

**ADOPTED REGULATION OF THE
STATE BOARD OF HEALTH**

LCB File No. R123-01

Effective January 1, 2002

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

AUTHORITY: §§1-24, NRS 449.037; §25, NRS 439.150, 449.0305, 449.037, 449.038 and 449.050.

Section 1. Chapter 449 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 24, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 24, 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. *“Administrator” means a person:*

1. Whose name appears on a license issued by the bureau as administrator of record for a facility; and

2. Who is legally responsible for the management of the facility.

Sec. 4. *“Client” means a person who is admitted to a facility.*

Sec. 5. *“Facility” means a halfway house for recovering alcohol and drug abusers as defined in section 1 of Senate Bill No. 319 of the 71st session of the Nevada Legislature, chapter 517, Statutes of Nevada 2001, at page 2518 (NRS 449.008).*

Sec. 6. *An administrator must:*

1. Be at least 21 years of age;

2. Have the tests and obtain the certifications required by NAC 441A.375 for a person employed in a facility for the dependent; and

3. Maintain evidence that he satisfies the requirements of this section in a file that is maintained on the premises of the facility.

Sec. 7. *An administrator shall:*

1. Post the license issued by the bureau in a conspicuous place within the facility.

2. Organize and manage the facility.

3. Establish policies, procedures and rules for the operation of the facility, including, without limitation, the policies and procedures required to be established by section 19 of this regulation.

4. Ensure that the records of the facility are maintained in accordance with the requirements of the policies, procedures and rules for the operation of the facility established pursuant to subsection 3.

5. Ensure that the facility complies with any applicable state statutes and regulations and local ordinances.

6. Ensure that the clients of the facility are afforded the opportunity to exercise their individual rights in a manner consistent with the rules of the facility.

7. Ensure that the facility is maintained in a safe and clean condition.

8. Review and approve changes in the policies and procedures established pursuant to subsection 3 at least annually. This review must be signed and dated.

Sec. 8. *An administrator shall ensure that the facility does not admit more clients to the facility than the number of beds for which it is licensed.*

Sec. 9. *1. An administrator shall ensure that the facility:*

(a) Has a safe and sufficient supply of water, adequate drainage and an adequate system for the disposal of sewage; and

(b) Complies with all local ordinances and state and federal laws and regulations relating to zoning, sanitation, safety and accessibility to persons with disabilities.

2. A container used to store garbage outside of a facility must be kept reasonably clean and must be covered in such a manner that rodents are unable to get inside the container. At least once each week, the container must be emptied and the contents of the container must be removed from the premises of the facility.

3. To the extent practicable, the premises of the facility must be kept free from:

(a) Offensive odors;

(b) Hazards, including obstacles that impede the free movement of clients within and outside the facility;

(c) Insects and rodents; and

(d) Accumulations of dirt, garbage and other refuse.

4. The administrator shall ensure that the premises of the facility are clean and that the interior, exterior and landscaping of the facility are well maintained.

5. All windows that are capable of being opened in the facility and all doors that are left open to provide ventilation for the facility must be screened to prevent the entry of insects.

6. The administrator shall ensure that electrical lighting is maintained in the facility as necessary to ensure the comfort and safety of the clients of the facility.

7. The temperature in the facility must be maintained at a level that is not less than 68 degrees Fahrenheit and not more than 82 degrees Fahrenheit.

Sec. 10. 1. *An administrator shall ensure that laundry facilities are provided in the facility commensurate with the number of clients in the facility. At least one washer and at least one dryer must be provided in the facility.*

2. *The laundry area in a facility must be maintained in a sanitary manner. All the equipment in the laundry area must be maintained in good working condition. All dryers must be ventilated to the outside of the building.*

Sec. 11. 1. *The kitchen in a facility and the equipment in the kitchen must be clean and must allow for the sanitary preparation of food. The equipment must be in good working condition.*

2. *Perishable food must be refrigerated at a temperature of 40 degrees Fahrenheit or less. Frozen food must be kept at a temperature of 0 degrees Fahrenheit or less.*

3. *Food must not be stored in any area in which cleaning or pest control products are stored.*

Sec. 12. 1. *A bedroom in a facility that is used by more than one client must have at least 45 square feet of floor space for each client who resides in the bedroom. A bedroom that is occupied by only one client must have at least 80 square feet of floor space.*

2. *The arrangement of the beds and other furniture in the bedroom must accommodate the clients occupying the bedroom in comfort and safety.*

