

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99813 Compensation and payment of bond. ([NRS 449.037](#)) The compensation of the receiver and the expense of any bond he is required to furnish must be paid from the revenues of the facility for which the receiver is appointed.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99814 Operation of facility. ([NRS 449.037](#))

1. The Bureau shall provide a receiver appointed by the court with a provisional license to operate the facility during the pendency of the receivership.

2. The receiver is responsible to the court for the operation of the facility during the receivership. Any deficiencies concerning the operation during the receivership, if not corrected, must be reported by the Health Division to the court.

(Added to NAC by Bd. of Health, eff. 8-1-91)

ADMINISTRATIVE SANCTIONS

General Provisions

NAC 449.9982 Definitions. ([NRS 449.037](#)) As used in [NAC 449.9982](#) to [449.99939](#), inclusive, unless the context otherwise requires, the words and terms defined in [NAC 449.99821](#) to [449.99841](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R131-99, 11-29-99; R051-02, 7-24-2002)

NAC 449.99821 “Ban on admissions” defined. ([NRS 449.037](#)) “Ban on admissions” means a prohibition on the provision of care, treatment or services to recipients who are newly admitted.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99822 “Cluster” defined. ([NRS 449.037](#)) “Cluster” means a deficiency that involves the same or similar kinds of care, treatment or services as one or more other deficiencies.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99823 “Compliance” and “substantially correct the deficiency” defined. ([NRS 449.037](#)) “Compliance” or “substantially correct the deficiency” means that no major deficiency is present and that effective steps have been taken to resolve all deficiencies.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99824 “Costs” defined. ([NRS 449.037](#))

1. “Costs” means the expenses of implementing and enforcing administrative sanctions and of bringing an action in a court of competent jurisdiction.

2. The term includes, without limitation, filing fees, fees for service of notices or process and all expenses of litigation recoverable as costs pursuant to [chapter 18](#) of NRS.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99825 “De minimis deficiency” defined. ([NRS 449.037](#)) “De minimis deficiency” means a deficiency rated at a severity level of one or two and at a scope level of one or two.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.998253 “Division of Health Care Financing and Policy” defined. ([NRS 449.037](#)) “Division of Health Care Financing and Policy” means the Division of Health Care Financing and Policy of the Department of Human Resources.

(Added to NAC by Bd. of Health by R051-02, eff. 7-24-2002)

NAC 449.998255 “Facility” defined. ([NRS 449.037](#)) “Facility” means a medical facility or facility for the dependent.

(Added to NAC by Bd. of Health by R131-99, eff. 11-29-99)

NAC 449.99826 “Immediate family” defined. ([NRS 449.037](#)) “Immediate family” means the spouse, parent, child or sibling of a recipient.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99827 “Initial deficiency” defined. ([NRS 449.037](#))

1. “Initial deficiency” means the first occurrence of a deficiency recorded by the Bureau.

2. The term includes any deficiency found during a standard survey, during an extended survey or in response to a complaint.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99828 “Major deficiency” defined. ([NRS 449.037](#)) “Major deficiency” means a deficiency with a combined severity and scope rating of five or more.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

NAC 449.99829 “Medicaid facility” defined. ([NRS 449.037](#)) “Medicaid facility” means a facility that has entered into an agreement to provide care, services or treatment paid under the joint federal-state Medicaid program described in 42 U.S.C. §§ 1396 et seq.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

NAC 449.9983 “Medicare facility” defined. ([NRS 449.037](#)) “Medicare facility” means a facility that has entered into an agreement to provide care, services or treatment paid by Medicare pursuant to 42 U.S.C. §§ 1395 et seq.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99832 “Monitor” defined. ([NRS 449.037](#)) “Monitor” means to observe, advise or supervise a facility on an as-needed basis to ensure compliance with the plan of correction for the facility

