

NAC 449.396 - 449.3982
AGENCIES TO PROVIDE PERSONAL CARE SERVICES IN THE HOME
General Provisions

NAC 449.396 Definitions. (NRS 439.200, 449.0302, 449.0304) As used in NAC 449.396 to 449.3982, inclusive, the words and terms defined in NAC 449.3961 to 449.3968, inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Bd. of Health by R182-07, eff. 1-30-2008; A by R109-18, 1-30-2019)

NAC 449.3961 “Activities of daily living” defined. (NRS 449.0302) “Activities of daily living” means the activities listed in NRS 449.0021.

(Added to NAC by Bd. of Health by R182-07, eff. 1-30-2008)

NAC 449.3962 “Agency” defined. (NRS 449.0302) “Agency” means an agency to provide personal care services in the home as defined in NRS 449.0021.

(Added to NAC by Bd. of Health by R182-07, eff. 1-30-2008)

NAC 449.3963 “Attendant” defined. (NRS 449.0302) “Attendant” means a person who is employed by or retained pursuant to a contract by an agency for the purpose of providing personal care services to a client.

(Added to NAC by Bd. of Health by R182-07, eff. 1-30-2008)

NAC 449.3964 “Client” defined. (NRS 449.0302) “Client” means an elderly person or a person with a disability who desires the provision of personal care services in the home in which the person lives.

(Added to NAC by Bd. of Health by R182-07, eff. 1-30-2008)

NAC 449.3965 “Personal care services” defined. (NRS 449.0302) “Personal care services” means the nonmedical services described in NRS 449.0021.

(Added to NAC by Bd. of Health by R182-07, eff. 1-30-2008)

NAC 449.3966 “Representative of the client” defined. (NRS 449.0302) “Representative of the client” means the spouse of a client, a parent or stepparent of a client who is a minor, the legal guardian of a client and any other person required by law to provide medical support to a client.

(Added to NAC by Bd. of Health by R182-07, eff. 1-30-2008)

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NAC 449.3967 “Service plan” defined. (NRS 449.0302) “Service plan” means a plan which includes a written description of the needs of a client for personal care services and which specifies the tasks that an attendant is authorized to provide for the client.

(Added to NAC by Bd. of Health by R182-07, eff. 1-30-2008)

NAC 449.3968 “Work station” defined. (NRS 449.0302) “Work station” means a satellite office of an agency that is established for the sole purposes of providing a location where copies of records may be sent to an agency and providing a location from which an attendant may work to serve a geographic area outside the geographic area in which the attendant normally works.

(Added to NAC by Bd. of Health by R182-07, eff. 1-30-2008)

Licensing

NAC 449.3972 Location to which license applies; agency to retain proof of liability coverage and compliance with certain statutory provisions. (NRS 449.0302)

1. Except as otherwise provided in this subsection, each license issued to operate an agency is separate and distinct and is issued to a specific person to operate the agency at a specific location. A person may operate an agency at multiple work stations if the agency maintains the records for the clients, attendants, other members of the staff of the agency and operations of the agency at the specific location designated on the license.

2. The name of the person who is designated as responsible for the conduct of the agency must appear on the face of the license.

3. Each agency must retain:

(a) Proof that it is adequately covered against liabilities resulting from claims incurred in the course of operation; and

(b) Proof of compliance with NRS 449.065 and 449.067.

4. The proof of liability coverage and compliance with state statute required by subsection 3 must be verified at the time the agency submits its initial application to the Division for a license and upon request by the Division.

(Added to NAC by Bd. of Health by R182-07, eff. 1-30-2008)

Administration and Personnel

NAC 449.3973 Qualifications and duties of administrator; appointment of designee to act in administrator's absence. (NRS 449.0302)

1. The administrator of an agency must:

- (a) Be at least 18 years of age;
- (b) Have a high school diploma or its equivalent;
- (c) Be responsible and mature and have the personal qualities which will enable the administrator to understand the problems of elderly persons and persons with disabilities;
- (d) Understand the provisions of this chapter and chapter 449 of NRS; and
- (e) Demonstrate the ability to read, write, speak and understand the English language.

