

Steve Sisolak
Governor



Richard Whitley, MS
Director

**DEPARTMENT OF
HEALTH AND HUMAN SERVICES**
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
Helping people. It's who we are and what we do.



Lisa Sherych
Administrator

Ihsan Azzam,
Ph.D., M.D.
Chief Medical Officer

NOTICE OF PUBLIC HEARING

P. THERESA BRUSHFIELD, ADULT CARE SOLUTIONS LLC IS REQUESTING A VARIANCE, #734, FROM THE NEVADA STATE BOARD OF HEALTH REGULATIONS.

NOTICE IS HEREBY GIVEN that P. THERESA BRUSHFIELD, ADULT CARE SOLUTIONS LLC has requested a variance from Nevada Administrative Code (NAC) 449.211 and NAC 449.229.

A public hearing will be conducted on September 2, 2022, at 9:00 am by the Nevada State Board of Health to consider this request. This meeting will be held online.

Meeting Locations:

- Southern Nevada Health District (SNHD)
Red Rock Trail Rooms A and B
280 S. Decatur Boulevard; Las Vegas, Nevada 89107
- Nevada Division of Public and Behavioral Health (DPBH)
Hearing Room No. 303, 3rd Floor
4150 Technology Way; Carson City, Nevada 89706

Join from computer using the Microsoft Teams meeting link:

https://teams.microsoft.com/dl/launcher/launcher.html?url=%2F%20%23%2F%2Fmeetup-join%2F19%3Ameeting_YTBhMmY4MDMtNmIxNC00OWYyLThkZmQtZWY4ZGI5ZGNhNDY1%40thread.v2%2F0%3Fcontent%3D%257b%2522%2522%253a%2522e4a340e6-b89e-4e68-8eaa-1544d2703980%2522%252c%2522%2522%253a%2522455656b7-d121-4709-ba81-3f70d51b1100%2522%257d%26CT%3D1654637019665%26OR%3DOutlook-Body%26CID%3D4FC8ECEB-8AF4-4BDC-8A9F-3F3C82BF1097%26anon%3Dtrue&type=meetup-join&deeplinkId=1c10f6a7-9d8d-4a46-8594-555f7e413aee&directDI=true&msLaunch=true&enableMobilePage=false&suppressPrompt=true

Join by Phone:

1-775-321-6111
Phone Conference ID Number: 655 825 021#

P. THERESA BRUSHFIELD, ADULT CARE SOLUTIONS, LLC is requesting a variance from NAC 449.211 and NAC 449.229 which states:

NAC 449.211 Automatic sprinkler systems. ([NRS 449.0302](#))

1. After January 14, 1997, the Division shall withhold the issuance of an initial license to operate a residential facility that does not have an automatic sprinkler system which complies with the provisions of [chapter 477](#) of NRS and any local ordinances relating to the installation of automatic sprinkler systems.

2. Except as otherwise provided in subsection 3, a residential facility with less than seven residents that is issued a license on or before January 14, 1997, shall install an automatic sprinkler system that complies with the provisions of [chapter 477](#) of NRS and any local ordinances relating to the installation of automatic sprinkler systems if:

- (a) The ownership of the facility is transferred to a new owner;
- (b) The number of beds in the facility is increased;
- (c) The facility is currently authorized to admit or retain category 1 residents only and wishes to apply for authorization to admit or retain category 2 residents; or
- (d) The facility is not currently authorized to admit or retain residents who suffer from Alzheimer's disease or other related dementia and the facility wishes to apply for authorization to admit or retain such residents.

3. A residential facility with less than seven residents that was issued its initial license on or before January 14, 1997, may not admit or retain a category 2 resident, unless an automatic sprinkler system that complies with the provisions of [chapter 477](#) of NRS and any local ordinances relating to the installation of automatic sprinkler systems is installed in the facility. Not more than one resident who is confined to a wheelchair or who is required to use a walker may be admitted to such a facility at any time unless such an automatic sprinkler system is installed in the facility.

4. An automatic sprinkler system that has been installed in a residential facility must be inspected:
- (a) Not less than once each calendar quarter by a person who understands the manner in which the system operates and the manner in which it should be maintained; and
 - (b) Not less than once each calendar year by a person who is licensed to inspect such a system pursuant to the provisions of [chapter 477](#) of NAC.

