

LCB File No. R065-04

**PROPOSED REGULATION OF THE HEALTH DIVISION OF  
THE DEPARTMENT OF HUMAN RESOURCES**

**PROPOSED CHANGES TO REGULATIONS OF  
THE STATE BOARD OF HEALTH  
GENERAL REQUIREMENTS FOR LICENSURE AND FEES**

Explanation – Matter *italicized* is new language; matter in brackets **H** is omitted language.

**GENERAL REQUIREMENTS FOR LICENSURE**

The following sections **have not** been revised or modified:

NAC 449.0112, 449.0114, 449.0118, and 449.0119.

**Section 1. Chapter 449 of NAC is hereby amended by adding thereto a new section to read as follows:**

*1. The state board of health hereby adopts by reference:*

*(a) NFPA 101: Life Safety Code, in the form most recently published by the National Fire Protection Association, unless the board gives notice that the most recent revision is not suitable for this state pursuant to subsection 2. A copy of the code may be obtained from the National Fire Protection Association, 11 Tracy Drive, Avon, Massachusetts 02322, or by telephone at (800) 344-3555, for the price of \$53.50 for members or \$ 59.50 for nonmembers, plus \$6.95 for shipping and handling.*

*(b) NFPA 99: Standard for Health Care Facilities, in the form most recently published by the National Fire Protection Association, unless the board gives notice that the most recent revision is not suitable for this state pursuant to subsection 2. A copy of the standard may be obtained from the National Fire Protection Association, 11 Tracy Drive, Avon, Massachusetts*

*02322, or by telephone at (800) 344-3555, for the price of \$40.50 for members or \$44.50 for nonmembers, plus \$6.95 for shipping and handling.*

*(c) Guidelines for Design and Construction of Hospital and Healthcare Facilities, in the form most recently published by the American Institute of Architects, unless the board gives notice that the most recent revision is not suitable for this state pursuant to subsection 2. A copy of the guidelines may be obtained by telephone at (800) AIA-3837.*

*2. The state board of health shall review each revision of the publications adopted by reference pursuant to subsection 1 to ensure its suitability for the state. If the board determines that the revision is not suitable for this state, it will hold a public hearing to review its determination and give notice of that hearing within 6 months after the date of the publication of the revision. If, after the hearing, the board does not revise its determination, the board will give notice that the revision is not suitable for this state within 30 days after the hearing. If the board does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 1.*

**Section 2. Chapter 449 of NAC is hereby amended by adding thereto a new section to read as follows:**

*A residential facility for groups, a halfway house for recovering alcohol and drug abusers, or a home for individual residential care may elect to pay the fees for renewal of their license in two equal installments if:*

*1. The licensee submits:*

*(a) A complete renewal application with the first installment payment equal to half of the renewal fee on or before November 1 of the calendar year for which the license will expire, and*

*(b) the second payment for the remainder of the renewal fee on or before April 15 of the calendar year for which their license was issued;*

*2. The owner signs a payment agreement and a confession of judgment for the total fee, that may be filed in the event the owner fails to make a payment according to the agreement;*

*3. The licensee has not failed to make a payment according to any prior fee payment agreement; and*

*4. The owner agrees to, and pays with the first installment payment, an additional \$100 charge for the cost of collection and tracking.*

**Section 3. Chapter 449 of NAC is hereby amended by adding thereto a new section to read as follows:**

*An application for renewal of a license is subject to an additional charge equal to fifty (50) percent of the required renewal application fee for that facility, if the renewal application is submitted November 16 through December 31 of the calendar year in which the license expires.*

**Section 4. NAC 449.0115 is hereby amended to read as follows:**

**NAC 449.0115 Review of building plans for new construction or remodeling by certain applicants: Required documents; payment of fees and costs. (NRS 449.037, 449.050)**

1. An applicant for a license or the renewal of a license to operate a medical facility, facility for the dependent or program of hospice care who wishes or is required pursuant to NAC 449.15359 or 449.4063 to have building plans for new construction or remodeling reviewed by the health division must:

(a) Submit to the health division or have on file a current application for a license or renewal of a license;

(b) Pay to the health division any fees required for the issuance or renewal of a license pursuant to NAC 449.013 or 449.016; and

(c) Submit two complete sets of building plans for new construction or remodeling prepared by a registered architect, registered residential designer or licensed general contractor to the entity designated to review such plans by the health division.

