

## Errata – LCB File No. R181-09RP1.

*Blue italic* = Proposed language found in LCB File No. R181-09RP1.

[Red in brackets] = Proposed omitted material found in LCB File No. R181-09RP1.

~~Strikethrough any color~~ = New omitted material proposed in errata.

*Green italic* = New language proposed in Errata.

**Sec. 1** NAC 441A.375 is hereby amended to read as follows:

441A.375 1. A case having tuberculosis or suspected case considered to have tuberculosis in a medical facility, a facility for the dependent or outpatient facility must be managed in accordance with the guidelines of the Centers for Disease Control and Prevention as adopted by reference in paragraph (h) of subsection 1 of NAC 441A.200.

2. A medical facility, a facility for the dependent, a home for individual residential care or an outpatient facility shall maintain surveillance of ~~persons under contract with the facility or home who provide services to patients or residents and~~ employees of the facility or home for tuberculosis and tuberculosis infection. The surveillance ~~[of employees]~~ must be conducted in accordance with the recommendations of the Centers for Disease Control and Prevention for preventing the transmission of tuberculosis in facilities providing health care set forth in the guidelines of the Centers for Disease Control and Prevention as adopted by reference in paragraph (h) of subsection 1 of NAC 441A.200.

3. ~~[Before initial employment, a person employed in a]~~ A medical facility, a facility for the dependent, a home for individual residential care or an outpatient facility shall ~~[have a:] not employ a person or contract with a person to provide services to patients or residents unless the person has a:~~

(a) Physical examination or certification from a licensed physician that the person is in a state of good health, is free from active tuberculosis and any other communicable disease in a contagious stage; and

(b) Tuberculosis screening test within the preceding 12 months, including persons with a history of bacillus Calmette-Guerin (BCG) vaccination.

• If the ~~person or~~ employee has only completed the first step of a 2-step Mantoux tuberculin skin test within the preceding 12 months, then the second step of the 2-step Mantoux tuberculin skin test or other single-step tuberculosis screening test must be administered. A single annual tuberculosis screening test must be administered thereafter, unless the medical director of the facility or his designee or another licensed physician determines that the risk of exposure is appropriate for a lesser frequency of testing and documents that determination. The risk of exposure and corresponding frequency of examination must be determined by following the guidelines of the Centers for Disease Control and Prevention as adopted by reference in paragraph (h) of subsection 1 of NAC 441A.200.

4. ~~[An] A person under contract who provides services to patients or residents or an~~ employee with a documented history of a positive tuberculosis screening test is exempt from screening with skin tests or chest radiographs unless he develops symptoms suggestive of tuberculosis.

5. A person who demonstrates a positive tuberculosis screening test administered pursuant to subsection 3 shall submit to a chest radiograph and medical evaluation for active tuberculosis.

6. Counseling and preventive treatment must be offered to a person with a positive tuberculosis screening test in accordance with the guidelines of the Centers for Disease Control and Prevention as adopted by reference in paragraph (g) of subsection 1 of NAC 441A.200.

7. A medical facility shall maintain surveillance of ~~persons under contract who provide services to patients or residents and~~ employees for the development of pulmonary symptoms. A person with a history of tuberculosis or a positive tuberculosis screening test shall report promptly to the infection control specialist, if any, or to the director or other person in charge of the medical facility if the medical facility has not designated an infection control specialist, when any pulmonary symptoms develop. If symptoms of tuberculosis are present, the ~~person or~~ employee shall be evaluated for tuberculosis.

8. As used in this section, "outpatient facility" has the meaning ascribed to it in section 7 of LCB File No. R179-09.

**Rationale:** The changes proposed in this section were not noticed to all facilities. These changes will be reintroduced in a separate process to ensure all affected facilities receive notice of the proposed changes.

**Sec. 2.** NAC 441A.380 is hereby amended to read as follows:

441A.380 1. Except as otherwise provided in this section, before admitting a person to a medical facility for extended care, skilled nursing or intermediate care, the staff of the facility shall ensure that a chest radiograph of the person has been taken within 30 days preceding admission to the facility.

2. Except as otherwise provided in this section, the staff of a facility for the dependent, a home for individual residential care or a medical facility for extended care, skilled nursing or intermediate care shall:

(a) Before admitting a person to the facility or home, determine if the person:

(1) Has had a cough for more than 3 weeks;

(2) Has a cough which is productive;

(3) Has blood in his or her sputum;

(4) Has a fever which is not associated with a cold, flu or other apparent illness;

(5) Is experiencing night sweats;

(6) Is experiencing unexplained weight loss; or

(7) Has been in close contact with a person who has active tuberculosis.

