

LCB File No. R001-11P Proposed Regulations Public Workshop

Suggestions received before, during and after the workshop. Public workshop held via videoconference in Las Vegas and Carson City on May 2, 2013.

Carson City Participants (9)

Las Vegas Participants (15)

Summary of Input Provided

The Nevada Health Care Association commented as follows:

- What will the state do with the collected monetary sanctions?
- Which account will it be deposited in?
- Will the funding be used for provider improvements?
- Will the state use contract inspectors funded by these monetary sanctions?

Errata – LCB File No. R001-11P

- Section 15 – raises the existing cap of \$10,000.00 per facility to \$10,000.00 per resident
- Section 22 – support for the changes in this section
- Scope has been removed and sanctions will be based on severity
- Section 24 – support for the changes in this section
- Section 27 – the changes in this section seem to give the Bureau the ability to assess monetary penalties more freely

Proposed Regulations LCB File No. R001-11P

- Section 7(1), the definition of “deficiency” is being modified, but currently a single practice resulting in non-compliance may be cross referenced to as many as 4 different regulations, resulting in 4 deficiencies for a single deficient practice – request that sanctions be limited to the single deficient practice regardless of the number of deficiencies associated with that deficient practice
- Section 15(2), for any 1 deficiency a monetary penalty per recipient of \$1,000.00 up to \$10,000.00 is assessed – request this language be changed to apply to a single deficient

practice, so that when a deficient practice is cross referenced to several deficiencies, the penalties are only assessed once

-Section 20(2), request that the language be changed so that penalties are only assessed once for a deficient practice

-Section 20(5), asked whether this definition is related to the concept of cross referencing deficient practices to different regulations?

-Section 24, without the scope component, it seems as though bans on admissions will be more frequent

-Section 29, skilled nursing facilities (SNFs) and intermediate care facilities (ICFs) are currently assessed civil monetary penalties by the Centers for Medicare and Medicaid Services (CMS), SNFs and ICFs are the only two healthcare facility types in Nevada that receive CMS monetary penalties – in light of this fact, request language to acknowledge CMS’s monetary penalties and adjust the state penalties for SNFs/ICFs, or exempt SNFs/ICFs from state monetary sanctions

-With eminent Medicare and Medicaid rate reductions, increased financial penalties will result in facility closure

-Section 29, sanctions by severity are as follows: Severity 3 more than one violation = \$800.00, Severity 3 not more than one violation = \$400.00 and Severity 2 more than one violation may impose \$200.00

Others commented as follows:

-Concerns about the motivation of sanctions in Nevada, when CMS enforcement for SNFs/ICFs is adequate in other states

-Multiple fines will put marginal operators out of business

-Section 21, requires the facility to submit a plan of correction within 10 days, but if monetary fines are accruing, the Bureau should have a responsibility to respond within a period of time in order to halt daily penalties

-Facilities support clear and unambiguous standards, but oppose subjective standards

-Section 15, the potential of unlimited financial penalties is unrealistic - request that the state develop specific penalty ranges instead of leaving the penalty amounts completely open

-A question was posed regarding deficiencies that have the potential to affect all residents/patients in a facility and how the monetary penalties would be assessed, because even at the lowest value of \$1,000.00 per resident/patient, such a penalty could bankrupt a facility

The Personal Care Association of Nevada commented as follows:

-Section 16(2), want to propose language to read as follows – “Except for a monetary penalty imposed pursuant to subsection 2 of NAC 449.99853, sanctions applied pursuant to NAC 449.9982 to 449.99939, inclusive, and section 3 of this regulation may be imposed pursuant to

subsection 4. of NAC 449.9987. In the event upon a resurvey it is determined the approved plan of correction was not followed, an additional sanction may be imposed equal to the initial sanction starting with the day the plan of correction was approved until substantial compliance is achieved or, if compliance is not achieved, until the day before termination of the license or provider agreement becomes effective.”

-Section 21, want to add a subparagraph 4 as follows – “4. The sanction, at whatever level shall start from the date of receipt of the statement of deficiency, and shall terminate upon approval of the plan of correction, which must be approved or rejected within one working day of receipt by the Bureau. The sanction will terminate upon approval of a plan of correction by the Bureau.”