

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the State Board of Health will hold a public hearing to consider adoption of new regulations to Nevada Administrative Code (NAC) Chapter 449 in LCB File No. R121-16 with errata (recovery centers). This public hearing is to be held in conjunction with the State Board of Health meeting on September 08, 2017. The proposed adoption of the regulations will be heard in order placed on the State Board of Health agenda.

The State Board of Health will be conducted via videoconference beginning at 9:00 a.m. on Friday September 08, 2017 at the following locations:

Division of Public and Behavioral Health 4150 Technology Way Conference Room #303 Carson City, NV 89706	Southern Nevada Health District, Red Rock Trail Room A & B 280 South Decatur Blvd. Las Vegas, NV 89107	Division of Aging and Disability Services Early Intervention Services 1020 Ruby Vista Drive, Suite 102 Elko, NV
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The proposed regulations provide provisions for the following:

- 1) This regulation sets forth requirements for the licensing and operation of a recovery centers, which is defined as any public or private facility that provides not more than 72 hours of short-term care to a person recovering from surgery. The recovery center will be required to be licensed to operate.
- 2) The Division of Public and Behavioral Health of the Department of Health and Human Services is to (A) conduct an investigation of an applicant before issuing such a license; (B) verify a recovery center to conform with all applicable provisions of federal, state and local laws, regulations and ordinances; (C) requires the buildings of a recovery center to be constructed with adequate space and safeguards for each patient; (D) establishes requirements: (i) to meet the personal needs of the patients of a recovery center; and (ii) relating to the sanitation of a recovery center; (E) the regulations require a recovery center patient rooms to be designed and equipped in a manner that allows for adequate nursing care, comfort and privacy; (F) prohibits a recovery center from having more residents than the number of beds for which it is licensed; (G) requires a recovery center to maintain adequate insurance coverage against certain liabilities; (H) adopt provisions (i) governing the administration of a recovery center, (ii) that the governing body is legally responsible for establishing and carrying out policies regarding the management and operation of the center, and (iii) to appoint a qualified administrator; and (I) develop a written emergency/disaster preparedness plan.
- 3) This regulation requires the recovery center (A) to meet the needs of a patient and to be assessed by qualified personnel throughout the patient's stay at the center; (B) to

develop a plan of care for each patient based on the center's assessment of the patient; and (C) to provide any service or treatment identified in a patient's plan of care and necessary to ensure proper care of the patient.

- 4) The recovery center is required (A) to develop and carry out policies and procedures concerning: (1) the discharge of patients; (2) infection control; and (3) the employment, licensing and certification of personnel at the center. The recovery center also must (B) maintain medical records for each patient and to allow such records to be inspected upon written request from the patient. (C) The recovery center patient may be admitted to a recovery center only upon the written approval of a physician and (D) that there is sufficient staff on duty to provide care and maintain the highest practicable well-being of each patient in the center.
- 5) The recovery center must (A) establishes requirements for the planning, preparation and provision of meals to the patients in a recovery center; and (B) to provide specialized rehabilitative, pharmaceutical, laboratory and radiological and other diagnostic services to each patient of the center, as needed.
- 6) Existing law authorizes the State Board of Health to set reasonable fees for the licensing, registration, certification and inspection of any facility, establishment or service regulated by the Division. (NRS 439.150, 449.050)

1. Anticipated effects on the business which NAC 449 regulates:

- A. *Adverse effects:* None. Currently there are no licensed recovery centers in Nevada.
Beneficial: The new recovery centers would allow operators to offer patients short-term recovery stays.
- B. *Immediate:* Once the regulations are approved, facilities that provide short term stays may apply to be licensed as a recovery center.
- C. *Long-term:* There may be an increased number of recovery centers in Nevada.

2. Anticipated effects on the public:

- A. *Adverse:* None.
- B. *Beneficial:* Provides more options for patients with their post-surgical care needs.
- C. *Immediate:* Would allow patients to choose a license type that best fits their care needs.
- D. *Long-term:* There may be an increased number of recovery centers in Nevada providing health care options in post-surgical care.

3. The estimated cost to the Division of Public and Behavioral Health for enforcement of the proposed regulations is estimated to be an initial fee of \$946.00 plus \$72.00 per bed and an annual renewal fee of \$473 plus \$46.00 per bed. These fees are currently set in regulations and would be used to cover the costs to enforce the proposed regulations.

The proposed regulations do not overlap or duplicate any other Nevada state regulations.

Members of the public may make oral comments at this meeting. Persons wishing to submit written testimony or documentary evidence in excess of two typed, 8-1/2" x 11" pages must submit the material to the Board's Secretary, Cody Phinney, to be received no later than August 18, 2017, at the following address:

Secretary, State Board of Health
Division of Public and Behavioral Health
4150 Technology Way, Suite 300
Carson City, NV 89706

Written comments, testimony, or documentary evidence in excess of two typed pages will not be accepted at the time of the hearing. The purpose of this requirement is to allow Board members adequate time to review the documents.