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

NAC 449.99833 “New admission” defined. ([NRS 449.037](#)) “New admission” means a person who is admitted to the facility on or after the effective date of a ban on admissions and who has not been admitted before or, if previously admitted, has been discharged or left the facility voluntarily more than 30 days before the effective date of the ban.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99834 “Particular kinds of care, treatment or services” defined. ([NRS 449.037](#)) “Particular kinds of care, treatment or services” includes discrete areas such as bowel and bladder training, catheter care, restraints, injections, parenteral fluid administration, tube feedings, gastrostomy care, colostomy care, ileostomy care, respiratory therapy, tracheostomy care, suctioning, physical therapy and occupational therapy.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99835 “Plan of correction” defined. ([NRS 449.037](#)) “Plan of correction” means a plan developed by the facility and approved by the Bureau that:

1. Describes the actions to be taken by the facility to correct one or more deficiencies; and
2. Specifies the date by which those deficiencies will be corrected.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99836 “Provider agreement” defined. ([NRS 449.037](#)) “Provider agreement” means an agreement between a facility and:

1. The Centers for Medicare and Medicaid Services, if the facility is a Medicare facility; or
2. The Division of Health Care Financing and Policy, if the facility is a Medicaid facility.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

NAC 449.99837 “Repeated deficiency” defined. ([NRS 449.037](#)) “Repeated deficiency” means a deficiency found by the Bureau again within 18 months, including one found at a follow-up survey, an investigation of a complaint or the next annual survey.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

NAC 449.99838 “Resurvey” defined. ([NRS 449.037](#)) “Resurvey” means a subsequent survey conducted to evaluate compliance with a plan of correction.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99839 “Severity and scope score” defined. ([NRS 449.037](#)) “Severity and scope score” means the sum of the numerical levels of severity and scope assigned to a deficiency.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.9984 “Subsequent deficiency” defined. ([NRS 449.037](#)) “Subsequent deficiency” means a deficiency found on a resurvey.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99841 “Temporary management” defined. ([NRS 449.037](#)) “Temporary management” means the temporary appointment by the Bureau or by a court of competent jurisdiction of a manager or administrator with authority to operate the facility and to hire,

terminate or reassign staff, obligate money of the facility, alter procedures and manage the facility to correct the deficiencies found during a survey or visit identifying the deficiencies.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99843 Purposes of administrative sanctions. ([NRS 449.037](#)) The purposes of administrative sanctions are to:

1. Safeguard the rights, interests and well-being of recipients, including the protection of recipients from actual or potential harm resulting from deficiencies;
2. Encourage and assist facilities to comply with the requirements of the Health Division, including those imposed by federal law;
3. Promote the efficient use of resources to ensure appropriate care, treatment and services for recipients; and
4. Protect Medicare beneficiaries and Medicaid recipients against health care of substandard quality.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99844 Interpretation of provisions in accordance with federal standards. ([NRS 449.037](#)) With respect to facilities governed by the federal Medicare or Medicaid criteria, the provisions of [NAC 449.9982](#) to [449.99939](#), inclusive, must be interpreted in accordance with applicable federal standards.

(Added to NAC by Bd. of Health, eff. 8-1-91)

Imposition: Generally

NAC 449.9985 Authority of Health Division and Bureau. ([NRS 449.037](#)) Administrative sanctions authorized by [NRS 449.163](#) must be imposed by the Health Division through the Bureau.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99851 Requirement for imposition; optional imposition. ([NRS 449.037](#), [449.165](#)) At least one administrative sanction must be imposed for each deficiency in any facility with a severity level of four and for each deficiency in any facility with a combined severity and scope score of six or more. The Bureau may impose sanctions if deficiencies of a severity level three or less or a combined severity and scope score of less than six are identified.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99852 Requirement for imposition; multiple sanctions. ([NRS 449.037](#), [449.165](#)) The Bureau must impose at least one of the sanctions listed in [NAC 449.99863](#) upon any facility that has a deficiency with a severity level of four or a combined severity and scope score of six or more. More than one of these sanctions may be imposed in the discretion of the Bureau.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99853 Imposition of one or more sanctions; criteria for imposition of particular sanction. ([NRS 449.037](#), [449.165](#)) The Bureau may apply one or more sanctions as provided in [NAC 449.99863](#) and [449.99935](#). If the Bureau chooses to impose a particular sanction, it must be applied according to the severity and scope factors established in [NAC 449.99858](#) to [449.99861](#), inclusive.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99854 Imposition in lieu of or in addition to recommendation to terminate provider agreement; duration of sanctions. ([NRS 449.037](#), [449.165](#))

