

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

LCB File No. R041-06

Effective July 14, 2006

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

AUTHORITY: §§1-4, NRS 449.037.

A REGULATION relating to hospice care; revising regulatory provisions for consistency with statutory provisions; and providing other matters properly relating thereto.

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

“Palliative services” has the meaning ascribed to it in NRS 449.0156.

Sec. 2. NAC 449.017 is hereby amended to read as follows:

449.017 As used in NAC 449.017 to 449.0188, inclusive, *and section 1 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 449.0171 to 449.0178, inclusive, *and section 1 of this regulation* have the meanings ascribed to them in those sections.

Sec. 3. NAC 449.0178 is hereby amended to read as follows:

449.0178 “Terminally ill” ~~[means a medical diagnosis made by a physician that a person has an anticipated life expectancy of not more than 6 months.]~~ *has the meaning ascribed to it in NRS 449.0195.*

Sec. 4. NAC 449.0185 is hereby amended to read as follows:

449.0185 A program of hospice care must comply with the following requirements:

1. A qualified person must be available when required to evaluate the dietary patterns of each patient and plan diets to meet the individual nutritional needs of each patient.
2. Each patient must be advised regarding the availability of pastoral care.
3. Bereavement services must be available to each member of a patient's family after the patient dies to provide appropriate counseling.
4. Nursing care must be provided by a registered nurse or under the supervision of a registered nurse.
5. A social worker must provide social services to each patient in the program under the direction of the interdisciplinary team.
6. The services of:
 - (a) A physical therapist;
 - (b) An occupational therapist; and
 - (c) A speech and language pathologist,↪ must be provided when such services are prescribed for a patient by his physician.
7. Home health aide and homemaker services must be available to each patient and provided at intervals which meet the needs of each patient. A registered nurse must:
 - (a) Supervise the persons providing such services; and
 - (b) Prepare written instructions for the persons providing such services which identify the duties they are to perform.
8. Arrangements must be made to provide any medical supplies and appliances which are required by a patient, including any drug or biological needed for palliative services . ~~as defined in NRS 449.0115.]~~

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R041-06**

The State Board of Health adopted regulations assigned LCB File No. R041-06 which pertain to chapter 449 of the Nevada Administrative Code on June 16, 2006.

Notice date: 5/17/2006
Hearing date: 6/16/2006

Date of adoption by agency: 6/16/2006
Filing date: 7/14/2006

INFORMATIONAL STATEMENT

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 the Hospice facilities on December 16, 2006. Attachment A is the Small Business Impact Statement Questionnaire. Attachment B is a copy of the Small Business Impact Summary.

Notice of public workshops held on January 12, 2006, in Las Vegas and on January 13, 2006, in Reno was published in the Las Vegas Review Journal and Reno Gazette Journal on or before December 23, 2006. Notices of public workshops, and proposed regulations were mailed to all county libraries in Nevada, Hospice facilities, and interested parties on December 16, 2005. The Small Business Impact Summary was available at both workshops.

There was one comment during the regulation workshops. Changing the criteria from six (6) to twelve (12) months for hospice patients was good, however, the twelve (12) month criteria was not in line with Medicare guidelines, a hospice patient would not meet the Medicare criteria for a terminal illness diagnosis for hospice and therefore would not be covered. If the Medicare guidelines don't change, this could be a problem for the patients receiving benefits.

There is no indication that Medicare is going to change their definition.

There were no written comments at the Carson City or Las Vegas workshops.

Notice of public hearing regarding the Board's intent to adopt amendments was published in the Las Vegas Review Journal, and the Reno Gazette Journal on or before May 17, 2006. Notices of public hearing, and proposed regulations were mailed to all county libraries in Nevada, Hospice facilities, and interested parties on May 11, 2006. The notice of public hearing was mailed to Southern Nevada Health District and Washoe County District Health Department on May 11, 2006.

Copies of the workshop minutes and Board of Health hearing minutes may be obtained by calling the Bureau of Licensure and Certification at (775) 687-4475.

2. THE NUMBER OF PERSONS WHO:

(A) ATTENDED THE HEARING;

Approximately 136 people attended the June 16, 2006, Board of Health hearing.

(B) TESTIFIED AT EACH HEARING; AND

No one in attendance testified on Hospice Care.

(C) SUBMITTED TO THE AGENCY WRITTEN STATEMENTS.

No written statements were submitted.

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 of 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.

No testimony was received in opposition to the proposed regulation or which suggested changes to the proposed regulation.

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

Anticipated effects on the business which NAC 449 regulates.

Adverse: None

Beneficial: Increase the available patient group.

Anticipated effects on the public:

Adverse: None

Beneficial: Able to receive Hospice services earlier.

(B) BOTH IMMEDIATE AND LONG TERM EFFECTS.

Anticipated effects on the business which NAC 449 regulates.

Immediate: None

Long-term: None

Anticipated effects on the public:

Immediate: None

Long-term: None

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

There is no anticipated additional cost to the agency for enforcement of the proposed regulation changes.

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.

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

These proposed regulations do not overlap or duplicate federal regulations. The regulations do not have a counterpart in the code of federal regulations.

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 amendments do not establish any new fees or increase any existing fees.