

## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the State Board of Health will hold a public hearing to consider adoption of amendment to Nevada Administrative Code (NAC) Chapter 449 in LCB File No. R122-16 (construction standards). 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 amendments 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 changes to NAC 449 include the following:

- 1) Provides updated information as to how to obtain adopted references utilized by the division for certain medical facilities. Those adopted references include: (a) National Fire Protection Association (NFPA) 101, "Life Safety Code;" (b) NFPA 99, "Health Care Facilities Code (HCFC);" (c) "Guidelines for the Design and Construction of Hospitals and Outpatient Facilities," and (d) Guidelines for the Design and Construction of Residential Health, Care, and Support Facilities." The last two standards are published by the Facilities Guidelines Institute (FGI).
  - 2) The review period of the adopted standards before automatic adoption by the Nevada Board of Health was changed from 6 to 12 months.
  - 3) The five medical facilities affected with this code change are Hospitals, Intermediate Care Facilities, Skilled Nursing Facilities, Mobile Units, and Surgical Centers for Ambulatory Patients.
1. Anticipated effects on the business which NAC 449 regulates:
- A. *Adverse effects*: None.
  - B. *Beneficial*: The updating of the construction standards adopted references would allow providers and their architects to use more current regulations for the design and construction of the health care facilities or remodeling projects.
  - C. *Immediate*: Once the regulations are approved, facilities would be able to use the more current construction standards.

D. *Long-term*: There would be more consistent construction of medical facilities with other states across the nation.

2. Anticipated effects on the public:

A. *Adverse*: None.

B. *Beneficial*: The public would receive care in standardization construction for new medical facilities and remodeling of existing medical facilities.

C. *Immediate*: Would allow architects to readily access and utilize the newer standards in their designs of the medical facilities.

D. *Long-term*: Harmonization of medical facilities in Nevada and other states.

3. There would be no additional cost to the Division of Public and Behavioral Health for enforcement of the proposed regulations. 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 4<sup>th</sup> 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 5<sup>th</sup> 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 1<sup>st</sup> 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. R122-16**

August 4, 2016

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

AUTHORITY: §§1-9, NRS 449.0302.

A REGULATION relating to medical facilities; revising certain publications adopted by reference as standards for construction of certain medical facilities; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires the State Board of Health to adopt licensing standards for various medical facilities. (NRS 449.0302) Existing regulations adopt certain publications by reference as standards for the construction of those facilities. (NAC 449.0105) This regulation revises the publications adopted by reference.

**Section 1.** NAC 449.0105 is hereby amended to read as follows:

449.0105 1. The State Board of Health hereby adopts by reference:

(a) *NFPA 101: Life Safety Code*, in the form most recently published by the National Fire Protection Association, unless the Board gives notice that the most recent revision is not suitable for this State pursuant to subsection 2. A copy of the code may be obtained from the National Fire Protection Association at 11 Tracy Drive, Avon, Massachusetts 02322, at the Internet address <http://www.nfpa.org> or by telephone at (800) 344-3555, for the price of ~~[\$55.80]~~ \$88.20 for members or ~~[\$62]~~ \$98.00 for nonmembers, plus ~~[\$7.95]~~, for a printed copy, \$9.95 for ~~[shipping and]~~ handling.

(b) *NFPA 99: ~~Standard for~~ Health Care Facilities ~~Code~~*, in the form most recently published by the National Fire Protection Association, unless the Board gives notice that the most recent revision is not suitable for this State pursuant to subsection 2. A copy of the standard may be obtained from the National Fire Protection Association at 11 Tracy Drive, Avon, Massachusetts 02322, at the Internet address <http://www.nfpa.org> or by telephone at (800) 344-3555, for the price of ~~[\$41.63]~~ \$65.25 for members or ~~[\$46.25]~~ \$72.50 for nonmembers, plus ~~[\$7.95]~~, for a printed copy, \$9.95 for ~~shipping and~~ handling.