1. The Bureau may apply one or more of the sanctions specified in [NAC 449.99863](#) in lieu of or in addition to a recommendation to the Division of Health Care Financing and Policy or the Centers for Medicare and Medicaid Services to terminate a provider agreement.

2. Sanctions applied pursuant to [NAC 449.9982](#) to [449.99939](#), inclusive, may be imposed until substantial compliance is achieved or, if compliance is not achieved, until the day before termination of the license or provider agreement becomes effective.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

NAC 449.99855 Imposition in emergencies: Authority; notice. ([NRS 449.037](#), [449.165](#))

1. If necessary to protect the public health and safety, the Bureau may impose such sanctions as are necessary without notice to the facility or by oral notice to the facility.

2. If there is an immediate and serious threat to the health and safety of recipients served by a facility, the Bureau may appoint a temporary manager to remove the threat. A temporary manager may also be appointed without prior written notice on an emergency basis if a facility violates any ban on admissions. If there is an immediate and serious threat to the health and safety of recipients, the times provided for notice contained in this subsection govern. In all other respects, the provisions governing temporary management found in [NAC 449.99915](#) to [449.99921](#), inclusive, apply.

3. The Bureau may, in an emergency, impose a ban on admissions, a limitation on occupancy of a residential facility or may suspend the license of a facility without notice or upon oral notice as provided in this section.

4. In any case where sanctions are imposed without written notice, the Bureau shall provide written notice that complies with the requirements of [NAC 439.345](#) within 48 hours after the imposition of the sanctions.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R044-97, 10-30-97)

NAC 449.99856 Deficiencies: Basis for imposition of sanctions; reporting; presumption of de minimis deficiency. ([NRS 449.037](#), [449.165](#))

1. The Bureau may apply one or more sanctions on the basis of deficiencies found during surveys or investigations of complaints conducted by the Bureau.

2. Deficiencies must be reported to the facility and, if applicable, to the Centers for Medicare and Medicaid Services. The notice to the facility must specify the deficiencies found and the severity and scope score for each deficiency determined by the Bureau.

3. Any deficiency for which a severity and scope score is not specified is presumed to be a de minimis deficiency.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

NAC 449.99857 Classifications of severity and scope of deficiencies: Use. ([NRS 449.037](#), [449.165](#)) In determining the sanctions to be imposed, the Bureau shall consider the severity and scope of the deficiencies according to the classifications of severity and scope described in [NAC 449.99858](#) to [449.99861](#), inclusive.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99858 Scope of violations: Evaluation of representative sample of recipients; size of sample. (NRS 449.037, 449.165)

1. In determining the scope of a violation, a survey of a facility must evaluate a representative sample of recipients as described in the protocol for the survey of such a facility. Unless a sample of a different size is required for the survey by federal law, the sample must consist of at least the following size:

Number of recipients	Minimum number of recipients in sample
1 - 9.....	..... All recipients
10 - 40.....	..... 10
41 - 75.....	..... 15
76 - 100.....	..... 20
101 - 175.....	..... 25
176 - 250.....	..... 30
251 - 350.....	..... 35
351 - 450.....	..... 40
451	or
more.....	..... 50

2. The sample size used in identifying the scope of a deficiency in a resurvey must not be less than 60 percent of the sample size used in the initial survey.

