 13 or more but not more than 50 children .....100
- (4) If the facility is to provide care for 51 or more but not more than 100 children .....150
- (5) If the facility is to provide care for 101 or more but not more than 150 children .....200
- (6) If the facility is to provide care for 151 or more but not more than 200 children .....250
- (7) If the facility is to provide care for more than 200 children.....300

2. After receiving a completed application and payment of the appropriate fee, the Division shall:

(a) Conduct an investigation into the qualifications and background of:

(1) Every applicant and his or her employees, other than an educational intern who provides direct care to children for a period of less than 6 months; ~~and~~

(2) Every resident of the facility who is 18 years of age or older ~~;~~

~~(b) Conduct a partial investigation into the qualifications and background of every resident of the facility who is at least 16 years of age but less than 18 years of age;~~

~~—(c) Conduct a partial investigation into the background of every~~ *, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594;*

*(3) Every participant in an outdoor youth program who is 18 years of age or older; and*

*(4) Every* volunteer of the facility who is ~~at least 16~~ *18* years of age ~~and who regularly works for 15 hours or more per week in the facility;~~

~~(d)~~ *or older, other than a parent of a child who attends the facility;*

*(b)* Inspect the buildings of the facility; and

~~(e)~~ *(c)* Examine the plans for care of the children and management of the facility.

3. Documentation of completed and current investigations must be kept on file at the facility for all persons required to be investigated, for the period of their presence at the facility.

4. Fingerprints must be taken and applications for investigations must be made by:

(a) Every employee or a resident of the facility who is ~~at least~~ 18 years of age *or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594*, and every volunteer *of the facility* who is ~~at least~~ 18 years of age ~~and who regularly works for 15 hours or more per week in the facility within 3 working days~~ *or older, other than a parent of a child who attends the facility, within 24 hours* after the date of hiring or his or her presence in the facility, and every ~~6~~ 5 years thereafter.

(b) *Every participant in an outdoor youth program who is 18 years of age or older within 24 hours after the participant begins participating in the program and every 5 years thereafter.*

(c) An applicant at the time ~~of an~~ *that his or her* application ~~for initial license.~~ *—(e) is submitted for licensure, and then at least once every 5 years after the license is issued.*

(d) A licensee every ~~6~~ 5 years after the date his or her license is originally issued.

5. ~~Every 2 years after the investigation conducted pursuant to subsection 2 is completed, the Division shall conduct a partial investigation into the background of each volunteer who is at least 16 years of age and who regularly works for 15 hours or more in a facility and into the background of each licensee and employee of a facility.~~

~~6.~~ The Division shall immediately notify the applicant or licensee if the investigation conducted pursuant to subsection 2 ~~or 5~~ indicates that he or she or ~~an employee or resident of the facility or a volunteer who regularly works for 15 hours or more per week in the facility~~ *a*

*person whose fingerprints were taken pursuant to subsection 4* has been convicted of any offense listed in subsection 2 of NRS 432A.170 ~~f.~~

~~—7.)~~ *or has had a substantiated report of child abuse or neglect filed against him or her.*

6. The license must not be issued until the Administrator of the Division is satisfied that the proposed facility will be in compliance with the applicable codes concerning safety of human life, environmental health, and building and zoning, as established respectively by the State Fire Marshal, the State Board of Health and the appropriate local government. A report of inspection by the State Fire Marshal or the ~~{Bureau of Health Protection Services of the}~~ Division, finding satisfactory conditions, may be accepted by the Administrator as proof of compliance with the applicable regulations.

~~{8.}~~ 7. With the exception of a facility that is licensed by a branch of the military or naval service of the United States, a licensee who has a license to operate a family home or a group home may not obtain a license to operate any other family home, group home or other child care facility.

~~{9.}~~ 8. An applicant must, before a license is issued to him or her, submit to the Division a certificate stating that he or she holds a policy of insurance for protection against liability to third persons which will meet the requirement set forth in subsection 2 of NAC 432A.290. Any government, governmental agency or political subdivision of a government which operates a child care facility and is self-insured is not required to furnish a certificate of insurance to the Division.

~~{10.}~~ 9. If the applicant and the proposed facility are in compliance with the provisions of this chapter, as shown by his or her application and related material and the investigation, a license will be issued to the applicant within 30 days after completion of the investigation.