(c) *Guidelines for Design and Construction of ~~Hospital and Health Care~~ Hospitals and Outpatient Facilities*, in the form most recently published by the ~~American~~ Facility Guidelines Institute, ~~of Architects,~~ unless the Board gives notice that the most recent revision is not suitable for this State pursuant to subsection 2. A copy of the guidelines may be obtained from the ~~American~~ Facility Guidelines Institute ~~of Architects~~ at ~~the AIA Store, 1735 New York Avenue, NW, Washington, D.C. 20006-5292,~~ AHA Services, Inc., P.O. Box 933283, Atlanta, Georgia 31193-3283, at the Internet address ~~http://www.aia.org~~ <http://www.fgiguideines.org/> or by telephone at (800) ~~242-3837,~~ 242-2626, for the price of ~~[\$52.50 for members or \$75 for nonmembers, plus \$9 for shipping and handling.]~~ \$200.

(d) *Guidelines for Design and Construction of Residential Health, Care, and Support Facilities*, in the form most recently published by the Facility Guidelines Institute, unless the Board gives notice that the most recent revision is not suitable for this State pursuant to subsection 2. A copy of the guidelines may be obtained from the Facility Guidelines Institute at AHA Services, Inc., P.O. Box 933283, Atlanta, Georgia 31193-3283, at the Internet address <http://www.fgiguideines.org/> or by telephone at (800) 242-2626, for the price of \$200.

2. The State Board of Health will review each revision of the publications adopted by reference pursuant to subsection 1 to ensure its suitability for this State. If the Board determines that a revision is not suitable for this State, the Board will hold a public hearing to review its determination within ~~6~~ 12 months after the date of the publication of the revision and give notice of that hearing. If, after the hearing, the Board does not revise its determination, the Board will give notice within 30 days after the hearing that the revision is not suitable for this State. If the Board does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 1.

Sec. 2. NAC 449.3154 is hereby amended to read as follows:

449.3154 1. Except as otherwise provided in this section, a hospital shall comply with the provisions of *NFPA 101: Life Safety Code*, adopted by reference pursuant to NAC 449.0105.

2. Except as otherwise provided in this section, any new construction, remodeling or change in the use of a hospital must comply with the ~~Guidelines for Design and Construction of Hospital and Health Care Facilities,~~ applicable provisions of the guidelines adopted by reference ~~pursuant to~~ in paragraphs (c) and (d) of subsection 1 of NAC 449.0105, unless the remodeling is limited to refurbishing an area of the hospital, 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.

3. Except as otherwise provided in subsection 4, a hospital shall meet 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 hospital. If there are any differences between the state and local codes, the more restrictive standards apply.

4. A hospital which is inspected and approved by the State Public Works Division of the Department of Administration in accordance with the provisions set forth in chapter 341 of NRS and chapter 341 of NAC is not required to comply with any applicable local building codes related to the construction and maintenance of the hospital.

5. A complete copy of the building plans for new construction and remodeling of a hospital, drawn to scale, must be submitted to the entity designated to review such plans by the Division of Public and Behavioral Health pursuant to the provisions of NAC 449.0115. Before the construction or remodeling may begin, plans for the construction or remodeling must be approved by the Division of Public and Behavioral Health.

6. The Bureau shall not approve the licensure of a hospital until all construction has been completed and a survey is conducted at the site. The plan review is only advisory and does not constitute prelicensing approval.

7. Notwithstanding any provision of this section to the contrary, a hospital which was licensed on January 1, 1999, shall be deemed to be in compliance with this section if the use of the physical space in the hospital does not change and the existing construction of the hospital does not have any deficiencies which are likely to cause serious injury, serious harm or impairment to public health and welfare.

**Sec. 3.** NAC 449.3156 is hereby amended to read as follows:

449.3156 1. Notwithstanding any provision of NAC 449.3154 to the contrary, a hospital shall be deemed to be in compliance with the *applicable* provisions of the ~~Guidelines for Design~~



~~and Construction of Hospital and Health Care Facilities,} guidelines~~ adopted by reference ~~{pursuant to}~~ *in paragraphs (c) and (d) of subsection 1 of* NAC 449.0105, if:

- (a) The hospital submitted architectural plans to the Bureau on or before February 1, 1999;
- (b) The hospital began construction on or before August 1, 1999;
- (c) The plans were determined by the Bureau to be in compliance with the provisions of NAC 449.002 to 449.99939, inclusive, that were in effect on December 1, 1998;
- (d) The hospital is built in accordance with those provisions;
- (e) The use of the physical space in the hospital has not changed; and
- (f) There are no deficiencies in the construction of the hospital which are likely to cause serious injury, serious harm or impairment to public health and welfare.

