

BRIAN SANDOVAL
Governor



JULIE KOTCHEVAR, Ph.D.
Administrator

RICHARD WHITLEY, MS
Director

IHSAN AZZAM, Ph.D., M.D.
Chief Medical Officer

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

Bureau of Health Care Quality and Compliance
4220 S. Maryland Parkway, Suite 810, Building D
Las Vegas, NV 89119
Telephone (702) 486-6515 • Fax (702) 486-6520
<http://dpbh.nv.gov>

November 9, 2018

Mr. Fisher, Chairman
Ms. Bishop-Parise, Vice Chair/Secretary
Nevada Assisted Living Association
Via: e-mail

Dear Mr. Fisher, Ms. Bishop-Parise and others represented in your letter:

This is in response to the undated correspondence from NALA and others regarding the Division's technical bulletin dated 9/1/2018 and titled, *Admission of Alzheimer's Patients to Residential Facilities for Groups*. Thank you for consolidating issues from several groups into a single document and for providing the Bureau of Health Care Quality and Compliance (HCQC) with the same. The Division of Public and Behavioral Health, HCQC determined it was necessary to issue technical guidance to both facilities and inspection staff regarding residents experiencing cognitive/dementia issues, or those with similar diagnoses. The intent of the technical guidance is to ensure the safety of residents through consistent enforcement of existing regulations.

HCQC has been attempting to find a solution to the unsafe conditions associated with residents who have been diagnosed with Alzheimer's or related dementia that are residing in residential facilities for groups that don't have an Alzheimer's endorsement. HCQC has also worked to ensure consistency in enforcement of associated regulations. HCQC consulted with the Attorney General's (AG) office to determine whether a diagnosis alone was sufficient evidence that an individual had Alzheimer's or a related disease to establish whether a facility providing care to such an individual should be in compliance with regulations that require an Alzheimer's endorsement. HCQC received confirmation from the AG, that a diagnosis is sufficient. HCQC then generated a technical bulletin to help explain the regulations. Around the same time, guidance was provided to inspectors to make citations regarding residents with these diagnoses who were residing in unendorsed facilities. HCQC acknowledges that strict enforcement may cause residents with a diagnosis (even when those residents are not yet exhibiting unsafe behaviors) to be displaced. In order to mitigate the problems strict enforcement may cause, HCQC offers three options for facility operators as follows: 1) the facility may apply for an Alzheimer's endorsement and until June 30, 2019 HCQC will waive the \$250 application fee for this endorsement, 2) the facility may transfer the resident to an appropriately endorsed facility or 3) the facility may obtain a physician placement determination from the resident's physician, that indicates placement in a non-Alzheimer's endorsed facility is an appropriate setting. A copy of standard forms that have been in use for this purpose are attached to this correspondence.

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These forms have been used during the past two decades to allow facility staff, inspectors and physicians to complete assessments and make determinations. HCQC is open to any recommendations to modify these forms in order to make them more useful for facilities, physicians and residents. In addition, to further mitigate the adverse affects of strict enforcement, HCQC will offer facilities identified as violating the regulatory requirements (due to a resident only being identified as having a diagnosis) time to have the resident assessed for changes in condition and appropriate facility type determinations, without punishing the facility in regards to these violations. The best way to ensure consistency in enforcement and to ensure the safety of the residents, is for inspectors to make the appropriate citations. However, so that facilities are not punished for these citations, HCQC will not assign severity/scope scores, where no harm has occurred and the only reason for the violation is due to a diagnosis; rather HCQC will require facilities to provide an acceptable plan of correction (including assessment and placement determination by a physician). This will result in no sanctions regarding these citations and these citations will not affect the facility's grade. However, in those situations where harm has occurred or unsafe behaviors have been identified, severity/scope scores will be assigned and where appropriate sanctions will be applied.

HCQC may consider a change to the annual assessment regulations in the future, so that at least annually the placement determination is made for residents with a related diagnosis, but until such time as new regulations are adopted, HCQC will dutifully enforce the regulations that are in effect. Finally, for those facilities that received associated citations after the issue date of the technical bulletin (based on diagnosis only) and severity/scope scores were identified, HCQC will modify the citations to not include the severity/scope scores and reissue the statements of deficiencies.