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

Nevada Division of Public and Behavioral Health
727 Fairview Drive, Suite E
Carson City, NV 89701

Nevada State Library
100 Stewart Street
Carson City, NV 89701

Nevada Division of Public and Behavioral Health
4220 S. Maryland Parkway, Suite 810, Building D
Las Vegas, NV 89119

A copy of the regulations and small business impact statement can be found on-line by going to:
<http://dpbh.nv.gov/Boards/BOH/Regulations/Regulations/>

A copy of the public hearing notice can also be found at Nevada Legislature's web page:
<https://www.leg.state.nv.us/App/Notice/A/>

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

Copies may also be obtained from any of the public libraries listed below:

Carson City Library
900 North Roop Street
Carson City, NV 89702

Churchill County Library
553 South Main Street
Fallon, NV 89406

Clark County District Library
1401 East Flamingo Road
Las Vegas, NV 89119

Douglas County Library
1625 Library Lane
Minden, NV 89423

Elko County Library
720 Court Street
Elko, NV 89801

Esmeralda County Library
Corner of Crook and 4th Street
Goldfield, NV 89013-0484

Eureka Branch Library
80 South Monroe Street
Eureka, NV 89316-0283

Henderson District Public Library
280 South Green Valley Parkway
Henderson, NV 89012

Humboldt County Library
85 East 5th Street
Winnemucca, NV 89445-3095

Lander County Library
625 South Broad Street
Battle Mountain, NV 89820-0141

Lincoln County Library
93 Maine Street
Pioche, NV 89043-0330

Lyon County Library
20 Nevin Way
Yerington, NV 89447-2399

Mineral County Library
110 1st Street
Hawthorne, NV 89415-1390

Pahrump Library District
701 East Street
Pahrump, NV 89041-0578

Pershing County Library
1125 Central Avenue
Lovelock, NV 89419-0781

Storey County Library
95 South R Street
Virginia City, NV 89440-0014

Tonopah Public Library
167 Central Street
Tonopah, NV 89049-0449

Washoe County Library
301 South Center Street
Reno, NV 89505-2151

White Pine County Library
950 Campton Street
Ely, NV 89301-1965

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

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

LCB File No. R121-16

September 19, 2016

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

AUTHORITY: §§1-33, NRS 439.200, 449.0302 and 449.0303; §34, NRS 439.150, 439.200 and 449.050.

A REGULATION relating to public health; establishing requirements governing the licensing and operation of recovery centers; establishing the qualifications and duties of an administrator of a recovery center; establishing standards for the construction of a recovery center; imposing certain fees for the issuance and renewal of a license to operate a recovery center; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Board of Health to adopt regulations requiring the licensing of certain facilities if: (1) the facility provides any type of medical care or treatment; and (2) regulation is necessary to protect the health of the general public. (NRS 449.0303)

This regulation sets forth requirements for the licensing and operation of a recovery center, which **section 3** of this regulation defines as any public or private facility that provides not more than 72 hours of short-term care to a person recovering from surgery. **Section 4** of this regulation requires a license to operate or provide the services of a recovery center, and **section 5** of this regulation sets forth the requirements for obtaining such a license. **Sections 6 and 7** of this regulation require the Division of Public and Behavioral Health of the Department of Health and Human Services to conduct an investigation of an applicant before issuing such a license. **Section 8** of this regulation authorizes the Division to suspend or revoke a license or cancel a license and issue a provisional license based upon certain grounds for such action.

Section 9 of this regulation requires a recovery center to conform with all applicable provisions of federal, state and local laws, regulations and ordinances. **Section 9** further requires the buildings of a recovery center to be constructed with adequate space and safeguards for each patient. **Section 10** of this regulation establishes requirements: (1) to meet the personal needs of the patients of a recovery center; and (2) relating to the sanitation of a recovery center. **Section 11** of this regulation requires a recovery center to design and equip a patient's room in a manner that allows for adequate nursing care, comfort and privacy.

Section 12 of this regulation prohibits a recovery center from having more residents than the number of beds for which it is licensed. **Section 12** also requires a recovery center to maintain adequate insurance coverage against certain liabilities.

Sections 13 and 14 of this regulation adopt provisions governing the administration of a recovery center. **Section 13** requires a recovery center to have a governing body that is legally responsible for establishing and carrying out policies regarding the management and operation of the center. **Section 14** requires the governing body to appoint a qualified administrator who is responsible for the daily operation of the center and sets forth the qualifications for that administrator.

Section 15 of this regulation requires a recovery center to take certain measures to prepare for an emergency, including, without limitation, creating a written disaster preparedness plan.

Section 16 of this regulation requires the needs of a patient to be assessed by qualified personnel throughout the patient's stay at the center. **Section 17** of this regulation requires a recovery center to develop a plan of care for each patient based on the center's assessment of the patient. **Section 18** of this regulation requires a recovery center to provide any service or treatment identified in a patient's plan of care and necessary to ensure proper care of the patient.

Sections 19, 23, 24 and 30 of this regulation require a recovery center to develop and carry out policies and procedures concerning: (1) the discharge of patients; (2) infection control; and (3) the employment, licensing and certification of personnel at the center.

Sections 20 and 21 of this regulation require a recovery center to maintain medical records for each patient and to allow such records to be inspected upon written request from the patient.

Section 25 of this regulation provides that a patient may be admitted to a recovery center only upon the written approval of a physician. **Section 25** also adopts provisions governing the treatment of a patient by a physician or certain other medical professionals.

Section 26 of this regulation requires a recovery center to ensure that there is sufficient staff on duty to provide care and maintain the highest practicable well-being of each patient in the center.

Section 27 of this regulation establishes requirements for the planning, preparation and provision of meals to the patients in a recovery center.