(Added to NAC by Bd. of Health by R003-97, eff. 10-30-97)

NAC 449.229 Requirements and precautions regarding safety from fire. ([NRS 449.0302](#))

1. The administrator of a residential facility shall ensure that the facility complies with the regulations adopted by the State Fire Marshal pursuant to [chapter 477](#) of NRS and all local ordinances relating to safety from fire. The facility must be approved for residency by the State Fire Marshal.

2. The Bureau shall notify the State Fire Marshal or the appropriate local government, as applicable, if, during an inspection of a residential facility, the Bureau knows of or suspects the presence of a violation of a regulation of the State Fire Marshal or a local ordinance relating to safety from fire.

3. An exit door in a residential facility must not be equipped with a lock that requires a key to open it from the inside unless approved by the State Fire Marshal or his or her designee.

(Added to NAC by Bd. of Health by R003-97, eff. 10-30-97; A by R052-99, 9-27-99; R073-03, 1-22-2004; R119-10, 1-13-2011)

The authority of the State Board of Health to consider and grant a variance from the requirements of a regulation is set forth at NRS 439.200 and NAC 439.200 – 439.280.

Persons wishing to comment upon the proposed variance may appear at the scheduled public hearing or may submit written testimony at least five days before the scheduled hearing to:

Secretary, State Board of Health
Division of Public and Behavioral Health
4150 Technology Way, Suite 300
Carson City, NV 89706

Anyone wishing to testify for more than five minutes on the proposed variance must petition the Board of Health at the above address. Petitions shall contain the following: 1) a concise statement of the subject(s) on which the petitioner will present testimony; 2) the estimated time for the petitioner's presentation.

This notice has also been posted at the following locations:

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH (DPBH), 4150 TECHNOLOGY WAY, CARSON CITY, NV

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH WEBSITE:

<http://dpbh.nv.gov/Boards/BOH/Meetings/Meetings/>

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104°

103°

ATTACHMENT 1

ADVERTISEMENT

Search Site

by Heather Mills & Faith Jessie
Wednesday, February 21st 2018



HEATHER SPRINKLER PKG 2-21

LAS VEGAS (KSNV) — Big changes for homebuyers in the City of Las Vegas looking for a new build home. It's a story News3 has been following for nearly nine months since Las Vegas City Council first looked at mandating residential fire sprinklers.

oved in a 4-0 vote.

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Sprinkler systems have long been required in commercial buildings.

The City of Henderson required them in 2010. Now the City of Las Vegas is following suit.

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Distributor: Fomida Fund Services, L.L.C.

Heather Mills ✓

@NewsieHeather · Follow



Nearly 9 months since it was first introduced to LV city council -- @LasVegasFD gets a victory for the city. Council members voted unanimously to pass a bill requiring all new homes in the city to have fire sprinklers @News3LV @TheCWLasVegas

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8:06 PM · Feb 21, 2018



♡ 4 💬 Reply ↗ Share

Read 1 reply

Search Site

"It's designed to give you 9, 10, 11, 12 minutes to get out of the house instead of the 2 or 3," said Deputy Fire Chief and Fire Marshal Robert Nolan.

Residential fire sprinklers are flush against the ceiling and deploy when the temperature reaches 150 degrees. Las Vegas Fire & Rescue Chief William McDonald said, "The potential for survival of a fire in a home, goes up by more than 90%."

The sprinklers are concentrated to the specific area of the fire, which also means less water and smoke damage.

It's been a long road to get this measure approved.

"I'm happy that we were able to put aside differences and concentrate on those things we have in common, which was, we all want to see people living safely in their home," said Nolan.

A UNLV study refuted numbers by the local analytical firm, Applied Analysis, which was contracted by the Southern Nevada Homebuilders Association to look at a cost analysis of residential sprinklers.

Heather Mills ✓

@NewsieHeather · Follow



UNLV study finds need for residential fire sprinklers in new homes. Finds cost benefit to homeowners/buildings citing fire detectors may be "too little too late" @News3LV @TheCWLasVegas

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UNLV researchers found there is a “definite cost benefit to both homeowners and homebuilders by installing fire suppression systems.” It also determined installer costs for new homes could be as low as 95 cents a square foot.

Fire officials say it’s a small price to pay for life-saving technology.

Eric Littmann, with the Las Vegas Firefighters IAFF Local 1285 said his workers can handle the workload. They’ll be responsible for inspecting the new home building plans and then rechecking the sprinklers after installation. “We can take on the workload. We can do that without any increased financial impact to the city,” he said.