If you have any questions concerning this matter, please contact me at (702) 486-6515.

Sincerely,



Paul Shubert, Chief
Bureau of Health Care Quality and Compliance

Attach: Standard Assessment/Determination Forms
Technical Bulletin Dated 9/1/18

Standard Assessment for Cognitive Abilities

Resident's Name _____

Score "1" for a response that indicates the resident understands the question or "0" for a response that indicates the resident did not understand the question.

Score

Questions Asked of the Resident:

- _____ 1. Do you participate in the activities offered by the facility?
- _____ 2. Do you have family or friends that visit you?
- _____ 3. Is the resident oriented to ☐ person ☐ place ☐ time (orientation to 2 or more is appropriate)
- _____ 4. If you needed help, what would you do?

Score answers either "1" for yes or "0" for no.

Score

Questions Asked of the Caregiver familiar with the Resident:

In your opinion:

- _____ 1. Is the resident cognitively able to evacuate on his/her own?
- _____ 2. Is the resident cognitively able to use the phone?
- _____ 3. Can you leave the front door of the facility open without worry that the resident may wander and not be able to remember his/her way back?
- _____ 4. Is the resident cognitively able to go on an outing on his/her own?

_____ Total Score (add all columns from Questions asked of the resident & Questions asked of the caregiver)

If the total score is less than 4 and the facility is licensed to care for Category 2 residents, the resident requires further assessment for appropriate facility placement by a physician.

If the total score is less than 4 and the facility is licensed to care for Category 1 residents, conduct the evacuation test below; 1) if the resident passes the test, the resident is to be further assessed for appropriate facility placement by a physician 2) if the resident fails the test, the facility must develop a plan for protecting the resident until he/she can be transferred to an appropriate facility.

If the total score is 5 or more, no additional assessment is necessary at this time.

Evacuation Test

Allow facility staff to prepare and cue the resident to evacuate when the alarm sounds. Set the alarm off and determine if the resident is able to evacuate within 4 minutes without assistance.

☐

Pass

self evac. in
less than 4 min.

☐

Fail

Standard Physician's Assessment

Resident's Name _____

Definitions:

Category 1 resident - means a person who is physically capable of moving himself without assistance from an unsafe area to an area of safety and who is mentally capable of recognizing danger and deciding appropriate action to protect himself.

Category 2 resident - means a person who requires the assistance of at least one person in transfers or to move from an unsafe area to an area of safety or who is mentally incapable of recognizing danger or deciding appropriate action to protect himself. A person is considered mentally incapable of recognizing danger if he is not oriented to at least two of the three spheres person, place and time and does not understand verbal or otherwise conveyed cues to move to an area of safety.

This resident is oriented to: (check all that apply) ☐ person ☐ place ☐ time

This resident is a: (check only one)

Category 1 resident ☐

Category 2 resident ☐

Please attach information concerning past and present diagnoses or most recent history and physical (H&P).

Is the resident's physical and mental condition stable and following a predictable course? ☐ Yes ☐ No

Should this resident be allowed to possess and manage his own medications? ☐ Yes ☐ No

Are the resident's medications at a maintenance level? ☐ * Yes ☐ No

* (if answer is yes see prohibited medical condition on back)

Do the resident's medications require a daily assessment? ☐ * Yes ☐ No

Please list the resident's current medical needs in accordance with the medical conditions listed on the back of this form. Can the resident perform self care?

_____ self-care ☐ Yes ☐ No

_____ self-care ☐ Yes ☐ No

_____ self-care ☐ Yes ☐ No

Do any of these needs require services from a home health agency or other service provider? ☐

Physician's Signature _____ Date _____

Please print or type the physician's name here

MEDICAL CONDITIONS:

- (a) Oxygen therapy
- (b) Intermittent Positive Pressure Breathing equipment therapy (IPPB)
- (c) Colostomy or Ileostomy care
- (d) Use of Enemas, Suppositories or Fecal Impaction removal
- (e) Catheter care
- (f) Incontinence of bowel or bladder
- (g) Contracture care
- (h) Diabetes
- (i) Administration of Injections
- (j) Need for Protective Supervision
- (k) Tracheostomy care
- (l) Wound care
- (m) Pressure/Stasis Ulcer care
- (n) Administration of Medications on an as needed or PRN (pro re nata) basis

