

STATE OF NEVADA

BRIAN SANDOVAL
Governor

RICHARD WHITLEY, MS
Director



MARTA E. JENSEN
Acting Administrator

TRACEY D. GREEN, MD
Chief Medical Officer

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH**

4150 Technology Way, Suite 300
Carson City, Nevada 89706
Telephone: (775) 684-4200 · Fax: (775) 684-4211

July 14, 2015

MEMORANDUM:

To: Stephen Kendall Jones, MD, Chairperson
State Board of Health

From: Marta Jensen, Secretary
State Board of Health

Re: Case #667, 668, 669, 670 and 671: Parkway Recovery Care Center: requests for variances to Nevada Administrative Code (NAC) chapter 449 regulations for intermediate care facilities.

STAFF REVIEW

The Division of Public and Behavioral Health received five applications for variance from Parkway Recovery Care Center, hereinafter referred to as "PRCC". The applications are as follows:
Case #667, NAC 449.685(2)(b), AIA 4.1-4.3, Barber/Beauty area requirements
Case #668, NAC 449.677(5-7), Employees for social services, activities and food management
Case #669, NAC 449.716(2,3 and 8), Dietary services
Case #670, NAC 449.713(6-9), Program requirements, social services and activities
Case #671, NAC 449.707(1-7), Money of residents

Since all of these cases involve the same facility and many involve the same explanation as to why variance is requested, discussion of the cases have been combined into this single document.

PRCC is owned by "Parkway Recovery Care Center, LLC". The ownership of the aforementioned LLC is majority owned by "Dignity/United Surgical Partners Las Vegas Surgery Centers, LLC". Dignity/USP LV Surgery Center, LLC is governed by three Dignity representatives and the Parkway Recovery Care Center, LLC is governed by two Dignity representatives. PRCC applied for licensure as an intermediate care facility (ICF) on 4/23/15. PRCC will be located in Henderson, Nevada, however, the application is not yet complete and an initial inspection has not yet occurred. Nevada's ICF regulations do not specifically address facilities designed to provide short term stays and likewise regulations governing Nevada's other residential facility types do not address facilities operated for short term stays. However, the ICF regulations are the most closely aligned with the intended services. The Division realizes the incompatibility in the structure, operation and intent of this facility with current administrative code; but acknowledges that certain variances would

minimize the impact to the applicant facility. This incompatibility should be remedied in the future by making modifications to Nevada's regulations in order to specifically address short term stay facilities.

PRCC is proposing 6 single occupancy patient rooms. PRCC will be located in the same building but on a different floor from a licensed and certified ambulatory surgery center (Parkway Ambulatory Surgery Center). PRCC will be operated to accommodate surgical patients after discharge from the surgery center. These patients will only be admitted to PRCC for a short stay (approximately 48 hours) prior to returning home. Ambulatory surgery center (ASC) regulations require that all surgical patients must remain in an ASC until they are stable enough to return to their home environment, but not more than 24 hours. PRCC proposes to provide an opportunity for some surgical patients to choose aftercare in an ICF facility, where professional nurses and therapy services are immediately available, while other patients will return to their home environment immediately after surgery. Either way, patients must be stabilized prior to discharge from the ASC.

Another facility (Coronado Surgical Recovery Suites) applied for similar variances in 2011 and those variances were approved with stipulations.

PRCC has been encouraged to request an advisory opinion regarding physician self-referral of patients under NRS 439B.425 from the Division of Health Care Financing and Policy. The previous applicant for similar variances (Coronado Surgical Recovery Suites), requested and received an advisory opinion allowing physician self-referral.

The applicant has been advised pursuant to NAC 449.9837(1)(b) that the ambulatory surgery center and intermediate care facility must be operated as completely separate entities, so that there's no confusion with regards to them being operated, "in conjunction" with one another.

INTENT OF THE REGULATION

The intent of the ICF regulations discussed in variance request #667 is ensure barber/beauty services can be provided within a facility for typical long term care residents who are incapacitated and unable to travel to receive such services.

The intent of the ICF regulations discussed in variance request #668, #669 and 670 is to ensure residents typically admitted for long term care, receive appropriate social services, activities, food management and nutrition.

The intent of the ICF regulations discussed in variance request #671 is to ensure protection of resident rights and money held on behalf of residents that are typically admitted for long term care.

The PRCC operational model does not contemplate social services as the residents are not admitted to receive typical long term care, but rather are admitted for a very short term specific length of stay. The facility plans to provide therapy for the residents and this constitutes the main activity for the residents during their short stay in the facility. The facility plans to provide meals meeting the nutritional needs and desires of the residents through a contract with a permitted kitchen or restaurant. The facility will not hold money or valuables on behalf of the residents. Due to the atypical circumstances associated with this facility, it was determined that granting these variances would not impair the intent of the regulations.

EXCEPTIONAL AND UNDUE HARDSHIP

For cases #667, #668, #669, #670 and #671, the hardship is best understood in view of the population and term of stay for which the regulations were intended (long term) versus the term of stay and population that will actually be served by the PRCC facility (short term). The regulations were not intended for a facility that will only operate periodically and to accommodate residents for a very short term stay. Likewise, the proposed resident population for PRCC is not typical to other intermediate care facilities, the residents are not in need of nursing services for chronic and/or degenerative illnesses; rather they are individuals who are receiving rehabilitation after a surgical event, but are otherwise healthy. The applicant explains the hardship as follows: "...the regulations provide for services and facilities unnecessary to the anticipated PRCC population, incurring extraneous time, labor and expense." The applicant did provide information regarding the monetary cost of compliance with the regulations as follows:

Case #667, providing a barber/beauty area for PRCC would be at an estimated cost of \$15,000 in additional construction costs. Equipment and supplies would add an additional cost of \$500-\$750. In addition there would be ongoing operational costs for a licensed barber/beautician and supplies in order to have the service available.

Case #668, a social worker on contract with a minimum of 2 hours per week would be an additional cost ranging from \$3500-\$4000 per year, an activities coordinator with a 2 hour per week contract would incur an average cost of \$2500-\$3000 per year, a dietician hired to consult for 2 hours per week would be an additional cost of \$3500-\$4000 annually. In aggregate compliance with these requirements could cost an additional \$9500-\$11000 annually.

Case #669, It was noted that the facility will comply with subsections 1, 4 and 6, and that subsections 5 and 7 are not applicable, so the variance is for subsections 2, 3 and 8 of NAC 449.716. Subsection 2 requires a dietician, subsection 3 requires daily menus, subsection 8 requires a dietician or graduate in nutrition. The applicant indicates meals will be provided by restaurants in close proximity to PRCC. Patients will choose their meals and they will be delivered to PRCC. The approximate cost of a dietician is indicated above, since the intent of providing daily menus is to ensure nutritional balance and to ensure residents have a choice, the intent should be met by allowing residents to choose foods they typically eat, from restaurant menus.

Case #670, the cost of providing social services and activities is indicated above.

Case #671, the short term stay, service model of the facility will not necessitate the facility handling money and valuables for the residents, but if they were to provide this type of service, it would require the generation of policies, setting up of financial accounts and bookkeeping expenses.

The Division believes undue hardship will occur, if this applicant's facility is required to meet the regulatory requirements that were established for facilities with a very different operational intent.

