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Governor

NEVADA HEALTH AUTHORITY
HEALTH CARE PURCHASING AND COMPLIANCE DIVISION

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Stacie Weeks
Director

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Administrator

Notice of Hearing for the Amendment of Regulations of the Board of Health

NOTICE OF INTENT TO ACT UPON A REGULATION

LCB File No. R089-24

Nevada Administrative Code (NAC) Chapter 449

NOTICE IS HEREBY GIVEN that the State Board of Health will hold a public hearing to consider amendments to Nevada Administrative Code (NAC) as the result of the passage of Senate Bill 146, Senate Bill 298 and Assembly Bill 403 of the 2023 legislative session. In addition, the proposed regulations carry out the Governor's executive order 2023-003 by removing provisions of regulations that are outdated or impose an unnecessary burden on business and include provisions that protect public safety. This public hearing is to be held in conjunction with the State Board of Health meeting on December 5, 2025.

The State Board of Health will be conducted via video conference beginning at 9:00 am on December 5, 2025, at the following locations:

Physical Locations

Division of Public and Behavioral Health
Hearing Room 303
4150 Technology Way
Carson City, NV 89706

Southern Nevada Health District
Red Rock Trail Rooms A & B
208 S. Decatur Blvd.
Las Vegas, NV 89107

Virtual Information

Meeting Link

Microsoft Teams

https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZDk3MjdmNDctZjk4Ny00YTE4LWlxMTUtYWZkN2Q3M2ZlZmVi%40thread.v2/0?content=%7b%22id%22%3a%22e4a340e6-b89e-4e68-8eaa-1544d2703980%22%2c%22oid%22%3a%22768e443d-3be6-48f0-9bb0-7e72f1276b8d%22%7d

Please Note: If you are experiencing technical difficulties connecting online, please call into the meeting to participate by phone.

Join By Phone

(775) 321-6111

Phone Conference ID: 339 190 976#

LCB File No. R089-24 addresses the following main topics:

- Authorizes a certified nurse midwife to perform a physical exam or obtain a medical history before or after a patient is admitted to a hospital for the purpose of giving birth (Senate Bill 146).
- Address visitation in a facility for the dependent.
- Removes halfway houses for persons recovering from alcohol or other substance use regulations from NAC 449 in conformance with Assembly Bill 403.
- Addresses confidentiality of inspection and complaint investigations.
- Addresses use of volunteers in homes for individuals for residential care.
- Establishes educational and training requirements for mental health technicians and psychiatric technicians and exempts mental health technicians who work in state hospitals unless they have established requirements in state statutes/regulations.
- Addresses the use of home health and hospice services in a residential facility for groups.
- Provides criteria for residential facilities for groups to accept or retain a resident with a peripherally inserted central catheter or a peritoneal catheter.
- Requires the use of an inter-facility infection control transfer form when transferring a patient from one licensed health care facility to another with a current infection, colonization or history of a positive culture of a multi-drug-resistant organism or other potentially transmissible infectious organism.
- For general licensure requirements, it clarifies that at least one personal reference is needed; instead of providing a copy of the business license that required the business identification number to be provided; and removes the requirement for an applicant, that is a corporation to submit a copy of its bylaws and articles of incorporation.
- Increases the timeframe to submit a change of administrator from 10 to 30 days from the date of the change and assess a late fee if it is not submitted within 30 days instead of 10 days currently in regulations.
- Refers the definition of a psychiatric residential treatment facility back to the statutory definition instead of a regulatory definition.

- Adds employment agency to provide nonmedical services, outpatient facility, recovery center, psychiatric residential treatment facility to NAC 449.0168 (Fees for modification of certain licenses).
- Removes the word “ironed” as it relates to linen from several sections.
- Updates cardiopulmonary resuscitation (CPR) training requirements to include in-person instruction, combination of in-person and virtual instruction, or virtual instruction only, if an interactive, hands-on skills training component is provided.
- Clarifies regulatory language as to which residents are not admissible into a residential facility for groups and clarifies when waivers are required for admission and when they are not. The proposed regulations also allow a patient of a hospice program to be admitted into a residential facility for groups without prior approval so long as the resident is retained pursuant to subsection 6 of section 44 of the proposed regulations.
- Conforms with Senate Bill 298 of the 2023 Nevada Legislative session as it relates to involuntary discharges.
- Omits provisions in current regulations that were determined to be an extra burden on industry without adding benefit to public safety.
- Expands the scope of services that can be provided by attendants working at an agency providing personal care services in the home.
- Requires skilled nursing facilities to comply with the provisions of 42 CFR 483.10(f) (4) relating to the visitation of patients.
- Propose changes to NAC 449.793 to allow, in addition to physicians, a physician assistant or advanced practice registered nurse to serve on the Committee to provide quarterly reviews of sampled patient records receiving services from an agency to provide nursing in the home.

