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September 1, 2017

Steve Gerleman, REHS, MBA
Health Facilities Inspection Manager
Nevada Department of Health and Human Services
Division of Public and Behavioral Health
4220 South Maryland Parkway, Building D, Suite 810
Las Vegas, Nevada 89119

Re: LCB File No. R133-15

Dear Mr. Gerleman:

A revised proposed regulation, R133-15, of the State Board of Health has been examined pursuant to NRS 233B.063 and is returned in revised form.

We invite you to discuss with us any questions which you may have concerning this review. Please make reference to our file number in all further correspondence relating to this regulation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ann M. Iverson".

Ann M. Iverson
Senior Deputy Legislative Counsel

Brenda J. Erdoes
Legislative Counsel

AMI/amh
Enclosure

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

LCB File No. R133-15

September 1, 2017

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

AUTHORITY: §§1-16, NRS 449.0302; §17, NRS 439.150, 449.0302 and NRS 449.050.

A REGULATION relating to health; establishing the requirements governing the licensing and operation of community health worker pools; establishing the qualifications and duties of administrators of such pools; establishing the qualifications and training required of community health workers; establishing the fees that the Division of Public and Behavioral Health of the Department of Health and Human Services will charge for the issuance and renewal of a license to operate a community health worker pool; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law includes a community health worker pool within the definition of a facility for the dependent. (NRS 449.0045) Existing law generally requires a person, state or local government or agency to obtain a license from the Division of Public and Behavioral Health of the Department of Health and Human Services to operate a community health worker pool before providing the services of a community health worker. (NRS 449.030, 449.03013, 449.040) Existing law further provides that the requirement to obtain a license as a community health worker pool does not apply to a person who is licensed as a facility for the dependent or medical facility who employs community health workers. (NRS 449.03013)

Section 8 of this regulation provides that, with certain exceptions, a license to operate a community health worker pool applies to a specific location. **Section 8** also requires a community health worker pool to retain proof that it maintains adequate coverage against liabilities resulting from claims incurred in the course of operation.

Existing regulations define an “administrator” as the person responsible for the day-to-day management of a facility for the dependent. (NAC 449.0022, 449.0034) **Section 9** of this regulation sets forth the qualifications and duties of an administrator of a community health worker pool. **Section 9** also requires such an administrator to appoint a designee to act in his or her absence.

Section 10 of this regulation requires a community health worker pool to maintain written policies and procedures concerning the qualifications, responsibilities and conditions of employment for each community health worker and other members of the staff.

Section 11 of this regulation sets forth the qualifications that a community health worker employed or retained pursuant to a contract by a community health worker pool is required to satisfy.

Section 12 of this regulation requires a separate personnel file to be maintained for each community health worker employed or retained pursuant to a contract by a community health worker pool and sets forth the required contents of such a file.

Section 13 of this regulation requires a community health worker employed or retained pursuant to a contract by a community health worker pool to have certain knowledge and training as a prerequisite to providing the services of a community health worker to a client.

Section 14 of this regulation: (1) sets forth certain rights of the clients of a community health worker pool; (2) sets forth the duties of the administrator of a community health worker pool with regard to those rights; and (3) requires a community health worker pool to develop and provide a written description of those rights to each client or representative of the client.

Existing law authorizes the State Board of Health to set reasonable fees for the licensing, registration, certification and inspection of, and the granting of permits for, any facility, establishment or service regulated by the Division. (NRS 439.150, 449.050) **Section 17** of this regulation prescribes fees for an applicant for a license to operate a community health worker pool or to renew such a license.

Section 1. Chapter 449 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 15, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 15, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Client” means a person who receives the services of a community health worker.*

Sec. 4. *“Continuing education” means a course of study or training that is designed to develop and enhance the knowledge, skills and competency of a community health worker with regard to providing the services of a community health worker to a client.*

Sec. 5. *“Representative of the client” means the spouse of a client, a parent or stepparent of a client who is a minor, the legal guardian of a client and any other person required by law to provide medical support to a client.*

Sec. 6. *“Service plan” means a plan which includes a written description of the needs of a client for the services of a community health worker and which specifies the tasks that a community health worker is authorized to provide for the client.*