It won’t change overnight. They still must adopt codes and approve amendments that were agreed on in good faith. It would apply to all new homes not yet submitted for approval. This is not for older homes to retrofit.

MORE TO EXPLORE

Teacher charged with assaulting person who repeatedly used 'R-word'



U.S. Fire Administration
Working for a fire-safe America

Home fire fatalities in the news

Information on home fire fatalities is compiled through a daily Internet search (Monday-Friday) of U.S. news media reports. The primary purpose of this information is to help raise awareness about the danger of fire and the frequency of home fire deaths.

USFA creates, reviews and collects resources that can be used in public outreach activities to help keep communities safe from fire.

[Explore these materials to help increase awareness about fire safety and prevention.](#)

 [RSS Feed](#)

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We gather home fire fatality information from U.S. news media reports published within 24-48 hours after a fatal fire. These early reports provide only basic information about what happened, such as how many fatalities, when and where the fire happened, and the type of home, for example, a house, apartment or mobile home. Most fires require investigations that can take weeks or months to complete. For this reason, the information found on this page should be viewed only as preliminary, especially as it relates to the cause of the fire and the presence or absence of working smoke alarms.

7 civilian home fire fatalities reported by U.S. news media Jan. 1 - June 29, 2022.

Criteria used to create this report:



All causes

All residential building types

State of Nevada

Export data:

[Adobe PDF](#)

[Microsoft Excel](#)

[Comma separated data](#)

MFI = Multiple fatality incident

MFI	Incident Date	City/State	Reported Cause	Gender	Age
1/2	06/18/2022	Las Vegas, NV	Under investigation	n/a	n/a
2/2	06/18/2022	Las Vegas, NV	Under investigation	n/a	n/a
n/a	06/17/2022	Sun Valley, NV	Under investigation	n/a	n/a
1/2	04/25/2022	Las Vegas, NV	Under investigation	Male	n/a
2/2	04/25/2022	Las Vegas, NV	Under investigation	Female	n/a
n/a	04/23/2022	Logandale, NV	Under investigation	Male	56
n/a	03/06/2022	Reno, NV	Under investigation	n/a	n/a

[Return to map view](#)

Date starting

Date ending

Select state(s)

Reported cause

Residential building type

Additional filters check to show only

- Children (14 and under)
- Older adults (65 and older)
- Disability
- Male
- Female
- Multiple fatality incidents (MFI)

Smoke alarms check to show only

- Not present/not working
- Present and not working
- Present and working

Filter

[Reset filter](#)

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Lisa Sherych
Administrator

Ihsan Azzam,
Ph.D., M.D.
Chief Medical
Officer

July 07, 2022

Memorandum

To: Jon Pennell, DVM, Chairperson
State Board of Health

From: Lisa Sherych, Administrator
Division of Public and Behavioral Health

RE: P. Theresa Brushfield, Adult Care Solutions, LLC Variance Request to Not Conform to the Residential Facilities for Groups' Fire Safety Codes

Subject: Case #734: P. Theresa Brushfield, Adult Care Solutions, LLC Request for Variance to Nevada Administrative Code (NAC) 449.211 Automatic Sprinkler Systems and NAC 449.229 Requirements and Precautions Regarding Safety from Fire.

Staff Review:

Variance Applicant P. Theresa Brushfield has submitted an application for variance, requesting a waiver of Nevada Administrative Code (NAC) 449.211 and NAC 449.229, relating to the requirements and precautions regarding safety from fire. Through her application, Ms. Brushfield asserts that modern electric fire safety and security products have been impacted by the global microchip shortage, with lead times of up to one year.

The provisions of NAC Chapter 449 that Ms. Brushfield has requested to be waived are NAC 449.211 and NAC 449.229.

NAC 449.211 Automatic Sprinkler Systems states,

1. After January 14, 1997, the Division shall withhold the issuance of an initial license to operate a residential facility that does not have an automatic sprinkler system which complies with the provisions of chapter 477 of NRS and any local ordinances relating to the installation of automatic sprinkler systems.
2. Except as otherwise provided in subsection 3, a residential facility with less than seven residents that is issued a license on or before January 14, 1997, shall install an automatic sprinkler system that complies with the provisions of chapter 477 of NRS and any local ordinances relating to the installation of automatic sprinkler systems if:
 - (a) The ownership of the facility is transferred to a new owner;
 - (b) The number of beds in the facility is increased;
 - (c) The facility is currently authorized to admit or retain category 1 residents only and wishes to apply for authorization to admit or retain category 2 residents; or
 - (d) The facility is not currently authorized to admit or retain residents who suffer from Alzheimer's disease or other related dementia and the facility wishes to apply for authorization to admit or retain such residents.

