

**REVISED PROPOSED REGULATION OF THE  
STATE BOARD OF HEALTH**

**LCB File No. R109-18**

August 23, 2018

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

AUTHORITY: §1, NRS 439.200, 449.03005, 449.0302, 449.0304, 449.165 and 449.1825; §§2-11 and 18, NRS 439.200 and 449.03005; §12, NRS 439.200, 449.0302 and 449.1825; §§13, 15, 16, 20-24 and 27-30, NRS 439.200, 449.0302 and 449.0304; §§14, 25 and 26, NRS 439.200, 449.4308, 449.4309 and 449.4327; §§17 and 31-34, NRS 439.200 and 449.165; §19, NRS 439.150, 439.200, 449.03005 and 449.050.

A REGULATION relating to health care; prescribing requirements concerning the licensing and operation of certain employment agencies that provide nonmedical services; prescribing requirements concerning the posting of ratings of medical facilities and facilities for the dependent; establishing a system for rating certain health care facilities on compliance with provisions relating to staffing; establishing procedures to appeal a finding of a violation of such provisions or request a follow-up inspection; authorizing certain uses of an initial monetary penalty to correct the deficiency for which the penalty was imposed; increasing certain monetary penalties; establishing monetary penalties for violations that cause harm or a risk of harm to more than one person; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law requires the State Board of Health to license and regulate employment agencies that contract with persons to provide nonmedical services related to personal care to elderly persons or persons with disabilities in the home. (NRS 449.03005) **Sections 2-7** of this regulation define terms relating to the licensure and regulation of such employment agencies. **Section 8** of this regulation prescribes requirements relating to the scope and content of a license to operate such an employment agency and requires such an employment agency to maintain liability coverage. **Section 9** of this regulation requires each such employment agency to appoint an administrator and prescribes the qualifications and duties of an administrator.

**Section 4** defines the term “attendant” to mean a person who is employed by or retained pursuant to a contract by an employment agency for the purpose of providing nonmedical services to a client. **Section 10** of this regulation prescribes the qualifications of and training requirements for an attendant of such an employment agency. **Section 11** of this regulation requires such an employment agency to: (1) provide records to the Division of Public and

Behavioral Health of the Department of Health and Human Services upon request; (2) perform certain duties relating to the evaluation and supervision of attendants; (3) provide certain information to clients; and (4) if the employment agency is located outside Nevada, pay necessary expenses incurred by the Division when conducting inspections and investigating complaints. **Section 18** of this regulation makes a conforming change. **Section 19** of this regulation prescribes the fees for the issuance and renewal of a license as such an employment agency.

Existing law requires a medical facility or facility for the dependent that receives a star rating from the Centers for Medicare and Medicaid Services to post the most recent star rating assigned to the facility in a conspicuous place near each entrance to the facility that is regularly used by the public. (NRS 449.1825) **Section 12** of this regulation: (1) prescribes requirements concerning the posting of the star rating; and (2) clarifies that a facility which does not receive a star rating is not required to post a star rating.

Existing law requires the Board to adopt regulations authorizing an employee of a residential facility for groups, an agency to provide personal care services in the home, a facility for the care of adults during the day or an intermediary services organization to check vital signs, administer insulin using an auto-injection device and perform blood glucose testing, subject to certain requirements. (NRS 449.0304, 449.4309) **Sections 13-16** of this regulation authorize an employee of such a facility, agency or organization to perform those tasks. **Sections 13-16 and 22** of this regulation require an employee who performs such tasks to: (1) receive certain training; (2) adhere to the manufacturer's instructions for any device used in performing the task and any applicable federal and state laws and regulations; and (3) refrain from using a device for monitoring blood glucose on more than one person. **Sections 13-16** additionally clarify that if a client of such a facility, agency or organization is physically or mentally incapable of performing a blood glucose test and an employee performs or assists with the performance of such a test, the employee is required to comply with those requirements as if he or she were performing the test. Finally, **sections 13-16** authorize an employee of a residential facility for groups, an agency to provide personal care services in the home, a facility for the care of adults during the day or an intermediary services organization to measure weight if the employee has received certain training and the person being weighed has consented. **Sections 20, 21 and 23-30** of this regulation make conforming changes.

Existing law authorizes the Division to impose a monetary penalty of not more than \$5,000 per day for each violation on a medical facility, facility for the dependent or other facility required by the Board to be licensed that violates any provision related to its licensure or regulation of the Board. (NRS 449.163) Existing law also requires the Board to adopt regulations establishing the criteria for the imposition of monetary penalties and to establish an administrative penalty to be imposed for a violation that causes harm or a risk of harm to more than one person. (NRS 449.165) Existing regulations authorize the Bureau of Health Care Quality and Compliance of the Division to impose an initial monetary penalty based on the severity and scope of the violation and a monetary penalty of \$10 for each day of noncompliance. (NAC 449.99896) **Section 17** of this regulation authorizes a facility to request to use all or a portion of an initial monetary penalty to correct the deficiency for which the penalty was imposed in lieu of paying the penalty. **Section 17** authorizes the Bureau of Health Care Quality and Compliance of the Division to approve such a request if the deficiency results from

the facility's first violation of a particular provision of law or regulation. **Sections 31 and 34** of this regulation make conforming changes. **Section 32** of this regulation: (1) revises the amount of each initial monetary penalty; and (2) establishes an initial monetary penalty for a violation that causes harm or a risk of harm to more than one person. **Section 33** of this regulation increases the maximum amount of the monetary penalty for a day of noncompliance.