Sec. 7. *“Services of a community health worker” means the services provided by a community health worker at the direction of a community health worker pool which may include, without limitation, outreach, community education, informal counseling, social support, advocacy and improvement of the social determinants of health.*

Sec. 8. 1. *Except as otherwise provided in this subsection, each license issued to operate a community health worker pool is separate and distinct and is issued to a specific person, who is designated on the license, to operate the community health worker pool at a specific location. The person may operate a community health worker pool at multiple work stations if the community health worker pool maintains the records for the clients, community health workers, other members of the staff of the community health worker pool and operations of the community health worker pool at the specific location designated on the license.*

2. *The name of the administrator of the community health worker pool must appear on the face of the license.*

3. *Each community health worker pool must retain proof that it is adequately covered against liabilities resulting from claims incurred in the course of operation.*

4. *The proof of liability coverage required by subsection 3 must be verified at the time the community health worker pool submits its initial application to the Division for a license and upon request by the Division.*

5. *As used in this section, “work station” means a satellite office of a community health worker pool that is established for the sole purposes of providing a location where copies of records may be sent to a community health worker pool and providing a location from which a community health worker may work to serve a geographic area outside the geographic area in which the community health worker normally works.*

Sec. 9. 1. *The administrator of a community health worker pool must:*

(a) Be at least 18 years of age;

(b) Have a high school diploma or its equivalent;

(c) Be responsible and mature and have the personal qualities which will enable the administrator to understand the problems relating to the prevention and management of chronic disease, the social determinants of health, the field of behavioral health and community services;

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

(e) Demonstrate the ability to read, write, speak and understand the English language.

2. *The administrator of a community health worker pool shall represent the licensee in the daily operation of the community health worker pool and shall appoint a person to*

exercise his or her authority in the administrator's absence. The responsibilities of an administrator include, without limitation:

- (a) Employing qualified personnel and arranging for their training;*
- (b) Ensuring that only trained community health workers are providing the services of a community health worker to a client of the community health worker pool and that such services are provided in accordance with the functional assessment of the client, the service plan established for the client and the policies and procedures of the community health worker pool;*
- (c) Developing and implementing an accounting and reporting system that reflects the fiscal experience and current financial position of the community health worker pool;*
- (d) Negotiating for services provided by contract in accordance with legal requirements and established policies of the community health worker pool;*
- (e) Providing oversight and direction for community health workers and other members of the staff of the community health worker pool as necessary to ensure that the clients of the community health worker pool receive needed services;*
- (f) Developing and implementing policies and procedures for the community health worker pool, including, without limitation, policies and procedures concerning terminating the services of a community health worker provided to a client;*
- (g) Designating one or more employees of the community health worker pool to be in charge of the community health worker pool during those times when the administrator is absent;*

(h) Demonstrating to the Division upon request that the community health worker pool has sufficient resources and the capability to satisfy the requests of each client of the community health worker pool related to the provision of the services of a community health worker described in the service plan to the client; and

(i) Providing an annual report to the Division, on a form prescribed by the Division, on or before January 1 of each year after the initial licensure of the community health worker pool.

3. Except as otherwise provided in this subsection, an employee designated to be in charge of the community health worker pool when the administrator is absent must have access to all records kept at the community health worker pool. Confidential information may be removed from a file to which an employee designated to be in charge of the community health worker pool has access if the confidential information is maintained separately by the administrator.

4. The administrator of a community health worker pool shall ensure that:

(a) The clients of the community health worker pool are not abused, neglected, exploited, isolated or abandoned by a community health worker or another member of the staff of the community health worker pool, or by any person who is visiting the client when a community health worker or another member of the staff of the community health worker pool is present; and

(b) Suspected cases of abuse, neglect, exploitation, isolation or abandonment of a client are reported in the manner prescribed in NRS 200.5093, as amended by section 4 of Senate Bill No. 123, chapter 155, Statutes of Nevada 2017, at page 702, NRS 200.50935 and 632.472.