2. If there are deficiencies that are likely to cause serious injury, serious harm or impairment to public health and welfare, the hospital shall take immediate action to correct the deficiencies or the hospital will not be allowed to continue to operate.

Sec. 4. NAC 449.685 is hereby amended to read as follows:

449.685 1. A facility must be designed, constructed, equipped and maintained in a manner that protects the health and safety of the patients and personnel of the facility and members of the general public.

2. Except as otherwise provided in this section and NAC 449.732 to 449.743, inclusive:

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

(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,} applicable provisions of the guidelines~~ adopted by reference ~~{pursuant to}~~ *in paragraphs (c) and (d) of*

*subsection 1 of* 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.

3. A facility shall be deemed to be in compliance with the provisions of subsection 2 if the facility is licensed on February 1, 2004, the use of the physical space in the facility is not changed and there are no deficiencies in the construction of the facility that are likely to cause serious injury, harm or impairment to the public health and welfare.

4. Except as otherwise provided in subsection 5, a facility 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 facility. If there is a difference between state and local requirements, the more stringent requirements apply.

5. A facility which is inspected and approved by the State Public Works Division of the Department of Administration in accordance with the provisions set forth in chapter 341 of NRS and chapter 341 of NAC is not required to comply with any applicable local building codes relating to the construction and maintenance of the facility.

6. A facility shall submit building plans for new construction or remodeling to the entity designated to review such plans by the Division of Public and Behavioral Health 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 facility. Before the construction or remodeling may begin, the plans for the construction or remodeling must be approved by the Division of Public and

Behavioral Health. The Bureau shall not approve a facility for licensure until all construction is completed and a survey is conducted at the site of the facility.

**Sec. 5.** NAC 449.74413 is hereby amended to read as follows:

449.74413 1. The owner of a facility for skilled nursing shall, at least 30 days before there is a change of ownership, change of use or change in the construction of the facility, notify the Bureau of that change. If the facility is not in compliance with the ~~{Guidelines for Design and Construction of Hospital and Health Care Facilities}~~ *applicable provisions of the guidelines* adopted by reference ~~{pursuant to}~~ *in paragraphs (c) and (d) of subsection 1 of* NAC 449.0105, the notice must identify those provisions of the guidelines with which the facility has failed to comply.

2. Upon a change in use or change in the construction of a facility, the facility must comply with the ~~{Guidelines for Design and Construction of Hospital and Health Care Facilities}~~ *applicable provisions of the guidelines adopted by reference in paragraphs (c) and (d) of subsection 1 of NAC 449.0105* before admitting patients to the area that is being changed or is under construction.

**Sec. 6.** NAC 449.74543 is hereby amended to read as follows:

449.74543 1. A facility for skilled nursing must be designed, constructed, equipped and maintained in a manner that protects the health and safety of the patients and personnel of the facility and members of the general public.

2. Except as otherwise provided in this section:

(a) A facility for skilled nursing shall comply with the provisions of *NFPA 101: Life Safety Code*, adopted by reference pursuant to NAC 449.0105.

(b) Any new construction, remodeling or change in use of a facility for skilled nursing must comply with the ~~{Guidelines for Design and Construction of Hospital and Health Care Facilities,}~~ *applicable provisions of the guidelines* adopted by reference ~~{pursuant to}~~ *in paragraphs (c) and (d) of subsection 1 of* NAC 449.0105, unless the remodeling is limited to refurbishing an area within the facility, including, without limitation, painting the area, replacing the flooring, repairing windows, or replacing window and wall coverings.