3. *A bed with a comfortable and clean mattress must be provided for each client. The bed must be made with two clean sheets, a blanket, a pillow and a bedspread. Linens must be changed at least once each week and more often if the linens become dirty.*

Sec. 13. *A hall, stairway, unfinished attic, garage, storage area or shed or other similar area of a facility must not be used as a bedroom. Any other room must not be used as a bedroom if it is used for any other purpose.*

Sec. 14. *1. All bathrooms and toilet facilities in the facility must be sufficiently lighted.*

2. Each client must have his own towels and wash cloths. Paper towels may be used for hand towels. The towels and wash cloths must be changed as often as is necessary to maintain cleanliness, but in no event less often than once each week. A soap dispenser that provides liquid or granular soap may be used instead of individual bars of soap.

Sec. 15. *A facility that has a client who uses a wheelchair or a walker must:*

1. Have hallways, doorways and exits wide enough to accommodate a wheelchair or walker; and

2. Have ramps at all primary exits.

Sec. 16. *1. A first-aid kit must be available at the facility. The first-aid kit must include, without limitation:*

- (a) A germicide safe for use by humans;*
- (b) Sterile gauze pads;*
- (c) Adhesive bandages, rolls of gauze and adhesive tape;*
- (d) Disposable gloves;*
- (e) A shield or mask to be used by a person who is administering cardiopulmonary resuscitation; and*
- (f) A thermometer or other device that may be used to determine the bodily temperature of a person.*

2. Except for first aid in an emergency, no treatment or medication may be administered to a client.

Sec. 17. *1. Except as otherwise provided in section 16 of this regulation, an administrator or another client shall not administer or assist in the administration of medication to a client.*

2. Medication for self-administration may be kept at the facility. That medication must:

(a) Be disposed of immediately when it expires or when a physician orders the medication to be discontinued;

(b) Be stored and controlled in a manner that protects the medication from unauthorized use; and

(c) Not be used by more than one of the clients.

3. The provisions of paragraph (a) of subsection 2 do not apply to over-the-counter medication.

Sec. 18. *An administrator shall ensure that:*

1. The facility has at least one telephone that is in good working condition in the facility; and

2. The telephone number of the facility is listed in the telephone directory.

Sec. 19. *1. An administrator shall establish written policies and procedures concerning:*

(a) The manner in which records of clients will be maintained and protected against unauthorized use;

(b) The disclosure of confidential information about clients;

(c) The criteria the facility will use to determine whether to:

(1) Admit a client to the facility; and

- (2) Discharge a client from the facility;*
- (d) The discharge of a client for a violation of the rules of the facility;*
- (e) The discharge of a client for the use of alcohol or drugs;*
- (f) The rights and responsibilities of a client; and*
- (g) The evacuation of clients in case of fire or other emergency as required by section 24 of this regulation.*

2. The administrator shall maintain a manual of policies, procedures and rules of the facility that includes the policies and procedures established pursuant to subsection 1. The manual must be available on the premises of the facility at all times.

Sec. 20. *An administrator shall ensure that:*

- 1. Alcohol or drugs are not allowed on the premises of the facility;*
- 2. The policies, procedures and rules established pursuant to section 7 of this regulation are carried out;*
- 3. Each client complies with those policies, procedures and rules;*
- 4. The facility provides an environment that will facilitate the reintegration of the clients of the facility into the community; and*
- 5. The operation of the facility is not compromised by a client who violates the policies, procedures or rules of the facility.*

Sec. 21. *An administrator shall notify the bureau within 24 hours after the occurrence of an incident that:*

- 1. Involved significant harm to a client of the facility if the client of the facility required medical treatment as a result of the incident;*
- 2. May cause imminent danger to the health or safety of a client of the facility; or*

3. May jeopardize the integrity of the operation of the facility.

Sec. 22. *An administrator shall ensure that:*

1. A client of the facility is not abused, neglected or exploited by another client of the facility or any person who is visiting the facility;

2. A client is not prohibited from speaking to any person who advocates for the rights of the clients of the facility;

3. Each client is treated with respect and dignity;

4. The facility provides a safe and comfortable environment;

5. A client is not prohibited from interacting socially in a manner that is consistent with the rules of the facility;

6. To the extent practicable and in a manner that is consistent with the rules of the facility, each client is allowed to make his own decisions; and

7. The telephone number of the local office of the bureau and the name and telephone number of the administrator is conspicuously posted on the premises of the facility.

