

**ADOPTED REGULATION OF THE  
HOUSING DIVISION OF THE DEPARTMENT OF  
BUSINESS AND INDUSTRY**

**LCB File No. R018-06**

Effective June 1, 2006

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

AUTHORITY: §§1-9, NRS 319.147.

A REGULATION relating to affordable housing; establishing requirements for certification of certain assisted living facilities by the Housing Division of the Department of Business and Industry for the purpose of providing services pursuant to the home and community-health based services waiver authorized by the Federal Government; and providing other matters properly relating thereto.

**Section 1.** Chapter 319 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

**Sec. 2.** *As used in sections 2 to 9, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this regulation have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Assisted living facility” has the meaning ascribed to it in paragraph (a) of subsection 3 of NRS 422.2708.*

**Sec. 4.** *“Declaration of restrictive covenants and conditions” has the meaning ascribed to it in NAC 319.958.*

**Sec. 5.** *“Sponsor” means a person, government, governmental agency or political subdivision of a government who has applied for and received tax credits for an assisted living facility pursuant to the provisions of NAC 319.951 to 319.998, inclusive, or any other person,*

*government, governmental agency or political subdivision of a government who has an ownership interest in an assisted living facility that is financed through such tax credits or through other public funds.*

**Sec. 6. 1.** *If the sponsor of an assisted living facility that satisfies the requirements of paragraphs (a) to (d), inclusive, of subsection 1 of NRS 319.147 wishes to obtain certification for the assisted living facility from the Division for the purpose of providing services pursuant to the provisions of the home and community-based services waiver which are amended pursuant to NRS 422.2708, the sponsor must submit a written request for certification to the Division.*

*2. If the assisted living facility for which a sponsor submits a request for certification pursuant to subsection 1 is financed through tax credits relating to low-income housing, the Division will provide to the Health Division of the Department of Health and Human Services a copy of:*

*(a) The written notification of a reservation of tax credits provided by the Division pursuant to NAC 319.978; and*

*(b) If the Division granted a request to carry over tax credits pursuant to NAC 319.980, documentation indicating that the Division granted the request.*

**Sec. 7.** *Before the Division will certify an assisted living facility for which a sponsor requests certification pursuant to section 6 of this regulation, the Division will:*

*1. Verify that the construction of the assisted living facility is complete.*

*2. Verify that a certificate of occupancy for the assisted living facility has been issued by the authority having jurisdiction to issue such a certificate of occupancy.*

3. *Conduct an inspection and review of the assisted living facility to determine whether it was constructed in accordance with the applicable requirements of the Division. The inspection and review must include, without limitation, an evaluation of:*

- (a) The amenities provided in the assisted living facility;*
- (b) The number and type of living units provided in the assisted living facility; and*
- (c) Any energy efficiency measures used in the construction of the assisted living facility.*

4. *Review the contract terms of the service provider for the assisted living facility, including, without limitation, the contract terms concerning the services offered and provided to the tenants of the assisted living facility, to determine if those terms comply with the applicable requirements of the Division. The Division will not rate the quality of the services offered in the assisted living facility or certify or verify the standards of practice used in the assisted living facility as part of the review it conducts pursuant to this subsection.*

5. *If the assisted living facility is financed through tax credits relating to low-income housing, record a declaration of restrictive covenants and conditions for the assisted living facility, unless a declaration of restrictive covenants and conditions has already been recorded for the assisted living facility pursuant to the provisions of NAC 319.951 to 319.998, inclusive.*

6. *If the assisted living facility is financed through tax credits relating to low-income housing, verify that the amount of rent proposed to be charged to a tenant of the assisted living facility and any fee other than rent proposed to be charged to a tenant of the assisted living facility comply with the provisions of 26 U.S.C. § 42 concerning low-income housing tax credits.*

7. *Verify that the assisted living facility complies with the Uniform Physical Condition Standards set forth in 24 C.F.R. § 5.703.*

*8. If the assisted living facility is financed through tax credits relating to low-income housing, verify that the assisted living facility complies with the qualified allocation plan as that term is defined in NAC 319.962.*