DEGREE OF RISK TO HEALTH AND SAFETY

The Board has approved the following similar variances with stipulations:

- Cases #642 and #643, Coronado Surgical Recovery Suites, a 6 bed intermediate care facility licensed in 2010 for the purpose of providing after care to surgical patients. There has been no observed detriment to public health and safety since the approval of these variances.

In regards to the barber/beauty area requirements, 1 of the other 2 licensed intermediate care facilities actually providing long term care in Nevada, does not have a barber/beauty area (Gaye Haven). Gaye Haven, was initially licensed prior to the inception of the regulatory adoption of the American Institute

of Architects (AIA) *Guidelines* that contain the requirement for a barber/beauty area. Gaye Haven has continued to function without a barber/beauty area and without any reported issues regarding the same.

Granting this variance would not impair the purpose of the regulation or cause a detriment to public health. As previously expressed, the operational intent of the proposed PRCC facility is not typical, as the residents are not admitted for long term care, but rather are admitted for very short term stays for rehabilitation after surgery.

PUBLIC COMMENT RECEIVED

None

STAFF RECOMMENDATION

Staff recommends that the Board approve Parkway Recovery Care Center's requests for variances to NAC 449.685(2)(b), AIA 4.1-4.3, NAC 449.677(5-7), NAC 449.716(2,3 and 8), NAC 449.713(6-9) and NAC 449.707(1-7) with the following stipulations:

- 1) The facility must mitigate the risks to the health, safety and rights of residents, in the absence of these regulatory requirements, by developing an operational plan that ensures residents are admitted to PRCC ideally for 48 hours, but in no case may a resident remain in the facility longer than 72 hours.
- 2) The facility must continuously maintain a contract with a permitted kitchen or restaurant to provide food services for the facility.
- 3) The facility must ensure residents are aware prior to admission that the facility will not be responsible for money or valuables and will not hold the same on behalf of the residents.

PRESENTER:

Kyle Devine, Chief, Bureau of Health Care Quality and Compliance

KD/ps

NEVADA STATE BOARD OF HEALTH
NEVADA STATE HEALTH DIVISION
4150 Technology Way, Suite 300
CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

Please check the appropriate box that pertains to the NAC for which you are requesting a variance.

Division Administration
(NAC 439, 441A, 452, 453A, & 629)

Health Care Quality & Compliance
(NAC 449, 457, 459 & 652)

Child, Family & Community Wellness
(NAC 392, 394, 432A, 439, 441A, & 442)

Health Statistics, Planning &
Emergency Response
(NAC 440,450B, 452, 453, 453A, & 695C)

Frontier and Rural Health Services
(NAC 211, 444, 446, 447, 583, & 585)

RECEIVED

MAY 21 2015

DPBH Administrator

Date: 5/1/15

Name of Applicant: Aric Burke

Phone: 480-567-0272

Mailing Address: 100 North Green Valley Parkway, Suite 330

City: Henderson State: NV Zip: 89074

We do hereby apply for a variance to chapter/section NAC 449.685 (2) of the Nevada Administrative Code (NAC). (For example: NAC 449.204)

Title of section in question: Design, construction, equipment and maintenance: General requirements; prerequisites to approval of facility for licensure (NRS 449.0302)

Statement of existing or proposed conditions in violation of the NAC:
449.685 (2)(b) AIA 4.3 Personal Services (Barber/Beauty) Areas – See Attached

Date of initial operation (if existing): N/A

ATTENTION: Please read this section closely. Your request for variance will be examined against these criteria:

Any person who, because of unique circumstances, is unduly burdened by a regulation of the State Board of Health and thereby suffers a hardship and the abridgement of a substantial property right may apply for a variance from a regulation. (NAC 439.200(1))

1. The State Board of Health will grant a variance from a regulation only if it finds from the evidence presented at the hearing that:
 - (a) There are circumstances or conditions which:
 - (1) Are unique to the applicant;
 - (2) Do not generally affect other persons subject to the regulation;
 - (3) Make compliance with the regulation unduly burdensome; and
 - (4) Cause a hardship to and abridge a substantial property right of the applicant; and
 - (b) Granting the variance:
 - (1) Is necessary to render substantial justice to the applicant and enable him to preserve and enjoy his property; and
 - (2) Will not be detrimental or pose a danger to public health and safety.
2. Whenever an applicant for a variance alleges that he suffers or will suffer economic hardship by complying with the regulation, he must submit evidence demonstrating the costs of his compliance with the regulation. The Board will consider the evidence and determine whether those costs are unreasonable. (NAC 439.240)

Therefore, it is important for your variance request to be as complete as possible. It is your responsibility to attach documentation supportive of your variance request.

Statement of degree of risk of health The requested variance will not have or cause a detriment to public welfare. The granting of the requested variance will not cause risk or increase risk to the health of patients electing to receive services from Parkway Recovery Care Center. Please refer to the attachment provided.

Please state in detail the circumstances or conditions which demonstrate that:

1. An exceptional and undue hardship results from a strict application of the Regulation:

The regulations as written pertain to a very specific patient population; the patient population anticipated at Parkway Recovery Care Center fall outside of the defined patient population in current Nevada regulations and statutes; regulations for "Recovery Care Centers" as facilities are similarly not defined. Therefore, the regulations provide for services and facilities unnecessary to the anticipated Parkway Recovery Care Center population, incurring extraneous time, labor, and expense. Please refer to the attachment provided.

2. The variance, if granted, would not:
 - A. Cause substantial detriment to the public welfare.

If approved, the variance will not cause substantial detriment to the public welfare. The variances requested reflect a unique patient population remaining onsite at Parkway Recovery Care Center; patients will stay on average 48-72 hours. The regulations were not intended for facilities with very short stays and the type of patient that will receive care at Parkway. Please refer to the attachment provided.

- B. Impair substantially the purpose of the regulation from which the application seeks a variance.

Due to the unique population and the short duration of stay, the requested variances will not deviate substantially from the intention of the regulation. Please refer to the attachment provided.

The bureau may require the following supporting documents to be submitted with and as a part of this application:

_ 1. Legal description of property concerned _

_____ 2. General area identification map

_____ 3. Plat map showing locations of all pertinent items and appurtenances

4. Well log (if applicable)

5. Applicable lab reports

_____ 6. Applicable engineering or construction/remodeling information

7. Other items (see following pages)

This application must be accompanied by evidence demonstrating the costs of your compliance with regulations or specific statutory standards. Your request will be placed on the Board of Health agenda 40 days or more after receipt in this office if accompanied by the required fee (NAC 439.210). The application and supporting documentation will form the basis for the Health Division staff report and recommendation to the Board. Failure to respond to the above statements may cause the Board to deny consideration of the application at the requested Board meeting.

Please schedule this hearing as:

The next regularly scheduled Board of Health meeting, regardless of location.

The next scheduled meeting in Carson City.

The next scheduled meeting in Las Vegas.

