

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

**LCB File No. R098-06**

Effective July 14, 2006

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

AUTHORITY: §§1-6, NRS 449.037.

A REGULATION relating to the treatment of abuse of alcohol or drugs; requiring certain treatment programs for alcohol and drug abuse to be certified by the Health Division of the Department of Health and Human Services; requiring certain facilities for the treatment of abuse of alcohol or drugs to satisfy certain construction and maintenance standards; and providing other matters properly relating thereto.

**Section 1.** NAC 449.0038 is hereby amended to read as follows:

449.0038 “Health Division” means the Health Division of the Department of *Health and* Human ~~[Resources.]~~ *Services*.

**Sec. 2.** NAC 449.108 is hereby amended to read as follows:

449.108 1. A residential program must ~~[-]~~ *be certified* by the Health Division ~~[-; and~~  
~~—(b) Meet the criteria specified in the most recently published edition of the Patient Placement Criteria for the Treatment of Substance-Related Disorders, (ASAM PPC-2R), which is hereby adopted by reference, unless the State Board of Health gives notice that the most recent revision is not suitable for this State pursuant to this paragraph. A copy of the book may be purchased from the American Society of Addiction Medicine at ASAM Publications Distribution, P.O. Box 101, Annapolis Junction, Maryland 20701-0101, at the Internet address <<http://www.asam.org>>, or by telephone at (800) 844-8948, for the price of \$70 for ASAM members or \$85 for~~

~~nonmembers, plus shipping and handling. The State Board of Health will review each revision of the Patient Placement Criteria for the Treatment of Substance-Related Disorders to ensure its suitability for this State. If the Board determines that a revision is not suitable for this State, the Board will hold a public hearing to review its determination within 6 months after the date of the publication of the revision and give notice of that hearing. If, after the hearing, the Board does not revise its determination, the Board will give notice within 30 days after the hearing that the revision is not suitable for this State. If the Board does not give such notice, the revision becomes part of the publication adopted by reference pursuant to this paragraph.]~~ *pursuant to NAC 458.108 and must comply with any applicable regulations adopted pursuant to subsection 4 of NRS 458.025.*

2. At the time of admission into a residential program, there must be documentation indicating that the client has been informed of:
  - (a) The general nature and goal of the program;
  - (b) The rules governing client conduct and the infractions that can lead to disciplinary action or discharge from the program;
  - (c) The treatment costs, if any, to be borne by the client;
  - (d) The client's rights and responsibilities; and
  - (e) Confidentiality laws, rules and regulations.
3. The program must be periodically evaluated to ensure compliance with any applicable regulations adopted pursuant to subsection 4 of NRS 458.025.
4. The facility must provide access to medical, dental, psychological and rehabilitative services to meet the needs of all its clients, to the extent possible, with assistance from available community resources.

5. If a facility provides services through outside sources, written arrangements must be made ~~assuring~~ *ensuring* that the services are supplied directly by, or under the supervision of, qualified persons.

6. The facility must provide case management services as needed by the client either directly or by written agreement with a qualified social worker, a registered nurse or a counselor certified or licensed by the Board of Examiners for Alcohol , *Drug* and ~~Drug Abuse~~ *Gambling* Counselors.

7. A plan for case management services must be recorded in the client's record and must be periodically evaluated in conjunction with the client's treatment plan.

8. Each facility shall review the program at least annually. Areas reviewed must include, but need not be limited to, appropriateness of admissions, lengths of stay, discharge planning, use of services , and utilization of the components of the program and outside services. Written reports of the reviews must be evaluated by the governing body, administrator and such committees as they designate. Documentation of the evaluation process must be maintained at the facility.

**Sec. 3.** NAC 449.114 is hereby amended to read as follows:

449.114 1. A facility must have on duty, all hours of each day, members of the staff sufficient in number and qualifications to carry out policies, responsibilities and program continuity.

2. Each member of the counseling staff must be:

(a) A registered intern;

(b) Certified or licensed by the Board of Examiners for Alcohol , *Drug* and ~~Drug Abuse~~

*Gambling* Counselors; or

(c) A licensed mental health professional who has experience with alcohol and drug abuse counseling.

3. The administrator or his appointee ~~[shall]~~ *must* be present and responsible for the operations of the facility during normal hours.

4. A facility must have written policies and procedures for the recruitment, selection, promotion and termination of members of the staff.