PROHIBITED MEDICAL CONDITIONS:

- (a) Bedfast -(a person who is incapable of changing his position in bed without the assistance of another person or a person who is immobile)
- (b) Requires restraint -(either a psychopharmacologic drug that is used for convenience or a manual method of restricting a resident's freedom of movement or his normal access to his body or a device or material or equipment which is attached to or adjacent to a person's body that cannot be removed easily by the person and restricts the person's freedom of movement or his normal access to his body)
- (c) Requires confinement in locked quarters
- (d) Requires skilled nursing or other medical supervision on a 24-hour basis
- (e) Gastrostomy care (G-Tube)
- (f) Staphylococcus infection or other serious infection
- (g) Any other serious medical condition that has not yet been described here
- (h) Requires medication which are not at a maintenance level
- (i) Receives medication that requires a daily assessment

In accordance with NAC 449.274(5) before admission and each year after admission, or more frequently if there is a significant change in the physical condition of a resident, the facility shall obtain the results of a general physical examination of the resident by his or her physician. The resident must be cared for pursuant to any instructions provided by the resident's physician.

In accordance with NAC 449.274(6) the members of the staff of the facility shall:

- (a) Ensure that the resident receives the personal care that he or she requires.
- (b) Monitor the ability of the resident to care for his or her own health conditions and document in writing any significant change in his or her ability to care for those conditions.

In accordance with NAC 449.2706 if a resident's condition deteriorates to such an extent that the residential facility is unable to provide the services necessary to treat the resident properly; or the resident no longer complies with the requirements for admission to the facility, the facility shall plan for the transfer of the resident pursuant to NRS 449A.100 and 449A.103 to another facility that is able to provide the services necessary to treat the resident properly.

Physician Placement Determination

Resident's Name _____

Place an "X" in the box next to the facility type which in your opinion most closely describes the care and services required by this resident. (Only check one box)

- ☐ A residential facility which provides care to persons with Alzheimer's disease or related dementia, including, senile dementia, organic brain syndrome or other cognitive impairment. These facilities are equipped with wander control systems and staffing requirements of at least 1 caregiver to each 6 residents.
- ☐ A residential facility which provides care to persons with mental retardation or related disorders, including, birth trauma, anoxia, brain trauma or other genetic or developmental disorders. These facilities provide care and protective supervision in accordance with the needs of a person suffering from mental retardation.
- ☐ A residential facility which provides care to persons with chronic illnesses or progressively debilitating diseases, including, acquired immunodeficiency syndrome and cancer. These facilities provide care and protective supervision in accordance with the needs of a person suffering from a chronic debilitating illness.
- ☐ A residential facility which provides care to persons who are elderly or disabled or who require assistance or protective supervision because they suffer from infirmities or disabilities. These facilities provide care and protective supervision in accordance with the needs of a person suffering from old age or disabilities.
- ☐ A residential facility which provides care to persons with mental illness, including, schizophrenia, bipolar disorder, psychosis and other related disorders. These facilities provide care and protective supervision in accordance with the needs of a person suffering from mental illness.
- ☐ A Skilled Nursing Facility which provides continuous skilled nursing and related care as prescribed by a physician to a patient in the facility who is not in an acute episode of illness and whose primary need is the availability to such care on a continuous basis.

Physician's Signature _____ Date _____

Please print or type the physician's name here

Note to facility operators: Ensure completion of this form before admission and if there is a significant change in the physical condition of a resident to help determine proper placement of the resident.

Technical Bulletin




Topic: Admission of Alzheimer's Patients to Residential Facilities for Groups
Contact: Paul Shubert, Chief of the Bureau of Health Care Quality and Compliance
pshubert@health.nv.gov or (702) 486-6515
Date: Sept. 1, 2018
To: Residential Facilities for Groups/Assisted Living Facilities

The purpose of this technical bulletin is to inform Nevada licensed residential facilities for groups (RFG) including assisted living facilities about state regulations regarding admission of residents with Alzheimer's disease or related dementia. Nevada Administrative Code (NAC) 449.2754 indicates that any licensed RFG offering or providing care for a resident with Alzheimer's disease or related dementia **must obtain an endorsement** from the Division of Public and Behavioral Health (DPBH) authorizing it to provide care to persons with Alzheimer's disease. NAC 449.173 defines "Residential facility which provides care to persons with Alzheimer's disease" as a residential facility that provides care and protective supervision for persons with Alzheimer's disease or a related disease, including, without limitation, senile dementia, organic brain syndrome or other cognitive impairment.