3. A residential facility with less than seven residents that was issued its initial license on or before January 14, 1997, may not admit or retain a category 2 resident, unless an automatic sprinkler system that complies with the provisions of chapter 477 of NRS and any local ordinances relating to the installation of automatic sprinkler systems is installed in the facility. Not more than one resident who is confined to a wheelchair or who is required to use a walker may be admitted to such a facility at any time unless such an automatic sprinkler system is installed in the facility.

4. An automatic sprinkler system that has been installed in a residential facility must be inspected:

(a) Not less than once each calendar quarter by a person who understands the manner in which the system operates and the manner in which it should be maintained; and

(b) Not less than once each calendar year by a person who is licensed to inspect such a system pursuant to the provisions of chapter 477 of NAC.

NAC 449.229 Requirements and precautions regarding safety from fire states,

1. The administrator of a residential facility shall ensure that the facility complies with the regulations adopted by the State Fire Marshal pursuant to chapter 477 of NRS and all local ordinances relating to safety from fire. The facility must be approved for residency by the State Fire Marshal.

2. The Bureau shall notify the State Fire Marshal or the appropriate local government, as applicable, if, during an inspection of a residential facility, the Bureau knows of or suspects the presence of a violation of a regulation of the State Fire Marshal or a local ordinance relating to safety from fire.

3. An exit door in a residential facility must not be equipped with a lock that requires a key to open it from the inside unless approved by the State Fire Marshal or his or her designee.

Reference codes include:

NAC 449.1591 “Category 1 resident” defined. “Category 1 resident” means:

1. In a residential facility with not more than 10 residents, a resident who, without the assistance of any other person, is physically and mentally capable of moving himself or herself from the room in which the resident sleeps to outside the facility in 4 minutes or less; or

2. In a residential facility with more than 10 residents, a resident who, without the assistance of any other person, is physically and mentally capable of moving himself or herself from the room in which the resident sleeps to the other side of a smoke or fire barrier or outside the facility, whichever is nearest, in 4 minutes or less

NAC 449.1595 “Category 2 resident” defined. “Category 2 resident” means:

1. In a residential facility with not more than 10 residents, a resident who, without the assistance of any other person, is not physically or mentally capable of moving himself or herself from the room in which the resident sleeps to outside the facility in 4 minutes or less.

2. In a residential facility with more than 10 residents, a resident who, without the assistance of any other person, is not physically or mentally capable of moving himself or herself from the room in which the resident sleeps to the other side of a smoke or fire barrier or outside the facility, whichever is nearest, in 4 minutes or less.

NRS 449.0307 Powers of Division. The Division may:

1. Upon receipt of an application for a license, conduct an investigation into the premises, facilities, qualifications of personnel, methods of operation, policies and purposes of any person proposing to engage in the operation of a medical facility, a facility for the dependent or facility which is required by the regulations adopted by the Board pursuant to NRS 449.0303 to be licensed. The facility is subject to inspection and approval as to standards for safety from fire, on behalf of the Division, by the State Fire Marshal.

Background:

Ms. Brushfield, Adult Care Solutions, LLC, is an educator for Residential Facilities for Groups (RFG) care workers/caregivers as identified on the internet. She has been an RFG Administrator in the past and an RFG Consultant over the years with a working knowledge concerning RFG regulations and operations in Nevada. Ms. Brushfield’s variance application indicates that a “hardship” exists for RFG owners and/or operators to open newly licensed RFGs, primarily due to supply chain delays of fire sprinkler and fire alarm communicating circuit boards/electronics. The hardship is described as taking up to a year (per one Fire Vendor letter) for such electronic parts deliveries to be available for fire sprinkler and fire alarm installations. The primary resultant hardship would be the lost revenue by not being

licensed due to supply chain delays. The two Fire Vendors letters (one dated 08/11/2021 and the other dated 04/20/2022) indicate that there are supply chain delays and one of the letters indicates alternative/substitution devices can be utilized and purchased. Additionally, the residential building purchase cost (unless leased), fire alarm installation cost, and fire sprinkler installations cost are standard initial investment costs for the owners and/or operators. The supply chain delays are not limited to just these RFGs, rather they are found across the spectrum of licensed facility types and non-licensed entities.