*9. Verify any other information that the Division determines is necessary to determine whether the assisted living facility satisfies the requirements set forth in this section and NRS 319.147.*

*Sec. 8. A sponsor who requests certification for an assisted living facility pursuant to section 6 of this regulation shall provide any information requested, in writing, by the Division for the purposes of verifying or obtaining information pursuant to section 7 of this regulation within 30 days after receipt of the request from the Division. If the sponsor fails to submit the information within 30 days after receipt of the request from the Division, the Division may deny the request for certification of the assisted living facility.*

*Sec. 9. 1. If the Division approves a request for certification of an assisted living facility submitted to the Division pursuant to section 6 of this regulation, the Division will send a letter, signed by the Administrator, to the sponsor who requested certification for the assisted living facility by certified mail, return receipt requested, indicating that the assisted living facility is certified by the Division for the purpose of providing services pursuant to the provisions of the home and community-based services waiver which are amended pursuant to NRS 422.2708.*

*2. The Division will send a copy of each letter sent pursuant to subsection 1 to the Aging Services Division of the Department of Health and Human Services.*

*3. The Division may also send a notice of the certification of an assisted living facility to any other person or entity the Division determines should receive notice of the certification.*

**NOTICE OF ADOPTION OF PROPOSED REGULATION**  
**LCB File No. R018-06**

The Housing Division of the Department of Business and Industry adopted regulations assigned LCB File No. R018-06 which pertain to chapter 319 of the Nevada Administrative Code on May 11, 2006.

**Notice date:** 3/28/2006  
**Hearing date:** 5/3/2006

**Date of adoption by agency:** 5/11/2006  
**Filing date:** 6/1/2006

**INFORMATIONAL STATEMENT**

**1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

The Notice of Intent to Adopt Regulations (with the attached regulations), and the Notice of Workshop were posted at all Nevada County libraries, the State Library, at the Division's office in Carson City and Las Vegas, and at the office of the Director of Business & Industry. The Division also sent the Notices to interested parties. Additionally, the Division sent a copy of the Notices to those persons and businesses on the Division's mailing list to receive information.

Public comment was solicited by encouraging persons attending the workshop and hearing to comment and ask questions about the proposed regulation. Comments, suggestions and questions were heard and addressed by the Division's staff.

The public response was generally favorable to the proposed regulations. Specific but minor changes to the regulation were discussed at the hearing, including the removal of the 8609 form as a requirement of certification, to which the Division agreed was proper. The change and deletion of some words and language was also discussed and agreed to by the Division.

There was one written public response to the proposed regulation that was sent by email to the Division. The response reiterated comments made at the hearing and consisted of asking questions about "certification" and that the removal of the 8609 form as a condition to certification was desirable.

Interested persons may obtain a summary of the public response and a copy of the email message by contacting the Division and asking for Art Thurner, who has a copy of the summary and email in the regulation file.

- 2. The number of persons who:**
- |  |            |
|--|------------|
| <b>(a) Attended each hearing:</b>                    | <b>12*</b> |
| <b>(b) Testified at each hearing:</b>                | <b>10</b>  |
| <b>(c) Submitted to the agency written comments:</b> | <b>1</b>   |

\* One person in Boston, MA participated and testified by telephone.

**3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses by the posting of the Notices as described in #1 above and by directly mailing to interested developers, local governments, state agencies and businesses on the Division's mailing list. The time for submitting written comments was open until May 10, 2006.

**4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The regulation was adopted with some minor changes made by LCB and with some changes proposed by the testimony of participants at the hearings.

**5. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**

- (a) Both adverse and beneficial effects; and**
- (b) Both immediate and long-term effects.**

- (a) No beneficial or adverse economic effect on any business or the public will occur.
- (b) There are no immediate or long-term effects of the regulations on any business or the public.

**6. The estimated cost to the agency for enforcement of the adopted regulation.**

There is no additional cost to the Division for enforcement of the regulations.

**7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

No other state or government agency regulations are duplicated by the proposed regulations of the Division.

**8. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

The regulation does not contain any provisions more stringent than a federal regulation.

**9. If the 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.**

There is no new fee and there is no increase in an existing fee.