Recently, inspection staff identified several situations where RFGs have admitted or retained residents with a diagnosis of Alzheimer's or related disease, in a facility without the proper endorsement. Such admissions put these residents in jeopardy of residing in an unsafe environment based on their disease. In addition, facilities with an endorsement for providing care to persons with Alzheimer's disease must ensure staff have necessary experience and are properly qualified to provide care to such residents (NAC 449.2754 and 449.2768). This provides assurance that these residents receive appropriate care and activities, whereas facilities without such endorsement are not required to meet these standards.

When inspection staff identify a resident with a diagnosis of Alzheimer's or related disease in a facility without an endorsement, the facility will be cited for the regulatory violation. Whereas in a facility without an endorsement, if inspection staff identify a resident with behaviors typical of Alzheimer's or related disease, but there's not yet a diagnosis, the facility will be required to have the resident assessed in accordance with NAC 449.2738. The Division of Public and Behavioral Health has an appreciation for the facilities providing direct care and services at all levels and the Division is committed to ensuring the safety of these very vulnerable individuals.

Please see the attachment for regulatory references: NAC 449.173, 449.2754, 449.2768 and 449.2738.

Signed: 
Julie Kotchevar, PhD
Administrator

Date: 10/3/18

Signed: 
Ihsan Azzam, PhD, MD
Chief Medical Officer

Date: 9/27/18

Technical Bulletin dated 9/1/18, Attachment

Regulatory References:

NAC 449.173 “Residential facility which provides care to persons with Alzheimer’s disease” defined. ([NRS 449.0302](#)) “Residential facility which provides care to persons with Alzheimer’s disease” means a residential facility that provides care and protective supervision for persons with Alzheimer’s disease or a related disease, including, without limitation, senile dementia, organic brain syndrome or other cognitive impairment.

NAC 449.2754 Residential facility which provides care to persons with Alzheimer’s disease: Application for endorsement; general requirements. ([NRS 449.0302](#))

1. A residential facility which offers or provides care for a resident with Alzheimer’s disease or related dementia must obtain an endorsement on its license authorizing it to operate as a residential facility which provides care to persons with Alzheimer’s disease. The Division may deny an application for an endorsement or suspend or revoke an existing endorsement based upon the grounds set forth in [NAC 449.191](#) or [449.1915](#).

2. If a residential facility is authorized to operate as a residential facility which provides care to persons with Alzheimer’s disease and as another type of facility, the entire facility must comply with the requirements of this section or the residents who suffer from Alzheimer’s disease or other related dementia must be located in a separate portion of the facility that complies with the provisions of this section.

3. A residential facility which provides care to persons with Alzheimer’s disease may admit or retain a resident who requires confinement in locked quarters.

4. A residential facility which provides care to persons with Alzheimer’s disease must be administered by a person who:

- (a) Has not less than 3 years of experience in caring for residents with Alzheimer’s disease or related dementia in a licensed facility; or

- (b) Has a combination of education and training that the Bureau determines is equivalent to the experience required pursuant to paragraph (a).

5. The administrator of such a facility shall prescribe and maintain on the premises of the facility a written statement which includes:

- (a) The facility’s policies and procedures for providing care to its residents;
- (b) Evidence that the facility has established interaction groups within the facility which consist of not more than six residents for each caregiver during those hours when the residents are awake;
- (c) A description of:
 - (1) The basic services provided for the needs of residents who suffer from dementia;
 - (2) The activities developed for the residents by the members of the staff of the facility;
 - (3) The manner in which the behavioral problems will be managed;
 - (4) The manner in which the medication for residents will be managed;
 - (5) The activities that will be developed by the members of the staff of the facility to encourage the involvement of family members in the lives of the residents; and
- (6) The steps the members of the staff of the facility will take to:
 - (I) Prevent residents from wandering from the facility; and
 - (II) Respond when a resident wanders from the facility; and
- (d) The criteria for admission to and discharge and transfer from the facility.