Analysis:

NAC 439.240 provides:

1. The State Board of Health will grant a variance from a regulation only if it finds from the evidence presented at the hearing that:
 - (a) There are circumstances or conditions which:
 - (1) Are unique to the applicant;
 - (2) Do not generally affect other persons subject to the regulation;
 - (3) Make compliance with the regulation unduly burdensome; and
 - (4) Cause a hardship to and abridge a substantial property right of the applicant; and
 - (b) Granting the variance:
 - (1) Is necessary to render substantial justice to the applicant and enable the applicant to preserve and enjoy his or her property right; and
 - (2) Will not be detrimental or pose a danger to public health and safety.
2. Whenever an applicant for a variance alleges that he or she suffers or will suffer economic hardship by complying with the regulation, the applicant must submit evidence demonstrating the costs of compliance with the regulation. The Board will consider the evidence and determine whether those costs are unreasonable.

For the following reasons, Ms. Brushfield's application should be denied.

- 1) "Unique to the Applicant." Ms. Brushfield does not have direct standing to request these requirements to be waived, because she is not an owner or an operator of an RFG.
 - a. Ms. Brushfield is petitioning on behalf of two known license applicants and six entities not committed to a license application, and each of the eight entities have not describe their individual and specific hardship circumstances.
 - b. Only two of 24 current statewide RFG license applicants (as of 06/30/2022) have voiced that the supply chain delay issue as a problem. This possibly makes this an unique situation for those two license applicants.
 - i. The Bureau of Health Care Quality and Compliance (BHCQC) acknowledges that supply chain issues have recently occurred as demonstrated with other facility-types (hospitals, skilled nursing facilities, ambulatory surgery centers, etc.) having made similar claims, but with other various items being delayed. Those other facility-types either found substitutions, alternatives, or just waited for the delayed item.
 - ii. It could also be a matter of these other RFG license applicants are:
 1. At a different stage in their pre-licensing survey process; or
 2. Have not encountered similar problems with their fire sprinkler and fire alarm installations vendors.
- 2) "Do not generally affect other persons subjected to the regulations."
 - (a) Ms. Brushfield's 04/11/2022 letter to the State Fire Marshall (SFM), attached herein, references two groups.
 - i. One group of five total potential license applicants; two license applications are pending and on file and the three others do not have pending license applications. Note: One of the three without a license application shares the same address as one of the pending license applicants.
 - ii. The other group is three (unidentified and unverifiable) RFGs undergoing change of ownership (CHOW) that would require the addition of a fire sprinkler system.

iii. Ms. Brushfield's statement in her 04/11/2022 letter is in partial error about being "grandfathered in" with a change of ownership, at least with regard to the NAC 449.211(2)(a) requirement for the RFG to install the fire sprinkler system (which is being requested to be varied).

iv. The State Fire Marshal's 04/19/2022 response letter indicates that the SFM:

1. Per their regulations are unlikely to issue a Certificate of Compliance (CoC) without a fire alarm and fire sprinkler systems;
2. Is reluctant to support "fire watch" in lieu of a fire alarm and fire sprinkler system installation; and
3. Would evaluate a CHOW per their regulation allowances and restrictions.

(b) Nevada Revised Statutes (NRS) 449.0307 (provided above in code reference) cannot be varied and only the legislature may make changes to such a requirement. This means that the license applicants would still have to obtain the State Fire Marshal's (SFM) approval and Certificate of Compliance (CoC). This also means that they would have to provide a fire alarm system and fire sprinkler system to obtain a SFM CoC.

(c) Since 01/17/1997, the number of RFGs without fire sprinklers continues to decline and there may be only a few remaining. This decrease is partially due to attrition related to changes in operators, going out of business, and partially due to local authorities having jurisdiction (AHJ) requiring new homes be equipped with fire sprinkler systems. From Channel 3 News (See Attachment 1 and associated link below.) In 2010, the City of Henderson required all new residential homes to be equipped with fire sprinkler systems, and on 02/21/2018, the City of Las Vegas also required all new residential homes to be equipped with fire sprinkler systems. The City of Las Vegas Fire Officials, stated at the time, it's designated to give you 9, 10, 11, ~~12~~ minutes to get out of the house instead of the ~~2s~~ or 3," per Deputy Fire Chief and Fire Marshal Rolan Nolan and Las Vegas Fire and Rescue Chief William McDonald stated, "The potential for survival of a fire in a home, goes up by more than 90%."