1. Anticipated effects on the business regulated by the proposed regulations:

Adverse effects:

The cost for an employment agency to provide nonmedical services, an outpatient facility, a recovery center, or a psychiatric residential treatment facility to modify its license. The cost to modify the license is \$250; the estimated financial impact on a small business depends on how many times a facility modifies its license and if it never modifies its license the cost would be \$0.

Review of comments received from the small business impact questionnaire revealed that taking 15 minutes to complete the inter-facility infection control transfer form would result in a negative financial impact. The proposed regulations clarify that the inter-facility infection control transfer form does not need to be completed on every patient, but only if the facility is aware of or suspects a patient currently has an infection, colonization or a history of a positive culture of a multidrug-resistant organism or other potentially transmissible infectious organism. According to the CDC’s Health Topics – Healthcare-associated infections (HAI) webpage (<https://www.cdc.gov/policy/polaris/healthtopics/hai/index.html>): “HAIs in U.S. hospitals have direct medical costs of at least \$28.4 billion each year. They also account for an additional \$12.4 billion in costs to society from early deaths and lost productivity.”

There have been reports of patients being transferred to a receiving facility without notification or notification in a manner that brings attention to the patient’s infectious disease status before the patient is integrated into the facility, indicating that the patient has an infectious disease or is colonized with an organism such as candida auris. The purpose of the form is to foster communication during this critical

transition to help ensure the receiving facility is aware of the patient's infectious disease status so it can implement any necessary measures to keep its population safe. Therefore, although there may be some additional staff time involved to complete the form, it is anticipated that the potential for the prevention of the spread of an infectious disease using the form may have a positive financial impact.

There was a comment related to the negative financial impact because of the passage of Senate Bill 298 of the 82nd legislative session (2023). The proposed regulations bring current regulations in line with Senate Bill 298 and do not provide any additional requirements beyond what is required in the bill; therefore, any negative impact on business, if any, is a direct result of the passage of Senate Bill 298 and not of the proposed regulations being moved forward.

There was also concern expressed that allowing diabetic injection administration in a group home setting would increase liability insurance for business. The section that amended NAC 449.2276 related to the care of people who have diabetes was removed from the proposed regulations; therefore, there is no new financial impact to the LCB Draft of Revised Proposed Regulation R089-24 related to this issue.

Beneficial effects: There may be direct and/or indirect beneficial effects including:

- Clarifying that residents with peripherally inserted central catheters or peritoneal catheters may be admitted or retained in a residential facility if certain conditions are met. This may have a positive financial impact if it avoids the discharge of a resident and maintains the associated revenue.
- The use of the inter-facility infection control transfer form may result in a positive impact on revenue. If a facility is aware that a new admission has an infectious organism it can put measures in place to help prevent the spread of such organism and save money on resources such as an increased use of personal protective equipment that may be associated with the spread of an infectious organism in a facility.
- Removing the need to include certain documents to obtain a license results in the ability for the Division to process and approve an application in a more efficient manner, which may result in the ability for a business to open and start collecting revenue more quickly.
- Increasing the timeframe from which a licensee shall notify the Division of a change in administrator of the facility and pay any associated late fee from 10 to 30 days will provide a more realistic timeframe for facilities to provide such notification; therefore, potentially avoiding the late fee.
- Removing requirements related to ironing, posting telephone numbers in a telephone directory, providing flexibility to use a cellphone, and reducing the burden related to written waivers that must be submitted to the Division, pursuant to NAC 449.2736, may all have a positive financial impact on a business.
- Expanding the scope of services that may be provided by a personal care agency through its attendants may result in less clients leaving personal care agencies or allow an agency to attract a greater number of clients; therefore, potentially preventing the loss of revenue or increasing revenue.
- Allowing physician assistants or advanced practice registered nurses, in addition to physicians, to be appointed to the Committee pursuant to NAC 449.793, may result in salary savings. In addition, removing the requirement that a branch office of home agency be small to establish one

Committee, instead of more than one Committee, may result in cost saving through increased efficiencies and a saving on salaries to maintain more than one Committee.

Immediate effects: The financial impacts, both adverse and beneficial, would be immediate upon passage of the proposed regulations. For example, an outpatient facility that modified their license pursuant to Section 21 of the proposed regulations would be immediately subject to the \$250 license modification fee.

Long-term effects: The long-term impacts, both adverse and beneficial, would continue for the long term until such time the proposed regulations are amended in a manner that would change the impact.