2. The administrator of an agency shall represent the licensee in the daily operation of the agency and shall appoint a person to exercise his or her authority in the administrator's absence. The responsibilities of an administrator include, without limitation:

- (a) Employing qualified personnel and arranging for their training;

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- (b) Ensuring that only trained attendants are providing services to a client of the agency and that such services are provided in accordance with the functional assessment of the client, the service plan established for the client and the policies and procedures of the agency;
- (c) Developing and implementing an accounting and reporting system that reflects the fiscal experience and current financial position of the agency;
- (d) Negotiating for services provided by contract in accordance with legal requirements and established policies of the agency;
- (e) Providing oversight and direction for attendants and other members of the staff of the agency as necessary to ensure that the clients of the agency receive needed services;
- (f) Developing and implementing policies and procedures for the agency, including, without limitation, policies and procedures concerning terminating the personal care services provided to a client;

(g) Designating one or more employees of the agency to be in charge of the agency during those times when the administrator is absent; and

(h) Demonstrating to the Division upon request that the agency has sufficient resources and the capability to satisfy the requests of each client of the agency related to the provision of the personal care services described in the service plan to the client.

3. Except as otherwise provided in this subsection and subsection 4 of NAC 449.3976, an employee designated to be in charge of the agency when the administrator is absent must have access to all records kept at the agency. Confidential information may be removed from a file to which an employee designated to be in charge of the agency has access if the confidential information is maintained separately by the administrator.

4. The administrator of an agency shall ensure that:

(a) The clients of the agency are not abused, neglected or exploited by an attendant or another member of the staff of the agency, or by any person who is visiting the client when an attendant or another member of the staff of the agency is present; and

(b) Suspected cases of abuse, neglect or exploitation of a client are reported in the manner prescribed in NRS 200.5093 and 632.472. (Added to NAC by Bd. of Health by R182-07, eff. 1-30-2008)

NAC 449.3974 Maintenance of policies and procedures concerning qualifications, responsibilities and conditions of employment for staff members. (NRS 449.0302) An agency shall maintain written policies and procedures concerning the qualifications, responsibilities and conditions of employment for each attendant and other members of the staff of the agency. The written policies and procedures must be reviewed and revised as needed. The written policies and procedures must be made available to the attendants and other members of the staff of the agency upon hire and whenever revisions are made to those policies and procedures. At a minimum, the policies and procedures must:

1. Provide descriptions of the duties and responsibilities of attendants;

2. Provide descriptions of any activities that attendants are prohibited from engaging in, including, without limitation:

(a) Making a long distance telephone call that is personal in nature:

(1) On a telephone owned by or provided by a client; or

(2) While on duty providing personal care services to a client;

(b) Loaning, borrowing or accepting gifts of money or personal items from a client;

(c) Accepting or retaining money or gratuities from a client, other than money needed for the purchase of groceries or medication for the client; and

(d) Becoming the legal guardian of a client or being named as an attorney-in-fact in a power of attorney executed by the client;

3. Set forth the rights of clients;

4. Set forth any requirements relating to ethics governing attendants and other members of the staff of the agency, including, without limitation, any requirements concerning the confidentiality of client information;

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5. Provide for the prevention, control and investigation of infections and communicable diseases;

6. Provide a description of the personal care services that are provided by the agency to clients;

7. Provide a description of the manner in which the agency assigns attendants to provide personal care services to clients and any supervision of those services that will be provided by the agency;

8. Provide for documentation of the needs of each client and the personal care services that are provided to the client;

9. Set forth the emergency responses of the agency to both medical and nonmedical situations;

10. Set forth the roles of the agency and any coordination that the agency will provide with services provided by other community service agencies;

11. Provide for periodic evaluations of the performance of attendants and other members of the staff of the agency;

12. Provide for the maintenance of current personnel records which confirm that the policies and procedures are being followed; and

13. Set forth any other specific information that is necessary based on the needs of any special populations served by the agency. (Added to NAC by Bd. of Health by R182-07, eff. 1-30-2008)

NAC 449.3975 Attendants: Qualifications; annual training. (NRS 449.0302) Each attendant of an agency must:

1. Be at least 18 years of age;

2. Be responsible and mature and have the personal qualities which will enable the attendant to understand the problems of elderly persons and persons with disabilities;

3. Understand the provisions of this chapter and chapter 449 of NRS;
4. Demonstrate the ability to read, write, speak and communicate effectively with the clients of the agency;
5. Demonstrate the ability to meet the needs of the clients of the agency; and
6. Receive annually not less than 8 hours of training related to providing for the needs of the clients of the agency. (Added to NAC by Bd. of Health by R182-07, eff. 1-30-2008)

NAC 449.3976 Attendants: Maintenance of personnel file; evaluation of competency. (NRS 449.0302)

1. A separate personnel file must be kept for each attendant of an agency and must include, without limitation:

- (a) The name, address and telephone number of the attendant;
- (b) The date on which the attendant began working for the agency;
- (c) Documentation that the attendant has had the tests or obtained the certificates required by NAC 441A.375;
- (d) Evidence that the references supplied by the attendant were checked by the agency;
- (e) Evidence of compliance with NRS 449.123 by the administrator of the agency or the person licensed to operate the agency with respect to the attendant;
- (f) Proof that, within 6 months after the attendant began working for the agency, the attendant obtained a certificate in first aid and cardiopulmonary resuscitation issued by the American National Red Cross or an equivalent certificate approved by the Division;
- (g) Proof that the attendant is at least 18 years of age;
- (h) Proof of possession by the attendant of at least the minimum liability insurance coverage required by state law if the attendant will be providing transportation to a client in a motor vehicle; and
- (i) Documentation of all training attended by and performance evaluations of the attendant.

2. The documentation described in paragraph (i) of subsection 1 must include, without limitation, for each training course attended by the attendant:

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- (a) A description of the content of the training course;
- (b) The date on which the training course was attended;
- (c) The number of hours of the training course;
- (d) The name and signature of the instructor of the training course; and
- (e) A certificate indicating that the training course was successfully completed by the attendant.

3. The administrator or the administrator's designee shall evaluate the competency of an attendant in each competency area required by the agency if the attendant provides written proof of his or her current or previous training in that competency area. After the initial evaluation, any additional training provided to the attendant may be limited to areas in which the attendant needs to improve his or her competency.

4. The administrator may keep the personnel files of the agency in a locked cabinet and may, except as otherwise provided in this subsection, restrict access to this cabinet by attendants and other members of the staff of the agency. The administrator shall make the personnel files, including, without limitation, any electronic files, available for review by the Division upon request.

(Added to NAC by Bd. of Health by R182-07, eff. 1-30-2008)

NAC 449.3977 Attendants: Required knowledge and training. (NRS 449.0302)

1. Each attendant of an agency shall:

(a) Obtain a working knowledge of the provisions of this chapter which govern the licensing of agencies before providing personal care services to the clients of the agency. The agency must provide a copy of those provisions to an attendant before the attendant may provide personal care services to the clients of the agency.

(b) Participate in and complete a training program before independently providing personal care services to the clients of the agency. The training program must include an opportunity for the attendant to receive on-the-job instruction provided to clients of the agency, as long as the administrator of the agency or the administrator's designee provides supervision during this instruction to determine whether the attendant is able to provide personal care services successfully and independently to the client.

(c) Receive training:

(1) In the written documentation of:

(I) Personal care services provided to the clients of the agency; and

(II) Verification of time records.

(2) In the rights of clients, including, without limitation, training in methods to protect client confidentiality pursuant to state and federal regulations.

(3) Related to the special needs of elderly persons and persons with disabilities, including, without limitation, training in the sensory, physical and cognitive changes related to the aging process.

(4) Related to communication skills, including, without limitation, active listening, problem solving, conflict resolution and techniques for communicating through alternative modes with persons with communication or sensory impairments.

(5) In first aid and cardiopulmonary resuscitation. A certificate in first aid and cardiopulmonary resuscitation issued by the American National Red Cross or an equivalent certificate will be accepted as proof of that training.