3. A facility for skilled nursing shall be deemed to be in compliance with the provisions of subsection 2 if:

(a) The facility is licensed on January 1, 1999, the use of the physical space in the facility is not changed and there are no deficiencies in the construction of the facility that are likely to cause serious injury, harm or impairment to the public health and welfare; or

(b) The facility has submitted building plans to the Bureau before February 1, 1999, and:

(1) The Bureau determines that the plans comply with standards for construction in effect before December 11, 1998;

(2) The facility is constructed in accordance with those standards;

(3) Construction of the facility is begun before August 1, 1999; and

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

4. Except as otherwise provided in subsection 5, a facility for skilled nursing 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 facility. If there is a difference between state and local requirements, the more stringent requirements apply.

5. A facility for skilled nursing which is inspected and approved by the State Public Works Division of the Department of Administration in accordance with the provisions set forth in chapter 341 of NRS and chapter 341 of NAC is not required to comply with any applicable local building codes related to the construction and maintenance of the facility.

6. A facility for skilled nursing shall submit building plans for new construction or remodeling to the entity designated to review such plans by the Division of Public and Behavioral Health 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 facility. Before the construction or remodeling may begin, the plans for the construction or remodeling must be approved by the Division of Public and Behavioral Health. The Bureau shall not approve a facility for licensure until all construction is completed and a survey is conducted at the site of the facility.

Sec. 7. NAC 449.97026 is hereby amended to read as follows:

449.97026 1. Except as otherwise provided in subsection 5, a parent facility or independent facility which is issued a license to operate a mobile unit shall ensure that the mobile unit complies with the *applicable* provisions ~~{entitled "Mobile, Transportable and Relocatable Units" set forth in section 12 of the Guidelines for Design and Construction of Hospital and Health Care Facilities,}~~ *of the guidelines* adopted by reference ~~{pursuant to}~~ *in paragraphs (c) and (d) of subsection 1 of* NAC 449.0105.

2. Except as otherwise provided in subsection 4, before any new construction of a mobile unit or any remodeling of an existing mobile unit is begun:

(a) The parent facility or independent facility that applies for the license to operate the mobile unit or that has been issued the license to operate the mobile unit must submit a copy of the building plans for the new construction or remodeling to the entity designated to review such plans by the Division pursuant to the provisions of NAC 449.0115; and

(b) The building plans must be approved by the Division.

3. The building plans submitted for review and approval as required pursuant to subsection 2 must be drawn to scale and include a statement indicating:

(a) The services and procedures that will be provided at the mobile unit; and

(b) Each staging area designated by the parent facility or independent facility for the mobile unit.

4. A parent facility or independent facility is not required to submit plans for remodeling to the entity designated to review such plans by the Division pursuant to the provisions of NAC 449.0115 if the remodeling is limited to refurbishing an area within a mobile unit, including, without limitation, painting the area, replacing the flooring in the area, repairing the windows in the area, and replacing window or wall coverings in the area.

5. A parent facility or independent facility which is issued a license to operate a mobile facility shall ensure that the mobile unit for which the license is issued:

(a) Complies with any applicable zoning regulation for each staging area designated for the mobile unit;

(b) Is of sufficient size and is arranged in a manner that is appropriate to provide the services for which the mobile unit is licensed;

(c) Is furnished with the appropriate equipment to provide for the comfort and safety of each patient who receives services at the mobile unit;

- (d) Is maintained in good repair and in a clean and sanitary manner; and
- (e) During any period in which the operator of the mobile unit provides services at the mobile unit:
  - (1) Is located and illuminated in such a manner that each patient who receives services at the mobile unit may safely and comfortably enter and exit the mobile unit; and
  - (2) Complies with any applicable statute, ordinance or regulation relating to the parking of the mobile unit.