Sec. 23. *1. An administrator shall ensure that the facility maintains a separate file for each client of the facility and retains the file for at least 5 years after the client permanently leaves the facility. The file must be kept locked in a location that is protected against unauthorized use. Each file must contain the information obtained by the facility that is related to the client, including, without limitation:*

(a) The full name, address, date of birth and social security number of the client;

(b) The address and telephone number of the client's physician and any next of kin or guardian of the client;

(c) A statement of the allergies of the client, if any, and any special diet or medication he requires;

(d) Evidence of compliance with the provisions of NAC 441A.380;

(e) A list of the rules of the facility that is signed by the client; and

(f) The name and telephone number of the vendors and medical professionals that provide services for the client.

2. Except as otherwise provided in this subsection, the file of the client must be kept confidential. The file of a client must be made available upon request at any time to an employee of the bureau who is acting in his capacity as an employee of the bureau.

Sec. 24. 1. *An administrator shall ensure that the facility complies with the regulations adopted by the state fire marshal pursuant to chapter 477 of NRS and any local ordinances relating to safety from fire. The facility must be approved for occupancy by the state fire marshal.*

2. The administrator shall ensure that the facility has a plan for the evacuation of clients in case of fire or other emergency. The plan must be:

(a) Understood by all clients;

(b) Posted in a common area of the facility; and

(c) Discussed with each client at the time of his admission.

3. At least one portable fire extinguisher must be available at the facility. Any portable fire extinguishers available at the facility must be inspected, recharged and tagged at least once each year by a person certified by the state fire marshal to conduct such inspections.

4. The administrator shall ensure that a written policy on smoking is developed and carried out by the facility. The policy must be:

- (a) Developed with the purpose of preventing a fire caused by smoking in the facility; and*
- (b) Posted in a common area of the facility.*

5. Smoke detectors installed in a facility must be maintained in proper operating condition at all times and must be tested monthly. The results of the tests conducted pursuant to this subsection must be recorded and maintained at the facility.

6. If a fire sprinkler system is installed in a facility, the system must be maintained in proper operating condition at all times and must be inspected in accordance with the provisions of NAC 477.460.

Sec. 25. 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 **[medical]** facilities, programs of hospice care or agencies must pay to the health division the following nonrefundable fees:

- (a) An ambulatory surgical center..... \$1,200
- (b) A facility for the treatment of irreversible renal disease 1,200
- (c) A home office or subunit agency of a home health agency..... 1,200
- (d) A branch office of a home health agency 500
- (e) A rural clinic 1,200
- (f) An obstetric center 1,200
- (g) A program of hospice care 1,200
- (h) An independent center for emergency medical care 1,200
- (i) A nursing pool 750
- (j) A facility for treatment with narcotics..... 750
- (k) A medication unit 500

- (l) A referral agency 750
- (m) A halfway house for recovering alcohol and drug abusers 500***

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..... \$600
- (b) A facility for the treatment of irreversible renal disease 600
- (c) A home office or subunit agency of a home health agency..... 600
- (d) A branch office of a home health agency 100
- (e) A rural clinic 600
- (f) An obstetric center 600
- (g) A program of hospice care 600
- (h) An independent center for emergency medical care 600
- (i) A nursing pool 600
- (j) A facility for treatment with narcotics..... 600
- (k) A medication unit 100
- (l) A referral agency 600
- (m) A halfway house for recovering alcohol and drug abusers 300***

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. 26. This regulation becomes effective on January 1, 2002, or upon filing with the secretary of state, whichever occurs later.

**HEALTH DIVISION
Bureau of Licensure and Certification
LCB File No. R123-01**

Halfway Houses for Recovering Alcohol and Drug Abusers

Information Statement per NRS 233B.066

1. DESCRIPTION OF HOW PUBLIC COMMENT WAS SOLICITED, SUMMARY OF PUBLIC RESPONSE, AND AN EXPLANATION OF HOW OTHER INTERESTED PERSONS MAY OBTAIN A COPY OF THE SUMMARY.

A Small Business Impact Questionnaire was mailed to Halfway Houses for Alcohol and Drug Abusers on August 1, 2001. Attached is a copy of the small business impact summary.

