

Steve Sisolak  
Governor



Richard Whitley, MS  
Director

**DEPARTMENT OF  
HEALTH AND HUMAN SERVICES**  
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH  
*Helping people. It's who we are and what we do.*



Lisa Sherych  
Administrator

Ihsan Azzam,  
Ph.D., M.D.  
Chief Medical Officer

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## **NOTICE OF PUBLIC WORKSHOP**

NOTICE IS HEREBY GIVEN that the Division of Public and Behavioral Health will hold a public workshop to consider amendments to Nevada Administrative Code (NAC) Chapter 449.

The workshop will be conducted virtually and via telephone beginning at 3:00 PM on Wednesday, September 28, 2022. You can join in on your computer, mobile app or by calling in via telephone using the following information:

- [Click here to join the meeting using Microsoft Teams](#)
  - Meeting ID: 267 833 929 251  
Passcode: YsjxPk
  - [Download Teams](#) | [Join on the web](#)
- Or call in (audio only): 775-321-6111 (Phone Conference ID: 901 416 511#)

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These workshops will be conducted in accordance with NRS 241.020, Nevada's Open Meeting Law.

### **AGENDA**

1. Introduction of workshop process
2. Public comment on proposed amendments to Nevada Administrative Code Chapter 449.
3. Public Comment

The proposed changes will revise Chapter 449 of the Nevada Administrative Code and are being proposed in accordance with:

§ 1, NRS 233B.039, 439.200 and 441A.120; §§ 2-5, 7, 8, 10-13, 15-18, 20, 21, 25-28, 36-44, 47-51, 53-57, 59-68, 72, 80 and 81, NRS 439.200 and 449.0302; §§ 6, 73 and 74, NRS 439.200, 449.0302 and 449.165; §§ 9 and 29-35, NRS 439.200, 449.0302 and 449.0305; § 14, NRS 439.200, 449.0302 and 449.24185; § 19, NRS 439.200, 449.0302 and 449.040; §§ 22 and 23, NRS 439.150, 439.200, 449.0302 and 449.050; § 24, NRS 439.150, 439.200 and 449.0302; §§ 45 and 69-71, NRS 439.200, 449.0302 and 449.0303; §§ 46 and 52, NRS 439.200, 449.0302 and 449.1915; § 58, NRS 439.200, 449.0302 and 629.051; §§ 75-79, NRS 439.200, 450B.120 and 450B.237.

The proposed regulations provide provisions for the following:

The proposed regulations align Chapter 449 of NAC with the passage of several bills, including, Senate Bill 92 and Assembly Bill's 131 and 232 of the 2019 Legislative Sessions and Senate Bill 69 and Assembly Bill 287 of the 2021 Legislative Session.

- Senate Bill 92 of the 2019 Legislative Session expanded provisions for the licensing and regulation of referral agencies that provide referrals to residential facilities for groups to also require the licensing and

regulation of referral agencies that provide referrals to certain similar group housing arrangements. The proposed regulations expand provisions governing referral agencies to also include agencies that provide referrals to group housing arrangements as defined in Section 9 of the proposed regulations. In addition to the changes as a result of the passage of Senate Bill 92, Section 32 of this regulation authorizes a licensed nurse, public guardian, social worker, physician, physician assistant or hospital to provide a referral to a group housing arrangement through a licensed referral agency.

- Assembly Bill 131 of the 2019 Legislative Session removed a requirement that a provider of community-based living arrangement services must be Certified by the Division of Public and Behavioral Health and instead requires such a provider to be licensed by the Division as a facility for the dependent. The proposed regulations replace language referring to a certificate and instead uses the term license where applicable.
- Assembly Bill 232 of the 2019 Legislative Session abolished the classification of a general hospital; therefore, the proposed regulations remove the term general hospital from Nevada Administrative Code.
- Senate Bill 69 of the 2021 Legislative Session removed the provisions for licensure of a peer support recovery organization; therefore, the proposed regulations remove the associated fee.
- To conform with the passage of Assembly Bill 287 of the 2021 Legislative Session, the proposed regulations revise the term “obstetric center” to instead refer to a “freestanding birthing center.”

In addition, the proposed regulations make the following changes:

Section 1 authorizes the Chief Medical Officer to impose reporting requirements, in addition to those currently prescribed in chapter 441A of NRS, concerning a disease for which a pandemic or epidemic is ongoing without adopting additional regulations. Consideration is be given to remove this section of the proposed regulations.