3. In determining the scope of a violation involving particular kinds of care, treatment or services, the survey must evaluate a representative sample of recipients receiving or requiring the particular kinds of care, treatment or services. Unless a sample of a different size is required for the survey by federal law, the sample must consist of at least the following size:

Number of recipients needing or receiving a particular kind of care, treatment or services	Minimum number of recipients in sample
1 - 9.....	..... All recipients
10 - 40.....	..... 10
41 - 75.....	..... 15
76 - 100.....	..... 20
101 - 175.....	..... 25
176 - 250.....	..... 30
251 - 350.....	..... 35
351 - 450.....	..... 40
451	or
more.....	..... 50

4. The Bureau may review more than the minimum number of recipients. If it does so, the determination of scope must be based on the number of recipients actually reviewed.

5. If the Bureau investigates a complaint relating to a recipient, the Bureau may sample only that recipient. The scope of any deficiency cited pursuant to this subsection must be scope level one.

6. As used in this section, “recipient” means a person who:

(a) Is admitted to a licensed bed maintained by the facility at the time the Bureau surveys the facility; or

(b) Received services at the facility within the 30 days immediately preceding the date the Bureau surveys the facility, if the facility is not licensed to maintain beds.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

NAC 449.99859 Scope of deficiencies: Use of scope scale; basis for assessment. ([NRS 449.037](#), [449.165](#))

1. The scope scale must be used to assess the scope of a particular deficiency in or by the facility.

2. The basis for the assessment is the actual or potential harm to recipients as shown by:

- (a) The frequency of the deficiency;
- (b) The number or percentage of recipients affected;
- (c) The number or percentage of staff involved; and
- (d) The pattern or lack of pattern of the deficiencies.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.9986 Scope of deficiencies: Criteria for evaluation. ([NRS 449.037](#), [449.165](#))

1. The scope of the deficiencies must be evaluated using the criteria prescribed in this section.

2. A deficiency of scope level one consists of one or an isolated number of unrelated incidents in the sample surveyed. A deficiency is of this scope if it involves 20 percent or less of the recipients sampled in a facility.

3. A deficiency is scope level two if the Bureau identifies a pattern of incidents at the facility, including any deficiencies involving recipients who require particular kinds of care, treatment or service. The number or percentage of recipients or staff involved in the incidents or the repeated occurrences of incidents in short succession may also establish a pattern by indicating a reasonable degree of predictability of similar incidents. A deficiency is also of this scope if it involves more than 20 percent but not more than 50 percent of the recipients sampled in a facility.

4. A deficiency is of scope level three if it occurs in a sufficient number or percentage of recipients or staff or with sufficient regularity over time that it may be considered systemic or pervasive in or by the facility. A deficiency is also of this scope if it involves more than 50 percent of the recipients sampled in a facility.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

NAC 449.99861 Severity of deficiencies: Use of severity scale; basis for assessment; criteria for evaluation. ([NRS 449.037](#), [449.165](#))

1. The severity scale must be used to assess the severity of a particular deficiency pertaining to the facility. The basis for the assessment must be the actual or potential harm to recipients.

2. Deficiencies of severity level one concern requirements promulgated primarily for administrative purposes. No harm is likely to occur to a recipient. No negative recipient impact has occurred or is likely to occur. The ability of a recipient to achieve the highest practicable physical, mental or psychosocial well-being has not been and is not likely to be compromised.

3. Deficiencies of severity level two indirectly threaten the health, safety, rights, security, welfare or well-being of a recipient. A potential for harm, as yet unrealized, exists. If continued over time, a negative impact on one or more recipients or a violation of one or more recipients' rights would occur or would be likely to occur or the ability of one or more recipients to achieve the highest practicable physical, mental or psychosocial well-being would be, or would likely be, compromised.

4. Deficiencies of severity level three create a condition or incident in the operation or maintenance of a facility that directly or indirectly threatens the health, safety, rights, security, welfare or well-being of one or more recipients. A negative impact on the health, safety, rights, security, welfare or well-being of one or more recipients has occurred or can be predicted with substantial probability to occur or the ability of recipients to achieve the highest practicable physical, mental or psychosocial well-being has been or is about to be compromised and requires intervention and correction of the deficiency. Violation of a partial or complete ban on admissions imposed on a facility, violation of a limitation on occupancy of a residential facility or failure to implement a directed plan of correction is presumed to be a deficiency of this level of severity.