2. All costs incurred for the review of building plans and any changes or revisions made to the plans must be borne by the applicant and paid directly to the designee of the health division conducting the review of the plans.

3. The costs required to be paid pursuant to subsection 2 are not refundable and are in addition to the fees charged for the issuance or renewal of the license pursuant to NAC 449.013 or 449.016.

*4. Prior to construction of a facility for modified medical detoxification, a facility for skilled nursing, a facility for the care of adults during the day, a facility for the treatment of abuse of alcohol or drugs, a hospital, a mobile unit, a residential facility for groups, a surgical center for ambulatory patients, approval of the building plans must be obtained from the health division.*

*5. An approval issued pursuant to subsection 4 is valid for 42 months after it is issued, unless:*

*(a) there has been a modification to the building plans,*

*(b) there has been a change in ownership, or*

*(c) there has been a change in the intended use.*

*6. An applicant who has undergone a plan review pursuant to subsection 1, may request an on-site advisory inspection by the health division once eighty (80) percent of the construction is completed if,*

*(a) the applicant submits a written letter of request that includes the anticipated date at which eighty percent of the construction will be completed;*

*(b) the health division issues a notice to the applicant of its ability to meet the request; and*

*(c) the applicant subsequently submits a fee of:*

*(1) \$500 for projects valued at \$1 to \$500,000;*

*(2) \$1,000 for projects valued at \$500,001 to \$1,000,000; or*

*(3) \$2,000 for projects valued at more than \$1,000,000.*

**Section 5. NAC 449.0116 is hereby amended to read as follows:**

**NAC 449.0116 Application for renewal of license; validity of existing license pending decision on application; inspection; effect of failure to file application. (NRS 449.037)**

1. A licensee who wishes to renew his license must submit a complete application for renewal to the health division *on or before November 15 of the calendar year in* ~~not less than 45 days before the date on~~ which the license expires. The existing license shall be deemed valid until the submitted application for renewal is evaluated and a final determination is made by the

health division concerning whether to renew the license. The health division may require an inspection of the facility to ensure that it meets the requirements of this chapter before deciding whether to renew a license. ~~{Such an inspection must not be scheduled until the complete application and fees are received by the health division.}~~

2. A licensee who, without good cause, fails to file an application for the renewal of his license within the time set forth in subsection 1 *is required to pay additional charges, as described in Section 3, in addition to the renewal application fee specified in this chapter.*

3. *A licensee who fails to file an application for the renewal of his license before the expiration of the existing license, is not eligible to renew* ~~{for the renewal of}~~ the license and, if he wishes to be licensed, must submit an application for a new license.

**LCB File No. R074-03**

**FEES**

Effective October 22, 2003

AUTHORITY: §§1-3, NRS 439.150 and 449.050.

The following sections **have not** been revised or modified:

NAC 449.012, 449.0121, 449.01215, 449.0122, 449.1225, 449.0123, 449.01235, 449.0124, 449.01245, 449.0125, 449.01255, 449.0126, 449.01265, 449.0127, and 449.0168.