5. The facility must have written policies and procedures covering wages and salaries, working hours, employee benefits, vacation and sick leave, rules of conduct , and training and the development of the staff.

6. The facility must provide an orientation session to new employees. Documentation of the sessions must be maintained in the employee's personnel record.

7. There must be written policies and procedures governing disciplinary actions which clearly define the mechanism for suspension or dismissal of members of the staff as well as the procedures for appeal.

8. Written job descriptions must be maintained for all positions. A description must include:

(a) The title of the job;

(b) The tasks and responsibilities of the job;

(c) The skills, education and experience necessary for the job;

(d) The relationship of the job to other jobs within the program; and

(e) The working conditions, location, shift, materials and equipment to be used on the job.

↪ The job description must accurately reflect the actual job situation and must be reviewed annually or whenever a change in the job or qualifications occurs. Job descriptions must be available on request to all members of the staff.

9. A personnel record must be maintained for each employee. The record must contain:

- (a) The employment application;
- (b) Letters of recommendation;
- (c) Reference investigation records;
- (d) Verification of training, experience and, if applicable, certification;
- (e) Documentation of attendance at the orientation session for new employees;
- (f) Job performance evaluations;
- (g) Incident reports; and
- (h) Disciplinary actions taken.

10. Personnel records must be maintained in a secure manner and must be available only to those persons authorized in written policies and procedures. An employee must have access to his own records upon request.

**Sec. 4.** NAC 449.129 is hereby amended to read as follows:

449.129 1. A facility must be designed, constructed, equipped and maintained in a manner that protects the health and safety of the clients and personnel of the facility and members of the general public.

2. Each facility must comply with all currently adopted life safety, fire, Health Division, local building and zoning codes. If there is a difference between state and local codes, the more stringent standards apply.

3. Facilities housing 17 or more clients must meet the requirements of the chapter ~~entitled~~ **entitled** ~~“Existing Hotel”~~ **entitled** *“New Hotels and Dormitories,”* of the edition of *NFPA 101: Life Safety Code*, adopted by reference pursuant to NAC 449.0105. Those facilities housing not more than 16 clients must meet the requirements of the chapter ~~entitled~~ **entitled** *“Lodging or Rooming*

Houses,” of the edition of *NFPA 101: Life Safety Code*, adopted by reference pursuant to NAC 449.0105.

4. A facility is deemed to be in compliance with the provisions of this section if:

(a) The facility is licensed by May 30, 2001, and:

(1) The use of the physical space in the facility is not changed; and

(2) There are no deficiencies in the construction of the facility that are likely to cause serious injury, harm or impairment to the health and welfare of the public; or

(b) Before May 30, 2001, the facility has submitted building plans to the entity designated to review such plans by the Health Division pursuant to the provisions of NAC 449.0115 and:

(1) The Health Division determines that the plans comply with standards for construction in effect before May 30, 2001;

(2) Construction of the facility is begun before February 1, 2002;

(3) The facility is constructed in accordance with those standards; and

(4) There are no deficiencies in the construction of the facility that are likely to cause serious injury, harm or impairment to the health and welfare of the public.

**Sec. 5.** NAC 449.141 is hereby amended to read as follows:

449.141 1. Facilities must provide access to health services which ~~assure~~ *ensure* that each client receives treatment, prescribed medication, adequate diets and other health services consistent with the program administered by the facility.

2. Facilities must implement policies and procedures designed to ensure the early detection of complications or conditions considered to be common among drug abusers. These policies and procedures must be developed in conjunction with and approved by a licensed physician.

3. Before a client's admission to a program or facility, a general medical and drug history must be taken by a designated member of the staff who is certified or licensed by the Board of Examiners for Alcohol, *Drug* and ~~Drug Abuse~~ *Gambling* Counselors or who is a licensed mental health professional who has experience with alcohol and drug abuse counseling. Current medical information must be provided on a form that has been approved by a physician. The history must include, but is not limited to:

- (a) Drugs used in the past;
- (b) Drugs used recently;
- (c) Drugs of preference;
- (d) Frequently used drugs;
- (e) Drugs used in combination;
- (f) Dosages used;
- (g) Date of first usage;
- (h) Incidents of overdose, withdrawal or adverse drug reactions; and
- (i) Previous history of treatment.