Sections 28, 29, 31 and 32 of this regulation require a recovery center to provide specialized rehabilitative, pharmaceutical, laboratory and radiological and other diagnostic services to each patient of the center, as needed.

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 34** of this

regulation prescribes fees for an applicant for a license to operate a recovery center 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 32, inclusive, of this regulation.

Sec. 2. *“Recovery center” has the meaning ascribed to it in section 3 of this regulation.*

Sec. 3. *As used in sections 3 to 32, inclusive, of this regulation, “recovery center” or “center” means any public or private facility that provides only short-term care, not to exceed 72 hours, to a person recovering from surgery.*

Sec. 4. *A person or a public or private facility shall not operate or provide the services of a recovery center or represent that the person or the public or private facility operates or provides the services of a recovery center, unless the person or the public or private facility is licensed by the Division pursuant to sections 3 to 32, inclusive, of this regulation to operate the recovery center.*

Sec. 5. *If a person or a public or private facility wants to operate a recovery center, the person or the public or private facility must:*

- 1. File with the Division an application for a license pursuant to NAC 449.011; and*
- 2. Demonstrate that the proposed recovery center is able to comply with the requirements set forth in sections 3 to 32, inclusive, of this regulation.*

Sec. 6. *After the Division receives a properly completed application, accompanied by the appropriate fee, the Division shall conduct an investigation of the applicant and inspect the proposed recovery center.*

Sec. 7. 1. *The Division shall issue a license to operate a recovery center to the applicant if, after investigation, the Division finds that the applicant is in substantial compliance with the provisions of sections 3 to 32, inclusive, of this regulation.*

2. *A license issued pursuant to sections 3 to 32, inclusive, of this regulation expires on the date specified in NRS 449.089 and may be renewed in accordance with that section and NAC 449.0116.*

Sec. 8. *The Division may suspend or revoke a license issued pursuant to sections 3 to 32, inclusive, of this regulation or cancel such a license and issue a provisional license based upon any grounds for such action set forth in chapter 449 of NRS or NAC 449.002 to 449.99939, inclusive, and sections 3 to 32, inclusive, of this regulation.*

Sec. 9. 1. *A recovery center must be designed, constructed, equipped and maintained in a manner that protects the health and safety of the patients and personnel of the recovery center and members of the general public.*

2. *A recovery center shall comply with all applicable:*

(a) *Federal and state laws;*

(b) *Local ordinances, including, without limitation, zoning ordinances; and*

(c) *Life safety, environmental, health, fire and local building codes,*

↪ related to the construction and maintenance of the recovery center. If there is a difference between state and local requirements, the more stringent requirements apply.

3. *Except as otherwise provided in this section:*

(a) *Each recovery center shall comply with the provisions of NFPA 101: Life Safety Code, as adopted by reference pursuant to NAC 449.0105.*

(b) *Any new construction, remodeling or change in use of a recovery center must comply with the Guidelines for Design and Construction of Hospital and Health Care Facilities, as adopted by reference pursuant to NAC 449.0105, unless the remodeling is limited to*

refurbishing an area within the recovery center, including, without limitation, painting the area, replacing the flooring, repairing windows or replacing window and wall coverings.

4. A recovery center shall be deemed to be in compliance with the provisions of subsection 3 if:

(a) The recovery center:

(1) Was licensed as a facility for intermediate care pursuant to NRS 449.040 to 449.094, inclusive, before the effective date of this regulation;

(2) Is seeking to change its operation as an intermediate care facility to a recovery center;

(3) Does not change the use of the physical space in the recovery center; and

(4) Does not have any deficiencies in the construction of the recovery center that are likely to cause serious injury, harm or impairment to the health and welfare of the public; or

(b) Before the effective date of this regulation the recovery center initially applied for licensure as an intermediate care facility pursuant to NRS 449.040 to 449.094, inclusive, and:

(1) The recovery center submitted building plans to the Division in the manner set forth in NAC 449.0115;

(2) The Division determines that the plans comply with the standards for construction of intermediate care facilities, which are set forth in NAC 449.685 to 449.731, inclusive;

(3) Construction of the recovery center has commenced;

(4) The center is constructed in accordance with such standards; and

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

5. A recovery center shall submit building plans for new construction or remodeling to the entity designated to review such plans by the Division pursuant to NAC 449.0115. The entity's review of those plans is advisory only and does not constitute approval for the licensing of the recovery center. Before the construction or remodeling may begin, the plans for the construction or remodeling must be approved by the Division. The Division shall not approve a recovery center for licensure until all construction or remodeling has been completed and a survey is conducted at the site of the recovery center.

Sec. 10. *A recovery center shall:*

1. Provide a safe, functional, sanitary and comfortable environment for the patients in the center, the members of its staff and members of the general public;

2. Care for each patient in the center in a manner that promotes the dignity of the patient and his or her quality of life;

3. Ensure that the environment of the center is free of hazards that would cause accidents;

4. Ensure that each patient in the center receives adequate supervision and devices to prevent accidents;

5. Provide such housekeeping and maintenance services as are necessary to maintain a sanitary, orderly and comfortable environment;

6. Provide adequate and comfortable levels of lighting in all areas of the center;

7. Maintain an effective program to control pests in order to ensure that the center is free from pests and rodents;

8. Have adequate outside ventilation by means of windows or mechanical ventilation, or both; and

9. *Provide safe and comfortable levels of temperature in the center. The temperature of the center must be maintained at a level that is not less than 71 degrees Fahrenheit and not more than 81 degrees Fahrenheit.*