(6) That is specifically related to the personal care services provided by the agency, including, as applicable, training in the following topics:

(I) Duties and responsibilities of attendants and the appropriate techniques for providing personal care services;

(II) Recognizing and responding to emergencies, including, without limitation, fires and medical emergencies;

(III) Dealing with adverse behaviors;

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(IV) Nutrition and hydration, including, without limitation, special diets and meal preparation and service;

(V) Bowel and bladder care, including, without limitation, routine care associated with toileting, routine maintenance of an indwelling catheter drainage system such as emptying the bag and positioning, routine care of colostomies such as emptying and changing the bag, signs and symptoms of urinary tract infections, and common bowel problems, including, without limitation, constipation and diarrhea;

(VI) Skin care, including, without limitation, interventions that prevent pressure sores, routine inspections of the skin and reporting skin redness, discoloration or breakdown to the client or a representative of the client and to the administrator of the agency or the administrator's designee;

(VII) Methods and techniques to prevent skin breakdown, contractures and falls;

(VIII) Hand washing and infection control;

(IX) Body mechanics, mobility and transfer techniques, including, without limitation, simple nonprescribed range of motion; and

(X) Maintenance of a clean and safe environment.

2. Each attendant of an agency must be evaluated and determined to be competent by the agency in the required areas of training set forth in paragraph (c) of subsection 1.

3. Each attendant of an agency must have evidence of successful completion of a training program that includes the areas of training set forth in paragraph (c) of subsection 1 within the 12 months immediately preceding the date on which the attendant first begins providing care to a client.

(Added to NAC by Bd. of Health by R182-07, eff. 1-30-2008)

NAC 449.39775 Attendants: Performance of certain tasks. (NRS 439.200, 449.0302, 449.0304)

1. An attendant may perform a task described in NRS 449.0304 if the attendant:

(a) Before performing the task, annually thereafter and when any device used for performing the task is changed:

(1) Receives training concerning the task that meets the requirements of subsections 6 and 7; and

(2) Demonstrates an understanding of the task;

(b) Follows the manufacturer's instructions when operating any device used for performing the task;

(c) Performs the task in conformance with the Clinical Laboratory Improvement Amendments of 1988, Public Law 100-578, 42 U.S.C. § 263a, if applicable, and any other applicable federal law or regulation; and

(d) Complies with the requirements of subsection 3 or 4, if applicable.

2. If a person with diabetes who is a client of an agency does not have the physical or mental capacity to perform a blood glucose test on himself or herself and an attendant performs a blood glucose test on the client, the Clinical Laboratory Improvement Amendments of 1988, Public Law 100-578, 42 U.S.C. § 263a, shall be deemed to be applicable for the purposes of paragraph (c) of subsection 1.

3. In addition to satisfying the requirements of subsection 1, an attendant who conducts a blood glucose test must ensure that the device for monitoring blood glucose is not used on more than one person.

4. An attendant may assist a client in the administration of insulin prescribed to the client for his or her diabetes and furnished by a registered pharmacist through an auto-injection device approved by the United States Food and Drug Administration for use in the home in accordance with the requirements of subsection 1 if:

(a) A physician, physician assistant or advanced practice registered nurse has determined that the client's physical and mental condition is stable and following a predictable course; and

(b) The amount of the insulin prescribed to the client is at a maintenance level and does not require a daily assessment, including, without limitation, the use of a sliding scale.

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5. An attendant may weigh a client of an agency only if:

(a) The attendant has received training on how to accurately weigh persons that meets the requirements of subsections 6 and 7; and

(b) The client has consented to being weighed by the attendant.

6. The training described in this section must be provided by:

(a) A physician, physician assistant or licensed nurse;

(b) For the training described in paragraph (b) or (c) of subsection 1 of NRS 449.0304, a registered pharmacist; or

(c) An employee of the residential facility who has:

(1) Received training pursuant to paragraph (a) of subsection 1 or paragraph (a) of subsection 5, as applicable, from a physician, a physician assistant, a licensed nurse or, if applicable, a registered pharmacist;

(2) At least 1 year of experience performing the task for which he or she is providing training; and

(3) Demonstrated competency in performing the task for which he or she is providing training.