6. The written statement required pursuant to subsection 5 must be available for review by members of the staff of the facility, visitors to the facility and the Bureau.

7. The administrator shall ensure that the facility complies with the provisions of the statement required pursuant to subsection 5.

8. The members of the staff of the facility shall develop a program of activities that promotes the mental and physical enhancement of the residents. The following activities must be conducted at least weekly:

- (a) Activities to enhance the gross motor skills of the residents;
- (b) Social activities;
- (c) Activities to enhance the sensory abilities of the residents; and
- (d) Outdoor activities.

NAC 449.2768 Residential facility which provides care to persons with dementia: Training for employees. (NRS 449.0302, 449.094)

1. Except as otherwise provided in subsection 2, the administrator of a residential facility which provides care to persons with any form of dementia shall ensure that:

(a) Each employee of the facility who has direct contact with and provides care to residents with any form of dementia, including, without limitation, dementia caused by Alzheimer's disease, successfully completes:

(1) Within the first 40 hours that such an employee works at the facility after he or she is initially employed at the facility, at least 2 hours of training in providing care, including emergency care, to a resident with any form of dementia, including, without limitation, Alzheimer's disease, and providing support for the members of the resident's family.

(2) In addition to the training requirements set forth in subparagraph (1), within 3 months after such an employee is initially employed at the facility, at least 8 hours of training in providing care to a resident with any form of dementia, including, without limitation, Alzheimer's disease.

(3) If such an employee is licensed or certified by an occupational licensing board, at least 3 hours of continuing education in providing care to a resident with dementia, which must be completed on or before the anniversary date of the first date the employee was initially employed at the facility. The requirements set forth in this subparagraph are in addition to those set forth in subparagraphs (1) and (2), may be used to satisfy any continuing education requirements of an occupational licensing board, and do not constitute additional hours or units of continuing education required by the occupational licensing board.

(4) If such an employee is a caregiver, other than a caregiver described in subparagraph (3), at least 3 hours of training in providing care to a resident with dementia, which must be completed on or before the anniversary date of the first date the employee was initially employed at the facility. The requirements set forth in this subparagraph are in addition to those set forth in subparagraphs (1) and (2).

(b) The facility maintains proof of completion of the hours of training and continuing education required pursuant to this section in the personnel file of each employee of the facility who is required to complete the training or continuing education.

2. A person employed by a facility which provides care to persons with any form of dementia, including, without limitation, dementia caused by Alzheimer's disease, is not required to complete the hours of training or continuing education required pursuant to this section if he or she has completed that training within the previous 12 months.

NAC 449.2738 Review of medical condition of resident; relocation or transfer of resident having certain medical needs or conditions. (NRS 449.0302)

1. If, after conducting an inspection or investigation of a residential facility, the Bureau determines that it is necessary to review the medical condition of a resident, the Bureau shall inform the administrator of the facility of the need for the review and the information the facility is required to submit to the Bureau to assist in the performance of the review. The administrator shall, within a period prescribed by the Bureau, provide to the Bureau:

(a) The assessments made by physicians concerning the physical and mental condition of the resident; and

(b) Copies of prescriptions for medication or orders of physicians for services or equipment necessary to provide care for the resident.

2. If the Bureau or the resident's physician determines that the facility is prohibited from caring for the resident pursuant to [NAC 449.271](#) to [449.2734](#), inclusive, or is unable to care for the resident in the proper manner, the administrator of the facility must be notified of that determination. Upon receipt of such a notification, the administrator shall, within a period prescribed by the Bureau, submit a plan to the Bureau for the safe and appropriate relocation of the resident pursuant to [NRS 449.700](#) to a place where the proper care will be provided.

3. If an inspection or investigation reveals that the conditions at a residential facility may immediately jeopardize the health and safety of a resident, the administrator of the facility shall, as soon as practicable, ensure that the resident is transferred to a facility which is capable of properly providing for his or her care.