(b) Within 24 hours after a person, including a person with a history of bacillus Calmette-Guerin (BCG) vaccination, is admitted to the facility or home, ensure that the person has a tuberculosis screening test, unless there is not a person qualified to administer the test in the facility or home when the patient ~~or resident~~ is admitted. If there is not a person qualified to administer the test in the facility or home when the person is admitted, the staff of the facility or home shall ensure that the test is performed within 24 hours after a qualified person arrives at the facility or home or within 5 days after the patient ~~or resident~~ is admitted, whichever is sooner.

(c) If the person has only completed the first step of a two-step Mantoux tuberculin skin test within the 12 months preceding admission, ensure that the person has a second two-step Mantoux tuberculin skin test or other single-step tuberculosis screening test. After a person has had an initial tuberculosis screening test, the facility or home shall ensure that the person has a single tuberculosis screening test annually thereafter, unless the medical director or a designee

thereof or another licensed physician determines that the risk of exposure is appropriate for a lesser frequency of testing and documents that determination. The risk of exposure and corresponding frequency of examination must be determined by following the guidelines as adopted by reference in paragraph (h) of subsection 1 of NAC 441A.200.

3. A person with a documented history of a positive tuberculosis screening test is exempt from skin testing and routine annual chest radiographs, but the staff of the facility or home shall ensure that the person is evaluated at least annually for the presence or absence of symptoms of tuberculosis.

4. If the staff of the facility or home determines that a person has had a cough for more than 3 weeks and that the person has one or more of the other symptoms described in paragraph (a) of subsection 2, the person may be admitted to the facility or home if the staff keeps the person in respiratory isolation in accordance with the guidelines of the Centers for Disease Control and Prevention as adopted by reference in paragraph (h) of subsection 1 of NAC 441A.200 until a health care provider determines whether the person has active tuberculosis. If the staff is not able to keep the person in respiratory isolation, the staff shall not admit the person until a health care provider determines that the person does not have active tuberculosis.

5. If a test or evaluation indicates that a person has suspected or active tuberculosis, the staff of the facility or home shall not admit the person to the facility or home or, if he or she has already been admitted, shall not allow the person to remain in the facility or home, unless the facility or home keeps the person in respiratory isolation. The person must be kept in respiratory isolation until a health care provider determines that the person does not have active tuberculosis or certifies that, although the person has active tuberculosis, he or she is no longer infectious. A health care provider shall not certify that a person with active tuberculosis is not infectious unless the health care provider has obtained not less than three consecutive negative sputum AFB smears which were collected on separate days.

6. If a test indicates that a person who has been or will be admitted to a facility or home has active tuberculosis, the staff of the facility or home shall ensure that the person is treated for the disease in accordance with the recommendations of the Centers for Disease Control and Prevention for the counseling of, and effective treatment for, a person having active tuberculosis. The recommendations are set forth in the guidelines of the Centers for Disease Control and Prevention as adopted by reference in paragraph (g) of subsection 1 of NAC 441A.200.

7. The staff of the facility or home shall ensure that counseling and preventive treatment are offered to each person with a positive tuberculosis screening test in accordance with the guidelines of the Centers for Disease Control and Prevention as adopted by reference in paragraph (h) of subsection 1 of NAC 441A.200.

8. The staff of the facility or home shall ensure that any action carried out pursuant to this section and the results thereof are documented in the person's medical record.

**Rationale:** The changes proposed in this section were not noticed to all facilities. These changes will be reintroduced in a separate process to ensure all affected facilities receive notice of the proposed changes.

**Sec. 7** NAC 449.9743 is hereby amended to read as follows:

449.9743 "Surgery" means the treatment of a human being by *operative methods* ~~a physician using one or~~

more of the following procedures:

1. Cutting into any part of the body using a scalpel, electrocautery or any other means for ~~[(diagnosis)]~~;
  - (a) ~~The Cosmetic enhancement of tissue, organs, tumors or foreign bodies;~~
  - (b) ~~Diagnosis of tissue, organs, tumors or foreign bodies;~~ or ~~[(the)]~~
  - (c) ~~the~~ removal or repair of ~~[(diseased or damaged)]~~ tissue, organs, tumors or foreign bodies.
2. The ~~open~~ reduction ~~and internal fixation~~ of a ~~bone~~ fracture. ~~[(or the dislocation of a bone, joint or bony structure.)]~~
3. The repair of a malformation of the body resulting from an injury, a birth defect or another cause, that requires cutting and manipulation or a suture.
4. An instrumentation of the uterine cavity of a woman for diagnostic or therapeutic purposes, including the procedure commonly known as dilation and curettage.
5. Any instrumentation of, or injection of a substance into, the uterine cavity of a woman to terminate a pregnancy.
6. Any procedure to sterilize a human being.
7. An endoscopic procedure.
8. A laproscopic procedure.

**Rationale:** “Surgery” is only defined in these regulations because the term is used throughout NAC Chapter 449 pertaining to ambulatory surgery centers. However, use of the term is common and therefore the definition should be generic, rather than specific to certain procedures.