~~{11.}~~ 10. A licensee shall return to the Division his or her license if he or she ceases to operate a facility, if the license has been suspended or revoked or if the license is placed on a provisional basis.

~~{12. As used in this section, “partial investigation” includes, at a minimum, checking the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established by NRS 432.100 and performing a background check with local law enforcement.}~~

**Sec. 3.** NAC 432A.210 is hereby amended to read as follows:

432A.210 1. Each license must contain the name of each person authorized to operate the facility, the location of the facility, the number of children for whom care may be provided pursuant to the license and the nature of child care services which may be provided.

2. The current license issued to an operator of a facility must be signed by the Administrator of the Division *or a person designated by the Administrator* and conspicuously posted in a public place within the facility.

3. The license is not transferable from one licensee to another licensee or from a licensee to a person who is not a licensee. A license is valid only for the premises described in the license.

4. Except as otherwise provided in this chapter, a licensee may not care for a greater number of children than the number set forth on the license issued to the licensee.

**Sec. 4.** NAC 432A.260 is hereby amended to read as follows:

432A.260 1. To maintain his or her license, the licensee must ensure that his or her facility meets all standards for environmental health which are established by the ~~{Bureau of Health Protection Services of the}~~ Division.

2. Reports of inspections concerning the sanitation of a facility must be maintained in a physical file at the facility and available for review at the facility by a parent of a child who attends the facility or a parent who is considering enrolling a child at the facility for at least 2 years after the date of the inspection.

**Sec. 5.** NAC 432A.290 is hereby amended to read as follows:

432A.290 1. Each licensee of a facility shall have a working telephone listed in a local telephone directory. A current list of emergency telephone numbers, including health agencies, fire and police departments and ambulance services must be posted adjacent to the telephone.

2. Each licensee of a facility shall have a policy of insurance for protection against liability to third persons. A certificate of insurance must be furnished by the licensee of a facility to the Division as evidence that the policy is in force. Each policy must contain a provision which requires the insurer to notify the Division ~~{at least 30 days}~~ before cancellation or nonrenewal of the policy. The licensee shall notify the Division if there is a lapse in the insurance coverage required by this subsection. The policy of insurance must be maintained at the facility. Any government, governmental agency or political subdivision of a government which operates a child care facility and is self-insured is not required to furnish a certificate of insurance to the Division.

3. If transportation is provided by the licensee of a facility, all children must be protected by adequate supervision by the staff, safety precautions and adequate insurance which covers liability for health or injury, medical expenses and damages caused by uninsured motorists. The licensee of a facility shall require that each child is instructed in the conduct required for safe transportation. A driver of a vehicle used by the licensee of a facility shall:

(a) Possess an appropriate driver's license and adequate insurance;

- (b) Not leave an unattended child in the vehicle at any time;
- (c) Ensure that a parent, or a person designated in writing by the parent, is present to take charge of a child upon delivery of the child to his or her home or the facility;
- (d) Ensure that each child boards or departs the vehicle on the side of the vehicle adjacent to a curb and that the child is safely conducted across any street encountered immediately before boarding or after departing; and
- (e) Ensure that the doors and windows of the vehicle are secure before proceeding.

4. Except as otherwise provided in this section and NAC 432A.532, when transporting children, the licensee of a facility shall ensure that the ratio of caregivers to children in the vehicle satisfies the applicable requirement for the ratio of caregivers to children set forth in NAC 432A.524. When transporting children who are 2 years of age or older, a licensee of a special needs facility shall ensure that the ratio of caregivers to children in the vehicle satisfies the applicable requirement for the ratio of caregivers to children set forth in NAC 432A.532.

5. If, during the time school is in operation, the licensee of a facility provides transportation for children of school age to and from a public or private school, the ratio of staff to children in the vehicle must be not less than one member of the staff for every 15 children.

6. The licensee of a facility shall maintain a log for transportation provided by the licensee of the facility. The log must be maintained at the facility for at least 4 months after the transportation is provided. The log must include:

- (a) The name of each child who was transported;
- (b) The date the transportation was provided by the licensee of the facility;
- (c) The time of departure of the vehicle and the time the vehicle arrived at its destination;
- (d) The signature of the driver of the vehicle;

(e) The name of each adult who was transported in the vehicle, including, without limitation, the driver of the vehicle; and

(f) The signed verification required by subsection 7.