Sec. 10. A community health worker pool shall maintain written policies and procedures concerning the qualifications, responsibilities and conditions of employment for each community health worker and other members of the staff of the community health worker pool. The written policies and procedures must be reviewed and revised as needed. The written policies and procedures must be made available to the community health workers and other members of the staff of the community health worker pool upon hire and whenever revisions are made to those policies and procedures. At a minimum, the policies and procedures must:

- 1. Provide descriptions of the duties and responsibilities of community health workers;**
- 2. Provide descriptions of any activities that community health workers are prohibited from engaging in, including, without limitation:**
 - (a) Making a long distance telephone call that is personal in nature:**
 - (1) On a telephone owned by or provided by a client; or**
 - (2) While on duty providing the services of a community health worker to a client;**
 - (b) Loaning, borrowing or accepting gifts of money or personal items from a client;**
 - (c) Accepting or retaining money or gratuities from a client, other than money needed for the purchase of groceries or medication for the client; and**
 - (d) Becoming the legal guardian of a client or being named as an attorney-in-fact in a power of attorney executed by the client;**
- 3. Set forth the rights of clients;**
- 4. Set forth any requirements relating to ethics governing community health workers and other members of the staff of the community health worker pool, including, without limitation, any requirements concerning the confidentiality of client information;**

5. Provide a description of the services of a community health worker that are provided to clients;

6. Provide a description of the manner in which the community health worker pool assigns community health workers to provide the services of a community health worker to clients and any supervision of those services that will be provided by the community health worker pool;

7. Provide for documentation of the needs of each client and the services of a community health worker that are provided to the client;

8. Set forth the emergency responses of the community health worker pool to both medical and nonmedical situations;

9. Set forth the roles of the community health worker pool and any coordination that the community health worker pool will provide with services provided by other community service agencies;

10. Provide for periodic evaluations of the performance of the community health workers and other members of the staff of the community health worker pool;

11. Provide for the maintenance of current personnel records which confirm that the policies and procedures are being followed; and

12. Set forth any other specific information that is necessary based on the needs of any special populations served by the community health worker pool.

Sec. 11. Each community health worker employed or retained pursuant to a contract by a community health worker pool must:

1. Be at least 18 years of age;

- 2. Demonstrate the ability to provide the services of a community health worker;*
- 3. Understand the provisions of this chapter and chapter 449 of NRS;*
- 4. Demonstrate the ability to read, write, speak and communicate effectively with the clients of the community health worker pool;*
- 5. Provide to the community health worker pool and maintain documentation of either:
(a) A certificate of completion evidencing the successful completion of an initial training course for community health workers which is not less than 30 hours and is approved by the Division; or
(b) Certification as a community health worker by an accrediting body approved by the Division;*
- 6. Demonstrate the ability to meet the needs of the clients of the community health worker pool; and*
- 7. Receive annually not less than 20 hours of continuing education related to providing for the needs of the clients of the community health worker pool.*

Sec. 12. 1. A separate personnel file must be kept for each community health worker employed or retained pursuant to a contract by a community health worker pool and must include, without limitation:

- (a) The name, address and telephone number of the community health worker;*
- (b) The date on which the community health worker began working for the community health worker pool;*
- (c) Documentation satisfactory to the Division that the community health worker has been screened for communicable diseases as described in NAC 441A.375;*

(d) Evidence of compliance with NRS 449.123, as amended by section 11 of Senate Bill No. 71, chapter 326, Statutes of Nevada 2017, at page 1902, by the administrator of the community health worker pool or the person licensed to operate the community health worker pool with respect to the community health worker;

(e) Proof that, within 6 months after the community health worker began working for the community health worker pool, the community health worker obtained a certificate in first aid and cardiopulmonary resuscitation issued by the American National Red Cross or an equivalent certificate approved by the Division and proof that such certification has been maintained current;

(f) Proof that the community health worker is at least 18 years of age;

(g) Proof of possession by the community health worker of at least the minimum liability insurance coverage required by state law if the community health worker will be providing transportation to a client in a motor vehicle;

(h) Documentation of each initial training course and continuing education attended by the community health worker; and

(i) Documentation of the performance evaluations of the community health worker.

2. The documentation described in paragraph (h) of subsection 1 must include, without limitation, for each initial training course and continuing education attended by the community health worker:

(a) The name of the training course or continuing education;

(b) The date on which the training course or continuing education was attended;

(c) The number of hours of the training course or continuing education;

(d) The name of the instructor of the training course or continuing education; and

(e) A certificate of completion or another certificate indicating that the training course or continuing education was successfully completed by the community health worker.