Sec. 11. 1. *A patient's room within a recovery center must be designed and equipped in a manner that allows adequate nursing care to be provided and provides comfort and privacy for the patient.*

2. *A recovery center shall provide to each patient in the center:*

(a) *A separate bed of proper size and height for the convenience of the patient;*

(b) *A clean, comfortable mattress;*

(c) *Bedding that is appropriate for the weather and climate;*

(d) *Clean linens for his or her bed and bath that are in good condition; and*

(e) *Furniture that is appropriate for the patient's needs.*

Sec. 12. 1. *A recovery center shall:*

(a) *Not admit more patients to the facility than the number of beds for which it is licensed.*

(b) *Maintain a contract of insurance to ensure adequate coverage against liabilities resulting from claims incurred in the course of its operation.*

2. *A certificate of insurance must be furnished to the Division as evidence that the contract of insurance required pursuant to subsection 1 is in force, and a license must not be issued until that certificate is furnished. Each certificate of insurance must contain an endorsement providing for 30 days' notice to the Bureau before the effective date of a cancellation or nonrenewal of the policy.*

Sec. 13. *A recovery center must have a governing body that is legally responsible for establishing and carrying out policies regarding the management and operation of the center.*

Sec. 14. 1. *The governing body of a recovery center shall appoint a qualified administrator for the center who is responsible to the governing body for the performance of his or her duties.*

2. *The administrator must:*

(a) *Be at least 21 years of age; and*

(b) *Possess one of the following qualifications:*

(1) *Be a physician;*

(2) *Be a registered nurse;*

(3) *Have a bachelor's or postgraduate degree in administration or a field related to health care; or*

(4) *Have at least 1 year of administrative experience in a health care setting.*

3. *The administrator is responsible for the daily operation of the recovery center.*

Sec. 15. 1. *A recovery center must have a written disaster preparedness plan for members of the staff and patients to follow in case of fire, explosion or other emergency.*

2. *The plan must include, without limitation, written procedures for personnel to follow in an emergency, including:*

(a) *The care of the patients in the recovery center and emergency evacuation;*

(b) *The notification of persons responsible for the patients in the recovery center; and*

(c) *Arrangements for transportation for medical care or other appropriate services.*

3. *A recovery center shall notify the Bureau of the occurrence of any fire or disaster in the center within 24 hours after the center becomes aware of the fire or disaster.*

Sec. 16. 1. *A recovery center shall conduct an initial and ongoing assessment of the needs of each patient admitted to the center.*

2. The initial assessment of each patient must be conducted at the time of his or her admission to the recovery center and must include, without limitation:

- (a) Demographic and other pertinent information required to identify the patient;*
- (b) The customary routine of the patient;*
- (c) The physical condition of the patient;*
- (d) Any problems related to the functional or structural physical condition of the patient;*
- (e) Medications required to be taken by the patient;*
- (f) Any special treatments and procedures required by the patient; and*
- (g) The probability of discharging the patient from the center within 72 hours after admission and any other information related to the discharge of the patient from the center.*

3. Any assessment of a patient must be conducted through direct observation and communication with the patient.

4. An assessment conducted pursuant to subsection 1 must be conducted by a registered nurse or coordinated by a registered nurse with the participation of other appropriate health care professionals. Each person who completes a portion of the assessment shall certify the accuracy of that portion. The registered nurse shall certify that the assessment is completed.

5. An assessment conducted pursuant to subsection 1 must be:

(a) Included in the patient's medical record maintained pursuant to section 20 of this regulation; and

(b) Used to develop, review and revise the patient's plan of care developed pursuant to section 17 of this regulation.

Sec. 17. 1. A recovery center shall develop for each patient admitted to the center a plan of care, which must include, without limitation:

(a) Measureable objectives and timetables to meet the needs of the patient that are identified in an assessment conducted pursuant to section 16 of this regulation; and

(b) A description of the services that will be provided to the patient.

2. A plan of care must be:

(a) Developed on the same day as the completion of the initial assessment required by section 16 of this regulation and revised as necessary after each subsequent assessment; and

(b) Prepared by a registered nurse.

3. Services provided to a patient admitted to a recovery center must:

(a) Comply with the professional standards of quality applicable to those services; and

(b) Be provided by qualified persons in accordance with the patient's plan of care.

Sec. 18. *A recovery center shall provide to each patient admitted to the center any service or treatment that is:*

1. Identified in the plan of care developed pursuant to section 17 of this regulation; and

2. Necessary to ensure proper care while the person is admitted to the center.

Sec. 19. *1. A recovery center shall prepare a summary of discharge for each patient discharged from the center.*

2. Each summary of discharge must include, without limitation:

(a) A summary of the pertinent information relating to the patient's stay at the recovery center;

(b) A final summary of the patient's physical health at the time of discharge; and

(c) A plan of care for the patient after his or her discharge, including, without limitation, any recommended or necessary follow-up care.

Sec. 20. 1. A recovery center shall maintain a medical record for each patient admitted to the center in accordance with accepted professional principles.

2. A medical record must be:

(a) Complete;

(b) Accurate;

(c) Organized; and

(d) Readily accessible to those persons who are authorized to review the records.

3. A medical record must include, without limitation:

(a) Sufficient information to identify the patient;

(b) A record of any assessment of the patient conducted pursuant to section 16 of this regulation; and

(c) The patient's plan of care developed pursuant to section 17 of this regulation and the services and treatments provided to the patient during the patient's stay at the recovery center.