2. Anticipated effects on the public:

A. *Adverse effects:* There are no anticipated adverse effects to the public.

B. *Beneficial effects:* Beneficial effects on the public include:

- 1) Anticipated improved initial health facility application processing times.
- 2) Improved public safety in health care facilities licensed pursuant to NRS and NAC Chapter 449.
- 3) Increased number of services that a personal care agency may provide may allow individuals to remain in their homes longer, make it easier for them to obtain necessary care and assistance, and improve their quality of lives.
- 4) Helps ensure visitation rights for residents of a facility for the dependent.

C. *Immediate effects:* The beneficial impacts may not be realized immediately in all cases, for example, it may take time for personal care agencies to increase the number of services they provide, but others, such as improved initial application licensure processing times, could be implemented immediately.

D. *Long-term effects:* The beneficial impacts would remain long-term as licensed health care facilities carry out the provisions of the proposed regulations that improve public safety and help improve the quality of the lives of patients. It is also anticipated that increased efficiencies in initial licensure application processing times will continue for the long term.

3. On April 24, 2024, the Division of Purchasing and Compliance determined the impact on small business by conducting a public workshop, and distributing a small business impact questionnaire and proposed regulations to NRS and NAC Chapter 449 licensed health facilities that were licensed at the time of the notice's distribution, to members of the public who have chosen to subscribe to the Division's health facility specific ListServ, and to representatives of the Nevada Health Care Association, Nevada Hospital Association, and Nevada Rural Hospital Partners. The proposed regulations were also posted on the Division of Public and Behavioral website. During the public workshop held, there were approximately twenty-eight (28) individuals who attended. One State staff member participated in person for a total of twenty-nine (29) participants. Five (5) individuals provided testimony during the public workshop.

Below is a summary of the testimony provided by the five (5) individuals during the public workshop.

Testimony #1

The person providing the testimony noted he appreciates the work on the proposed regulations, but expressed concern related to requiring in-person CPR training instead of allowing a 100% virtual option. The person providing testimony recommended the Division to allow a virtual training option that fits the same requirements that can be met in person.

In addition, although the person providing testimony supported the change that would allow personal care attendants to administer medications, he had a concern related to the 16 hours of training being added. The concern noted that the hours for training are not reimbursed by the Division. He felt that paying for the training would create a huge challenge and burden to personal care agencies. He noted that when you consider all the required training, it results in a huge cost to providers without being reimbursed by the state for this training. He noted all the training courses required are unfunded or unreimbursed; therefore, he would love to see the Division find a way to help reimburse these training courses, especially around medication administration, as he believes it is of great value to the State. Examples of the added value to the State included that clients be able to remain in the least restrictive environment and reducing costs to the overall health care system.

Testimony #2

The person providing testimony noted she was in opposition to Senate Bill 298 as it relates to involuntary discharges from residential facilities for groups. She explained they were a small nonprofit who specializes in caring for people with complex medical needs and brain injuries who need maximum assistance and that their mission is to provide housing for the disabled population in need. She noted that since the inception of Senate Bill 298, they have gone completely unfunded with four clients. She noted the services they provide are so extensive it costs an average of \$400.00 per day per client to provide the services. She provided several examples of clients that were unfunded. She noted there was no avenue to discharge the clients leaving them with the responsibility of bearing the costs.

She also gave an example of a client who was provided with notice because he was violent, and his behaviors were out of control for their setting. She noted no other setting would accept him; therefore, their staff had to care for him, even though their staff were at risk due to his violence.

She noted there are two parts to this bill that were concerning. One is rent and that covers the residence, but the other, more concerning part, is the services that are provided. She testified the services that are provided are quite extensive and very expensive because there are no discharge plans for many of the clients. She noted they are not required per Senate Bill 298 to continue the plan of care indefinitely at a significant cost to them with no updates to the plan of care as needed since the State is the entity

responsible for initially writing this plan. Now, not only do they need to provide these expensive and extensive services, but they must hire additional clinical personnel to update the plan accordingly. She questioned whether that was even permissible since Senate Bill 298 states they will continue the same services. She noted this could be detrimental to their clients as their needs do change over time.

She asked the following questions:

Where are these safe discharge sites at the Community level?

And since the state is mandating that services need to be continued, should the burden not be placed on the state if there is no other safe discharge for clients who have lost their Medicaid yet still require the services? Or is this burden going to continue to be placed on these providers, which I believe will place us all at great risk.

Testimony #3

The person providing testimony noted they have three hospitals in the State of Nevada, and she wanted to voice her support for the increased time frame from 10 to 30 days related to the change of administrator application.

Testimony #4

The person had questions related to current regulations and did not have questions specific to the proposed regulations.