Section 3 adopts by reference certain guidelines concerning the use of personal protective equipment, and section 4 of this regulation requires a medical facility, facility for the dependent or other licensed facility to follow those guidelines and to take certain measures to ensure that the facility maintains an adequate supply of personal protective equipment.

Section 5 imposes certain requirements relating to the use of audio and video monitoring equipment to monitor a patient or resident at a medical facility, facility for the dependent or other licensed facility.

Section 6 expands the requirement for a hospital to notify the Division if the hospital that is not required to be accredited and becomes accredited or loses accreditation to apply to any medical facility that acquires or loses accreditation. It also authorizes the Division to impose an administrative penalty for failure to report the acquisition or loss of accreditation; and prohibits the Bureau of Health Care Quality and Compliance from imposing any other administrative sanction for such a violation.

Section 7 requires a facility for the dependent to develop and carry out an infection control program and an emergency preparedness plan; and designate two employees to be responsible for infection control at the facility.

Section 8 requires a facility for hospice care that plans to commence new construction or certain remodeling to submit two copies of the building plans to that designated entity and the Division, requires the building plans to be approved before the construction or remodeling, as applicable, begins, and requires the Bureau to conduct a site survey before licensing a newly constructed facility for hospice care.

Section 26 requires a facility for hospice care to comply with certain requirements for fire safety.

Section 44 specifies that the administrator of an agency to provide personal care services in the home is required to ensure that employees are provided all training required by chapter 449 of NRS and chapter 449 of NAC. Section 10 provides that an agency to provide personal care services in the home may satisfy that requirement by providing or arranging for the provision of such training. It also requires such an agency to pay certain costs associated with such training; and the salary or hourly wage of an employee for time spent attending such training.

Section 13 prescribes different class designations for ambulatory surgical centers based on the type of surgical procedures performed at an ambulatory surgical center; and requires an ambulatory surgical center to have a certain amount of space in the operating room, depending on the class designation of the ambulatory surgical center.

Section 19 requires an application for a license to operate an ambulatory surgical center to identify the class designation of the ambulatory surgical center.

Section 14 prescribes certain qualifications for a surgical technologist who is hired if, after conducting a thorough and diligent search, the facility is unable to employ a sufficient number of surgical technologists who possess the qualifications pursuant to NRS 449.24185, establishes the conditions under which an ambulatory surgical center will be deemed to have conducted a thorough and diligent search, and requires an ambulatory surgical center that employs a surgical technologist under such circumstances to maintain certain documentation.

Section 15 prescribes certain required training for a natural person responsible for the operation of a provider of community-based living arrangement services; an employee of a provider of community-based living arrangement services who supervises or provides support to recipients of services; and a caregiver who assists a recipient of community-based living arrangement services in the administration of medication.

Section 16 requires a provider of community-based living arrangement services who operates a facility that provides assistance to residents in the administration of medications to maintain certain records concerning those medications; and prescribes requirements governing the administration of over-the-counter medications or dietary supplements to such residents. Section 62 requires an applicant for a provisional license to post a surety bond in a certain amount, place that amount in escrow or take other action prescribed by the Division to ensure the continuation of services if the applicant becomes insolvent. Section 63 requires a provider of community-based living arrangement services to maintain a staff sufficient to meet the needs of each person receiving services from the provider.

If there is an immediate and serious threat to the health and safety of residents or patients at a facility, section 17 requires the Bureau of Health Care Quality and Compliance to notify the facility as soon as possible and authorizes the Bureau to require the facility to establish a plan of abatement to end the threat.

Sections 18 and 67 update the titles and prices of and certain other information concerning certain publications adopted by reference.

Section 20 extends the requirement that the Division perform an investigation and survey of a facility and receive a satisfactory report of inspection of the facility from the State Fire Marshal or local fire department before issuing a license to the facility to also apply to be a certified intermediary service organizations; and exempts certain facilities, such as agencies that provide services in a patient's home but do not provide direct patient care in their physical facility, from the requirement to receive a fire inspection.

The proposed regulations remove references to the term “subunit agency” of a home health agency as there will no longer be a separate licensure category for subunits.

Section 24 removes the requirement that a complaint must be submitted by a consumer, thereby authorizing the Division to charge a licensee for the investigation of any complaint against the licensee.

Section 28 authorizes a residential facility for groups to retain a resident with a serious infection during an epidemic or pandemic if the resident does not have symptoms that require a higher level of care than the residential facility is capable of providing.