**Section 6. NAC 449.013 is hereby amended to read as follows:**

449.013 1. Except as otherwise provided in NAC 449.0168, an applicant for a license to operate any of the following facilities, programs of hospice care or agencies must pay to the Health Division the following nonrefundable fees:

- (a) An ambulatory surgical center..... ~~\$2,250~~ **\$3,570**
- (b) A facility for the treatment of irreversible renal disease..... 2,748

(c) A home office or subunit agency of a home health agency.....	3,034
(d) A branch office of a home health agency.....	2,000
(e) A rural clinic.....	2,160
(f) An obstetric center.....	1,564
(g) A program of hospice care.....	2,106
(h) An independent center for emergency medical care.....	2,950
(i) A nursing pool.....	4,272 <del>[1,988]</del>
(j) A facility for treatment with narcotics.....	2,482
(k) A medication unit.....	1,200
(l) A referral agency.....	2,000
(m) A halfway house for recovering alcohol and drug abusers.....	2,020
(n) A facility for refractive laser surgery.....	7,556
(o) A mobile unit.....	2,090

2. An applicant for the renewal of such a license must pay to the Health Division the following nonrefundable fees:

(a) An ambulatory surgical center.....	\$1,785
(b) A facility for the treatment of irreversible renal disease.....	1,374
(c) A home office or subunit agency of a home health agency.....	1,517
(d) A branch office of a home health agency.....	1,000
(e) A rural clinic.....	1,080
(f) An obstetric center.....	782
(g) A program of hospice care.....	1,053
(h) An independent center for emergency medical care.....	1,475

(i) A nursing pool.....	2,136
(j) A facility for treatment with narcotics.....	1,241
(k) A medication unit.....	600
(l) A referral agency.....	1,000
(m) A halfway house for recovering alcohol and drug abusers.....	1,010
(n) A facility for refractive laser surgery.....	3,912
(o) A mobile unit.....	1,045

3. An application for a license is valid for 1 year after the date on which the application is submitted. If an applicant does not meet the requirements for licensure imposed by chapter 449 of NRS or the regulations adopted pursuant thereto within 1 year after the date on which he submits his application, he must submit a new application and pay the required fee to be considered for licensure.

**Sec. 7. NAC 449.016 is hereby amended to read as follows:**

449.016 1. Except as otherwise provided in NAC 449.0168, an applicant for a license to operate any of the following facilities must pay to the Health Division the following nonrefundable fees:

	Fee per facility	Fee per bed in the facility
(a) A skilled nursing facility.....	\$2,200	\$60
(b) A hospital, other than a rural hospital.....	10,000	<del>60</del> <del>80</del>
(c) A rural hospital.....	1,500	<del>60</del> <del>80</del>
(d) An intermediate care facility for the mentally retarded or persons with developmental disabilities.....	1,564	184

(e) An intermediate care facility, other than an intermediate care facility for the mentally retarded or persons with developmental disabilities.....	1,200	90
(f) Except as otherwise provided in subsection 3, a residential facility for groups.....	2,400	184
(g) A facility for the treatment of abuse of alcohol or drugs.....	782	184
(h) A facility for hospice care.....	1,564	184
(i) A home for individual residential care.....	1,764	184
(j) A facility for modified medical detoxification.....	782	184

2. An applicant for the renewal of such a license must pay to the Health Division the following nonrefundable fees:

	Fee per facility	Fee per bed in the facility
(a) A skilled nursing facility.....	\$1,100	\$30
(b) A hospital, other than a rural hospital.....	5,000	30 <del>[40]</del>
(c) A rural hospital.....	750	30 <del>[40]</del>
(d) An intermediate care facility for the mentally retarded or persons with developmental disabilities.....	782	92
(e) An intermediate care facility, other than an intermediate care facility for the mentally retarded or persons with developmental disabilities.....	600	40 <del>[45]</del>
(f) Except as otherwise provided in subsection 4, a residential facility for groups which has 11 beds or more.....	1,182	92
(g) Except as otherwise provided in subsection 5, a residential facility for groups which has less than 11 beds.....	1,085	92
(h) A facility for the treatment of abuse of alcohol or drugs.....	391	92

(i) A facility for hospice care.....	782	92
(j) A home for individual residential care.....	500	92
(k) A facility for modified medical detoxification.....	391	92

3. An applicant for a license for a residential facility for groups shall pay a fee of \$100 for each bed in the facility which is paid entirely with money from:

- (a) The supplemental security income program as defined in NRS 422.053;
- (b) The home and community-based services program pursuant to 42 U.S.C. § 1396n; or
- (c) A program for group care of adults established by a county.