5. Deficiencies of severity level four create a condition or incident that has resulted in or can be predicted with substantial probability to result in death or serious harm to a recipient. As used in this subsection, "serious harm" includes serious mental harm, serious impairment of bodily functions, serious dysfunction of any bodily organ or part, life-threatening harm or death.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99862 Presumption when same deficiency found on resurvey; imposition of sanction for subsequent deficiency. ([NRS 449.037](#), [449.165](#)) If the same deficiency is found on a resurvey, there is a rebuttable presumption that the deficiency continued through the period

between the survey and resurvey. A sanction may be imposed for a subsequent deficiency only if the resurvey is made and the deficiency is again actually found to be present.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99863 Available sanctions. ([NRS 449.037](#)) The sanctions available for all facilities include:

1. The imposition of a plan of correction as directed by the Bureau;
2. The issuance of a provisional license as provided by [NRS 449.091](#);
3. The imposition of a limitation on the occupancy of a residential facility;
4. The imposition of a ban on admissions;
5. Monitoring of the facility by the Bureau;
6. The assessment of monetary penalties;
7. The requirement that the facility be managed temporarily by a person appointed by the Bureau; and
8. The denial, suspension or revocation of the license of the facility.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99864 Determination of appropriate sanction: Procedure. ([NRS 449.037](#), [449.165](#)) To determine the appropriate sanction, the Bureau shall follow the procedure set forth in [NAC 449.99864](#) to [449.99867](#), inclusive.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99865 Determination of appropriate sanction: Initial assessment. ([NRS 449.037](#), [449.165](#)) The Bureau shall initially assess individual deficiencies or clusters of deficiencies according to the following initial factors:

1. The presence or absence of an immediate and serious threat to the health and safety of residents;
2. The severity of the deficiency; and
3. The scope of the deficiency.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99866 Determination of appropriate sanction: Consideration of secondary factors. ([NRS 449.037](#), [449.165](#)) After the initial assessment, the Bureau shall consider the following secondary factors in determining the sanction to impose:

1. The relationship of one deficiency or cluster or pattern of deficiencies to other deficiencies;
2. The history of previous compliance by the facility generally and specifically with reference to the deficiencies in issue;
3. Whether the deficiencies are directly related to the care, services or treatment received by persons from the facility; and
4. The corrective and long-term compliance outcomes desired.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99867 Determination of appropriate sanction: Basis for selection; presumption. ([NRS 449.037](#), [449.165](#)) The selection of a sanction must be based upon the nature of the deficiencies or cluster of deficiencies and the sanction most likely to correct those deficiencies. Absent evidence to the contrary, restrictions upon service and monetary penalties

are presumed to be the most effective sanctions for deficiencies that do not cause an immediate and serious threat to recipients.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

Plan of Correction

NAC 449.9987 Development and submission of plan; authority of Bureau when plan is not acceptable; effect of failure to submit plan. (NRS 449.037, 449.165)

1. The facility shall develop a plan of correction for each deficiency and submit the plan to the Bureau for approval within 10 days after receipt of the statement of deficiencies. The plan of correction must include specific requirements for corrective action, which must include times within which the deficiencies are to be corrected.

2. If the plan is not acceptable to the Bureau, the Bureau may direct the facility to resubmit a plan of correction or the Bureau may develop a directed plan of correction with which the facility must comply.

3. Failure to submit the plan of correction to the Bureau within 10 days constitutes a separate deficiency subject to monetary penalties with severity and scope rated at the same levels as the highest deficiency identified on the notice of deficiencies.