7. Any training described in this section must include, without limitation:

(a) Instruction concerning how to accurately perform the task for which the attendant is being trained in conformance with nationally recognized infection control guidelines which may include, without limitation, guidelines published by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services;

(b) Instruction concerning how to accurately interpret the information obtained from performing the task; and

(c) A description of any action, including, without limitation, notifying a physician, that must be taken based on such information. (Added to NAC by Bd. of Health by R109-18, eff. 1-30-2019)

NAC 449.3978 Attendants: Prohibition on provision of certain types of services to clients. (NRS 439.200, 449.0302, 449.0304)

1. The administrator of an agency shall ensure that each attendant working for the agency is working within the attendant's scope of service and conducts himself or herself in a professional manner. An attendant is prohibited from providing any of the services listed in subsection 2 to a client.

2. The services an attendant must not provide to a client include, without limitation:

(a) Insertion or irrigation of a catheter;

(b) Irrigation of any body cavity, including, without limitation, irrigation of the ear, insertion of an enema or a vaginal douche;

(c) Application of a dressing involving prescription medication or aseptic techniques, including, without limitation, the treatment of moderate or severe conditions of the skin;

(d) Except as authorized by NAC 449.39775, administration of injections of fluids into veins, muscles or the skin;

(e) Except as authorized by NAC 449.39775, administration of medication, including, without limitation, the insertion of rectal suppositories, the application of a prescribed topical lotion for the skin and the administration of drops in the eyes;

(f) Performing physical assessments;

(g) Using specialized feeding techniques;

(h) Performing a digital rectal examination;

(i) Trimming or cutting toenails;

(j) Massage;

(k) Providing specialized services to increase the range of motion of a client;

(l) Providing medical case management, including, without limitation, accompanying a client to the office of a physician to provide medical information to the physician concerning the client or to receive medical information from the physician concerning the client; and

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(m) Any task identified in chapter 632 of NRS and the regulations adopted by the State Board of Nursing as requiring skilled nursing care, except any services that are within the scope and practice of a certified nursing assistant.

(Added to NAC by Bd. of Health by R182-07, eff. 1-30-2008; A by R109-18, 1-30-2019)

Provision of Services

NAC 449.3979 Provision of written disclosure statement to client upon acceptance for services by agency. (NRS 449.0302)

1. When a person is accepted as a client by an agency, the agency shall:

- (a) Provide a written disclosure statement to the client;
- (b) Require the client or a representative of the client to sign the written disclosure statement; and
- (c) Ensure that a copy of the written disclosure statement is incorporated into the record of the client.

2. The written disclosure statement must include a description of and information concerning the personal care services offered by the agency, including, without limitation:

- (a) A statement which is easily understandable to the client indicating that it is not within the scope of the license of the agency to manage the medical and health conditions of clients should the conditions become unstable or unpredictable;
- (b) The qualifications and training requirements for the attendants who provide personal care services to the clients of the agency;
- (c) The charges for the personal care services provided by the agency;
- (d) A description of billing methods, payment systems, due dates for bills for personal care services and the policy for notifying clients of increases in the costs of personal care services provided by the agency;
- (e) The criteria, circumstances or conditions which may result in the termination of personal care services by the agency and the policy for notifying clients of such termination of personal care services;

(f) Procedures for contacting the administrator of the agency or the administrator's designee during all hours in which personal care services are provided and the on-call policy of the agency; and

(g) Information concerning the rights of clients and the grievance procedure of the agency. (Added to NAC by Bd. of Health by R182-07, eff. 1-30-2008)

NAC 449.398 Rights of clients: Duties of administrator; provision of written description to clients. (NRS 449.0302)

1. The administrator of an agency shall ensure that a client is not prohibited from speaking to any person who advocates for the rights of the clients of the agency.
2. The administrator of an agency shall establish and enforce a procedure to respond to grievances, incidents and complaints concerning the agency in accordance with the written policies and procedures of the agency. The procedure established and enforced by the administrator must include a method for ensuring that the administrator or the administrator's designee is notified of each grievance, incident or complaint. The administrator or his or her designee shall personally investigate the matter in a timely manner. A client who files a grievance or complaint or reports an incident concerning the agency must be notified of the action taken in response to the grievance, complaint or report or must be given a reason why no action was taken.
3. The administrator of an agency shall ensure that the agency is in compliance with NRS 449A.100 to 449A.118, inclusive.
4. The agency shall develop a written description of the rights of clients and provide a copy to each client or a representative of the client upon initiation of the service plan established for the client. A signed and dated copy of the receipt of this information by the client or a representative of the client must be maintained in the record of the client.