4. A recovery center shall maintain the medical records of each patient admitted to the center for at least:

(a) Five years after the discharge of the patient; and

(b) If the patient is a minor, 3 years after the patient reaches 18 years of age.

5. A recovery center shall ensure that:

(a) Information contained in a medical record is not lost, destroyed or used in an unauthorized manner; and

(b) No person willfully and knowingly falsifies or causes another person to falsify information contained in a medical record.

6. Information contained in a medical record is confidential and must not be released without the written consent of the patient except:

(a) As required by law;

(b) Under a contract involving a third-party payor; or

(c) As required upon transfer of the patient to another facility.

Sec. 21. 1. A person who is or was previously admitted to a recovery center or his or her legal representative may submit an oral or written request to the center to inspect all records relating to the patient maintained by the center. The recovery center shall, within 24 hours after the receipt of such a request, excluding weekends and holidays, allow the patient or his or her legal representative to inspect the patient's records.

2. Upon request, a recovery center shall furnish to a patient who is or was previously admitted to the center or his or her legal representative a copy of the records or any portion thereof at the cost of obtaining records from a provider of health care as set forth in NRS 629.061. The copy must be furnished within 48 hours after receipt of the request, excluding weekends and holidays.

Sec. 22. 1. Prescription medications for a patient admitted to a recovery center shall only be administered by the patient, a registered nurse or another licensed health care professional.

2. A recovery center shall ensure that all patients are not subjected to errors in the administration of their medication.

Sec. 23. 1. A recovery center shall establish and maintain a program for the control of infections within the center.

2. The program required pursuant to subsection 1 must:

(a) Be designed to provide a safe, sanitary and comfortable environment and to prevent the development and transmission of disease and infection.

(b) Include procedures for the investigation, control and prevention of infections in the recovery center.

(c) Establish the procedures that will be followed if a patient becomes infectious, including, without limitation, the circumstances under which a patient may be isolated. A recovery center shall isolate any patient if required to prevent the spread of infection.

(d) Provide for the maintenance of records of infections and the corrective actions taken when infections occur.

3. A recovery center shall ensure that:

(a) An employee with a communicable disease or an infected skin lesion does not come into direct contact with persons admitted to the center or their food if such contact may result in the transmission of the disease.

(b) Employees wash their hands after any direct contact with a patient admitted to the center.

(c) Linens are handled, stored, processed and transported in a manner which prevents the spread of infection.

Sec. 24. 1. *A recovery center shall adopt written policies for the personnel employed by the center.*

2. The written policies required pursuant to subsection 1 must:

(a) Include the duties and responsibilities of, and the qualifications required for, each position at the recovery center;

(b) Include the conditions of employment for each position at the recovery center;

(c) Include the policies and objectives of the recovery center related to training while on the job and the requirements for continuing education; and

(d) Be periodically reviewed and made available to each person employed by the recovery center.

3. A current and accurate personnel record for each person employed by the recovery center must be maintained at the center. The record must include, without limitation:

(a) Evidence that the employee has obtained any license, certificate or registration, and possesses the experience and qualifications, required for the position held by the employee;

(b) Such health records as are required by chapter 441A of NAC which include evidence that the employee has had a skin test for tuberculosis in accordance with NAC 441A.375; and

(c) Documentation that the recovery center has not received any information that the employee has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.174.

4. A recovery center shall make its personnel records available to the Bureau for inspection upon request.

Sec. 25. 1. *A patient may be admitted to a recovery center only upon the written approval of a physician. Upon a patient's admission to the recovery center, the center shall ensure that orders for the care of the patient have been received from the patient's attending physician.*

2. A recovery center shall ensure that the medical care of each patient is supervised by a physician.

3. After the initial visit with a patient by a physician at the recovery center, every other visit with the patient at the center may be made by a physician assistant, nurse practitioner or

clinical nurse specialist on behalf of the physician if the physician assistant, nurse practitioner or clinical nurse specialist is acting:

(a) Within the authorized scope of his or her practice and under the supervision of the physician; and

(b) In accordance with state law and the policies of the recovery center.

4. Any orders for the treatment of the patient must be signed and dated by the health care professional ordering the treatment.

Sec. 26. A recovery center shall ensure that there is a sufficient number of members of the staff on duty at all times to provide care to and attain and maintain the highest practicable physical, mental and psychosocial well-being of each patient in the center in accordance with his or her plan of care developed pursuant to section 17 of this regulation.

Sec. 27. 1. A recovery center shall ensure that each patient admitted to the center receives:

(a) Meals at regular intervals; and

(b) A therapeutic diet if such a diet is prescribed by the attending physician of the patient.

2. A recovery center shall provide to each patient admitted to the center:

(a) Food that is prepared to conserve the nutritional value and flavor of the food.

(b) Food that is nourishing, palatable, attractive and served at the proper temperature.

(c) A well-balanced diet that meets the daily nutritional and special dietary needs of the patient.

3. A recovery center shall provide each patient in the center with sufficient fluids to maintain proper hydration and health.

4. A recovery center shall:

(a) Comply with the applicable provisions of chapter 446 of NRS and chapter 446 of NAC and obtain such permits as are necessary from the Division for the preparation and service of food;

(b) Maintain a report of each inspection concerning the sanitation of the center for at least 1 year after the date of the inspection;

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

(d) Procure food from sources that are approved or considered satisfactory by federal, state and local authorities;

(e) Store, prepare and serve food under sanitary conditions; and

(f) Dispose of refuse and garbage properly.