7. Upon arrival at the destination, one member of the staff of the facility shall mark each child off the log as the child departs the vehicle, conduct a physical inspection and visually and physically sweep the vehicle to ensure a child is not left behind in the vehicle, and include in the log signed verification that each child who was transported in the vehicle is accounted for and that the visual and physical sweeps were conducted.

**Sec. 6.** NAC 432A.300 is hereby amended to read as follows:

432A.300 1. ~~{The}~~ *Except as otherwise provided in subsection 3, the* licensee of a child care facility ~~{other than a facility that provides care for ill children, an accommodation facility, a special needs facility or a family or group home}~~ shall:

(a) Serve as the director of the facility, if the licensee has the qualifications ~~{of a director;}~~ *set forth in NRS 432A.1773;* or

(b) Appoint a ~~{suitably qualified}~~ person *who satisfies the qualifications set forth in NRS 432A.1773* to serve as the director.

2. The ~~{director of such a facility must be at least 21 years of age and, except as otherwise provided in NAC 432A.485:~~

~~—(a) Have earned a bachelor’s or associate’s degree and have completed at least 12 semester hours of education, of which:~~

~~{(1) At least 6 semester hours are in child development; and}~~

~~{(2) At least 6 semester hours are in child development, child psychology, education related to the health of children or in courses directly related to these fields, of which not more than 3 semester hours may be in courses concerning the business of child care;~~

~~→ and have at least 6 months of verifiable experience which is satisfactory to the Division in a program related to child education, early childhood development or child care;~~

~~—(b) Have earned a high school diploma or, if approved by the Administrator of the Division, a certificate based on general educational development, and have completed at least 12 semester hours of education, of which:~~

~~——(1) At least 6 semester hours are in child development; and~~

~~——(2) At least 6 semester hours are in child development, child psychology, education related to the health of children or in courses directly related to these fields, of which not more than 3 semester hours may be in courses concerning the business of child care;~~

~~→ and have at least 2 years of verifiable, satisfactory experience in a program related to child education, early childhood development or child care;~~

~~—(c) Have a current credential as a “Child Development Associate,” which has been issued by the Council for Early Childhood Professional Recognition, Washington, D.C. 20005; or~~

~~—(d) Have a combination of education and experience which, in the judgment of the Administrator of the Division, is equivalent to that required by paragraph (a), (b) or (c).~~

~~—3. Before a license is issued to a person to operate any child care facility for which a director is required, the person must submit a completed application for approval of the director. The application must be made on a form supplied by the Division. The applicant must sign an authorization which gives the Division permission to verify any information given in the~~

~~application.~~ licensee shall notify the Division of any appointment made pursuant to subsection 1 within 5 working days after the date of the appointment.

3. *If a person was approved as a director of a facility before May 28, 2013, and in accordance with regulations adopted by the State Board of Health, the person is not required to comply with the provisions of subsection 1:*

*(a) For the duration of a waiver obtained from the Division in accordance with section 3 of Assembly Bill No. 109, chapter 194, Statutes of Nevada 2013, at page 737; or*

*(b) If the person did not obtain such a waiver, until January 1, 2016.*

**Sec. 7.** NAC 432A.323 is hereby amended to read as follows:

432A.323 1. Except as otherwise provided in ~~subsection 4 and~~ NAC 432A.521 and NRS 432A.177, within 90 days after commencing his or her employment or position in a child care facility, each person who is employed in a child care facility, other than a person employed in a facility that provides care for ill children, and each director of a child care facility shall complete:

(a) Any training required by the facility in which the director serves or in which the person is employed for the purposes of obtaining certification in the administration of cardiopulmonary resuscitation as required pursuant to NAC 432A.322;

(b) Three or more hours of training in child development or guidance and discipline specific to the age group served by the facility in which the director serves or in which the person is employed;

(c) Two or more hours of training in the administration of first aid;

(d) Two or more hours of training in the recognition of signs and symptoms of illness, which must include, without limitation, training in the prevention of exposure to bloodborne pathogens;

(e) Two or more hours of training in the recognition and reporting of child abuse and neglect;  
and

(f) If the person or director works with infants under 12 months of age, at least 2 hours of training concerning Sudden Infant Death Syndrome.