4. An applicant for the renewal of a license for a residential facility for groups shall pay a fee of \$35 for each bed in the facility which is paid entirely with money from:

- (a) The supplemental security income program as defined in NRS 422.053;
- (b) The home and community-based services program pursuant to 42 U.S.C. § 1396n; or
- (c) A program for group care of adults established by a county.

5. An applicant for the renewal of a license for a residential facility for groups which has less than 11 beds who attests that, during the following licensure period, at least 75 percent of those beds will be paid for entirely with money from the sources described in subsection 4 shall pay a fee of \$500 plus:

(a) For each bed that will be paid for entirely with money from the sources described in subsection 4, a fee of \$35 in accordance with that subsection; and

(b) For each remaining bed, a fee of \$92.

6. An application for a license is valid for 1 year after the date on which the application is submitted. If an applicant does not meet the requirements for licensure imposed by chapter 449 of NRS or the regulations adopted pursuant thereto within 1 year after the date on which he

submits his application, he must submit a new application and pay the required fee to be considered for licensure.

## LCB File No. R065-04

### SMALL BUSINESS IMPACT STATEMENT

(Nevada Revised Statutes 233B.0608)

Proposed Amendment of Nevada Administrative Code (NAC) 449.011 to 449.0168

#### General Requirements for Licensure and Fees

#### **Background**

The proposed amendments are to regulations required by Nevada Revised Statutes (NRS) 449.037, "Adoption of standards, qualifications and other regulations," and NRS 449.038, "Regulation of other facilities." These amendments are needed to standardize the fees adopted by the State Board of Health in September 2003, incorporate payment of fees by installment in accordance with legislative changes made to NRS 449.050, reduce the financial penalty associated with delinquent renewal applications, require approval of building plans prior to approval, provide for advisory inspection of building construction, and standardize the adoption of construction standards. The proposed amendments include:

- Relocation of standardized language concerning adoption of specific construction standards into general requirements for licensure, along with standardized mandatory requirements for plan review.
- An increase in the amount of initial licensure application fees charged to Surgical Centers for Ambulatory Patients and Nursing Pools licensed pursuant to NRS 449.0151.
- A decrease in the initial application and licensure renewal fees for Hospitals and Intermediate Care Facilities licensed pursuant to NRS 449.0151.
- Payment of renewal fees, as authorized in NRS 449.050, in two installments for Halfway Houses for Recovering Alcohol and Drug Abusers licensed pursuant to NRS 449.008, Residential Facilities for Groups licensed pursuant to NRS 449.017, and Homes for Individual Residential Care licensed pursuant to NRS 449.249.
- Allowance for facilities that submit a late renewal application to pay a late charge rather than submit an initial licensure application and fee.
- Required approval of building plans by the health division prior to construction of a Facility for Modified Medical Detoxification, a Facility for Skilled Nursing, a Facility for the Care of Adults During the Day, A Facility for the Treatment of Abuse of Alcohol or Drugs, a Hospital, a Mobile Unit, a Residential Facility for Groups, a Surgical Center for Ambulatory Patients.

#### **1. A description of the manner in which comment was solicited from affected small businesses, a summary and an explanation of the manner in which other interested parties may obtain a copy of the summary.**

The 1999 legislature amended Nevada Revised Statutes (NRS) Chapter 233B to require that state agencies assess the impact of regulation changes or development on small businesses. In keeping with this requirement, the Bureau of Licensure and Certification has requested

comments from all licensed healthcare providers. On February 27, 2004 a small business impact questionnaire was mailed to all licensed providers (approximately 780 providers), with a copy of the proposed changes to general requirements for licensure and fees regulations in Nevada Administrative Code Chapter 449.

A total of fifty-seven responses were received. Forty-nine of those responses were from licensed providers that met the definition of a small business.