**Sec. 8.** NAC 449.9843 is hereby amended to read as follows:

- 449.9843 1. An ambulatory surgical center shall comply with the provisions of *NFPA 99: ~~Standard for~~ Health Care Facilities Code* concerning medical gases, adopted by reference pursuant to NAC 449.0105, and the provisions of *NFPA 101: Life Safety Code*, adopted by reference pursuant to NAC 449.0105.
2. Any new construction, remodeling or change in the use of an ambulatory surgical center must comply with the ~~*Guidelines for Design and Construction of Hospital and Health Care Facilities,*~~ *applicable provisions of the guidelines* adopted by reference ~~*pursuant to*~~ *in paragraphs (c) and (d) of subsection 1 of* NAC 449.0105, unless the remodeling is limited to refurbishing an area within the center, including, without limitation, painting the area, replacing flooring in the area, repairing windows in the area and replacing window or wall coverings in the area.
3. An ambulatory surgical center shall be deemed to be in compliance with the provisions of subsection 2 and subsection 2 of NAC 449.983 if:

(a) The center is licensed on February 1, 1999, the use of the physical space in the center is not changed and there are no deficiencies in the construction of the center that are likely to cause serious injury, harm or impairment to the public health and welfare; or

(b) The center has submitted building plans to the Bureau before February 1, 1999, and:

(1) The Bureau determines that the plans comply with standards for construction in effect before December 11, 1998;

(2) The center is constructed in accordance with those standards;

(3) Construction of the center is begun before August 1, 1999; and

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

4. An ambulatory surgical 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.

↪ If there is a difference between state and local requirements, the more stringent requirements apply.

5. An ambulatory surgical 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 center. Before the construction or remodeling may begin, the plans for the construction or remodeling must be approved by the Division. The Bureau shall not approve a center for licensure until all construction is completed and a survey is conducted at the site of the center.



Sec. 9. NAC 449.9935 is hereby amended to read as follows:

449.9935 1. The operating and recovery rooms of an ambulatory surgical center must be used exclusively for surgical procedures.

2. Except as otherwise provided in subsection 3, surgical procedures must be conducted in a class A, B or C operating room in accordance with ~~chapter 9 of the~~ ~~Guidelines for Design and Construction of Hospital and Health Care Facilities.~~ *applicable provisions of the guidelines* adopted by reference ~~pursuant to~~ *in paragraphs (c) and (d) of subsection 1 of* NAC 449.0105.

3. If an ambulatory surgical center is licensed to perform only endoscopic procedures, such procedures may be conducted in an endoscopy suite in accordance with ~~chapter 9 of the~~ ~~Guidelines for Design and Construction of Hospital and Health Care Facilities.~~ *applicable provisions of the guidelines* adopted by reference ~~pursuant to~~ *in paragraphs (c) and (d) of subsection 1 of* NAC 449.0105.

4. A registered nurse experienced in surgical procedures shall supervise the operating room.

5. Only a registered nurse may function as the circulating nurse in the operating room.

6. Each employee of an ambulatory surgical center who provides medical services and care to a patient must be trained to carry out the medical services and care that the employee will provide.

7. The operating room must be equipped with:

(a) A system for making emergency calls;

(b) Oxygen;

(c) Mechanical ventilatory assistance equipment, including, without limitation, a manual breathing bag and a ventilator;

(d) Cardiac monitoring equipment;

(e) Laryngoscopes and endotracheal and airway tubes in sizes sufficient to meet the needs of the patients of the ambulatory surgical center; and

(f) Suction equipment.

8. The recovery room must:

(a) Meet nationally recognized standards of practice for postanesthesia care, as approved by the governing body, and maintain a copy of those standards at the ambulatory surgical center during all hours of operation and in a location which is accessible to the medical staff;

(b) Comply with the guidelines for postanesthesia patient classification and staffing recommendations as published in the *2010-2012 Perianesthesia Nursing Standards and Practice Recommendations*, which is adopted by reference in subsection 10;

(c) Be equipped with or have easily accessible a mobile cart which contains the equipment and supplies specified by the medical staff pursuant to subsection 3 of NAC 449.9902 needed to treat a patient with malignant hyperthermia; and

(d) Be equipped with all other equipment and supplies needed to safely care for patients.

9. If the operating team consists of persons who are not physicians, a physician must be on the premises and immediately available in case of an emergency. As used in this subsection, “immediately available” means the physician is able to respond rapidly to the emergency.