Signature: _____



Printed Name: _____

Aric Burke

Title: _____

President, Parkway Recovery Care Center

Date: _____

5/1/15

**PLEASE MAKE YOUR CHECK OR MONEY ORDER PAYABLE TO:
NEVADA STATE HEALTH DIVISION AND RETURN THIS APPLICATION,
ALONG WITH THE REQUIRED FEE PURSUANT TO NAC 439.210, TO:**

Richard Whitley, MS, Administrator
Nevada State Health Division
4150 Technology Way, Suite 300
Carson City, NV 89706

(See the attached table to determine the appropriate fee)

May 1, 2015

Aric Burke, Market President
United Surgical Partners International
20940 N. Tatum Boulevard, Suite 125
Phoenix, AZ 85050

Richard Whitley, MS; Administrator
Nevada State Health Division
4150 Technology Way, Suite 300
Carson City, NV 89706

Re: Parkway Recovery Care Center Variance Request Attachment

Dear Mr. Whitley:

Parkway Recovery Care Center (Parkway) is applying for designation as Facility for Intermediate Care (IFC) as defined by NRS 449.0038 and regulated by NAC 449.614-743. Parkway is requesting NAC variance, as described herein:

About the Services: Parkway Recovery Care Center plans to provide post-surgical recovery care, including nurse staff and physical therapy, to patients that elect to receive supplemental recovery services. All patients receiving services at Parkway will have received, immediately prior to arriving at Parkway, outpatient surgery at a licensed Ambulatory Surgery Center (ASC). The predominant procedure(s) will be total knee/hip replacements; the average stay will be approximately 48-72 hours.

About the Facility: Parkway Recovery Care Center is located at 100 N. Green Valley Parkway, Suite 330; Henderson NV 89074. Parkway is planned as a 6-bed, single-patient room occupancy post-surgical Recovery Care Center. The license application has been submitted and is under review.

Current Nevada ASC Regulations: ASC regulations require that all surgical patients remain in an ASC until they are stable for discharge, for up to a maximum of 24 hours. ASC regulations do not preclude patients from electing to recover in other settings that provide professional nursing and post-surgical therapy, including Recovery Care Centers.

Current Nevada IFC Regulations: Currently no Nevada statutes or regulations exist for Recovery Care Centers; Parkway is therefore requesting licensure as an IFC in accordance with established Nevada State Health Division precedence.

Parkway is requesting variances from some the regulations as provided in NAC 449. The requested variances will not impair the purpose of the regulations or cause detriment to the public welfare. The variances are being requested due to the deviation of the patient population from which the regulations were intended – specifically, hospital-based, long-term rehabilitation and/or skilled nursing facility residents. **Parkway believes that strict adherence to the regulations as provided will cause undue financial and regulatory hardship, as the code requires facilities and services that are typically necessary only for patients who have “illness, disease,**

injury or other condition that would require the degree of care and treatment which a hospital or facility for skilled nursing is designed to provide.” The specific sections from which Parkway is requesting variance are highlighted below; your consideration of our intended purpose versus the purpose of the facilities for which the regulations are written is material and appreciated.

It is important to note that Parkway fully intends to provide services and facilities that meet the needs of those patients electing assisted recovery, including but not limited to dietary services. In relation to the variance requests for NAC 449.677 (7) and NAC 449.716 (1-8) Parkway intends to contract with a permitted kitchen or licensed restaurant to provide food services for the patients.

We look forward to collaborating with the Nevada State Health Division in providing leading, innovative, and cost-saving healthcare to the residents of Nevada.

Thank you,



Aric Burke

Market President, USPI
President, Parkway Recovery Care Center

NAC Variances Requested

NAC 449.677 (5-7)

5. A designated member of the staff who is suited by training or experience must be responsible for arranging social services and for the integration of social services with other elements of the overall plan of care.
6. A member of the staff who is qualified by experience or training in directing group activities must be responsible for the program of activities.
7. A designated member of the staff who is suited by training or experience in food management or nutrition must be responsible for planning and supervising menus and meals.

NAC 449.685 (2)

2. Except as otherwise provided in this section and NAC 449.732 to 449.743, inclusive:
 - (b) Any new construction, remodeling or change in the use of a facility must comply with the *Guidelines for Design and Construction of Hospital and Health Care Facilities*, adopted by reference pursuant to NAC 449.0105, unless the remodeling is limited to refurbishing an area within the facility, including, without limitation, painting the area, replacing the flooring in the area, repairing windows in the area, and replacing window or wall coverings in the area.

AIA 4.3-Personal Services (Barber/Beauty) Areas

NAC 449.707 (1-7)- Money of residents

1. A written account, available to residents and their families, must be maintained on a current basis for each resident with written, signed and dated receipts for:
 - (a) All personal possessions and money received by or deposited with the facility.
 - (b) All disbursements made to or on behalf of the resident. The purpose of the disbursement must be noted on the receipt.
2. Receipts for each resident must be kept in each resident's personal needs envelope or otherwise safely and systematically filed.
3. A ledger must be maintained for the handling of residents' personal money. The beginning ledger sheet must be credited with the resident's money on hand. The ledger must be kept current. Personal needs money is for the exclusive personal use of the resident. The ledger and receipts for each resident must be made available for review upon the request of the Division.
4. If the resident is managing his or her own personal money, the money must be turned over to anyone at the request of the resident. A signed, itemized and dated receipt from anyone receiving the resident's personal money is required for deposit in the resident's personal envelope or other file.
5. If a resident is unable to manage his or her own money, there must be legal authority, such as appointment as conservator, guardian or trustee, for a relative or other person to carry out these acts for the resident.
6. Except as otherwise provided in this subsection, no licensee or employee of a facility may accept appointment as guardian, or conservator, of the estate of any resident or become a substitute payee for any payments made to any resident, or accept power of attorney. If a resident is legally determined to be unable to manage his or her money, his or her sole source of money is in the form of monthly benefit checks, and documentary evidence can be produced which shows that efforts to obtain a legal guardian for the resident have failed, this requirement may be waived to the extent that the facility may be the substitute payee on the checks.

7. All money held by the facility on behalf of residents must be maintained in a financial institution in the community where the facility is located in a separate trustee account apart from the operating accounts of the facility and must be clearly designated. Small amounts may be kept on hand by the facility for the incidental personal use of a resident. Upon the death of a resident, a receipt must be obtained from the resident's personal representative or from a relative who presents an affidavit under the provisions of NRS 146.080 before releasing the balance of the personal needs money.

[Bd. of Health, Intermediate Care Facilities, Reg. §§ 3.5-3.5.8.2, eff. 12-5-75]

NAC 449.713 (6-9)

6. The facility must provide social services as needed by the residents either directly or by written arrangement with an outside source. A designated member of the staff who is qualified by training or experience must be responsible for implementing and coordinating social services. A plan for social services must be recorded in the patient's record and must be periodically evaluated in conjunction with the total plan of care for the resident.

7. The facility must provide a program of activities.

8. A plan for independent and group activities must be developed for each resident in accordance with his or her needs and interests. The program of activities must be incorporated in the overall plan of care for the resident. The program must be reviewed with the participation of the resident at least quarterly and altered as needed.

9. Adequate recreational areas must be provided and sufficient equipment and materials must be available.

[Bd. of Health, Intermediate Care Facilities Reg. §§ 4.1-4.4.2.1, eff. 12-5-75]

NAC 449.716 (1-8)

1. At least three meals or their equivalent must be served daily at regular times with not more than 14 hours between a substantial evening meal and breakfast. A second serving must be provided for those residents who desire one.

2. Therapeutic diet menus must be planned by a licensed dietitian or be reviewed and approved by the attending or staff physician.