Sec. 28. 1. *A recovery center shall provide to a patient in the center, according to his or her plan of care developed pursuant to section 17 of this regulation, specialized rehabilitative services, including, without limitation, physical therapy and occupational therapy. Such services must be provided by the recovery center or obtained from a qualified outside source pursuant to section 30 of this regulation.*

2. Specialized rehabilitative services may be provided to a patient admitted to a recovery center only upon the written order of a physician.

Sec. 29. 1. *A recovery center shall provide such pharmaceutical services, including, without limitation, acquiring, receiving, dispensing and administering drugs and biologicals, as are required to meet the needs of the patients admitted to the center. The recovery center shall provide such drugs and biologicals as are needed or obtain them from a qualified outside source pursuant to section 30 of this regulation.*

2. *A recovery center shall employ or otherwise obtain the services of a registered pharmacist who shall:*

(a) Provide consultations on all matters relating to the pharmaceutical services provided by the center;

(b) Establish a system of records for the receipt and disposition of all controlled substances in the center in sufficient detail to ensure an accurate reconciliation; and

(c) Ensure that those records are in order and that an account of all controlled substances in the center is maintained and periodically reconciled.

3. *The regimen of drugs for each patient admitted to the recovery center must be reviewed at least once each month by a registered pharmacist. The pharmacist shall report any irregularities he or she discovers to the patient's attending physician and the chief administrative nurse of the recovery center. The physician and chief administrative nurse shall take such actions as they deem necessary in the response to the report.*

4. *Drugs and biologicals provided by a recovery center must be:*

(a) Labeled in accordance with state and federal law and accepted professional standards. Each label must include the appropriate accessory and cautionary instructions and the expiration date, if applicable.

(b) Stored in accordance with state and federal law in locked compartments with proper controls for the temperature. Only authorized personnel may have access to the keys to unlock such compartments. Substances listed as schedule II controlled substances pursuant to chapter 453 of NRS and other drugs that have the potential for abuse must be stored separately in a locked compartment that is immovable, unless the recovery center uses a

system to distribute the substances or drugs in single-unit packages, the quantity stored is minimal and any dosage that is missing can be readily detected.

Sec. 30. 1. A recovery center shall employ full-time, part-time or as consultants such health care professionals as are necessary to provide adequate care for each patient admitted to the center and to carry out the provisions of sections 3 to 32, inclusive, of this regulation.

2. A health care professional employed by a recovery center shall comply with accepted professional standards applicable to the services provided by the health care professional.

3. If a recovery center does not employ a person to furnish a service required by the center, the center shall obtain that service from a qualified outside source. An agreement for obtaining such services must specify, in writing, that the center assumes responsibility for:

(a) Obtaining services that comply with accepted professional standards applicable to the services being obtained; and

(b) The timely delivery of such services.

Sec. 31. 1. A recovery center shall provide laboratory services to meet the needs of the patients admitted to the center or contract with a laboratory to obtain such services.

2. If a recovery center has its own laboratory, it must be a licensed laboratory under the provisions of chapter 652 of NRS and comply with the provisions of 42 C.F.R. Part 493. The provisions of this subsection do not prohibit a licensed nurse from performing laboratory tests pursuant to NRS 652.217.

3. If a recovery center contracts with a laboratory for its services, that laboratory must be:

(a) A laboratory licensed pursuant to the provisions of chapter 652 of NRS; and

(b) Certified in the specialties and subspecialties required by the center in accordance with the provisions of 42 C.F.R. Part 493.

4. A recovery center shall:

(a) Provide or obtain only such laboratory tests as are ordered by the attending physician of a patient admitted to the center;

(b) Promptly notify the attending physician of the results of any laboratory tests ordered for a patient;

(c) Arrange transportation for a patient to obtain laboratory tests ordered by the patient's attending physician, if the patient requires such assistance; and

(d) Include in the medical records of a patient all reports of the results of laboratory tests ordered for the patient. The reports must include, without limitation:

(1) The date on which the tests were performed; and

(2) The name and address of the laboratory performing the tests.

Sec. 32. 1. A recovery center shall provide radiological and other diagnostic services to meet the needs of the patients admitted to the center or contract with qualified outside sources to obtain such services.

2. If a recovery center provides radiological and other diagnostic services pursuant to this section, it shall comply with all applicable state law related to the provision of such services.

3. A recovery center shall:

(a) Provide or obtain only such radiological and other diagnostic tests as are ordered by the attending physician of a patient in the center;

(b) Promptly notify the attending physician of the results of any radiological and other diagnostic tests ordered for the patient;

(c) Arrange transportation for a patient to obtain radiological and other diagnostic tests ordered by the patient's attending physician, if the patient requires such assistance; and

(d) Include in the medical records of a patient all reports of the results of radiological and other diagnostic tests ordered for the patient. The reports must:

(1) Include the date on which the tests were performed; and

(2) Be signed by the person performing the tests.

Sec. 33. NAC 449.012 is hereby amended to read as follows:

449.012 As used in NAC 449.012 to 449.0169, inclusive, *and section 2 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 449.01205 to 449.0127, inclusive, *and section 2 of this regulation* have the meanings ascribed to them in those sections.