10. The *2010-2012 Perianesthesia Nursing Standards and Practice Recommendations*, published by the American Society of PeriAnesthesia Nurses is hereby adopted by reference. A copy of the standards may be obtained at a cost of \$60 for members and \$130 for nonmembers from the American Society of PeriAnesthesia Nurses by mail at 90 Frontage Road, Cherry Hill, New Jersey 08034-1424, by telephone at (877) 737-9696 or at the Internet address <http://www.aspan.org>.

## SMALL BUSINESS IMPACT STATEMENT 2014

### 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 are revising Nevada Administrative Code concerning the adopted references for construction standards for five medical facilities (hospitals, skilled nursing, intermediate care facilities, mobile units and surgical centers for ambulatory care). If adopted, the adopted standards would be up to date and these regulations would continue with the minimal standards to ensure the safety of patients within each of the five medical facilities. These regulations also adjust for the current purchasing cost of the adopted construction standards, otherwise there are no changes in the fees.

- 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 had requested input from the five existing licensed facility types that are required by regulation to utilize the existing adopted construction standards. The five facility types include hospitals, skilled nursing facilities, intermediate care facilities, mobile units and surgical centers for ambulatory patients.

A Small Business Impact Questionnaire was sent to all Nevada's 54 hospitals, 57 skilled nursing, 4 intermediate care facilities, and 89 surgical centers with ambulatory patients (total of 204) on 01/04/17, with a link to the proposed regulations. Note: There are no mobile units licensed at this time. 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

Only 1 of the 204 facilities responded to the small impact statement. The lone respondent indicated that their facility had less than 150 employees, and answered no to questions 2 through 5. The respondent indicated no impact on their business.

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

The result of the small business impact survey revealed a single response without negative impact to their organization. An analysis of the data suggest negligible impact of the proposed revision of the regulations to small businesses that operate any of the five medical facility types.

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 is the nominal increase to purchase the current adopted standards, otherwise there is no increase to the provider.

**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.**

By adopting the newer standards, it allows the facility's architects and contractors to spend less time conducting cross-walks between the current and new codes to establish compliance with the design and construction of their medical facility client's construction projects. This indirectly reduces the cost to the medical facility.

The development of the regulations are neutral for small, intermediate or large facilities from the existing regulations. The regulations were developed help facilitate the design and construction of the five medical facilities.

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

None. The existing fees, such as, initial licensing fees for new facilities, bed change fees and/or the license renewal fees should offset the cost for survey(s) and any 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.**

The cost for the adopted regulations are indicated as follows and paid directly to those entities that publish the respective standards:

*National Fire Protection Association 101, Life Safety Code*

From \$55.80 to \$98.00 + \$9.95 handling

*National Fire Protection Association 99, Health Care Facility Code*

From \$45.25 to \$72.50 + \$9.95 handling

*Guidelines for the Design and Construction of Hospitals and Outpatient Facilities*

From \$75.00 + 9.00 handling to \$200.00

*Guidelines for the Design and Construction of Residential Health, Care, and Support Facilities*  
\$200.00

- 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. These replacement standards are a continuation of existing standards, but only have been updated with current health care practices, technology improvements, and fire safety changes. The main purpose of the regulation change is due to the American Institute of Architects (AIA) no longer publishes the *Guideline* standards, and that publishing role has been transferred/assumed by the Facilities Guidelines Institute (FGI).

- 8) **Provide a summary of the reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.**

A large portion of the targeted licensees are not small businesses as defined as 150 personnel or less, and they have self-selected from responding. The remaining licensees that are small businesses, only one responded and check-marked that they would not experience any negative impacts to their business. The other major determinate is that all of these licensees have been required to designed plans, submit plans and construct and/or remodel their facilities to be in compliance to past codes. These licensee recognize that this is part of doing business with local authorities having jurisdiction, with the state of Nevada and elsewhere in the United States. The agency does not foresee these regulations will have a detrimental impact on small businesses.

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  
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Las Vegas, Nevada 89119  
Tammy Carney  
Phone: 702.486.6515  
Email: [tcarney@health.nv.gov](mailto: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 Cody Phinney Date: 4/2/17