3. Menus must be planned and followed to meet the nutritional needs of the residents in accordance with the orders of a physician and, to the extent medically possible, in accordance with the recommended dietary allowances of the Food and Nutrition Board of the Institute of Medicine of the National Academies. Menus must be in writing, planned at least a week in advance, dated, posted and kept on file for 90 days. Any substitutions on a menu must be noted on the written menu so that the menu on file reflects what was actually served.

4. Adequate facilities and equipment for the preparation, serving, refrigeration and storage of food in a sanitary manner must be provided.

5. A facility with more than 10 clients shall:

(a) Comply with all applicable provisions of chapter 446 of NRS and the regulations adopted pursuant thereto;

(b) Obtain the necessary permits from the Division;

(c) Maintain a report of each inspection concerning the sanitation of the facility for at least 1 year after the date of the inspection; and

(d) Maintain a report of each corrective action taken to address a deficiency noted in a report described in paragraph (c) for at least 1 year after the date of the corrective action.

6. Residents needing special equipment, implements or utensils to assist them when eating must have those items provided.

7. Where a facility operates on the cottage plan, provision must be made for food service that ensures hot, palatable meals. If the cottage plan provides for a central dining area, walkways to the dining area providing protection from the elements must be provided.

8. A qualified professional person must be used as a consultant on meal planning and food service. Four hours of consultation each month is the minimum requirement. A qualified person is:

(a) A person who is a licensed dietitian; or

(b) A graduate from an accredited college with a major in food and nutrition who has 2 years of supervisory experience in health care institutions or who has participated in a food service supervisor's course.

[Bd. of Health, Intermediate Care Facilities Reg. §§ 8.1-8.7.1.2, eff. 12-5-75]—(NAC A by R066-04, 8-4-2004; R155-10, 12-16-2010; R090-12, 12-20-2012)

NAC 449.732-743 are related to "Construction and Operation: Facilities for Persons With an Intellectual Disability or Persons With a Developmental Disability," therefore not applicable.

NEVADA STATE BOARD OF HEALTH
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Frontier and Rural Health Services
(NAC 211, 444, 446, 447, 583, & 585)

RECEIVED

MAY 21 2015

DPBH Administrator

Date: 5/1/15

Name of Applicant: Aric Burke

Phone: 480-567-0272

Mailing Address: 100 North Green Valley Parkway, Suite 330

City: Henderson

State: NV

Zip: 89074

We do hereby apply for a variance to chapter/section NAC 449.677 (5-7) of the Nevada Administrative Code (NAC). (For example: NAC 449.204)

Title of section in question: Employees: General Requirements

Statement of existing or proposed conditions in violation of the NAC:

449.677 (5) – See Attached

449.677 (6) – See Attached

449.677 (7) – See Attached

Date of initial operation (if existing): N/A

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1. The State Board of Health will grant a variance from a regulation only if it finds from the evidence presented at the hearing that:
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- B. Impair substantially the purpose of the regulation from which the application seeks a variance.

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_____ 2. General area identification map

_____ 3. Plat map showing locations of all pertinent items and appurtenances

4. Well log (if applicable)

5. Applicable lab reports

_____ 6. Applicable engineering or construction/remodeling information

7. Other items (see following pages)

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Please schedule this hearing as:

The next regularly scheduled Board of Health meeting, regardless of location.

The next scheduled meeting in Carson City.

The next scheduled meeting in Las Vegas.

Signature: _____



Printed Name: _____

Alic Burke

Title: _____

President, Parkway Recovery Care Center

Date: _____

5/1/15

**PLEASE MAKE YOUR CHECK OR MONEY ORDER PAYABLE TO:
NEVADA STATE HEALTH DIVISION AND RETURN THIS APPLICATION,
ALONG WITH THE REQUIRED FEE PURSUANT TO NAC 439.210, TO:**

Richard Whitley, MS, Administrator
Nevada State Health Division
4150 Technology Way, Suite 300
Carson City, NV 89706

(See the attached table to determine the appropriate fee)

May 1, 2015

Aric Burke, Market President
United Surgical Partners International
20940 N. Tatum Boulevard, Suite 125
Phoenix, AZ 85050

Richard Whitley, MS; Administrator
Nevada State Health Division
4150 Technology Way, Suite 300
Carson City, NV 89706

Re: Parkway Recovery Care Center Variance Request Attachment

Dear Mr. Whitley:

Parkway Recovery Care Center (Parkway) is applying for designation as Facility for Intermediate Care (IFC) as defined by NRS 449.0038 and regulated by NAC 449.614-743. Parkway is requesting NAC variance, as described herein:

About the Services: Parkway Recovery Care Center plans to provide post-surgical recovery care, including nurse staff and physical therapy, to patients that elect to receive supplemental recovery services. All patients receiving services at Parkway will have received, immediately prior to arriving at Parkway, outpatient surgery at a licensed Ambulatory Surgery Center (ASC). The predominant procedure(s) will be total knee/hip replacements; the average stay will be approximately 48-72 hours.

About the Facility: Parkway Recovery Care Center is located at 100 N. Green Valley Parkway, Suite 330; Henderson NV 89074. Parkway is planned as a 6-bed, single-patient room occupancy post-surgical Recovery Care Center. The license application has been submitted and is under review.

Current Nevada ASC Regulations: ASC regulations require that all surgical patients remain in an ASC until they are stable for discharge, for up to a maximum of 24 hours. ASC regulations do not preclude patients from electing to recover in other settings that provide professional nursing and post-surgical therapy, including Recovery Care Centers.

Current Nevada IFC Regulations: Currently no Nevada statutes or regulations exist for Recovery Care Centers; Parkway is therefore requesting licensure as an IFC in accordance with established Nevada State Health Division precedence.

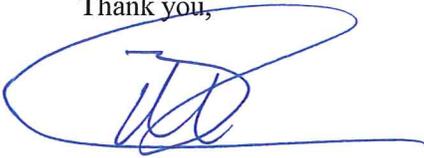
Parkway is requesting variances from some the regulations as provided in NAC 449. The requested variances will not impair the purpose of the regulations or cause detriment to the public welfare. The variances are being requested due to the deviation of the patient population from which the regulations were intended – specifically, hospital-based, long-term rehabilitation and/or skilled nursing facility residents. **Parkway believes that strict adherence to the regulations as provided will cause undue financial and regulatory hardship, as the code requires facilities and services that are typically necessary only for patients who have “illness, disease,**

injury or other condition that would require the degree of care and treatment which a hospital or facility for skilled nursing is designed to provide.” The specific sections from which Parkway is requesting variance are highlighted below; your consideration of our intended purpose versus the purpose of the facilities for which the regulations are written is material and appreciated.

It is important to note that Parkway fully intends to provide services and facilities that meet the needs of those patients electing assisted recovery, including but not limited to dietary services. In relation to the variance requests for NAC 449.677 (7) and NAC 449.716 (1-8) Parkway intends to contract with a permitted kitchen or licensed restaurant to provide food services for the patients.

We look forward to collaborating with the Nevada State Health Division in providing leading, innovative, and cost-saving healthcare to the residents of Nevada.