**Section 1.** Chapter 449 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this regulation.

**Sec. 2.** *“Employment agency to provide nonmedical services” means an employment agency that contracts with persons to provide “nonmedical services related to personal care to elderly persons or persons with disabilities,” as that term is defined in NRS 449.01517.*

**Sec. 3.** *As used in sections 3 to 11, inclusive, of this regulation, the words and terms defined in sections 4 to 7, inclusive, of this regulation have the meanings ascribed to them in those sections.*

**Sec. 4.** *“Attendant” means a person who is employed by or retained pursuant to a contract by an employment agency for the purpose of providing nonmedical services to a client.*

**Sec. 5.** *“Client” means an elderly person or a person with a disability who seeks to receive or receives nonmedical services in the home in which the person lives.*

**Sec. 6.** *“Employment agency” means an employment agency to provide nonmedical services.*

**Sec. 7.** *“Nonmedical services” means “nonmedical services related to personal care to elderly persons or persons with disabilities,” as that term is defined in NRS 449.01517.*

**Sec. 8.** *1. Except as otherwise provided in this subsection, each license issued to operate an employment agency must be issued to one person and designate the primary place of business of the employment agency. A person may operate an employment agency at multiple*

*work stations if the employment agency maintains the records for the clients, attendants, other members of the staff of the employment agency and operations of the employment agency at the primary place of business designated on the license.*

*2. The name of the person to whom the license is issued must appear on the face of the license.*

*3. Each employment agency must retain proof that it has adequate coverage against liabilities to cover claims likely to be incurred in the course of operation. The proof of liability coverage must be verified at the time the employment agency submits its initial application to the Division for a license and upon request by the Division.*

*4. As used in this section, “work station” means a satellite office of an employment agency that is established for the sole purpose of providing a location:*

*(a) Where copies of records may be sent to an employment agency; and*

*(b) From which an attendant may work to serve a geographic area outside the geographic area in which the attendant normally works.*

**Sec. 9. 1. Each employment agency shall appoint an administrator who:**

*(a) Is at least 18 years of age;*

*(b) Has a high school diploma or its equivalent;*

*(c) Is responsible and mature and exhibits empathy, listening skills and other personal qualities which will enable the administrator to understand the problems of elderly persons and persons with disabilities;*

*(d) Understands the provisions of this chapter and chapter 449 of NRS; and*

*(e) Has demonstrated the ability to read, write, speak and understand the English language.*

*2. The administrator of an employment agency shall oversee the daily operation of the employment agency and shall appoint another employee to assume the responsibilities of the administrator in the absence of the administrator. The responsibilities of an administrator include, without limitation:*

*(a) Employing qualified personnel and providing for their training;*

*(b) Ensuring that the employment agency refers only properly trained attendants to provide nonmedical services to clients;*

*(c) Ensuring that an initial assessment of the needs of each client is completed and that an attendant referred to provide nonmedical services to a client is capable of providing the services necessary to meet those needs;*

*(d) Ensuring that the clients of the employment agency receive needed nonmedical services; and*

*(e) Developing and implementing policies and procedures for the employment agency, including, without limitation, policies and procedures concerning terminating the nonmedical services provided to a client when they are no longer necessary.*

**Sec. 10.** *Each attendant of an employment agency must:*

*1. Be at least 18 years of age;*

*2. Provide to the Division, upon request, documentation that the attendant has taken the tests or obtained the certificates required by NAC 441A.375;*

*3. Be responsible and mature and exhibit empathy, listening skills and other personal qualities which will enable the attendant to understand the problems of elderly persons and persons with disabilities;*

*4. Understand the provisions of this chapter and chapter 449 of NRS;*

5. *Demonstrate the ability to read, write, speak and communicate effectively in the English language with the clients of the employment agency;*
6. *Demonstrate the ability to meet the needs of the clients of the employment agency; and*
7. *Within the 12 months immediately preceding the date on which the attendant begins providing nonmedical services to a client and annually thereafter, complete not less than 8 hours of training related to providing for the needs of the clients of the employment agency and limitations on the nonmedical services provided by the employment agency. The training must include, without limitation, training concerning:*
  - (a) *Duties and responsibilities of attendants and the appropriate techniques for providing nonmedical services;*
  - (b) *Recognizing and responding to emergencies, including, without limitation, fires and medical emergencies;*
  - (c) *Dealing with the adverse behaviors of clients;*
  - (d) *Nutrition and hydration, including, without limitation, special diets and meal preparation and service;*
  - (e) *Bowel and bladder care, including, without limitation, routine care associated with toileting, routine maintenance of an indwelling catheter drainage system such as emptying the bag and positioning of the system, routine care of colostomies such as emptying and changing the colostomy bag, signs and symptoms of urinary tract infections and common bowel problems, including, without limitation, constipation and diarrhea;*
  - (f) *Methods for preventing skin breakdown, contractures and falls;*
  - (g) *Hand washing and infection control;*
  - (h) *Basic body mechanics, mobility and techniques for transferring clients;*

- (i) Proper techniques for bathing clients;*
- (j) The rights of clients and methods to protect the confidentiality of information concerning clients as required by federal and state law and regulations;*
- (k) The special needs of elderly persons and persons with disabilities and sensory, physical and cognitive changes related to the aging process;*
- (l) Maintenance of a clean and safe environment; and*
- (m) First aid and cardiopulmonary resuscitation. A certificate in first aid and cardiopulmonary resuscitation issued to the attendant by the American Red Cross, its successor organization, or an organization determined by the Division to be equivalent shall be deemed adequate proof that the attendant has received the training required by this paragraph.*

**Sec. 11. *An employment agency shall:***

- 1. Provide any records of the employment agency to the Division upon request, including, without limitation, as part of an investigation of a complaint;*
- 2. Evaluate each attendant to determine whether the attendant is competent in the required areas of training set forth in subsection 7 of section 10 of this regulation;*
- 3. Ensure that each attendant does not provide services other than nonmedical services;*
- 4. Before an attendant begins providing nonmedical services to a client, provide information to the client regarding the fees for those nonmedical services;*
- 5. If the employment agency is located outside of this State, pay any necessary expenses, including, without limitation, travel expenses, incurred by the Division to conduct inspections and investigations of complaints; and*