Section 27 revises requirements governing the size of the windows in a bedroom of a residential facility for groups.

Sections 41, 47 and 80 require a hospital or independent center for emergency medical care to provide training to each employee who provides care to victims of sexual assault or attempted sexual assault concerning appropriate care for such persons within 60 days after the date on which the employee commenced employment or, if the employee is employed on the effective date of this regulation, within 60 days after the effective date of this regulation; and maintain evidence of such training in the personnel file of each such employee.

If there is reasonable cause to believe that a resident of a psychiatric residential treatment facility has been abused or neglected, section 45 requires an employee or independent contractor having knowledge of the abuse or neglect to report the abuse or neglect as required by law; and the facility to take certain measures to stop the abuse or neglect, notify the family of or other person legally responsible for the alleged victim and ensure that the alleged victim receives proper care.

Sections 46, 52 and 70 revise provisions governing facilities for the treatment of irreversible renal disease, facilities for skilled nursing and recovery centers to clarify that a dietitian, physician, physician assistant, dentist, advanced practice registered nurse or podiatric physician is authorized to order or prescribe, as appropriate, a therapeutic diet for a patient at any of those facilities.

Section 50 revises the required dimensions of doors to certain rooms that permit access for wheelchairs at an intermediate care facility.

Section 60 brings home health agency regulations in line with existing law by authorizing a physician assistant or advanced practice registered nurse to order home health care for a patient.

The proposed regulations also omit a large portion of the state home health agency regulations and instead align them more closely with the federal CMS home health agency regulations by adopting those by reference and requiring they be followed by licensed home health agencies.

Section 68 removes the requirement that each ambulatory surgical center must maintain a written agreement with a hospital concerning the transfer of patients.

Section 71 requires a pharmacy conducted by a recovery center to be licensed; and a recovery center to comply with the requirement concerning the signing of chart orders.

Sections 73 and 74 establish requirements concerning the confidentiality of a statement of deficiencies and plan of correction.

Members of the public may make oral comments at this meeting. Persons wishing to submit written testimony or documentary evidence may submit the material to Leticia Metherell, Health Program Manager at the following address:

Division of Public and Behavioral Health  
Bureau of Health Care Quality and Compliance  
727 Fairview Drive, Suite E  
Carson City, NV 89701  
775-684-1073 (FAX)

Members of the public who require special accommodations or assistance at the workshops are required to notify Leticia Metherell, in writing, to the Division of Public and Behavioral Health, 727 Fairview Dr, Suite E, Carson City, NV 89701, by email at [lmetherell@health.nv.gov](mailto:lmetherell@health.nv.gov) or by calling 775-684-1030 at least five (5) working days prior to the date of the public workshop.

You may contact Leticia Metherell by calling 775-684-1045 for further information on the proposed regulations or how to obtain copies of the supporting documents.

A copy of the notice and the proposed regulations are on file for inspection and/or may be copied at the following locations during normal business hours:

Division of Public and Behavioral Health  
727 Fairview Drive, Suite E  
Carson City, NV

Division of Public and Behavioral Health  
4220 S. Maryland Parkway, Suite 100, Bldg. A  
Las Vegas, NV

Nevada State Library and Archives  
100 Stewart Street  
Carson City, NV

A copy of the public workshop notice, regulations and small business impact statement can be found on the Division of Public and Behavioral Health's web page:

[https://dpbh.nv.gov/Reg/HealthFacilities/State\\_of\\_Nevada\\_Health\\_Facility\\_Regulation\\_Public\\_Workshops/](https://dpbh.nv.gov/Reg/HealthFacilities/State_of_Nevada_Health_Facility_Regulation_Public_Workshops/)

A copy of the public workshop notice can also be found at Nevada Legislature's web page:

<https://www.leg.state.nv.us/App/Notice/A/>

A copy of this notice has been posted at the following locations:

1. Division of Public and Behavioral Health, 4150 Technology Way, First Floor Lobby, Carson City
2. Nevada State Library and Archives, 100 Stewart Street, Carson City
3. Legislative Building, 401 S. Carson Street, Carson City
4. Southern Nevada Health District, 280 S Decatur Blvd, Las Vegas
5. Washoe County District Health Department, 9<sup>TH</sup> and Wells, Reno

Copies may be obtained in person, by mail, or by calling the Division of Public and Behavioral Health at (775) 684-1030 in Carson City or (702) 486-6515 in Las Vegas.

Per NRS 233B.064(2), upon adoption of any regulations, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.