Thank you,



Aric Burke

Market President, USPI
President, Parkway Recovery Care Center

NAC Variances Requested

NAC 449.677 (5-7)

5. A designated member of the staff who is suited by training or experience must be responsible for arranging social services and for the integration of social services with other elements of the overall plan of care.
6. A member of the staff who is qualified by experience or training in directing group activities must be responsible for the program of activities.
7. A designated member of the staff who is suited by training or experience in food management or nutrition must be responsible for planning and supervising menus and meals.

NAC 449.685 (2)

2. Except as otherwise provided in this section and NAC 449.732 to 449.743, inclusive:
 - (b) Any new construction, remodeling or change in the use of a facility must comply with the *Guidelines for Design and Construction of Hospital and Health Care Facilities*, adopted by reference pursuant to NAC 449.0105, unless the remodeling is limited to refurbishing an area within the facility, including, without limitation, painting the area, replacing the flooring in the area, repairing windows in the area, and replacing window or wall coverings in the area.

AIA 4.3-Personal Services (Barber/Beauty) Areas

NAC 449.707 (1-7)- Money of residents

1. A written account, available to residents and their families, must be maintained on a current basis for each resident with written, signed and dated receipts for:
 - (a) All personal possessions and money received by or deposited with the facility.
 - (b) All disbursements made to or on behalf of the resident. The purpose of the disbursement must be noted on the receipt.
2. Receipts for each resident must be kept in each resident's personal needs envelope or otherwise safely and systematically filed.
3. A ledger must be maintained for the handling of residents' personal money. The beginning ledger sheet must be credited with the resident's money on hand. The ledger must be kept current. Personal needs money is for the exclusive personal use of the resident. The ledger and receipts for each resident must be made available for review upon the request of the Division.
4. If the resident is managing his or her own personal money, the money must be turned over to anyone at the request of the resident. A signed, itemized and dated receipt from anyone receiving the resident's personal money is required for deposit in the resident's personal envelope or other file.
5. If a resident is unable to manage his or her own money, there must be legal authority, such as appointment as conservator, guardian or trustee, for a relative or other person to carry out these acts for the resident.
6. Except as otherwise provided in this subsection, no licensee or employee of a facility may accept appointment as guardian, or conservator, of the estate of any resident or become a substitute payee for any payments made to any resident, or accept power of attorney. If a resident is legally determined to be unable to manage his or her money, his or her sole source of money is in the form of monthly benefit checks, and documentary evidence can be produced which shows that efforts to obtain a legal guardian for the resident have failed, this requirement may be waived to the extent that the facility may be the substitute payee on the checks.

7. All money held by the facility on behalf of residents must be maintained in a financial institution in the community where the facility is located in a separate trustee account apart from the operating accounts of the facility and must be clearly designated. Small amounts may be kept on hand by the facility for the incidental personal use of a resident. Upon the death of a resident, a receipt must be obtained from the resident's personal representative or from a relative who presents an affidavit under the provisions of NRS 146.080 before releasing the balance of the personal needs money.

[Bd. of Health, Intermediate Care Facilities, Reg. §§ 3.5-3.5.8.2, eff. 12-5-75]

NAC 449.713 (6-9)

6. The facility must provide social services as needed by the residents either directly or by written arrangement with an outside source. A designated member of the staff who is qualified by training or experience must be responsible for implementing and coordinating social services. A plan for social services must be recorded in the patient's record and must be periodically evaluated in conjunction with the total plan of care for the resident.

7. The facility must provide a program of activities.

8. A plan for independent and group activities must be developed for each resident in accordance with his or her needs and interests. The program of activities must be incorporated in the overall plan of care for the resident. The program must be reviewed with the participation of the resident at least quarterly and altered as needed.

9. Adequate recreational areas must be provided and sufficient equipment and materials must be available.

[Bd. of Health, Intermediate Care Facilities Reg. §§ 4.1-4.4.2.1, eff. 12-5-75]

NAC 449.716 (1-8)

1. At least three meals or their equivalent must be served daily at regular times with not more than 14 hours between a substantial evening meal and breakfast. A second serving must be provided for those residents who desire one.

2. Therapeutic diet menus must be planned by a licensed dietitian or be reviewed and approved by the attending or staff physician.

3. Menus must be planned and followed to meet the nutritional needs of the residents in accordance with the orders of a physician and, to the extent medically possible, in accordance with the recommended dietary allowances of the Food and Nutrition Board of the Institute of Medicine of the National Academies. Menus must be in writing, planned at least a week in advance, dated, posted and kept on file for 90 days. Any substitutions on a menu must be noted on the written menu so that the menu on file reflects what was actually served.

4. Adequate facilities and equipment for the preparation, serving, refrigeration and storage of food in a sanitary manner must be provided.

5. A facility with more than 10 clients shall:

(a) Comply with all applicable provisions of chapter 446 of NRS and the regulations adopted pursuant thereto;

(b) Obtain the necessary permits from the Division;

(c) Maintain a report of each inspection concerning the sanitation of the facility for at least 1 year after the date of the inspection; and

(d) Maintain a report of each corrective action taken to address a deficiency noted in a report described in paragraph (c) for at least 1 year after the date of the corrective action.

6. Residents needing special equipment, implements or utensils to assist them when eating must have those items provided.

7. Where a facility operates on the cottage plan, provision must be made for food service that ensures hot, palatable meals. If the cottage plan provides for a central dining area, walkways to the dining area providing protection from the elements must be provided.

8. A qualified professional person must be used as a consultant on meal planning and food service. Four hours of consultation each month is the minimum requirement. A qualified person is:

(a) A person who is a licensed dietitian; or

(b) A graduate from an accredited college with a major in food and nutrition who has 2 years of supervisory experience in health care institutions or who has participated in a food service supervisor's course.

[Bd. of Health, Intermediate Care Facilities Reg. §§ 8.1-8.7.1.2, eff. 12-5-75]—(NAC A by R066-04, 8-4-2004; R155-10, 12-16-2010; R090-12, 12-20-2012)

NAC 449.732-743 are related to "Construction and Operation: Facilities for Persons With an Intellectual Disability or Persons With a Developmental Disability," therefore not applicable.

NEVADA STATE BOARD OF HEALTH
NEVADA STATE HEALTH DIVISION
4150 Technology Way, Suite 300
CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

Please check the appropriate box that pertains to the NAC for which you are requesting a variance.

Division Administration
(NAC 439, 441A, 452, 453A, & 629)

Health Care Quality & Compliance
(NAC 449, 457, 459 & 652)

Child, Family & Community Wellness
(NAC 392, 394, 432A, 439, 441A, & 442)

Health Statistics, Planning &
Emergency Response
(NAC 440,450B, 452, 453, 453A, & 695C)

Frontier and Rural Health Services
(NAC 211, 444, 446, 447, 583, & 585)

RECEIVED

MAY 21 2015

DPBH Administrator

Date: 5/1/15

Name of Applicant: Aric Burke

Phone: 480-567-0272

Mailing Address: 100 North Green Valley Parkway, Suite 330

City: Henderson

State: NV

Zip: 89074

We do hereby apply for a variance to chapter/section NAC 449.716 (1-8) of the Nevada Administrative Code (NAC). (For example: NAC 449.204)

Title of section in question: Dietary Services

Statement of existing or proposed conditions in violation of the NAC:
449.716 (1-8) See Attached

Date of initial operation (if existing): N/A

ATTENTION: Please read this section closely. Your request for variance will be examined against these criteria:

Any person who, because of unique circumstances, is unduly burdened by a regulation of the State Board of Health and thereby suffers a hardship and the abridgement of a substantial property right may apply for a variance from a regulation. (NAC 439.200(1))

1. The State Board of Health will grant a variance from a regulation only if it finds from the evidence presented at the hearing that:
 - (a) There are circumstances or conditions which:
 - (1) Are unique to the applicant;
 - (2) Do not generally affect other persons subject to the regulation;
 - (3) Make compliance with the regulation unduly burdensome; and
 - (4) Cause a hardship to and abridge a substantial property right of the applicant; and
 - (b) Granting the variance:
 - (1) Is necessary to render substantial justice to the applicant and enable him to preserve and enjoy his property; and
 - (2) Will not be detrimental or pose a danger to public health and safety.
2. Whenever an applicant for a variance alleges that he suffers or will suffer economic hardship by complying with the regulation, he must submit evidence demonstrating the costs of his compliance with the regulation. The Board will consider the evidence and determine whether those costs are unreasonable. (NAC 439.240)

Therefore, it is important for your variance request to be as complete as possible. It is your responsibility to attach documentation supportive of your variance request.

Statement of degree of risk of health The requested variance will not have or cause a detriment to public welfare. The granting of the requested variance will not cause risk or increase risk to the health of patients electing to receive services from Parkway Recovery Care Center. Please refer to the attachment provided.

Please state in detail the circumstances or conditions which demonstrate that:

1. An exceptional and undue hardship results from a strict application of the Regulation:

The regulations as written pertain to a very specific patient population; the patient population anticipated at Parkway Recovery Care Center fall outside of the defined patient population in current Nevada regulations and statutes; regulations for "Recovery Care Centers" as facilities are similarly not defined. Therefore, the regulations provide for services and facilities unnecessary to the anticipated Parkway Recovery Care Center population, incurring extraneous time, labor, and expense. Please refer to the attachment provided.

2. The variance, if granted, would not:
 - A. Cause substantial detriment to the public welfare.

If approved, the variance will not cause substantial detriment to the public welfare. The variances requested reflect a unique patient population remaining onsite at Parkway Recovery Care Center; patients will stay on average 48-72 hours. The regulations were not intended for facilities with very short stays and the type of patient that will receive care at Parkway. Please refer to the attachment provided.

- B. Impair substantially the purpose of the regulation from which the application seeks a variance.

Due to the unique population and the short duration of stay, the requested variances will not deviate substantially from the intention of the regulation. Please refer to the attachment provided.

The bureau may require the following supporting documents to be submitted with and as a part of this application:

__ 1. Legal description of property concerned __

_____ 2. General area identification map

_____ 3. Plat map showing locations of all pertinent items and appurtenances

4. Well log (if applicable)

5. Applicable lab reports

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7. Other items (see following pages)

This application must be accompanied by evidence demonstrating the costs of your compliance with regulations or specific statutory standards. Your request will be placed on the Board of Health agenda 40 days or more after receipt in this office if accompanied by the required fee (NAC 439.210). The application and supporting documentation will form the basis for the Health Division staff report and recommendation to the Board. Failure to respond to the above statements may cause the Board to deny consideration of the application at the requested Board meeting.

Please schedule this hearing as:

The next regularly scheduled Board of Health meeting, regardless of location.

The next scheduled meeting in Carson City.

The next scheduled meeting in Las Vegas.

Signature: _____



Printed Name: _____

Alic Bourke,

Title: _____

President, Parkway Recovery Care Center

Date: _____

5/1/15

**PLEASE MAKE YOUR CHECK OR MONEY ORDER PAYABLE TO:
NEVADA STATE HEALTH DIVISION AND RETURN THIS APPLICATION,
ALONG WITH THE REQUIRED FEE PURSUANT TO NAC 439.210, TO:**

Richard Whitley, MS, Administrator
Nevada State Health Division
4150 Technology Way, Suite 300
Carson City, NV 89706

(See the attached table to determine the appropriate fee)

May 1, 2015

Aric Burke, Market President
United Surgical Partners International
20940 N. Tatum Boulevard, Suite 125
Phoenix, AZ 85050

Richard Whitley, MS; Administrator
Nevada State Health Division
4150 Technology Way, Suite 300
Carson City, NV 89706

Re: Parkway Recovery Care Center Variance Request Attachment

Dear Mr. Whitley:

Parkway Recovery Care Center (Parkway) is applying for designation as Facility for Intermediate Care (IFC) as defined by NRS 449.0038 and regulated by NAC 449.614-743. Parkway is requesting NAC variance, as described herein:

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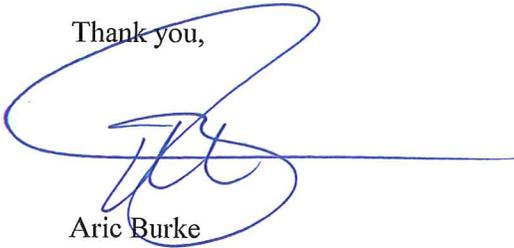
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Thank you,

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Aric Burke

Market President, USPI
President, Parkway Recovery Care Center

NAC Variances Requested

NAC 449.677 (5-7)

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APPLICATION FOR VARIANCE

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(NAC 211, 444, 446, 447, 583, & 585)

RECEIVED

MAY 21 2015

DPBH Administrator

Date: 5/1/15

Name of Applicant: Aric Burke

Phone: 480-567-0272

Mailing Address: 100 North Green Valley Parkway, Suite 330

City: Henderson

State: NV

Zip: 89074

We do hereby apply for a variance to chapter/section NAC 449.713 (6-9) of the Nevada Administrative Code (NAC). (For example: NAC 449.204)

Title of section in question: Program Requirements

Statement of existing or proposed conditions in violation of the NAC:
449.713 (6-9) See Attached

Date of initial operation (if existing): N/A

ATTENTION: Please read this section closely. Your request for variance will be examined against these criteria:

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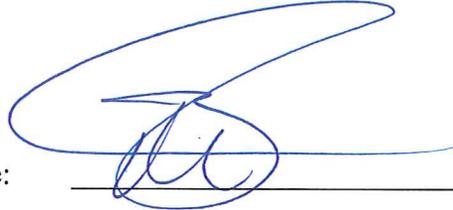
Please schedule this hearing as:

The next regularly scheduled Board of Health meeting, regardless of location.

The next scheduled meeting in Carson City.

The next scheduled meeting in Las Vegas.

Signature: _____



Printed Name: _____

Aric Burke

Title: _____

President, Parkway Recovery Care Center

Date: _____

5/1/15

**PLEASE MAKE YOUR CHECK OR MONEY ORDER PAYABLE TO:
NEVADA STATE HEALTH DIVISION AND RETURN THIS APPLICATION,
ALONG WITH THE REQUIRED FEE PURSUANT TO NAC 439.210, TO:**

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4150 Technology Way, Suite 300
Carson City, NV 89706

(See the attached table to determine the appropriate fee)

May 1, 2015

Aric Burke, Market President
United Surgical Partners International
20940 N. Tatum Boulevard, Suite 125
Phoenix, AZ 85050

Richard Whitley, MS; Administrator
Nevada State Health Division
4150 Technology Way, Suite 300
Carson City, NV 89706

Re: Parkway Recovery Care Center Variance Request Attachment

Dear Mr. Whitley:

Parkway Recovery Care Center (Parkway) is applying for designation as Facility for Intermediate Care (IFC) as defined by NRS 449.0038 and regulated by NAC 449.614-743. Parkway is requesting NAC variance, as described herein:

About the Services: Parkway Recovery Care Center plans to provide post-surgical recovery care, including nurse staff and physical therapy, to patients that elect to receive supplemental recovery services. All patients receiving services at Parkway will have received, immediately prior to arriving at Parkway, outpatient surgery at a licensed Ambulatory Surgery Center (ASC). The predominant procedure(s) will be total knee/hip replacements; the average stay will be approximately 48-72 hours.