**Sec. 9.** NAC 449.980 is hereby amended to read as follows: *The text below has been inserted in place of the current text and proposed changes, as an interim change was adopted for this section with LCB File No. R170-12P.*

The governing body shall ensure that:

1. Each patient of the center is under the care of a physician.
2. *Except as provided in subsection 9,* ~~Each~~ patient admitted to the center receives a ~~[(presurgical)]~~;
  - (a) *Physical examination, which must include a medical history of the patient, within 30 days immediately preceding the date of the patient’s surgery; and*
  - (b) *Presurgical* evaluation conducted by a physician, *on the day of the surgery or* within the 7 days immediately preceding the date of his surgery.
3. A physician is on the premises of the ambulatory surgical center and immediately available at all times when there are patients in the operating rooms or the recovery room of the center. As used in this subsection, “immediately available” means the physician ~~[(is sufficiently free from other duties to be)]~~ able to respond rapidly to an emergency.
4. An annual operating budget and a plan for capital expenditures are established.
5. The center is adequately staffed and equipped.
6. There is documentation in the files of the center of:
  - (a) The qualifications of all persons *employed by or* under contract with the center; and

(b) Whether such persons who work at *or are under contract with* the center and have exposure to patients have been screened for communicable diseases as described in NAC 441A.375.

7. The center establishes and maintains a program for the prevention and control of infections and communicable diseases as required pursuant to [NAC 449.98452](#).

8. The center adopts, enforces and at least annually reviews written policies and procedures required by NAC 449.971 to 449.996, inclusive, *and sections 4, 5 and 6 of this regulation*, including an organizational chart. These policies and procedures must:

(a) Be approved annually by the governing body.

(b) Provide that a surgical procedure may be performed on a patient only with the consent of the patient or the patient's legal representative, except in an emergency.

(c) Include procedures for the periodic review and amendment, as deemed appropriate, of the scope of the procedures performed at the center.

*9. A podiatrist may conduct the pre-surgical evaluation for podiatric patients as described in subsection 2.*

**Rationale:** The new language proposed in the errata above will allow for presurgical evaluations to be conducted by the individual performing the surgery and will allow for the evaluation to be conducted the day of the surgery.

**New Section:**

NAC 449.993 is hereby amended to read as follows:

1. Each ambulatory surgical center shall maintain diagnostic radiological services or have such services immediately available. Whether these services are provided directly or by contract, personnel capable of supervising the performance of the services must be available.

2. If a center provides diagnostic radiological services directly, the center must have a full-time radiologist or a radiologist who works as a part-time consultant available to supervise the department of radiology and to interpret films.

3. Only a person designated as qualified by the radiologist may operate the equipment for X rays. Only *the following individuals may operate a fluoroscopy machine;*

*a) a physician or podiatrist,*

*b) a physician assistant, advanced practitioner of nursing or certified registered nurse anesthetist with 16 hours of documented training in radiation safety,*

*c) a registered radiologic technologist registered by the American Registry of Radiologic Technologists (ARRT), under the personal direction or written protocol of a physician and registrant of the machine,*

*d) or a registered nurse or operating room technician under the direct supervision of physician or surgeon present in the room at the time of fluoroscopy use and with documented training in radiation safety as follows:*

*1) applicable sections of NAC chapter 459,*

*2) orientation to field size,*

*3) orientation to energy used, setting (kVp) to use on patients of varying sizes and pathology,*

*4) orientation to As Low As Reasonably Achievable (ALARA)), concept of safety,*

*5) use of protective gloves, aprons, thyroid shields and glasses,*

- 6) *use of particular machines and operation of each machine type,*
- 7) *orientation to source to image distance,*
- 8) *safety protocol for staff in the operating room, including physicians, patients and operator and adjacent areas,*
- 9) *minimal state requirements for dosimetry and postings, certificate and output measurements needed to allow use of machine,*
- 10) *in fluoroscopy, the appropriate use of high level versus regular setting,*
- 11) *yearly review of radiation safety, and*
- 12) *relevance of pregnancy in the use of radiation producing machines.*

~~a physician may perform a fluoroscopy.~~

~~4. A radiological technician must be on duty or available within 15 minutes after being called while the center is open.~~

5 4. Examinations by X-ray must be ordered by the physician *or podiatrist* responsible for the care of the patient, and the order must contain a concise statement of the reason for the examination. Reports of these examinations must be signed by the reporting physician. The original report must be filed in the medical records of the patient, and a copy of the report must be kept in the radiology department.

**Rationale:** The language in the errata above will continue to require personnel performing fluoroscopy to be highly trained individuals, but it allows for a wider range of individuals to perform fluoroscopy, rather than requiring all fluoroscopy to be performed by physicians.