Notice of public workshops held on August 23, 2001, in Las Vegas and August 24, 2001, in Carson City was published in the Las Vegas Review Journal and Reno Gazette Journal on or before August 8, 2001. Notices of public workshops, and proposed regulations were mailed to all county libraries in Nevada, Halfway Houses for Alcohol and Drug Abusers, Facilities for the Treatment of Abuse of Alcohol or Drugs, and interested parties on August 6, 2001. The Small Business Impact summary was available at both workshops.

Notice of public hearing regarding the Board's intent to adopt amendments was published in the Las Vegas Review Journal, Reno Gazette Journal on or before October 17, 2001. Notices of public hearing, proposed regulations and the small business impact summary was mailed to all county libraries in Nevada Halfway Houses for Alcohol and Drug Abusers, Facilities for the Treatment of Abuse of Alcohol or Drugs, and interested parties on October 12, 2001.

On November 5, 2001, the Bureau of Licensure and Certification received the Legislative Counsel Bureau version of the Fee regulations (LCB File No. R123-01). This version along with an explanation letter was mailed to all county libraries in Nevada, Halfway Houses for Alcohol and Drug Abusers, Facilities for the Treatment of Abuse of Alcohol or Drugs, and interested parties on November 6, 2001.

2. THE NUMBER OF PERSONS WHO:

(A) ATTENDED THE HEARING;

Approximately 35 people attended the November 16, 2001, Board of Health hearing.

(B) TESTIFIED AT EACH HEARING; AND

Paul Shubert, Health Facilities Surveyor III, gave the opening presentation.
James Walker, Irving Park Neighborhood Coalition
Robin Walker, Irving Park Neighborhood Coalition
Robert Huffman, Samaritan House

(C) SUBMITTED TO THE AGENCY WRITTEN STATEMENTS.

No written statements were provided at the hearing.

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

Comment was solicited from affected or potentially affected businesses by mailing appropriate facilities and all interested parties the proposed regulations, a small business impact questionnaire, a copy of the small business impact summary, and the notices for the workshops and Board of Health hearings. Copies the workshop minutes and Board of Health hearing minutes may be obtained by calling the Bureau of Licensure and Certification at (775) 687-4475.

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.

None.

5. THE ESTIMATED ECONOMIC EFFECT OF THE REGULATION ON THE BUSINESS WHICH IT IS TO REGULATE AND ON THE PUBLIC. THESE MUST BE STATED SEPARATELY, AND IN EACH CASE MUST INCLUDE:

- (A) BOTH ADVERSE AND BENEFICIAL EFFECTS; AND**
- (B) BOTH IMMEDIATE AND LONG TERM EFFECTS.**

The proposed regulations will have a beneficial effect on the public by developing standards for the operation of halfway houses. The economic impact on providers will be the payment of licensure fees, and any fees necessary to bring the home into compliance with the regulations.

6. THE ESTIMATED COST TO THE AGENCY FOR ENFORCEMENT OF THE PROPOSED REGULATION.

There will be an economic impact to BLC based on the need for additional surveyor time and provider education.

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, NAME THE REGULATING FEDERAL AGENCY.

There is no duplication or overlap of other state or local government agency's regulations. Additionally, there is no overlap or duplication of a federal agency's regulations.

8. IF THE REGULATION INCLUDES PROVISION WHICH ARE MORE STRINGENT THAN A FEDERAL REGULATION WHICH REGULATES THE SAME ACTIVITY, A SUMMARY OF SUCH PROVISION.

None.

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.

The BLC may receive approximately 10 applications for Halfway Houses within the SFY '02 for a total of approximately \$5000.00. The fees are used to support required state licensure activities.

SMALL BUSINESS IMPACT STATEMENT

NRS 233B.0608

1. Before conducting a workshop for a proposed regulation pursuant to NRS 233B.061, an agency shall determine whether the proposed regulation is likely to:

- (a) Impose a direct and significant economic burden upon a small business; or
- (b) Directly restrict the formation, operation or expansion of a small business.

2. If an agency determines pursuant to subsection 1 that a proposed regulation is likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business, the agency shall:

(a) Insofar as practicable, consult with owners and officers of small businesses that are likely to be affected by the proposed regulation.

(b) Consider methods to reduce the impact of the proposed regulation on small businesses, including, without limitation:

- (1) Simplifying the proposed regulation;
- (2) Establishing different standards of compliance for a small business; and
- (3) Modifying a fee or fine set forth in the regulation so that a small business is authorized to pay a lower fee or fine.

(c) Prepare a small business impact statement and make copies of the statement available to the public at the workshop conducted and the public hearing held pursuant to NRS 233B.061.