About the Facility: Parkway Recovery Care Center is located at 100 N. Green Valley Parkway, Suite 330; Henderson NV 89074. Parkway is planned as a 6-bed, single-patient room occupancy post-surgical Recovery Care Center. The license application has been submitted and is under review.

Current Nevada ASC Regulations: ASC regulations require that all surgical patients remain in an ASC until they are stable for discharge, for up to a maximum of 24 hours. ASC regulations do not preclude patients from electing to recover in other settings that provide professional nursing and post-surgical therapy, including Recovery Care Centers.

Current Nevada IFC Regulations: Currently no Nevada statutes or regulations exist for Recovery Care Centers; Parkway is therefore requesting licensure as an IFC in accordance with established Nevada State Health Division precedence.

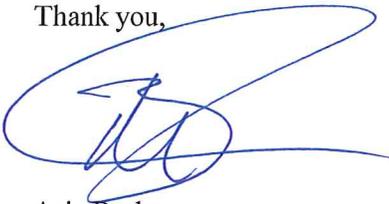
Parkway is requesting variances from some the regulations as provided in NAC 449. The requested variances will not impair the purpose of the regulations or cause detriment to the public welfare. The variances are being requested due to the deviation of the patient population from which the regulations were intended – specifically, hospital-based, long-term rehabilitation and/or skilled nursing facility residents. **Parkway believes that strict adherence to the regulations as provided will cause undue financial and regulatory hardship, as the code requires facilities and services that are typically necessary only for patients who have “illness, disease,**

injury or other condition that would require the degree of care and treatment which a hospital or facility for skilled nursing is designed to provide.” The specific sections from which Parkway is requesting variance are highlighted below; your consideration of our intended purpose versus the purpose of the facilities for which the regulations are written is material and appreciated.

It is important to note that Parkway fully intends to provide services and facilities that meet the needs of those patients electing assisted recovery, including but not limited to dietary services. In relation to the variance requests for NAC 449.677 (7) and NAC 449.716 (1-8) Parkway intends to contract with a permitted kitchen or licensed restaurant to provide food services for the patients.

We look forward to collaborating with the Nevada State Health Division in providing leading, innovative, and cost-saving healthcare to the residents of Nevada.

Thank you,



Aric Burke

Market President, USPI
President, Parkway Recovery Care Center

NAC Variances Requested

NAC 449.677 (5-7)

5. A designated member of the staff who is suited by training or experience must be responsible for arranging social services and for the integration of social services with other elements of the overall plan of care.
6. A member of the staff who is qualified by experience or training in directing group activities must be responsible for the program of activities.
7. A designated member of the staff who is suited by training or experience in food management or nutrition must be responsible for planning and supervising menus and meals.

NAC 449.685 (2)

2. Except as otherwise provided in this section and NAC 449.732 to 449.743, inclusive:
 - (b) Any new construction, remodeling or change in the use of a facility must comply with the *Guidelines for Design and Construction of Hospital and Health Care Facilities*, adopted by reference pursuant to NAC 449.0105, unless the remodeling is limited to refurbishing an area within the facility, including, without limitation, painting the area, replacing the flooring in the area, repairing windows in the area, and replacing window or wall coverings in the area.

AIA 4.3-Personal Services (Barber/Beauty) Areas

NAC 449.707 (1-7)- Money of residents

1. A written account, available to residents and their families, must be maintained on a current basis for each resident with written, signed and dated receipts for:
 - (a) All personal possessions and money received by or deposited with the facility.
 - (b) All disbursements made to or on behalf of the resident. The purpose of the disbursement must be noted on the receipt.
2. Receipts for each resident must be kept in each resident's personal needs envelope or otherwise safely and systematically filed.
3. A ledger must be maintained for the handling of residents' personal money. The beginning ledger sheet must be credited with the resident's money on hand. The ledger must be kept current. Personal needs money is for the exclusive personal use of the resident. The ledger and receipts for each resident must be made available for review upon the request of the Division.
4. If the resident is managing his or her own personal money, the money must be turned over to anyone at the request of the resident. A signed, itemized and dated receipt from anyone receiving the resident's personal money is required for deposit in the resident's personal envelope or other file.
5. If a resident is unable to manage his or her own money, there must be legal authority, such as appointment as conservator, guardian or trustee, for a relative or other person to carry out these acts for the resident.
6. Except as otherwise provided in this subsection, no licensee or employee of a facility may accept appointment as guardian, or conservator, of the estate of any resident or become a substitute payee for any payments made to any resident, or accept power of attorney. If a resident is legally determined to be unable to manage his or her money, his or her sole source of money is in the form of monthly benefit checks, and documentary evidence can be produced which shows that efforts to obtain a legal guardian for the resident have failed, this requirement may be waived to the extent that the facility may be the substitute payee on the checks.

7. All money held by the facility on behalf of residents must be maintained in a financial institution in the community where the facility is located in a separate trustee account apart from the operating accounts of the facility and must be clearly designated. Small amounts may be kept on hand by the facility for the incidental personal use of a resident. Upon the death of a resident, a receipt must be obtained from the resident's personal representative or from a relative who presents an affidavit under the provisions of NRS 146.080 before releasing the balance of the personal needs money.

[Bd. of Health, Intermediate Care Facilities, Reg. §§ 3.5-3.5.8.2, eff. 12-5-75]

NAC 449.713 (6-9)

6. The facility must provide social services as needed by the residents either directly or by written arrangement with an outside source. A designated member of the staff who is qualified by training or experience must be responsible for implementing and coordinating social services. A plan for social services must be recorded in the patient's record and must be periodically evaluated in conjunction with the total plan of care for the resident.

7. The facility must provide a program of activities.

8. A plan for independent and group activities must be developed for each resident in accordance with his or her needs and interests. The program of activities must be incorporated in the overall plan of care for the resident. The program must be reviewed with the participation of the resident at least quarterly and altered as needed.

9. Adequate recreational areas must be provided and sufficient equipment and materials must be available.

[Bd. of Health, Intermediate Care Facilities Reg. §§ 4.1-4.4.2.1, eff. 12-5-75]

NAC 449.716 (1-8)

1. At least three meals or their equivalent must be served daily at regular times with not more than 14 hours between a substantial evening meal and breakfast. A second serving must be provided for those residents who desire one.

2. Therapeutic diet menus must be planned by a licensed dietitian or be reviewed and approved by the attending or staff physician.

3. Menus must be planned and followed to meet the nutritional needs of the residents in accordance with the orders of a physician and, to the extent medically possible, in accordance with the recommended dietary allowances of the Food and Nutrition Board of the Institute of Medicine of the National Academies. Menus must be in writing, planned at least a week in advance, dated, posted and kept on file for 90 days. Any substitutions on a menu must be noted on the written menu so that the menu on file reflects what was actually served.