2. Except as otherwise provided in NAC 432A.521, within 12 months after commencing employment, each person described in subsection 1 shall, in addition to completing any training required pursuant to subsection 1 and completing any course in the development of children required pursuant to NAC 432A.306, complete at least ~~{15}~~ *the number of* hours of training ~~{in professional development as required pursuant to}~~ *described in* NAC 432A.326.

3. Except as otherwise provided in NAC 432A.521, within 12 months after commencing employment as a member of the staff of a facility, each member of the staff of a facility who works in a nursery for infants and toddlers shall, in addition to completing any training required pursuant to subsections 1 and 2, and completing any course in the development of children required pursuant to NAC 432A.306, complete at least 2 hours of training concerning Sudden Infant Death Syndrome.

4. ~~{A new employee of a child care facility is not required to complete the training required pursuant to subsection 1 if he or she has completed that training within the previous 24 months.~~

~~—5.~~ The training concerning the administration of first aid and the recognition of signs and symptoms of illness that is required to be completed pursuant to subsection 1 must be provided by one of the persons, agencies or institutions listed in NAC 432A.308 as qualified to provide such training.

~~{6.}~~ 5. The training required pursuant to subsections 1, 2 and 3 must be designed to:

(a) Ensure the protection of the health and safety of each child enrolled in the facility; and

(b) Promote the physical, moral and mental well-being of each child enrolled in the facility.

~~{7.}~~ 6. If the facility is a special needs facility, the training required pursuant to subsections 1, 2 and 3 must also be designed to provide information on the characteristics of handicapping conditions and appropriate programs for children with special needs. The training must be approved by:

(a) The Nevada Registry or its successor organization, or any other agency designated by the Director of the Department to approve such training; or

(b) If the training has not been approved by The Nevada Registry or its successor organization, and the Director of the Department has not designated another agency to approve such courses, the Division or the local licensing agency.

~~{8.}~~ 7. Evidence that an employee has completed the training required pursuant to subsections 1, 2 and 3 must be included in his or her personnel file and must be kept at the facility. With regard to training concerning the administration of first aid and the recognition of signs and symptoms of illness, the evidence listed in NAC 432A.308 as adequate evidence of compliance is adequate evidence of compliance for the purposes of this section.

**Sec. 8.** NAC 432A.326 is hereby amended to read as follows:

432A.326 1. During each 12-month *licensing* period immediately succeeding the completion of the initial training required pursuant to NAC 432A.323, each director of a child care facility and each caregiver who is employed at the facility shall complete :

(a) *If the facility provides care for ill children*, at least 15 hours of training, ~~{in professional development,}~~ of which not more than 3 hours may be training in the administration of cardiopulmonary resuscitation.

*(b) If the facility does not provide care for ill children, the number of hours of training required pursuant to subsection 1 or 2 of NRS 432A.1775, as applicable, of which not more than 3 hours may be training in the administration of cardiopulmonary resuscitation.*

2. The ~~required~~ hours of training *described in subsection 1* may consist of:

(a) Informal training, including, without limitation, on-site training at a facility, community workshops or conferences;

(b) Formal training; or

(c) An early child care and education course offered by a community college or university.

~~2.~~ 3. Any training relating to the administration of cardiopulmonary resuscitation must be taught by a certified instructor who meets the standards of a nationally or internationally recognized provider of training in cardiopulmonary resuscitation, including, without limitation, the American Heart Association, the American ~~National~~ Red Cross, MEDIC ~~FIRST-AID International~~, *First Aid*, EMS Safety Services, or the American Safety and Health Institute.

3. The training must be approved by:

(a) The Nevada Registry or its successor organization, or any other agency designated by the Director of the Department to approve such training; or

(b) If the training has not been approved by The Nevada Registry or its successor organization, and the Director of the Department has not designated another agency to approve such courses, the Division or the local licensing agency.

4. A director or caregiver described in subsection 1 may not receive credit toward the training required pursuant to subsection 1 for hours of training received concerning the administration of first aid or concerning the recognition of signs and symptoms of illness more than once every 36 months.

**Sec. 9.** NAC 432A.378 is hereby amended to read as follows:

432A.378 1. Upon the occurrence of any accident or injury which requires emergency professional medical care of a child, the director ~~{, operator or owner}~~ of each facility shall report the occurrence to the Division or local licensing agency as soon as possible and shall keep on file at the facility a report of the occurrence.