Sec. 34. NAC 449.016 is hereby amended to read as follows:

449.016 1. Except as otherwise provided in NAC 449.0168, an applicant for a license to operate any of the following facilities must pay to the Division the following nonrefundable fees:

	Fee per facility	Fee per bed in the facility
(a) A skilled nursing facility	\$2,252	\$108
(b) A hospital, other than a rural hospital	14,606	110
(c) A rural hospital	9,530	62
(d) An intermediate care facility for persons with an intellectual disability or persons with a developmental disability	2,018	280

	Fee per facility	Fee per bed in the facility
(e) An intermediate care facility, other than an intermediate care facility for persons with an intellectual disability or persons with a developmental disability	946	72
(f) Except as otherwise provided in subsection 3, a residential facility for groups.....	2,386	200
(g) A facility for the treatment of abuse of alcohol or drugs	782	190
(h) A facility for hospice care	3,988	352
(i) A home for individual residential care	1,764	184
(j) A facility for modified medical detoxification.....	9,960	494
(k) A community triage center	782	136
(l) A facility for the treatment of irreversible renal disease	4,178	120
(m) A halfway house for recovering alcohol and drug abusers	2,800	368
(n) A facility for transitional living for released offenders.....	3,990	146
(o) A psychiatric residential treatment facility.....	9,530	62
(p) <i>A recovery center</i>	946	72

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

	Fee per facility	Fee per bed in the facility
(a) A skilled nursing facility	\$1,126	\$54
(b) A hospital, other than a rural hospital	7,303	55
(c) A rural hospital	4,765	31
(d) An intermediate care facility for persons with an intellectual disability or persons with a developmental disability	1,009	140
(e) An intermediate care facility, other than an intermediate care facility for persons with an intellectual disability or persons with a developmental disability	473	46
(f) Except as otherwise provided in subsection 3, a residential facility for groups.....	1,193	100
(g) A facility for the treatment of abuse of alcohol or drugs	391	95
(h) A facility for hospice care	1,994	176
(i) A home for individual residential care.....	500	92
(j) A facility for modified medical detoxification.....	4,980	247
(k) A community triage center	391	68
(l) A facility for the treatment of irreversible renal disease	2,089	60
(m) A halfway house for recovering alcohol and drug abusers	1,400	184
(n) A facility for transitional living for released offenders.....	1,995	73
(o) A psychiatric residential treatment facility.....	4,765	31

(p) A recovery center 473 46

3. An applicant for a license or for the renewal of a license for a residential facility for groups shall pay a fee of \$35 for each bed in the facility if the facility is paid less than \$1,000 per month for services provided to each bed in the facility.

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

5. Pursuant to NRS 449.050, if an application for a license to operate a facility for transitional living for released offenders or the renewal of such a license is denied, any amount of a fee paid pursuant to paragraph (n) of subsection 1 or paragraph (n) of subsection 2 that exceeds the expenses and costs incurred by the Division must be refunded to the applicant.

ERRATA

PROPOSED REGULATION OF THE STATE BOARD OF HEALTH

LCB File No. R121-16

September 19, 2016

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

Sec. 12. 1. A recovery center shall:

*(a) Not admit more patients to the facility than the number of beds **at any one time** for which it is licensed.*

(b) Maintain a contract of insurance to ensure adequate coverage against liabilities resulting from claims incurred in the course of its operation.

2. A certificate of insurance must be furnished to the Division as evidence that the contract of insurance required pursuant to subsection 1 is in force, and a license must not be issued until that certificate is furnished. Each certificate of insurance must contain an endorsement providing for 30 days' notice to the Bureau before the effective date of a cancellation or nonrenewal of the policy.

Sec. 13. A recovery center must have a governing body that is legally responsible for establishing and carrying out policies regarding the management and operation of the center.

*(a) **The governing body shall provide the following policies and programs:***

(1) Develop a quality improvement program and conduct and monitor the program at least quarterly.

(2) Develop a risk management program and conduct, at a minimum, quarterly reviews.

Sec. 23. 1. A recovery center shall establish and maintain a program for the control of infections within the center.

2. The program required pursuant to subsection 1 must:

(a) Be designed to provide a safe, sanitary and comfortable environment and to prevent the development and transmission of disease and infection.

(b) Create an infection prevention and control program with the following elements:

(1) To include policies and procedures for ~~the~~ preventing, identifying, reporting, investigation, controlling ~~and prevention of~~ infections and communicable disease for all residents, staff, volunteers and other individuals under contractual arrangement and follow accepted national standards in the recovery center.

(2) A system of surveillance designed to identify possible communicable diseases or infections before they can spread to other persons in the facility.

(c) Establish the procedures that will be followed if a patient becomes infectious, including, without limitation, the circumstances under which a patient may be isolated. A recovery center shall isolate any patient if required to prevent the spread of infection. The type and duration of the isolation, depending on the infectious agent or organism involved; and the isolation should be the least restrictive possible for the resident under the circumstances

(d) Provide for the maintenance of records of infections and the corrective actions taken when infections occur.

3. A recovery center shall ensure that:

(a) An employee with a communicable disease or an infected skin lesion does not come

into direct contact with persons admitted to the center or their food if such contact may result in the transmission of the disease.

(b) Employees wash their hands after any direct contact with a patient admitted to the center.

(c) Linens are handled, stored, processed and transported in a manner which prevents the spread of infection.