PROPOSED REGULATIONS for Halfway Houses for Alcohol and Drug Abusers have been developed by the Bureau of Licensure and Certification (BLC).

BLC will begin the process of licensing Halfway Houses for Alcohol and Drug Abusers when regulations have been adopted and preparatory administrative tasks are completed, but in no case later than January 1, 2002 in accordance with Senate Bill 319 Section 16. Previously the Bureau of Alcohol and Drug Abuse (BADA) was responsible for certification of these facilities and temporary regulations are in place for BADA's certification process. BADA's temporary regulations concerning these facilities will be removed from Nevada Administrative Code as soon as practicable after January 1, 2002 in accordance with Senate Bill 319 Section 14.

BLC has determined the proposed regulations may impose a direct and significant economic burden upon existing facilities.

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.

BLC obtained a list of potential and existing facilities from BADA and mailed copies of the proposed regulations and the "Small Business Impact Questionnaire" to each of the facilities on this list.

Although many of the existing facilities do not meet the statutory definition of a “small business” because they are operated as “non-profit” organizations; most employ less than 150 employees. Therefore these facilities were included in the mail out of the proposed regulations and received a “Small Business Impact Questionnaire” and were given opportunity to express their concerns. One facility responded with concerns. The facility’s concerns are summarized as follows:

a. The proposed regulations – Section 10 requires 60 square feet of floor space for each client who resides in the bedroom. The facility indicated this would reduce the revenue producing beds from 40 to 29 in this facility, resulting in a loss in annual income of \$48,617 or 27.5%. The facility indicated that 45 square feet of floor space for each client is a measure with which the facility could comfortably exist and still provide ample sleeping space in dormitory style bedrooms.

b. The proposed licensure fees regulations for these facilities at NAC 449.016.1 includes a \$50 per bed fee. The facility indicated that this per bed charge should be reviewed, particularly when compared to larger “for profit” organizations. The facility provided an example as follows: “...while a large ‘for profit’ hospital could generate enough revenue to pay the \$50 fee in a fraction of an hour, it would require over 4 days at ‘this facility’ for a bed to produce equivalent revenue.”

Copies of this summary of the questionnaire are available from the office of the Bureau of Licensure and Certification, 4220 S. Maryland Parkway, Building D, Suite 810, Las Vegas, Nevada 89119. (702) 486-6515.

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 information concerning existing facilities, obtained from the questionnaire, BLC estimates the proposed regulations would have an adverse economic effect on these facilities as indicated in number 1 above.

This existing Halfway House voiced concerns over any new or additional costs for compliance with regulations since the facility operates as a non-profit organizations and is only able to currently exist because of community donations. Since these donations aren’t predictable it is impossible to say whether funds will be available to offset the cost of compliance.

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.

After the public workshops, BLC will attempt to modify the proposed regulations and relax the standards in order to reduce the impact on existing facilities.

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

The fees should cover the cost to BLC of the workload but there should be no surplus revenue to BLC, because the proposed fees will be based on the expected workload and cost based on that workload.

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 include an initial application and per bed fee as well as annual renewal application and per bed fee. If these fees are not changed, BLC estimates that it would collect approximately \$40,000 in licensure fees, the first year. Each year thereafter BLC estimates that it would collect approximately \$26,000. All licensure fees are collected to offset the costs that include but are not limited to the following activities:

- a. Production and distribution of regulations
- b. Application documents review
- c. Facility inspections
- d. Generation of deficiency reports, licenses and data management
- e. Review of plans of correction
- f. Sanctions of non-compliant facilities (to include follow-up inspections)
- g. Complaint investigations (to include investigations of unlicensed facilities)
- h. Provider educational services by BLC
- i. Provision of information concerning facilities to the public

Based on the fees collected and funding available BLC adjusts its level of services to specific facility types. This should allow for modification of the proposed fees, especially in lieu of changes in other aspects of the proposed 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.

There are no federal regulations for these facilities. Currently, no local agencies regulate the operation of these facilities other than generic requirements for a business license. If the proposed regulations are not changed, BLC would share the oversight of these facilities with other state agencies to include the State Fire Marshal, Bureau of Health Protection Services and Bureau of Disease Control & Intervention Services. If particular requirements in the proposed regulations are modified, BLC and the State Fire Marshal might become the only State agencies responsible for licensure standards and oversight of the operation of these facilities. Both BLC and the State Fire Marshal are mandated by statute to provide oversight to these facilities.