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5. The written description of the rights of clients developed pursuant to subsection 4 must include, without limitation, a statement that each client has the right:
 - (a) To receive considerate and respectful care that recognizes the inherent worth and dignity of each client;
 - (b) To participate in the development of the service plan established for the client and to receive an explanation of the personal care services provided pursuant to the service plan and a copy of the service plan;
 - (c) To receive the telephone number of the Bureau which may be contacted for complaints;

(d) To receive notification of any authority of the Division to examine the records of the client as related to the regulation and evaluation of the agency by the Division;

(e) To receive from the agency, within the limits set by the service plan established for the client and within the program criteria, responses to reasonable requests for assistance; and

(f) To receive information, upon request, concerning the policies and procedures of the agency, including, without limitation, the policies and procedures of the agency relating to charges, reimbursements and determinations concerning service plans.

(Added to NAC by Bd. of Health by R182-07, eff. 1-30-2008)

NAC 449.3981 Initial screening of client and development or acceptance of service plan; requirements before providing personal care to client. (NRS 449.0302)

1. The administrator of an agency or the administrator's designee shall conduct an initial screening to evaluate each prospective client's requests for personal care services and to develop a service plan for the client or to accept a service plan established for the client.

2. The initial screening and the development or acceptance of a service plan must be documented. The documentation must be dated and signed by the person who conducted the initial screening and developed or accepted the service plan.

3. The agency shall complete the following tasks before providing the personal care services outlined in the service plan established for the client and as often as necessary if the service plan is revised:

(a) Evaluate whether the agency has sufficient resources and the capability to satisfy the requests of the client and to provide the client with the personal care services described in the service plan;

(b) Review the service plan with the client, including, without limitation, the schedule for the provision of personal care services to the client, the procedure to follow if an attendant fails to provide personal care services in accordance with the service plan, the hiring and training policies of the agency, the responsibilities of the agency, the procedure for filing a grievance or complaint and any personal care services that an attendant is prohibited from providing pursuant to NAC 449.3978;

(c) Review the procedure to be followed if an attendant does not appear for a scheduled visit and the procedure to be followed if an additional visit from an attendant is required;

(d) Ensure that the personal care services requested by the client are services which assist the client with the activities of daily living; and

(e) Ensure that the agency is coordinating the personal care services that it will be providing to the client with the care and services available to the client from other organizations and persons.

(Added to NAC by Bd. of Health by R182-07, eff. 1-30-2008)

NAC 449.3982 Supervisory home visits or telephone calls required to ensure quality of care provided; documentation of evaluation. (NRS 449.0302)

1. The administrator of an agency or the administrator's designee shall conduct supervisory home visits or telephone calls to the home of each client of the agency to ensure that quality personal care services are provided to the client.

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2. Each supervisory visit and each telephone call must be documented. The documentation must be dated and signed by the administrator or the administrator's designee. Each supervisory visit and each telephone call must consist of an evaluation of whether:

- (a) Appropriate and safe techniques have been used in the provision of personal care services to the client;
- (b) The service plan established for the client has been followed;
- (c) The service plan established for the client is meeting the personal care needs of the client;
- (d) The attendant providing personal care services to the client has received sufficient training relating to the personal care services that the attendant is providing to the client; and
- (e) It is necessary for the administrator or the administrator's designee to follow up with the attendant or client concerning any problems in the personal care services being provided to the client or the service plan established for the client that are identified as the result of the supervisory visit or telephone call.

(Added to NAC by Bd. of Health by R182-07, eff. 1-30-2008)