Interested parties can obtain a copy of the information packet, including the Small Business Impact Questionnaire sent to all licensed facilities, from Shirley Rains, Administrative Assistant III, Bureau of Licensure and Certification, 1550 East College Parkway, Suite 158, Carson City, Nevada 89706.

**2. The estimated economic effect of the proposed regulation on the small business which it is to regulate including, without limitation, both adverse and beneficial effects.**

Based on the comments returned in the Small Business Impact Questionnaire the Bureau of Licensure and Certification has determined that the proposed regulations will not have an adverse impact on small businesses, though there will be an increase in cost to obtain an initial license for a Nursing Pool or Ambulatory Surgical Center. Ten of forty-nine small business respondents expressed concern about increases in fees. The proposed increase in initial licensure fees will affect only newly licensed Nursing Pools and Ambulatory Surgical Centers. There are no fee increases proposed that will affect any of the respondents.

The responses to the Small Business Impact Questionnaire indicate some small businesses will experience a beneficial impact from lower costs for late renewals and from the provision for two installment payments for renewal fees for Halfway Houses, Homes for Individual Residential Care and Residential Facilities for Groups.

**3. A description of the methods the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.**

The feedback received by the Bureau of Licensure and Certification indicates that the proposed increase in initial licensure fees for Nursing Pools and Ambulatory Surgical Centers will reduce the net revenues for these providers in the first year of operation. There is no indication that the proposed regulations pose as a barrier to the startup of new Nursing Pools or Ambulatory Surgical Centers.

**4. The estimated cost to the agency for enforcement of proposed regulations.**

The Bureau of Licensure and Certification has identified a direct increased cost associated with the completion of required paperwork, tracking, billing and processing of delinquent payments related to installment payments. The Bureau of Licensure and Certification, being dependent exclusively upon licensure fees for its budget revenue, has offset this agency cost with an

administrative charge of \$100 for those facilities that elect to pay their licensure renewal in two installments.

**5. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

The proposed regulations increase the existing fee for initial licensure of Ambulatory Surgical Centers and Nursing Pools. The amount of money collected will vary depending upon the number of new provider applications submitted for Nursing Pools and Ambulatory Surgical Centers. Monies collected in licensure fees are used to support the daily regulatory functions of the Bureau of Licensure and Certification, including meetings with and education of new licensure applicants, processing of initial licensure applications, initial licensure surveys, follow-up surveys when a facility fails to achieve substantial compliance, complaint investigations, and on-going consultation and assistance in maintaining compliance with regulations.

**6. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.**

These regulations do not represent duplication on local or federal levels. The Nevada State BOH is responsible for generating regulations governing licensure of healthcare facilities pursuant to NRS 449.037(1). There is no equivalent responsibility on the local or federal level.

**Summary of Responses:**

The following providers indicated their business would not experience adverse economic impact or beneficial impact, either directly or indirectly:

1. The Seasons (Residential Facility for Groups)
2. Single Day Surgery (Ambulatory Surgical Center)
3. South Las Vegas Dialysis Center
4. Dialysis Clinics Inc. (End Stage Renal Disease)
5. 5 Star Home Health (Home Health Agency)
6. At Home Health Services (Home Health Agency)
7. Caring Nurses, Inc. (Home Health Agency)
8. Critical Care Systems (Home Health Agency)
9. Oasis Home Health (Home Health Agency)
10. Royale Health Systems, Inc (Home Health Agency)
11. Vision Health Care (Home Health Agency)
12. Perfect View Assisted Living (Home for Individual Residential Care)
13. Rita Martynaitiene (Home for Individual Residential Care)
14. View Hill Adult Living (Home for Individual Residential Care)
15. Horizon Specialty Hospital (Medical Hospital)
16. Gaye Haven Intermediate Care Facility (Intermediate Care Facility)
17. Medical Staffing (Nursing Pool)
18. Staffing Specialists, Inc. (Nursing Pool)