4. A program may accept medical history and physical examination results from referral sources which were conducted ~~no~~ *not* more than 30 days before admission in lieu of personally taking a general medical and drug history as required pursuant to subsection 3.

5. Each facility must be able to provide directly, or through written arrangements, laboratory tests as requested by a physician or federal regulations.

6. Facilities must implement written policies and procedures that are reviewed by a licensed physician defining the appropriate action to be taken when a medical emergency arises.

7. There must be one staff person in the facility who is capable of providing cardiopulmonary resuscitation at all times. Staff members providing cardiopulmonary resuscitation must be qualified by the American Red Cross or another recognized agency.

8. Clients of residential programs must undergo a tuberculin skin test that meets the requirements specified in chapter 441A of NAC.

9. Each facility shall maintain and have readily available first-aid supplies. Staff members shall have evidence that they have received training on the use of first-aid supplies.

**Sec. 6.** NAC 449.1548 is hereby amended to read as follows:

449.1548 In addition to all other requirements set forth in NAC 449.154 to 449.15485, inclusive, each facility for treatment with narcotics and each medication unit shall:

1. Have a medical director who has a valid and current license to practice medicine in this State;

2. Employ, contract with or allow a person to act as an alcohol and drug abuse counselor only if the person is certified by the Board of Examiners for Alcohol , *Drug* and ~~{Drug Abuse}~~ *Gambling* Counselors to be such a counselor;

3. Obtain and maintain with the State Board of Pharmacy a valid and current registration relating to the use of narcotics;

4. Be in full compliance with all applicable provisions of 42 C.F.R. Part 8, all other applicable federal laws and regulations and all other requirements of the SAMHSA and the DEA;

5. Be in full compliance with all applicable provisions of chapters 449 and 453 of NRS and in substantial compliance with all applicable provisions of this chapter and chapter 453 of NAC;

6. Maintain records and documentation of treatment pursuant to NRS 453.690;



7. Provide the Health Division and the State Board of Pharmacy with access to all records and documentation relating to the purchase, distribution and use of narcotics;
8. Comply with the rules of confidentiality and privilege set forth in NRS 453.720;
9. Develop and maintain a system to ensure that prospective and existing clients are not receiving narcotics from any other facility for treatment with narcotics or any other medication unit; and
10. Comply with all applicable local laws and regulations, including, but not limited to, zoning laws and regulations.

**NOTICE OF ADOPTION OF PROPOSED REGULATION  
LCB File No. R098-06**

The State Board of Health adopted regulations assigned LCB File No. R098-06 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 Facilities for Treatment of Alcohol and Drugs on April 25, 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 May 17, 2006, in Reno and on May 19, 2006, in Las Vegas was published in the Las Vegas Review Journal and Reno Gazette Journal on May 1, 2006. Notices of public workshops, and proposed regulations were mailed to all county libraries in Nevada, Facilities for Treatment of Alcohol and Drugs, and interested parties on April 25, 2006. On May 4, 2006, the Bureau of Licensure and Certification was informed that they could no longer use the room at the Reno location. Notice of public workshop change of location was published in the Las Vegas Review Journal and Reno Gazette Journal on May 12, 2006. Notice of public workshops change of location were mailed to all county libraries in Nevada, Facilities for Treatment of Alcohol and Drugs, and interested parties on May 11, 2006. The Small Business Impact Summary was available at both workshops.

There were no written or public 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 Reno Gazette Journal on or before May 17, 2006. Notices of public hearing, and proposed regulations were mailed to all county libraries in Nevada, Facilities for Treatment of Alcohol and Drugs, and interested parties on May 11, 2006. The notice of public hearing was mailed to Southern Nevada Health District and Southern Nevada 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 Facilities for the Treatment of Abuse of Alcohol or Drugs regulations.

(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: Eliminates the double standard of two different classifications for BADA certification and Life Safety Code requirements.

Anticipated effects on the public:

Adverse: None

Beneficial: Eliminates the double standard of two different classifications for BADA certification and Life Safety Code requirements.

(B) BOTH IMMEDIATE AND LONG TERM EFFECTS.

Anticipated effects on the business which NAC 449 regulates.

Immediate: Clarification of requirements for the facilities.

Long-term: Clarification of requirements for the facilities.

Anticipated effects on the public:

Immediate: Clarification of requirements for the facilities.

Long-term: Clarification of requirements for the facilities.

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.