2. If the director ~~{, operator or owner}~~ of a facility finds that any reportable communicable disease may be present in the facility, he or she shall report that condition to the Division or local licensing agency as soon as possible. The Division or local licensing agency shall provide the list of reportable communicable diseases to all licensees and applicants.

3. The director ~~{, operator or owner}~~ of each facility shall report as soon as possible to the Division or local licensing agency the death of any child who attends or lives in the facility.

**Sec. 10.** NAC 432A.485 is hereby amended to read as follows:

432A.485 ~~{The}~~ *In addition to satisfying the requirements of NRS 432A.1773, the* director of a special needs facility must:

1. Have earned a bachelor's or associate's degree, and have completed at least:
  - (a) Twelve semester hours of education, of which:
    - (1) Three semester hours are in child development;
    - (2) Six semester hours are in the education of children with special needs; and
    - (3) Three semester hours are in child psychology, education related to the health of children, the education of children with special needs or courses directly related to those subjects; and

(b) Six months of verifiable experience, satisfactory to the Division, in a program related to the education of children, early childhood development, child care or the education of children with special needs;

2. Have earned a high school diploma or a certificate based on general educational development approved by the Administrator of the Division, and have completed at least:

(a) Twelve semester hours of education, of which:

(1) Three semester hours are in child development;

(2) Six semester hours are in the education of children with special needs; and

(3) Three semester hours are in child development, child psychology, education related to the health of children, the education of children with special needs or courses directly related to those subjects; and

(b) Two years of verifiable experience satisfactory to the Division, in a program related to child education, early childhood development, child care or the education of children with special needs; or

3. Have a combination of education and experience which, in the judgment of the Administrator of the Division, is equivalent to the requirements of subsection 1 or 2.

**Sec. 11.** NAC 432A.560 is hereby amended to read as follows:

432A.560 *In addition to satisfying the requirements of NRS 432A.1773:*

1. The director of a facility that provides care for ill children must be:

(a) A physician as defined in NRS 630.014;

(b) A physician assistant as defined in NRS 630.015;

(c) An advanced practice registered nurse, as defined in NRS 632.012, who has a specialty in pediatrics;

(d) A registered nurse as defined in NRS 632.019; or

(e) A licensed practical nurse, as defined in NRS 632.016, who has 2 years of experience in pediatric nursing.

2. The director shall complete at least 60 hours of initial training in:

(a) The control of communicable diseases; and

(b) The recognition of signs and symptoms of childhood illnesses and the care of childhood illnesses.

3. The director must be ~~+~~

~~—(a) At~~ *at* least 21 years of age ~~+~~ and

~~+(b) Certified~~ *certified* in the administration of cardiopulmonary resuscitation.

~~4.~~ The certification in the administration of cardiopulmonary resuscitation ~~set forth in subsection 3~~ must be obtained before a person may hold the position of director of a facility that provides care for ill children.

**Sec. 12.** NAC 432A.233 and 432A.235 are hereby repealed.

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## TEXT OF REPEALED SECTIONS

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**432A.233 Group homes for which license as nursery for infants and toddlers not required. (NRS 432A.077)** A group home is not required to be licensed as a nursery for

infants and toddlers if the licensee does not provide care for more than eight children who are under 3 years of age.

**432A.235 Waiver of Board's regulations. (NRS 432A.077)**

1. A person who desires a waiver of all or any part of the Board's regulations concerning licensing must submit a completed application for the waiver to the Division or other appropriate agency for the licensing of facilities.

2. An application for a waiver filed with the Board must be submitted to the Board at its next regularly scheduled meeting if the waiver is filed 60 days before that meeting. The application must be accompanied by the recommendation of the Division and the appropriate agency for the licensing of facilities.

3. The Board will grant a waiver if it determines that good cause exists. The Board will not grant a waiver which will threaten public health or safety.

4. The Board will specify the length of time a waiver is in effect.

5. A waiver granted by the Board will be revoked before the expiration of the period of the waiver if, after a public hearing, the Board determines that the public health or safety is threatened or the basis upon which the waiver was granted no longer exists.

6. For the purposes of this section, "good cause" exists when an applicant is unduly burdened by a regulation of the Board and thereby suffers a severe hardship because of circumstances or conditions which are unique to the applicant.