3) "Make the compliance with the regulation unduly burdensome" and "Cause hardship to and abridge a substantial property right of the applicant." Since there are allegedly eight entities involved with this generic variance request and only two known license applicants with a possible issue(s) related to meeting the Fire Alarm/Sprinkler Systems regulations and fire safety regulations, it is unknown what the hardship truly is for each entity, as the specific detail related to each entity's hardship and situational uniqueness has not been provided.

Other unknowns for each entity include:

- a. Was there another reasonable alternative explored to meet compliance?
- b. What was the length of the delay(s) specific to the circuit board/electronics situations?
- c. Were the identified delays solely related to circuit board/electronics specific, or some other factor(s)?

4) "Granting the variance will not be detrimental (to the regulations) or pose a danger to public health and safety."

Ms. Brushfield asserts:

- a. There is no adverse effect on the NAC 449 regulations, which is erroneous. The fire safety regulations are known to provide protection to the RFG residents with early detection (smoke detectors) and notification (fire alarm) along with adding time for egressing from the building with the fire sprinkler system. By not observing the fire safety regulations the RFG residents would be at greater risk. Ms. Brushfield used the justification of the change of ownership (CHOW), wherein fire safety upgrades are generally not required if (solely) a CHOW without other changes (number of residents, category of residents, tenant improvements, etc.). This is valid for seven bed RFGs with all Category One residents. The two license applicants are not doing a CHOW as new licensees and they are requesting to be licensed with Category Two residents.
- b. Ms. Brushfield did not address whether this variance would pose a danger to public health and safety and offered only that there would be greater RFG bed demand post-Covid-19, with persons going back to work and needing to place loved ones in an RFG. This is contrary to most RFG (and other facility-types for housing residents) during Covid-19, because these facilities reduced their resident census to make their facilities more manageable due to:
 - i. Reduced qualified and available staff;
 - ii. Lack of knowledgeable staff;

- iii. Staff getting Covid-19 and being out due to illness;
- iv. Facility's fear of Covid-19 and decreasing resident admissions;
- v. The facilities inability to (originally) get supplies, lack Covid-19 training and getting staff fit-tested (correctly).

This indicates that there are residential beds currently available and there is not a severe shortage of RFG beds.

- c. There are definite dangers with RFG not being equipped with fire alarm and fire sprinkler systems. The State Fire Marshal 04/19/2022 letter indicated the tradeoff between fire watches (performance-based activity) would not justify a lack of fire safety infrastructure (alarms and sprinklers). The local AHJ also support the presence of fire sprinklers systems in domestic homes as stated earlier. Varying the fire safety regulations to accommodate a time-limited problem cannot be reasonably justified when caring for three or more aged and/or infirmed individuals. The risk to life is too great. Fire sprinkler systems and fire alarm systems provide enhanced resident protection that cannot be replaced by staff on "fire watch". Allowing the concentration of aged and infirmed residents of three or more in a domestic setting, where the residents are generally not able (Category 2-) to evacuate quickly, presents an inherent danger that requires mitigations such as fire sprinklers and alarms as described below:
 - i. In some situations, staff must be able to transfer the resident to wheelchair, and some residents would require more than one person to transfer a resident. Some RFG residents are bed bound and require full assist for transfer and evacuation.
 - ii. Without the early notification (fire alarm) and/or the ability for fire suppression (fire sprinkler system), the ability for aged and/or infirmed residents and visitors to be protected long enough to be evacuated is less assured.
 - iii. Smaller RFG buildings are not constructed with material that have slower burn times. This feature would slow the spread of fire and provide more time for moving residents to a safety
 - iv. These regulatory requirements were added to assure a chance for the residents (and other occupants) to survive or survive with minimal injuries.
- d. The State Fire Marshal's response letter (provided by the applicant) also supports the installation of both the fire sprinkler system and the fire alarm system over performance-based methods (fire watches), which experience reveals are rarely conducted properly or not conducted at all.
- e. Ms. Brushfield's variance statement related to the "degree of risk to health" section offered some information related to buildings being protected and not protected with fire sprinklers systems in Scottsdale, Arizona. Ms. Brushfield's comment did not reference the information's source to better understand the report. A brief search for fire deaths in domestic buildings in Nevada lead one to "U.S. Fire Administration (USFA)," which is part of Federal Emergency Management Agency (FEMA) (see Attachment 2 and associated link below).
 - i. The USFA only had a small group of Fire Departments that reported information to USFA, that information also included Emergency Medical Technicians (EMT) activities.
 - ii. What was interesting is that USFA also tracks media reporting of fire deaths. Using the selections for (all causes) (All residential building ~~types~~(types) (State of Nevada), the query reported between 01/01/2022 to 06/29/2022, there were two deaths in northern Nevada and five fire deaths in southern Nevada.
 - iii. Fortunately, none of these domestic building types were licensed RFG.