The following four providers responded and indicated they met the definition of a small business but did not provide any other feedback:

1. Mountain Springs Assisted Living (Residential Facility for Groups)
2. Health Essential Home Care (Home Health Agency)
3. Complete Care Health Services, Inc. (Nursing Pool)
4. American Therapeutic Association (Narcotic Treatment Center)

The following providers indicated their business would experience an adverse economic impact, either directly or indirectly:

1. Avalon Health Estates (Residential Facility for Groups) indicated any further increase in renewal fees will have a significant, adverse financial effect.
2. F & D Group Home (Residential Facility for Groups) noted that raising the renewal fee from the current charges will make it more difficult to pay, especially for smaller residential facilities.
3. Flamingo Surgery Center (Ambulatory Surgical Center) indicated their business would experience less net revenue as a result of NAC 449.013.
4. Core Home Health Services (Home Health Agency) indicated the increased fees for licensure of a Home Health Agency to \$3,034, and renewal to \$1,517 will have an adverse economic effect upon business.
5. TLC Health Care Services Inc. (Home Health Agency) indicated they would have an adverse economic impact as they are a small business.
6. Karen's Caregiver Home (Home for Individual Residential Care) indicated if the fees continue to increase at the rate they are going she will not be able to continue in this business.
7. We Care Foundation (Halfway House) stated that doubling of the renewal fee made the budget difficult to adjust in the fall when due and questioned how \$1,000+ is spent or needed on this category of provider.
8. American Nursing Services (Nursing Pool) commented that the cost per license more than doubled what they were paying in the past. The increased cost to obtain a Nursing Pool license required by the state of Nevada raises overhead cost for their Las Vegas office.
9. Nurses "R" Special, Inc. (Nursing Pool) indicated they will experience an adverse economic impact as proposed changes described in section 2 and section 3 of the proposed regulations do not apply to Nursing Pools. The indirect adverse effect is that Nursing Pools will have to shoulder all the proposed and "extra" fees.
10. Nevada Treatment Center (Narcotic Treatment Center) anticipated an indirect adverse impact stating "Costs for licensure fees continue to increase significantly. Non-profit entities can not project cost increases in licensure of 90% to 100% in range. For example fees for 2003 were \$1,241 with an increase to \$2,482 for 2004. Fee increases of this magnitude do have an adverse effect in terms of budgeting, client fees, etc."

The following providers indicated their business would experience a direct beneficial effect or an indirect beneficial effect:

1. Adult Care Senior Home (Residential Facility for Groups)
2. Best Care Facility (Residential Facility for Groups)

3. Desert Inn Residential Care (Residential Facility for Groups)
4. Fairway Home For The Elderly (Residential Facility for Groups)
5. Fairway Home For The Elderly II (Residential Facility for Groups)
6. JCR Home Care (Residential Facility for Groups)
7. Joyful Senior Care Haven (Residential Facility for Groups)
8. Las Vegas Alzheimer's Luxury & Memory Care (Residential Facility for Groups)
9. Quality Guest Home I (Residential Facility for Groups)
10. Quality Guest Home II (Residential Facility for Groups)
11. Quality Guest Home III (Residential Facility for Groups)
12. St. Michael I (Residential Facility for Groups)
13. St. Michael II (Residential Facility for Groups)
14. Theresianne Adult Group Home (Residential Facility for Groups)
15. Touch Of Love (Residential Facility for Groups)
16. Advanced Vital Care (Home Health Agency)
17. Southern Nevada Home Health Care, Inc. (Home Health Agency)
18. We Care Foundation (Halfway House)

Of these eighteen providers, fifteen indicated it would be beneficial to their organization to be able to make two payments, allowing them to better manage their cash flow. Of those fifteen, twelve felt that the \$100 administrative charge was a bit high. One provider felt that strict application of the regulations would eliminate providers that were not committed to the service. One provider indicated a beneficial impact would result from reduced cost to submit a late renewal application.