Testimony #5

The person testified she had safety concerns related to the proposed regulations including concerns with the trimming of fingernails and toenails. She noted it was recommended that people with diabetes have their toenails cut by a podiatrist and that they don't do it themselves. She noted the regulations could result in untrained people cutting people's toenails. She felt that there was a danger with no training including a diabetic losing a foot. The other concern was related to the range of motion exercises. She noted these are provided by a medical professional, such as a physical therapist.

She noted there is no kind of training mentioned for range of motion exercises or trimming nails, and she felt this would be putting clients in danger and she is opposed to those.

She made a comment related to the medication training requirements, and noted she believed we were talking about the Med tech training.

3. Costs Associated with the Change

The estimated cost for the Division to enforce the proposed regulations would be \$0 to \$17,000 per year depending on the number of requests received to modify a license pursuant to NAC 449.0168 (Section 21), if any. The fee noted below would be used to pay for the cost of enforcement of the proposed regulations.

There currently is an existing fee pursuant to NAC 449.0168 (Section 21) that allows the Division to assess a fee of \$250 to modify the license of a medical facility, facility for the dependent, program of hospice care or a referral agency. As new facility types are added by new statutes or in accordance with statutory authority, they may not be included in the definition of a medical facility or facility for the dependent or added to NAC 449.0168, then the Division is not authorized to collect the \$250 fee to modify a license. The proposed regulations add an employment agency to provide nonmedical services as defined in NAC 449.0033, an outpatient facility defined pursuant to NAC 449.999417, a recovery center defined pursuant to NAC 449.99702, and a psychiatric residential treatment facility as defined in NRS 449.1195, to NAC 449.0168 to be able to collect such a fee.

The total annual amount DPBH expects to collect is unknown because there is no way to determine if any of the above-mentioned facilities will apply for modification of its license or the number of times it may modify its license in a given year. If none of the facilities modify its license, the amount collected in a year would be \$0. If every currently licensed facility added to NAC 449.0168 modified its license pursuant to NAC 449.0168 the total amount collected in a year would be approximately \$17,000.

The money would be used to cover the Division's operating costs related to the work associated with the modification of a license including applicable application processing and inspection costs.

4. Comparison of State Proposed Regulation to the Federal Regulations

The proposed regulations are not more stringent than the federal regulations for skilled nursing facilities. The proposed regulations require a skilled nursing facility to follow federal CMS visitation guidelines which eliminate any conflicts between state and federal visitation regulatory guidelines.

Certification by the Centers for Medicare and Medicaid Services (CMS) is voluntary but state licensure is mandatory for skilled nursing facilities. As such, both federal and state regulations are needed, as there is a possibility that a facility chooses to be state licensed only, in which case the CMS federal regulations would not apply, but the state regulations would apply.

Members of the public may make oral comments at this meeting. Persons wishing to submit written testimony or documentary evidence in excess of two typed, 8-1/2" x 11" pages must submit the material to the Board's Secretary, Dena Schmidt, to be received no later than November 19, 2025, at the following address:

Secretary, State Board of Health
Division of Public and Behavioral Health
4150 Technology Way, Suite 300
Carson City, NV 89706
stateBOH@health.nv.gov

Written comments, testimony, or documentary evidence in excess of two typed pages will not be accepted at the time of the hearing. The purpose of this requirement is to allow Board members adequate time to review the documents.

A copy of the notice and proposed regulations are on file for inspection and/or may be copied at the following locations during normal business hours:

- Nevada Division of Public and Behavioral Health - 4150 Technology Way, Suite #300, Carson City, NV 89706
- Nevada Health Authority/Health Care Purchasing and Compliance Division - 727 Fairview Dr, Suite E, Carson City, NV 89706
- Nevada Health Authority/ Health Care Purchasing and Compliance Division – 500 E Warm Springs Dr. Ste. 200, Las Vegas, NV 89119
- Nevada State Library and Archives - 100 Stewart Street, Carson City, NV, 89701
- Nevada Health Authority - 4070 Silver Sage Carson City, NV 89701
- Southern Nevada Health District - Red Rock Trail Rooms A & B - 208 S. Decatur Blvd. Las Vegas, NV 89107

A copy of the regulations and small business impact statement can be found on-line by going to:

https://nvha.nv.gov/Consumers/HCPublic_Notices/

A copy of the public hearing notice can also be found at Nevada Legislature's web page:

<https://www.leg.state.nv.us/App/Notice/A/>

Copies may be obtained in person, by mail, or by calling the Health Care Purchasing and Compliance Division at:

Health Care Purchasing and Compliance Division
727 Fairview Drive, Suite E
Carson City, NV 89701
(775) 684-1030
(775) 484-4009
lmetherell@nvha.nv.gov

Per NRS 233B.064(2), upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.