(Added to NAC by Bd. of Health, eff. 8-1-91)

Limitation on Occupancy of Residential Facility

NAC 449.99875 Purpose and scope of limitation; imposition in addition to partial ban on admissions. (NRS 449.037, 449.165)

1. A limitation on the occupancy of a residential unit must be imposed by the Bureau to safeguard the health, safety and well-being of residents currently receiving care, treatment or services and to prevent the admission of persons who cannot adequately be served by the facility. If a limitation on occupancy is imposed, the limitation applies regardless of the source of payment. The Bureau may limit the occupancy of a facility to the number of beds occupied at the time the deficiency occurred. If such a limitation is imposed, priority in new admissions must be given to immediate relatives of persons presently occupying the facility.

2. If the facility contains separately identifiable units and the deficiencies are confined to one or more discrete units, the limitation on occupancy may be limited to those units.

3. A limitation on occupancy may be imposed in addition to a partial ban on admissions if the facility is unable to provide adequate care, treatment or services for persons needing a discrete kind or type of care.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99876 Criteria for imposition. (NRS 449.037, 449.165)

1. If the Bureau imposes a limitation on the occupancy of a residential facility, the limitation must be imposed as provided in this section.

2. For deficiencies with a combined severity and scope score of six or more, a limitation on occupancy must be imposed.

3. For deficiencies with a severity and scope score of less than six, a limitation on occupancy may be imposed if the deficiencies involve direct recipient care, services or treatment or the ability of residents to exit the facility safely in case of a fire or other emergency.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99877 Duration and termination of limitation. ([NRS 449.037](#), [449.165](#)) A limitation on occupancy:

1. Must be imposed for not less than 72 hours.

2. Must be terminated if the facility demonstrates that substantial improvements have been made to correct the deficiencies and that the health, safety and well-being of recipients are adequately safeguarded.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99878 Notice of limitation: General requirements; effect of noncompliance. ([NRS 449.037](#), [449.165](#))

1. If a limitation on occupancy is imposed, a notice of the limitation must be posted at all public entrances to the facility within 48 hours after the facility receives notice of the limitation. Each notice must be not less than 15 inches by 20 inches in size and include:

(a) The words "NOTICE OF LIMITATION ON OCCUPANCY" printed in boldface type not less than 1 1/2 inches in size;

(b) A statement specifying the number of residents the facility is authorized to serve;

(c) A statement identifying a member of the staff of the facility who will provide additional information relating to the limitation on occupancy; and

(d) The telephone number of the Bureau.

2. Any person contacting the facility in writing or by telephone or any other means of telecommunication relating to a recipient seeking admission to the facility must be:

(a) Notified of the limitation on occupancy; and

(b) Provided with the information required by subsection 1.

3. The failure to post notice of a limitation on occupancy as required by this section, or the removal of such a notice, is a deficiency of severity level three and a scope level of three. The failure to inform an inquirer as to the existence of a limitation on occupancy is a deficiency of severity level two and a scope level of three.

4. In addition to the information required by subsection 1, the content of any notice required to be posted or published pursuant to this section must conform to the requirements set forth by the Bureau in the notice of sanction.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

Ban on Admissions

NAC 449.9988 Purpose and scope of ban. ([NRS 449.037](#), [449.165](#))

1. A ban on admissions may be imposed by the Bureau on a residential or nonresidential facility to safeguard the health, safety and well-being of recipients receiving care, treatment or services and to prevent the admission of persons who cannot adequately be served by the facility. If a ban is imposed, it applies to all new admissions, regardless of the source of payment.

2. An immediate family member of a resident of a residential facility is not a new admission for the purposes of a ban on admissions unless the deficiencies are such that the health, safety or well-being of the immediate family member will be directly jeopardized.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99881 Criteria for imposition. ([NRS 449.037](#), [449.165](#))

1. If the Bureau imposes a ban on admissions, the ban must be imposed as provided in this section.

2. For deficiencies of severity level four and scope level two or more, a ban on all new admissions must be imposed.

3. For deficiencies of severity level three and scope level three, a ban on all new admissions must be imposed.

4. For deficiencies of severity level three and scope level two, a complete or partial ban on admissions may be imposed. If the deficiency is related to a discrete type of care, treatment or services, the ban may be limited to new admissions requiring the care, treatment or services for which the deficiency is found.