*6. Inform each client that the employment agency is not an agency to provide nursing in the home and is not authorized to provide services other than nonmedical services.*

*Sec. 12. 1. Information posted by a medical facility or facility for the dependent to satisfy the requirements of subsection 2 of NRS 449.1825 must, in addition to meeting the requirements of that subsection:*

*(a) Be posted on a sign that is not less than 8.5 inches in height and 11 inches in width, with margins not greater than 1 inch on any side;*

*(b) Be written using a single typeface in not less than 20-point type; and*

*(c) State the name of the facility and identify the star rating assigned by the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services as the “Centers for Medicare and Medicaid Services Star Rating.”*

*2. The requirements of subsection 2 of NRS 449.1825 apply to each entrance to a building where activity is conducted for which a license as a medical facility or facility for the dependent is required.*

*3. A medical facility or facility for the dependent is not required to post a star rating assigned by the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services pursuant to subsection 2 of NRS 449.1825 if the facility did not receive such a rating, including, without limitation, if the facility received an asterisk instead of a star rating.*

*Sec. 13. 1. A caregiver of a residential facility may perform a task described in NRS 449.0304 if the caregiver:*

*(a) Before performing the task, annually thereafter and when any device used for performing the task is changed:*



*(1) Has received training concerning the task that meets the requirements of subsection 5; and*

*(2) Has demonstrated an understanding of the manner in which the task must be performed;*

*(b) Follows the manufacturer's instructions when operating any device used for performing the task;*

*(c) Performs the task in conformance with the Clinical Laboratory Improvement Amendments of 1988, Public Law 100-578, 42 U.S.C. § 263a, if applicable, and any other applicable federal law or regulation; and*

*(d) If the resident has diabetes, complies with the requirements of subsection 3 and NAC 449.2726.*

*2. If a person with diabetes who is a resident does not have the physical or mental capacity to perform a blood glucose test on himself or herself and a caregiver of the residential facility performs or assists with the performance of a blood glucose test on the resident:*

*(a) The caregiver shall be deemed to perform the blood glucose test and must comply with all applicable requirements prescribed by this section; and*

*(b) The Clinical Laboratory Improvement Amendments of 1988, Public Law 100-578, 42 U.S.C. § 263a shall be deemed to be applicable for the purposes of paragraph (c) of subsection 1.*

*3. If a caregiver conducts a blood glucose test, the caregiver must ensure that the device for monitoring blood glucose is not used on more than one person.*

*4. A caregiver may weigh a resident of a residential facility only if:*

*(a) The caregiver has received training on the manner in which to weigh a person that meets the requirements of subsections 5 and 6; and*

*(b) The resident has consented to being weighed by the caregiver.*

*5. Any training described in this section must be provided by:*

*(a) A physician, physician assistant, licensed nurse; or*

*(b) An employee of the residential facility who has:*

*(1) Received training pursuant to paragraph (a) of subsection 1 or paragraph (a) of subsection 4, as applicable, from a physician, physician assistant or licensed nurse;*

*(2) At least 1 year of experience performing the task for which he or she is providing training; and*

*(3) Demonstrated competency in performing the task for which he or she is providing training.*

*6. Any training described in this section must include, without limitation:*

*(a) Instruction concerning how to accurately perform the task for which the caregiver is being trained in conformance with nationally recognized infection control guidelines which may include, without limitation, guidelines published by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services;*

*(b) Instruction concerning how to accurately interpret the information obtained from performing the task; and*

*(c) A description of any action, including, without limitation, notifying a physician, that must be taken based on such information.*

*Sec. 14. 1. A personal assistant may perform a task described in NRS 449.4309 if the personal assistant:*

*(a) Before performing the task, annually thereafter and when any device used for performing the task is changed:*

*(1) Receives training concerning the task that meets the requirements of subsection 6; and*

*(2) Demonstrates an understanding of the task;*

*(b) Follows the manufacturer's instructions when operating any device used for performing the task;*

*(c) Performs the task in conformance with the Clinical Laboratory Improvement Amendments of 1988, Public Law 100-578, 42 U.S.C. § 263a, if applicable, and any other applicable federal law or regulation; and*

*(d) Complies with the requirements of subsection 3 or 4, if applicable.*

*2. If a person with diabetes who is a client of an intermediary service organization does not have the physical or mental capacity to perform a blood glucose test on himself or herself and a personal assistant performs or assists with the performance of a blood glucose test on the client:*

*(a) The personal assistant shall be deemed to perform the blood glucose test and must comply with all applicable requirements prescribed by this section; and*

*(b) The Clinical Laboratory Improvement Amendments of 1988, Public Law 100-578, 42 U.S.C. § 263a shall be deemed to be applicable for the purposes of paragraph (c) of subsection 1.*

*3. In addition to satisfying the requirements of subsection 1, a personal assistant who conducts a blood glucose test must ensure that the device for monitoring blood glucose is not used on more than one person.*

*4. A personal assistant may assist a client in the administration of insulin prescribed to the client for his or her diabetes and furnished by a registered pharmacist through an auto-injection device approved by the United States Food and Drug Administration for use in the home in accordance with the requirements of subsection 1 if:*

*(a) A physician, physician assistant or advanced practice registered nurse has determined that the client's physical and mental condition is stable and following a predictable course; and*

*(b) The amount of the insulin prescribed to the client is at a maintenance level and does not require a daily assessment, including, without limitation, the use of a sliding scale.*

*5. A personal assistant may weigh a client of an intermediary service organization only if:*

*(a) The personal assistant has received training on the manner in which to weigh a person that meets the requirements of subsections 6 and 7; and*