Intent of the Regulation:

The intent of the regulations is to ensure:

- (1) Protection from fire with early notification and fire suppression;

- (2) To minimize the number of deaths and injuries, when a fire occurs.
- (3) Sufficient time being created to allow for residents to evacuate on their own or be transferred to a wheelchair for evacuation or assistance of Staff to aide in the evacuation of multiple residents if need be;
- (4) All buildings are at risk for fire. There can be loss of life and injuries with buildings equipped with fire alarm and fire sprinkler systems. However, the presence of fire sprinklers and fire alarms provides greater likelihood of property protection and individual survival.

Degree of Risk to Public Health and Safety:

Not having fire alarms and fire sprinkler systems increases the risk of death or injury to occupants in the event of a fire. That risks increase further when the building's occupancy is concentrated with elderly and/or impaired individuals.

Exceptional and Undue Hardship:

The applicant has not provided evidence to support the allegation of a hardship. The two known facilities with license application have not provided their specific dollar amounts to establish their individual hardship related to delays with the supply chain communicating circuit boards/electronic for their fire alarm and fire sprinkler system installations. The other six unknown entities' individual cost were also not provided. The applicant, Ms. Brushfield, provided generalities related to RFG costs, and incorrectly includes the operator/owner personal home ownership cost. The generic RFG estimated cost provided by Ms. Brushfield was a range between \$11,000.00 to \$16,000.00 per month related to the delay.

Staff Recommendation

Staff recommends that the Board of Health deny Case #734, P. Theresa Brushfield, Adult Care Solutions, LLC variance request to allow RFG applicants to not conform to Nevada Administrative Code (NAC) 449.211 Automatic Sprinkler Systems and 449.229 Requirements and Precautions Regarding Safety From Fire.

Staff reasoning for the denial of variance Case #734 includes:

- 1) The variance applicant, Ms. Brushfield, is not directly impacted with the hardship, or if there is a relationship between the variance applicant and the two license applicants, it has not been established. Ms. Brushfield has no known vested interest with the allegedly impacted RFGs and variance request.
- 2) The two RFG license applicants have not clearly stated their individual hardship due to the delays related to the with the supply chain communicating circuit boards/electronic for their fire alarm and fire sprinkler system installations, either direct hardship or indirect hardship. Staff acknowledges that a hardship may exist for the two license applicants, however they were not explicitly identified.
- 3) The other six referenced entities status is unknown and cannot be established.
- 4) The supply chain delay issue may or may not be unique for the two license applicants. The other 22 pending applicants for RFGs do not seem to be impacted with this problem and it is unclear as to why there's a difference.
- 5) Because these homes will be concentrated with three or more aged and/or infirmed residents, there is a greater risk associated with protecting these residents in the event of fire without fire sprinklers and fire alarms.

Public Comments: None

Presenter: Steve Gerleman, Health Facilities Inspection Manager, Bureau of Healthcare Quality and Compliance

Attachments: Two

Attachment 1:

5pages – Las Vegas (KSNV) Channel 3 News 02/21/2018 Big Changes for Home Buyers...Resident Fire Sprinklers
<https://news3lv.com/news/local/city-council-votes-to-require-new-sprinkler-systems-in-residential-homes>

Attachment 2:

3 Pages - USFA Nevada Civilian Home Fire Fatalities reported by U.S. News Media Jan. 1 – June 29, 2022
<https://apps.usfa.fema.gov/civilian-fatalities/incident/reportList/Nevada>