4. Adequate facilities and equipment for the preparation, serving, refrigeration and storage of food in a sanitary manner must be provided.

5. A facility with more than 10 clients shall:

(a) Comply with all applicable provisions of chapter 446 of NRS and the regulations adopted pursuant thereto;

(b) Obtain the necessary permits from the Division;

(c) Maintain a report of each inspection concerning the sanitation of the facility for at least 1 year after the date of the inspection; and

(d) Maintain a report of each corrective action taken to address a deficiency noted in a report described in paragraph (c) for at least 1 year after the date of the corrective action.

6. Residents needing special equipment, implements or utensils to assist them when eating must have those items provided.

7. Where a facility operates on the cottage plan, provision must be made for food service that ensures hot, palatable meals. If the cottage plan provides for a central dining area, walkways to the dining area providing protection from the elements must be provided.

8. A qualified professional person must be used as a consultant on meal planning and food service. Four hours of consultation each month is the minimum requirement. A qualified person is:

(a) A person who is a licensed dietitian; or

(b) A graduate from an accredited college with a major in food and nutrition who has 2 years of supervisory experience in health care institutions or who has participated in a food service supervisor's course.

[Bd. of Health, Intermediate Care Facilities Reg. §§ 8.1-8.7.1.2, eff. 12-5-75]—(NAC A by R066-04, 8-4-2004; R155-10, 12-16-2010; R090-12, 12-20-2012)

NAC 449.732-743 are related to "Construction and Operation: Facilities for Persons With an Intellectual Disability or Persons With a Developmental Disability," therefore not applicable.

variance # 671

NEVADA STATE BOARD OF HEALTH
NEVADA STATE HEALTH DIVISION
4150 Technology Way, Suite 300
CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

Please check the appropriate box that pertains to the NAC for which you are requesting a variance.

Division Administration
(NAC 439, 441A, 452, 453A, & 629)

Health Care Quality & Compliance
(NAC 449, 457, 459 & 652)

Child, Family & Community Wellness
(NAC 392, 394, 432A, 439, 441A, & 442)

Health Statistics, Planning &
Emergency Response
(NAC 440, 450B, 452, 453, 453A, & 695C)

Frontier and Rural Health Services
(NAC 211, 444, 446, 447, 583, & 585)

RECEIVED

MAY 21 2015

DPBH Administrator

Date: 5/1/15

Name of Applicant: Aric Burke

Phone: 480-567-0272

Mailing Address: 100 North Green Valley Parkway, Suite 330

City: Henderson

State: NV

Zip: 89074

We do hereby apply for a variance to chapter/section NAC 449.707 (1-7) of the Nevada Administrative Code (NAC). (For example: NAC 449.204)

Title of section in question: Money of Residents

Statement of existing or proposed conditions in violation of the NAC:
449.707 (1-7) See Attached

Date of initial operation (if existing): N/A

ATTENTION: Please read this section closely. Your request for variance will be examined against these criteria:

Any person who, because of unique circumstances, is unduly burdened by a regulation of the State Board of Health and thereby suffers a hardship and the abridgement of a substantial property right may apply for a variance from a regulation. (NAC 439.200(1))

1. The State Board of Health will grant a variance from a regulation only if it finds from the evidence presented at the hearing that:
 - (a) There are circumstances or conditions which:
 - (1) Are unique to the applicant;
 - (2) Do not generally affect other persons subject to the regulation;
 - (3) Make compliance with the regulation unduly burdensome; and
 - (4) Cause a hardship to and abridge a substantial property right of the applicant; and
 - (b) Granting the variance:
 - (1) Is necessary to render substantial justice to the applicant and enable him to preserve and enjoy his property; and
 - (2) Will not be detrimental or pose a danger to public health and safety.
2. Whenever an applicant for a variance alleges that he suffers or will suffer economic hardship by complying with the regulation, he must submit evidence demonstrating the costs of his compliance with the regulation. The Board will consider the evidence and determine whether those costs are unreasonable. (NAC 439.240)

Therefore, it is important for your variance request to be as complete as possible. It is your responsibility to attach documentation supportive of your variance request.

Statement of degree of risk of health The requested variance will not have or cause a detriment to public welfare. The granting of the requested variance will not cause risk or increase risk to the health of patients electing to receive services from Parkway Recovery Care Center. Please refer to the attachment provided.

Please state in detail the circumstances or conditions which demonstrate that:

1. An exceptional and undue hardship results from a strict application of the Regulation:

The regulations as written pertain to a very specific patient population; the patient population anticipated at Parkway Recovery Care Center fall outside of the defined patient population in current Nevada regulations and statutes; regulations for "Recovery Care Centers" as facilities are similarly not defined. Therefore, the regulations provide for services and facilities unnecessary to the anticipated Parkway Recovery Care Center population, incurring extraneous time, labor, and expense. Please refer to the attachment provided.

2. The variance, if granted, would not:
 - A. Cause substantial detriment to the public welfare.

If approved, the variance will not cause substantial detriment to the public welfare. The variances requested reflect a unique patient population remaining onsite at Parkway Recovery Care Center; patients will stay on average 48-72 hours. The regulations were not intended for facilities with very short stays and the type of patient that will receive care at Parkway. Please refer to the attachment provided.

- B. Impair substantially the purpose of the regulation from which the application seeks a variance.

Due to the unique population and the short duration of stay, the requested variances will not deviate substantially from the intention of the regulation. Please refer to the attachment provided.

The bureau may require the following supporting documents to be submitted with and as a part of this application:

__ 1. Legal description of property concerned __

_____ 2. General area identification map

_____ 3. Plat map showing locations of all pertinent items and appurtenances

4. Well log (if applicable)

5. Applicable lab reports

_____ 6. Applicable engineering or construction/remodeling information

7. Other items (see following pages)

This application must be accompanied by evidence demonstrating the costs of your compliance with regulations or specific statutory standards. Your request will be placed on the Board of Health agenda 40 days or more after receipt in this office if accompanied by the required fee (NAC 439.210). The application and supporting documentation will form the basis for the Health Division staff report and recommendation to the Board. Failure to respond to the above statements may cause the Board to deny consideration of the application at the requested Board meeting.

Please schedule this hearing as:

The next regularly scheduled Board of Health meeting, regardless of location.

The next scheduled meeting in Carson City.

The next scheduled meeting in Las Vegas.

Signature: _____



Printed Name: _____

Aric Burke

Title: _____

President, Parkway Recovery Care Center

Date: _____

5/1/15

**PLEASE MAKE YOUR CHECK OR MONEY ORDER PAYABLE TO:
NEVADA STATE HEALTH DIVISION AND RETURN THIS APPLICATION,
ALONG WITH THE REQUIRED FEE PURSUANT TO NAC 439.210, TO:**

Richard Whitley, MS, Administrator
Nevada State Health Division
4150 Technology Way, Suite 300
Carson City, NV 89706

(See the attached table to determine the appropriate fee)

May 1, 2015

Aric Burke, Market President
United Surgical Partners International
20940 N. Tatum Boulevard, Suite 125
Phoenix, AZ 85050

Richard Whitley, MS; Administrator
Nevada State Health Division
4150 Technology Way, Suite 300
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