*(b) The client has consented to being weighed by the personal assistant.*

*6. Any training described in this section must be provided by:*

*(a) A physician, physician assistant, licensed nurse; or*

*(b) An employee of the intermediary service organization who has:*

*(1) Received training pursuant to paragraph (a) of subsection 1 or paragraph (a) of subsection 5, as applicable, from a physician, physician assistant or licensed nurse;*

*(2) At least 1 year of experience performing the task for which he or she is providing training; and*

*(3) Demonstrated competency in performing the task for which he or she is providing training.*

*7. Any training described in this section must include, without limitation:*

*(a) Instruction concerning how to accurately perform the task for which the personal assistant is being trained in conformance with nationally recognized infection control guidelines which may include, without limitation, guidelines published by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services;*

*(b) Instruction concerning how to accurately interpret the information obtained from performing the task; and*

*(c) A description of any action, including, without limitation, notifying a physician, that must be taken based on such information.*

**Sec. 15. 1.** *An attendant may perform a task described in NRS 449.4309 if the attendant:*

*(a) Before performing the task, annually thereafter and when any device used for performing the task is changed:*

*(1) Receives training concerning the task that meets the requirements of subsection 6; and*

*(2) Demonstrates an understanding of the task;*

*(b) Follows the manufacturer's instructions when operating any device used for performing the task;*

*(c) Performs the task in conformance with the Clinical Laboratory Improvement Amendments of 1988, Public Law 100-578, 42 U.S.C. § 263a, if applicable, and any other applicable federal law or regulation; and*

*(d) Complies with the requirements of subsection 3 or 4, if applicable.*

*2. If a person with diabetes who is a client of an agency does not have the physical or mental capacity to perform a blood glucose test on himself or herself and an attendant performs or assists with the performance of a blood glucose test on the client:*

*(a) The attendant shall be deemed to perform the blood glucose test and must comply with all applicable requirements prescribed by this section; and*

*(b) The Clinical Laboratory Improvement Amendments of 1988, Public Law 100-578, 42 U.S.C. § 263a shall be deemed to be applicable for the purposes of paragraph (c) of subsection 1.*

*3. In addition to satisfying the requirements of subsection 1, an attendant who conducts a blood glucose test must ensure that the device for monitoring blood glucose is not used on more than one person.*

*4. An attendant may assist a client in the administration of insulin prescribed to the client for his or her diabetes and furnished by a registered pharmacist through an auto-injection device approved by the United States Food and Drug Administration for use in the home in accordance with the requirements of subsection 1 if:*

*(a) A physician, physician assistant or advanced practice registered nurse has determined that the client's physical and mental condition is stable and following a predictable course; and*

*(b) The amount of the insulin prescribed to the client is at a maintenance level and does not require a daily assessment, including, without limitation, the use of a sliding scale.*

*5. An attendant may weigh a client of an agency only if:*

*(a) The attendant has received training on how to accurately weigh persons that meets the requirements of subsections 6 and 7; and*

*(b) The client has consented to being weighed by the attendant.*

*6. Any training described in this section must be provided by:*

*(a) A physician, physician assistant, licensed nurse; or*

*(b) An employee of the agency who has:*

*(1) Received training pursuant to paragraph (a) of subsection 1 or paragraph (a) of subsection 5, as applicable, from a physician, physician assistant or licensed nurse;*

*(2) At least 1 year of experience performing the task for which he or she is providing training; and*

*(3) Demonstrated competency in performing the task for which he or she is providing training.*

*7. Any training described in this section must include, without limitation:*

*(a) Instruction concerning how to accurately perform the task for which the attendant is being trained in conformance with nationally recognized infection control guidelines which may include, without limitation, guidelines published by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services;*

*(b) Instruction concerning how to accurately interpret the information obtained from performing the task; and*

*(c) A description of any action, including, without limitation, notifying a physician, that must be taken based on such information.*

*Sec. 16. 1. An employee of a facility may perform a task described in NRS 449.4309 if the employee:*

*(a) Before performing the task, annually thereafter and when any device used for performing the task is changed:*

*(1) Receives training concerning the task that meets the requirements of subsection 6;  
and*

*(2) Demonstrates an understanding of the task;*

*(b) Follows the manufacturer's instructions when operating any device used for  
performing the task;*

*(c) Performs the task in conformance with the Clinical Laboratory Improvement  
Amendments of 1988, Public Law 100-578, 42 U.S.C. § 263a, if applicable, and any other  
applicable federal law or regulation; and*

*(d) Complies with the requirements of subsection 3 or 4, if applicable.*

*2. If a person with diabetes who is a client of a facility does not have the physical or  
mental capacity to perform a blood glucose test on himself or herself and an employee of the  
facility performs or assists with the performance of a blood glucose test on the client:*

*(a) The employee shall be deemed to perform the blood glucose test and must comply with  
all applicable requirements prescribed by this section; and*

*(b) The Clinical Laboratory Improvement Amendments of 1988, Public Law 100-578, 42  
U.S.C. § 263a shall be deemed to be applicable for the purposes of paragraph (c) of subsection  
1.*

*3. In addition to satisfying the requirements of subsection 1, an employee of a facility who  
conducts a blood glucose test must ensure that the device for monitoring blood glucose is not  
used on more than one person.*

*4. An employee of a facility may assist a client in the administration of insulin prescribed  
to the client for his or her diabetes and furnished by a registered pharmacist through an auto-*



*injection device approved by the United States Food and Drug Administration for use in the home in accordance with the requirements of subsection 1 if:*

*(a) A physician, physician assistant or advanced practice registered nurse has determined that the client's physical and mental condition is stable and following a predictable course; and*

*(b) The amount of the insulin prescribed to the client is at a maintenance level and does not require a daily assessment, including, without limitation, the use of a sliding scale.*