SMALL BUSINESS IMPACT STATEMENT 2017

PROPOSED AMENDMENTS TO NAC 449

The Division of Public and Behavioral Health (DPBH) has determined that the proposed amendments should not impose an economic burden upon a small business or prevent the formation, operation or expansion of a small businesses in Nevada.

A small business is defined in Nevada Revised Statutes NRS 233B as a "business conducted for profit which employs fewer than 150 full-time or part-time employees."

This small business impact statement complies with the requirements of NRS 233B.0609.

Background

These regulations establish licensing standards for Recovery Centers. If adopted, there will be a clear licensure category for Recovery Centers and these regulations will establish minimal standards to ensure the safety of patients receiving services within Recovery Centers. These regulations also propose licensing fees for Recovery Centers and we anticipate the proposed fees will cover the costs of implementation.

- 1) A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

Pursuant to NRS 233B.0608 (2) (a), the Division of Public and Behavioral Health has requested input from licensed facilities providing similar services as proposed for recovery centers. Since we do not currently have any recovery centers in Nevada, we solicited information from facilities that may eventually have a desire to develop recovery centers or license recovery center beds within their facilities in the future. We determined that skilled nursing facilities and intermediate care facilities are providing similar services to the proposed recovery centers. As such and in the absence of actual recovery centers, we decided to reach out to these facilities to obtain comments and best fulfill our responsibilities in accordance with NRS 233B.

A Small Business Impact Questionnaire was sent to all 61 of skilled nursing facilities and intermediate care facilities in Nevada on 01/04/17. The questions on the questionnaire were:

- 1) How many employees are currently employed by your business?
- 2) Will a specific regulation have an adverse economic effect upon your business?
- 3) Will the regulation(s) have any beneficial effect upon your business?
- 4) Do you anticipate any indirect adverse effects upon your business?
- 5) Do you anticipate any indirect beneficial effects upon your business?

Summary of Response

None of the 61 skilled nursing facilities and intermediate care facilities responded to small business impact questionnaire.

2) Describe the manner in which the analysis was conducted.

The result of the small business impact survey revealed no data for analysis.

The Division of Public and Behavioral Health will provide additional opportunities for input and comments regarding the proposed regulations, including the economic impact the proposed regulations may have on small businesses. Modifications to the proposed regulations will be made as a result of this input. Workshops will be held on May 23, 2017, allowing for further input by the public regarding the proposed regulations. All comments will be taken into consideration for possible further revisions to the regulations to reduce the economic impact on facilities.

3) The estimated economic effect of the proposed regulation on the small business which it is to regulate including, without limitation both adverse and beneficial effects and both direct and indirect effects.

There will be licensure fees associated with the operation of the recovery centers in Nevada. However, in the interest of public health and safety these fees are necessary to offset the cost of inspections, complaint investigations and enforcement.

4) A description of the methods that DPBH considered to reduce the impact of the proposed regulation on small businesses and statement regarding whether the agency actually used those methods.

Since the regulatory agency has no way of accurately anticipating the workload associated with this new facility type, the fees would have been set at a rate for similar facility types, such as intermediate care facilities. However, in an effort to reduce the anticipated economic effect and encourage businesses to consider operation of recovery centers, the fees were set at the current rate for intermediate care facilities.

The development of the regulations was specifically for a small business industry. The regulations have minimal necessary requirements to ensure public safety, while keeping regulatory requirements nominal.

5) The estimated cost to the agency for enforcement of the proposed regulation.

None, the proposed fees should offset the cost for enforcement.

6) If the proposed regulation provides a new fee or increases an existing fee, the total annual amount DPBH expects to collect and the manner in which the money will be used.

There's no way of accurately anticipating how many facilities may apply for licensure as PRTFs, nor how many beds such a proposed facility would license. The fees have been proposed as follows:

Initial licensure	\$946 + \$72 per bed
Renewal	\$473 + \$46 per bed

Initial fees are used to offset the cost of applicant training, application processing, initial inspection(s), licensure and complaint investigations throughout the first year of licensure. Renewal fees are used to offset the cost of application processing, periodic inspection(s) and complaint investigations in the year of renewal.

7) **An explanation of why any duplicative or more stringent provisions than federal, state or local standards regulating the same activity are necessary.**
More stringent provisions than the federal standards have not been proposed. Likewise, duplicative standards have not been proposed. However licensure standards are necessary to address the services provided such as dietary, medications, resident rights, etc., in order for the regulatory agency to ensure proper oversight of facilities.

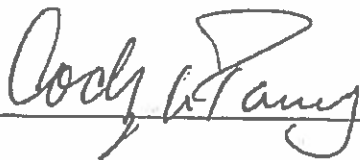
8) **Provide a summary of the reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.**
Since there are no currently licensed nor operating recovery centers in Nevada, the agency solicited comments from similar facilities to determine whether these regulations would have any impact. These facilities did not respond. The agency does not foresee these regulations will have a detrimental impact on small businesses; in fact the agency anticipates these regulations will provide a way for small businesses to enter into this market.

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Tammy Carney at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health
Bureau of Health Care Quality and Compliance
4220 South Maryland Parkway, Building D, Suite 810
Las Vegas, Nevada 89119
Tammy Carney
Phone: 702.486.6515
Email: tcarney@health.nv.gov

I, Cody Phinney, Administrator of the Division of Public and Behavioral Health certify to the best of my knowledge or belief, the information contained in this statement was prepared properly and accurately.

Signature



Date:

