

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

LCB File No. R111-12

October 3, 2012

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

AUTHORITY: §§1-5, NRS 449.0302.

A REGULATION relating to medical and other related facilities; providing a process for the Central Repository for Nevada Records of Criminal History to obtain necessary information to complete a background investigation of an applicant for a license to operate certain agencies, facilities or homes, a licensed operator of such agencies, facilities or homes or an employee or independent contractor of such agencies, facilities or homes; restricting the manner in which an employee or independent contractor of such an agency, facility or home may work pending completion of an investigation or pending correction of information received from an investigation; providing for disciplinary action for failing to provide necessary information to complete a background investigation; and providing other matters properly relating thereto.

Section 1. Chapter 449 of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. *As used in sections 2, 3 and 4 of this regulation, unless the context otherwise requires, “Central Repository” means the Central Repository for Nevada Records of Criminal History.*

Sec. 3. 1. *If the Central Repository notifies the Health Division that it is unable to complete an investigation pursuant to NRS 449.122 because:*

(a) Additional information is required, the Health Division shall send a notice to the applicant or licensee directing the applicant or licensee to provide the Health Division and

Central Repository with the information or proof that the information cannot be obtained within 30 days after the date on which the notice was sent by the Health Division.

(b) Criminal charges against the applicant or licensee are pending, the Health Division shall notify the applicant or licensee that he or she is required to:

(1) Notify the Health Division of the date of each court proceeding relating to the charges; and

(2) Provide the Central Repository with any information relating to the final disposition of the charges as soon as the information is available.

2. The Health Division may deny an application for a license of an applicant or revoke the license of a licensee who fails to comply with the provisions of this section.

3. The Health Division may delay taking any action concerning an application until the Central Repository completes its investigation.

Sec. 4. 1. *If the Central Repository notifies the administrator of, or the person licensed to operate, an agency, facility or home that it is unable to complete an investigation pursuant to NRS 449.123 because:*

(a) Additional information is required, the administrator of, or the person licensed to operate, the agency, facility or home shall, within 10 working days after receiving the notice from the Central Repository, send a notice to the employee or independent contractor directing the employee or independent contractor to provide the administrator of, or the person licensed to operate, the agency, facility or home and the Central Repository with the information or proof that the information cannot be obtained within 30 days after the date on which the notice was sent by the agency, facility or home.

(b) Criminal charges against the employee or independent contractor are pending, the administrator of, or the person licensed to operate, the agency, facility or home shall notify the employee or independent contractor that he or she is required to:

(1) Notify the administrator of, or the person licensed to operate, the agency, facility or home of the date of each court proceeding relating to the charges; and

(2) Provide the Central Repository with any information relating to the final disposition of the charges as soon as the information is available.

2. The administrator of, or the person licensed to operate, the agency, facility or home shall terminate the employment of an employee or the contract with an independent contractor who fails to comply with the provisions of this section.

3. Pending the completion of an investigation of an employee or independent contractor of an agency, facility or home for which the Central Repository has provided notice pursuant to subsection 1 that it is unable to complete the investigation for the reasons stated in subsection 1 and during any period in which an employee or independent contractor has to correct information provided by the Central Repository pursuant to NRS 449.125, the administrator of, or the person licensed to operate, an agency, facility or home shall:

(a) Prohibit the employee or independent contractor from working at the agency, facility or home; or

(b) Require the employee or independent contractor to work at the agency, facility or home under direct supervision while caring for a patient, client or resident of the agency, facility or home.

4. As used in this section, “agency, facility or home” means an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for

intermediate care, a facility for skilled nursing, a residential facility for groups or a home for individual residential care or, if residential services are provided to children, a medical facility or a facility for the treatment of abuse of alcohol or drugs.

Sec. 5. NAC 449.3971 is hereby repealed.

TEXT OF REPEALED SECTION

449.3971 Applicant required to submit fingerprints to Central Repository for Nevada Records of Criminal History for report on background. (NRS 239B.010, 449.0302)

1. In addition to the requirements set forth in NAC 449.011, each applicant for a license to operate an agency shall submit to the Central Repository for Nevada Records of Criminal History two complete sets of fingerprints for submission to the Federal Bureau of Investigation for its report.

2. The Central Repository for Nevada Records of Criminal History shall determine whether the applicant has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.174 and immediately inform the administrator of the agency, if any, and the Health Division of whether the applicant has been convicted of such a crime.