*5. An employee of a facility may weigh a client of the facility only if:*

*(a) The employee has received training on how to accurately weigh persons that meets the requirements of subsections 6 and 7; and*

*(b) The client has consented to being weighed by the employee.*

*6. Any training described in this section must be provided by:*

*(a) A physician, physician assistant, licensed nurse; or*

*(b) An employee of the facility who has:*

*(1) Received training pursuant to paragraph (a) of subsection 1 or paragraph (a) of subsection 5, as applicable, from a physician, physician assistant or licensed nurse;*

*(2) At least 1 year of experience performing the task for which he or she is providing training; and*

*(3) Demonstrated competency in performing the task for which he or she is providing training.*

*7. Any training described in this section must include, without limitation:*

*(a) Instruction concerning how to accurately perform the task for which the employee is being trained in conformance with nationally recognized infection control guidelines which*

*may include, without limitation, guidelines published by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services;*

*(b) Instruction concerning how to accurately interpret the information obtained from performing the task; and*

*(c) A description of any action, including, without limitation, notifying a physician, that must be taken based on such information.*

**Sec. 17. 1.** *A facility may submit to the Bureau a request to use all or a portion of an initial monetary penalty imposed upon the facility pursuant to NAC 449.99899 to correct the deficiency for which the penalty was imposed in lieu of paying the penalty to the Bureau. The Bureau may approve such a request if the deficiency results from the facility's first violation of a particular provision of law or regulation.*

*2. If the Bureau approves a request pursuant to subsection 1, the facility must:*

*(a) Adhere to any requirements prescribed in a plan of correction approved pursuant to NAC 449.9987 concerning the use of the monetary penalty;*

*(b) Complete all corrections for which the monetary penalty is used not later than 1 year after the date on which the request was approved;*

*(c) Submit to the Bureau proof satisfactory to the Bureau that the monetary penalty was used to make corrections for which the use of the monetary penalty was approved by the Bureau pursuant to subsection 1; and*

*(d) Remit to the Bureau any portion of the monetary penalty that is not used to correct the deficiency.*

**Sec. 18.** NAC 449.002 is hereby amended to read as follows:

449.002 As used in NAC 449.002 to 449.99939, inclusive, unless the context otherwise requires, the words and terms defined in NAC 449.0022 to 449.0072, inclusive, *and section 2 of this regulation* have the meanings ascribed to them in those sections.

**Sec. 19.** 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 facilities, programs of hospice care or agencies must pay to the Division of Public and Behavioral Health the following nonrefundable fees:

(a) An ambulatory surgical center.....	\$9,784
(b) A home office or subunit agency of a home health agency .....	5,168
(c) A branch office of a home health agency .....	5,358
(d) A rural clinic.....	4,058
(e) An obstetric center.....	1,564
(f) A program of hospice care .....	7,054
(g) An independent center for emergency medical care .....	4,060
(h) A nursing pool.....	4,602
(i) A facility for treatment with narcotics .....	5,046
(j) A medication unit.....	1,200
(k) A referral agency.....	2,708
(l) A facility for refractive surgery.....	6,700
(m) A mobile unit.....	2,090
(n) An agency to provide personal care services in the home.....	1,374
(o) A facility for the care of adults during the day allowed to be occupied by not more than 50 clients at one time .....	1,164

(p) A facility for the care of adults during the day allowed to be occupied by more than 50 clients at one time .....	1,753
(q) A peer support recovery organization .....	1,000
(r) A community health worker pool .....	1,000
<b><i>(s) An employment agency to provide nonmedical services .....</i></b>	<b><i>1,400</i></b>

2. An applicant for the renewal of such a license must pay to the Division of Public and Behavioral Health the following nonrefundable fees:

(a) An ambulatory surgical center.....	\$4,892
(b) A home office or subunit agency of a home health agency .....	2,584
(c) A branch office of a home health agency .....	2,679
(d) A rural clinic.....	2,029
(e) An obstetric center.....	782
(f) A program of hospice care .....	3,527
(g) An independent center for emergency medical care .....	2,030
(h) A nursing pool.....	2,301
(i) A facility for treatment with narcotics .....	2,523
(j) A medication unit.....	600
(k) A referral agency.....	1,354
(l) A facility for refractive surgery.....	3,350
(m) A mobile unit.....	1,045
(n) An agency to provide personal care services in the home.....	687
(o) A facility for the care of adults during the day allowed to be occupied by not more than 50 clients at one time .....	814

(p) A facility for the care of adults during the day allowed to be occupied by more than 50 clients at one time .....	1,227
(q) A peer support recovery organization .....	500
(r) A community health worker pool .....	500
<b><i>(s) An employment agency to provide nonmedical services .....</i></b>	<b><i>700</i></b>

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 the applicant submits his or her application, the applicant must submit a new application and pay the required fee to be considered for licensure.

**Sec. 20.** NAC 449.156 is hereby amended to read as follows:

449.156 As used in NAC 449.156 to 449.27706, inclusive, ***and section 13 of this regulation,*** unless the context otherwise requires, the words and terms defined in NAC 449.1565 to 449.178, inclusive, have the meanings ascribed to them in those sections.

**Sec. 21.** NAC 449.197 is hereby amended to read as follows:

449.197 ~~+~~ ***Except as otherwise provided in section 13 of this regulation,*** a member of the staff of a residential facility shall not provide medical services to a resident of the facility unless the member of the staff is a medical professional.

**Sec. 22.** NAC 449.2726 is hereby amended to read as follows:

449.2726 1. A person who has diabetes must not be admitted to a residential facility or be permitted to remain as a resident of a residential facility unless:

(a) The resident's glucose testing is performed by:

(1) The resident himself or herself without assistance; or

(2) ~~{A medical laboratory licensed pursuant to chapter 652 of NRS;}~~ *With the consent of the resident, a caregiver who meets the requirements of NAC 449.196;* and

(b) The resident's medication is administered:

(1) By the resident himself or herself without assistance;

(2) By a medical professional, or licensed practical nurse, who is:

(I) ~~{Not employed by the residential facility;~~

~~—————(II)}~~ Acting within his or her authorized scope of practice and in accordance with all applicable statutes and regulations; and

~~{(III)}~~ (II) Trained to administer the medication; or

(3) If the conditions set forth in subsection 2 are satisfied, with the assistance of a caregiver employed by the residential facility.

2. A caregiver employed by a residential facility may assist a resident in the administration of the medication prescribed to the resident for his or her diabetes if:

(a) ~~{The}~~ *A physician, physician assistant or advanced practice registered nurse has determined that the* resident's physical and mental condition is stable and is following a predictable course.

(b) The amount of the medication prescribed to the resident for his or her diabetes is at a maintenance level and does not require a daily assessment ~~{}~~, *including, without limitation, the use of a sliding scale.*

(c) A written plan of care by a physician or registered nurse has been established that:

(1) Addresses possession and assistance in the administration of the medication for the resident's diabetes; and

(2) Includes a plan, which has been prepared under the supervision of a registered nurse or licensed pharmacist, for emergency intervention if an adverse condition results.

(d) The medication prescribed to the resident for his or her diabetes is not administered by injection or intravenously ~~H~~ *or is administered using an auto-injection device in accordance with the requirements of NRS 449.0304 and section 13 of this regulation.*

(e) The caregiver has successfully completed training and examination approved by the Division regarding the administration of such medication.

3. The caregivers employed by a residential facility with a resident who has diabetes shall ensure that:

(a) Sufficient amounts of medicines, equipment to perform tests, syringes, needles and other supplies are maintained and stored in a secure place in the facility;

(b) Syringes and needles are disposed of appropriately in a sharps container which is stored in a safe place; and

(c) The caregivers responsible for the resident have received instruction in the recognition of the symptoms of hypoglycemia and hyperglycemia by a medical professional who has been trained in the recognition of those symptoms.

4. The caregivers ~~employed by~~ *of* a residential facility with a resident who has diabetes and requires a special diet shall provide variations in the types of meals served and make available food substitutions in order to allow the resident to consume meals as prescribed by the resident's physician. The substitutions must conform with the recommendations for food exchanges contained in the *Exchange Lists For Meal Planning*, published by the American Diabetes Association, Incorporated, and the American Dietetic Association, which is hereby adopted by reference. A copy of the publication may be obtained from the American Diabetes

Association, Incorporated, Order Fulfillment Department, P.O. Box 930850, Atlanta, Georgia 31193-0850, at a cost of \$2.50.

**Sec. 23.** NAC 449.2728 is hereby amended to read as follows:

449.2728 1. ~~1A~~ *Except as otherwise provided by NAC 449.2726, a* person who requires regular intramuscular, subcutaneous or intradermal injections must not be admitted to a residential facility or be permitted to remain as a resident of the facility unless the injections are administered by:

(a) The resident; or

(b) A medical professional, or licensed practical nurse, acting within his or her authorized scope of practice and in accordance with all applicable statutes and regulations,

↳ who has been trained to administer those injections.

2. The caregivers employed by a residential facility with a resident who requires regular intramuscular, subcutaneous or intradermal injections shall ensure that:

(a) Sufficient amounts of medicines, equipment to perform tests, syringes, needles and other supplies are maintained and stored in a secure place in the facility; and

(b) Syringes and needles are disposed of appropriately in a sharps container which is stored in a safe place.

**Sec. 24.** NAC 449.2742 is hereby amended to read as follows:

449.2742 1. The administrator of a residential facility that provides assistance to residents in the administration of medications shall:

(a) Ensure that a physician, pharmacist or registered nurse who does not have a financial interest in the facility:



(1) Reviews for accuracy and appropriateness, at least once every 6 months, the regimen of drugs taken by each resident of the facility, including, without limitation, any over-the-counter medications and dietary supplements taken by a resident; and

(2) Provides a written report of that review to the administrator of the facility.

(b) Include a copy of each report submitted to the administrator pursuant to paragraph (a) in the file maintained pursuant to NAC 449.2749 for the resident who is the subject of the report.

(c) Make and maintain a report of any actions that are taken by the caregivers employed by the facility in response to a report submitted pursuant to paragraph (a).

(d) Develop and maintain a plan for managing the administration of medications at the residential facility, including, without limitation:

(1) Preventing the use of outdated, damaged or contaminated medications;

(2) Managing the medications for each resident in a manner which ensures that any prescription medications, over-the-counter medications and nutritional supplements are ordered, filled and refilled in a timely manner to avoid missed dosages;

(3) Verifying that orders for medications have been accurately transcribed in the record of the medication administered to each resident in accordance with NAC 449.2744;

(4) Monitoring the administration of medications and the effective use of the records of the medication administered to each resident;

(5) Ensuring that each caregiver who administers a medication is in compliance with the requirements of subsection 6 of NRS 449.0302 and NAC 449.196;

(6) Ensuring that each caregiver who administers a medication is adequately supervised;

(7) Communicating routinely with the prescribing physician or other physician of the resident concerning issues or observations relating to the administration of the medication; and

(8) Maintaining reference materials relating to medications at the residential facility, including, without limitation, a current drug guide or medication handbook, which must not be more than 2 years old or providing access to websites on the Internet which provide reliable information concerning medications.

(e) Develop and maintain a training program for caregivers of the residential facility who administer medication to residents, including, without limitation, an initial orientation on the plan for managing medications at the facility for each new caregiver and an annual training update on the plan. The administrator shall maintain documentation concerning the provision of the training program and the attendance of caregivers.

(f) In his or her first year of employment as an administrator of the residential facility, receive, from a program approved by the Bureau, at least 16 hours of training in the management of medication consisting of not less than 12 hours of classroom training and not less than 4 hours of practical training and obtain a certificate acknowledging completion of such training.

(g) After receiving the initial training required by paragraph (f), receive annually at least 8 hours of training in the management of medication and provide the residential facility with satisfactory evidence of the content of the training and his or her attendance at the training.

(h) Annually pass an examination relating to the management of medication approved by the Bureau.

2. Within 72 hours after the administrator of the facility receives a report submitted pursuant to paragraph (a) of subsection 1, a member of the staff of the facility shall notify the resident's physician of any concerns noted by the person who submitted the report. The report must be reviewed and initialed by the administrator.

3. Before assisting a resident in the administration of any medication, including, without limitation, any over-the-counter medication or dietary supplement, a caregiver must obtain written information describing the side effects, possible adverse reactions, contraindications and toxicity of the medication.

4. Except as otherwise provided in this subsection, a caregiver shall assist in the administration of medication to a resident if the resident needs the caregiver's assistance. A caregiver may assist the ultimate user of ~~controlled~~ :

(a) *Controlled* substances or dangerous drugs only if the conditions prescribed in subsection 6 of NRS 449.0302 are met.

(b) *Insulin using an auto-injection device only if the conditions prescribed in NRS 449.0304 and section 13 of this regulation are met.*

5. An over-the-counter medication or a dietary supplement may be given to a resident only if the resident's physician has approved the administration of the medication or supplement in writing or the facility is ordered to do so by another physician. The over-the-counter medication or dietary supplement must be administered in accordance with the written instructions of the physician. The administration of over-the-counter medications and dietary supplements must be included in the record required pursuant to paragraph (b) of subsection 1 of NAC 449.2744.

6. Except as otherwise provided in this subsection, a medication prescribed by a physician must be administered as prescribed by the physician. If a physician orders a change in the amount or times medication is to be administered to a resident:

(a) The caregiver responsible for assisting in the administration of the medication shall:

(1) Comply with the order;

(2) Indicate on the container of the medication that a change has occurred; and

(3) Note the change in the record maintained pursuant to paragraph (b) of subsection 1 of NAC 449.2744;

(b) Within 5 days after the change is ordered, a copy of the order or prescription signed by the physician must be included in the record maintained pursuant to paragraph (b) of subsection 1 of NAC 449.2744; and

(c) If the label prepared by a pharmacist does not match the order or prescription written by a physician, the physician, registered nurse or pharmacist must interpret that order or prescription and, within 5 days after the change is ordered, the interpretation must be included in the record maintained pursuant to paragraph (b) of subsection 1 of NAC 449.2744.

7. If a resident refuses, or otherwise misses, an administration of medication, a physician must be notified within 12 hours after the dose is refused or missed.

8. An employee of a residential facility shall not draw medication into a syringe or administer an injection unless authorized by law to do so.

9. If the medication of a resident is discontinued, the expiration date of the medication of a resident has passed, or a resident who has been discharged from the facility does not claim the medication, an employee of a residential facility shall destroy the medication, by an acceptable method of destruction, in the presence of a witness and note the destruction of the medication in the record maintained pursuant to NAC 449.2744.

10. The administrator of a facility is responsible for any assistance provided to a resident of the residential facility in the administration of medication, including, without limitation, ensuring that all medication is administered in accordance with the provisions of this section.

**Sec. 25.** NAC 449.395 is hereby amended to read as follows:

449.395 As used in NAC 449.395 to 449.39561, inclusive, *and section 14 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 449.39501 to 449.39508, inclusive, have the meanings ascribed to them in those sections.

**Sec. 26.** NAC 449.3952 is hereby amended to read as follows:

449.3952 An intermediary service organization shall make available to a personal assistant employed by the intermediary service organization all training required pursuant to NAC 449.39519 and, at the request of a client, such additional training for a personal assistant as necessary to support the plan of care for the person with a disability, including, without limitation:

1. General training for the personal assistant;
2. Protocols for a personal assistant, including, without limitation, the rights and responsibilities of a client and of a personal assistant;
3. The manner in which to groom and dress the person with a disability;
4. Procedures for bathing and maintaining proper hygiene for a person with a disability, including, without limitation, bed-bath and tub-bath techniques;
5. Caring for the bowel, bladder and skin of a person with a disability, including, without limitation, information concerning caring for a catheter, the identification and control of infection, common bowel problems, the early recognition of skin problems, the prevention of pressure sores and the routine inspection of skin;
6. Assistive technology, including, without limitation, examples of assistive technology, how assistive technology can be used by the personal assistant and resources from which assistive technology may be obtained;

7. Nutrition and food preparation, including, without limitation, information about preparing balanced meals, addressing special dietary needs or restrictions, guidelines for hydration and the proper handling and storage of food; ~~and~~

8. The manner in which to maintain health records, including, without limitation, illustrations of how information should be conveyed in a written or dictated form to assure confidentiality and a means to ensure that the person with a disability receives services as outlined in the plan of care ~~+~~; *and*

***9. Training described in section 14 of this regulation.***

**Sec. 27.** NAC 449.396 is hereby amended to read as follows:

449.396 As used in NAC 449.396 to 449.3982, inclusive, *and section 15 of this regulation*, the words and terms defined in NAC 449.3961 to 449.3968, inclusive, have the meanings ascribed to them in those sections.

**Sec. 28.** NAC 449.3978 is hereby amended to read as follows:

449.3978 1. The administrator of an agency shall ensure that each attendant working for the agency is working within the attendant's scope of service and conducts himself or herself in a professional manner. An attendant is prohibited from providing any of the services listed in subsection 2 to a client.