Sec. 13. 1. Each community health worker employed or retained pursuant to a contract by a community health worker pool shall:

(a) Obtain a working knowledge of the provisions of this chapter which govern the licensing of community health worker pools before providing the services of a community health worker to the clients of the community health worker pool. The community health worker pool must provide a copy of those provisions to a community health worker before the community health worker may provide the services of a community health worker to the clients of the community health worker pool.

(b) Participate in and complete a training program before independently providing the services of a community health worker to the clients of the community health worker pool. The training program must include an opportunity for the community health worker to receive on-the-job instruction provided to clients of the community health worker pool, as long as the administrator of the community health worker pool or the administrator's designee provides supervision during this instruction to determine whether the community health worker is able to provide the services of a community health worker successfully and independently to the client.

(c) Receive training:

(1) In the written documentation of:

(I) The services provided by the community health worker to the clients of the community health worker pool; and

(II) Verification of time records.

(2) In the core competencies, roles, values, scope of practice and ethics of a community health worker that are consistent with guidelines of the American Public Health Association or an equivalent association approved by the Division.

(3) In the rights of clients, including, without limitation, training in methods to protect client confidentiality pursuant to state and federal regulations.

(4) Related to outreach, community education, informal counseling, social support, advocacy and improvement of the social determinants of health.

(5) Related to communication skills, including, without limitation, active listening, problem solving, conflict resolution and techniques for communicating through alternative modes with persons with communication or sensory impairments.

2. Each community health worker of a community health worker pool must:

(a) Be evaluated and determined to be competent by the community health worker pool in the required areas of training set forth in paragraph (c) of subsection 1.

(b) Have evidence of successful completion of a training program that includes the areas of training set forth in paragraph (c) of subsection 1 which precedes the date on which the community health worker first begins providing the services of a community health worker to a client.

Sec. 14. 1. *The administrator of a community health worker pool shall ensure that a client is not prohibited from speaking to any person who advocates for the rights of the clients of the community health worker pool.*

2. *The administrator of a community health worker pool shall establish and enforce a procedure to respond to grievances, incidents and complaints concerning the community health worker pool in accordance with the written policies and procedures of the community health worker pool. The procedure established and enforced by the administrator must include a method for ensuring that the administrator or the administrator's designee is notified of each grievance, incident or complaint. The administrator or his or her designee shall personally investigate the matter in a timely manner. A client who files a grievance or complaint or reports an incident concerning the community health worker pool must be notified of the action taken in response to the grievance, complaint or report or must be given a reason why no action was taken.*

3. *The administrator of a community health worker pool shall ensure that the community health worker pool is in compliance with NRS 449.700 to 449.730, inclusive.*

4. *The community health worker pool shall develop a written description of the rights of clients and provide a copy to each client or a representative of the client upon initiation of the service plan established for the client. A signed and dated copy of the receipt of this information by the client or a representative of the client must be maintained in the record of the client.*

5. *The written description of the rights of clients developed pursuant to subsection 4 must include, without limitation, a statement that each client has the right:*

(a) To receive considerate and respectful care that recognizes the inherent worth and dignity of each client;

(b) To participate in the development of the service plan established for the client and to receive an explanation of the services of a community health worker that will be provided pursuant to the service plan and a copy of the service plan;

(c) To receive the telephone number of the Bureau which may be contacted for complaints;

(d) To receive notification of any authority of the Division to examine the records of the client relating to the regulation and evaluation of the community health worker pool by the Division; and

(e) To receive from the community health worker pool, within the limits set by the service plan established for the client and within the program criteria, responses to reasonable requests for assistance.

Sec. 15. *The administrator of a community health worker pool or the administrator's designee shall conduct an initial screening to evaluate each prospective client's requests for the services of a community health worker and to develop a service plan for the client or to accept a service plan established for the client.*

Sec. 16. NAC 449.002 is hereby amended to read as follows:

449.002 As used in NAC 449.002 to 449.99939, inclusive, ***and sections 2 to 15, inclusive, of this regulation,*** unless the context otherwise requires, the words and terms defined in NAC 449.0022 to 449.0072, inclusive, have the meanings ascribed to them in those sections.

Sec. 17. 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 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
<i>(o) A community health worker pool.....</i>	<i>1,000</i>

2. An applicant for the renewal of such a license must pay to the Division 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 community health worker pool	500

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.