2. The services an attendant must not provide to a client include, without limitation:

- (a) Insertion or irrigation of a catheter;
- (b) Irrigation of any body cavity, including, without limitation, irrigation of the ear, insertion of an enema or a vaginal douche;
- (c) Application of a dressing involving prescription medication or aseptic techniques, including, without limitation, the treatment of moderate or severe conditions of the skin;

- (d) ~~{Administration}~~ *Except as authorized by section 15 of this regulation, administration* of injections of fluids into veins, muscles or the skin;
- (e) ~~{Administration}~~ *Except as authorized by section 15 of this regulation, administration* of medication, including, without limitation, the insertion of rectal suppositories, the application of a prescribed topical lotion for the skin and the administration of drops in the eyes;
- (f) Performing physical assessments;
- (g) ~~{Monitoring vital signs};~~
- ~~{h}~~ Using specialized feeding techniques;
- ~~{h}~~ *(h)* Performing a digital rectal examination;
- ~~{i}~~ *(i)* Trimming or cutting toenails;
- ~~{j}~~ *(j)* Massage;
- ~~{k}~~ *(k)* Providing specialized services to increase the range of motion of a client;
- ~~{m}~~ *(l)* Providing medical case management, including, without limitation, accompanying a client to the office of a physician to provide medical information to the physician concerning the client or to receive medical information from the physician concerning the client; and
- ~~{n}~~ *(m)* Any task identified in chapter 632 of NRS and the regulations adopted by the State Board of Nursing as requiring skilled nursing care, ~~{including, without limitation,}~~ *except* any services that are within the scope and practice of a certified nursing assistant.

**Sec. 29.** NAC 449.4061 is hereby amended to read as follows:

449.4061 As used in NAC 449.4061 to 449.4089, inclusive, *and section 16 of this regulation*, unless the context otherwise requires:

1. “Division” means the Division of Public and Behavioral Health of the Department of Health and Human Services.

2. “Facility” means a facility for the care of adults during the day as defined in NRS 449.004.

**Sec. 30.** NAC 449.4081 is hereby amended to read as follows:

449.4081 1. ~~§~~ *Except as otherwise authorized by section 16 of this regulation, if* the facility accepts a client who cannot administer his or her own medication, an employee licensed to administer medications must administer the medication to the client.

2. The next of kin or guardian or other person responsible for the client must be notified immediately in case of any accident, injury or illness involving the client.

3. Each client must be treated with dignity and respect and not subjected to verbal or physical abuse of any kind.

4. Restraints or sedatives in lieu of restraints may not be used or given to any client, except by a physician’s order.

**Sec. 31.** NAC 449.99898 is hereby amended to read as follows:

449.99898 If the Bureau imposes a monetary penalty, the penalty must be imposed as provided in NAC 449.99899 to 449.99908, inclusive ~~§~~, *and section 17 of this regulation.* In imposing the monetary penalty, the total penalty assessed against any facility bears interest at the rate of 10 percent per annum.

**Sec. 32.** NAC 449.99899 is hereby amended to read as follows:

449.99899 1. In determining the amount of an initial monetary penalty, the Bureau shall consider the severity alone if the severity level is four. In determining the amount of the monetary penalty where the severity level is less than four, both severity and scope must be considered. In determining whether to impose a daily monetary penalty, the Bureau shall



consider the severity and scope and the factors indicated for increased and decreased penalties provided in NAC 449.99902 and 449.99904.

2. For initial deficiencies with a severity level of four ~~4~~ :

*(a) If the violation creates harm or a risk of harm to one person, an initial monetary penalty of ~~1000~~ \$2,500 per deficiency must be imposed.*

*(b) If the violation creates harm or a risk of harm to more than one person, an initial monetary penalty of \$5,000 per deficiency must be imposed.*

3. For initial deficiencies rated with a severity level of three and a scope level of three ~~3~~ :

*(a) If the violation creates harm or a risk of harm to one person, a monetary penalty of ~~800~~ \$2,000 per deficiency must be imposed.*

*(b) If the violation creates harm or a risk of harm to more than one person, an initial monetary penalty of \$4,000 per deficiency must be imposed.*

4. For initial deficiencies with a severity level of three and a scope level of two or less ~~2~~ :

*(a) If the violation creates harm or a risk of harm to one person, an initial monetary penalty of ~~400~~ \$1,500 per deficiency must be imposed.*

*(b) If the violation creates harm or a risk of harm to more than one person, an initial monetary penalty of \$3,000 per deficiency must be imposed.*

5. For initial deficiencies with a severity level of two and a scope level of three, an initial monetary penalty of ~~200~~ \$1,000 per deficiency may be imposed. The payment of this monetary penalty must be suspended if the facility has corrected the deficiencies within the time specified in the plan of correction approved by the Bureau.

6. In addition to any monetary penalty imposed pursuant to this section, the Bureau may impose a monetary penalty of not more than \$10 per recipient per day for each day the deficiency continues.

**Sec. 33.** NAC 449.999 is hereby amended to read as follows:

449.999 In no event may the principal amount of the total daily monetary penalty assessed against any facility exceed ~~1,000~~ **\$5,000** per deficiency per day.

**Sec. 34.** NAC 449.99911 is hereby amended to read as follows:

449.99911 1. If the facility fails to pay a monetary penalty ~~1,000~~ **and the Bureau has not approved the use of the penalty for corrections pursuant to section 17 of this regulation**, the Division may suspend the license of the facility.

2. The Division shall, in accordance with the requirements of NAC 439.345, provide notice of its intention to suspend the license of the facility.

3. If the facility fails to pay the monetary penalty, including any additional costs incurred in collection of the penalty, within 10 days after receipt of the notice ~~1,000~~ **and the Bureau has not approved the use of the penalty for corrections pursuant to section 17 of this regulation**, the Division shall suspend the license of the facility. The suspension must not be stayed during the pendency of any administrative appeal.