5. For deficiencies with a severity level of three or four and a scope level of one, the Bureau may impose a partial ban on admissions, limited to persons needing the care, treatment or services affected by the deficiency.

6. For deficiencies with a severity level of two and a scope level of three, a ban on admissions may be imposed if the deficiencies directly affect the care, treatment or services furnished to recipients. The ban may be limited to those persons requiring the kind or type of services affected by the deficiencies.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

NAC 449.99882 Duration and termination of ban. ([NRS 449.037](#), [449.165](#)) A ban on admissions:

1. Must be imposed for not less than 72 hours.

2. Must be terminated if the facility demonstrates that substantial improvements have been made to correct the deficiencies and that the health, safety and well-being of recipients are adequately safeguarded.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99883 Notice of ban: General requirements; effect of noncompliance. ([NRS 449.037](#), [449.165](#))

1. If a ban on admissions is imposed, a notice of the ban must be posted at all public entrances to the facility within 48 hours after the facility receives notice of the ban. Each notice must be not less than 15 inches by 20 inches in size and include:

(a) The words "NOTICE OF BAN ON ADMISSIONS" printed in boldface type not less than 1 1/2 inches in size;

(b) A statement identifying a member of the staff of the facility who will provide additional information relating to the ban on admissions; and

(c) The telephone number of the Bureau.

2. If the facility provides care, treatment or services at a site other than the location of the office of the facility, notice must be provided by publishing an announcement, identified as a "LEGAL NOTICE" and not less than 25 percent of a newspaper page in size, in a newspaper of general circulation in the geographic area served by the facility on two separate occasions. The first publication must occur within 7 days after the facility receives notice of the ban, and the second publication must occur within 14 days after that date. At least one publication must be in

a Sunday edition of the publication. Each publication must include the information required by subsection 1.

3. Any person contacting the facility in writing or by telephone or any other means of telecommunication relating to a recipient seeking admission must be:

- (a) Notified of the ban; and
- (b) Provided with the information required by subsection 1.

4. The failure to post or publish notice of a ban on admissions as required by this section, or the removal of such a notice, is a deficiency of severity level three and a scope of level three. A failure to inform an inquirer as to the existence of the ban is a deficiency of severity level two and a scope of level three.

5. In addition to the information required by subsection 1, the content of any notice required to be posted or published pursuant to this section must conform to the requirements set forth by the Bureau in the notice of sanction.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

Monitoring of Facility

NAC 449.99885 Authority of Bureau. ([NRS 449.037](#), [449.165](#))

1. The Bureau may monitor the implementation of the plan of correction of the facility to determine whether the facility carries out the plan of correction.

2. The Bureau may also monitor the facility if the scope of the deficiencies identified is difficult to evaluate on a single visit. Such deficiencies include, without limitation, violations of recipients' rights, inappropriate use of restraints and cases in which the Bureau has reason to question the ongoing compliance of the facility with the requirements of federal or state law.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

Monetary Penalties

NAC 449.99895 Imposition by Bureau; purpose; applicable criteria. ([NRS 449.037](#), [449.165](#)) The Bureau may impose a monetary penalty alone or in addition to other penalties. The purpose of a monetary penalty is to provide a fund for protecting the health, safety, rights, welfare and well-being of recipients and the property of residents in facilities and to deter future deficiencies. If a monetary penalty is imposed, the criteria in [NAC 449.99896](#) must be applied.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99896 Criteria for imposition; imposition of initial and daily penalties. ([NRS 449.037](#), [449.165](#))

1. Except as otherwise provided in subsection 4 of this section, the Bureau may impose a monetary penalty including interest thereon on any facility that is not in compliance with any participation requirement, regardless of whether the deficiency constitutes an immediate and serious threat.

2. If a monetary penalty is imposed, the initial amount of the penalty must be based on the severity and scope score of the deficiency and must be imposed as provided in [NAC 449.99899](#).

3. In addition to the initial monetary penalty, the Bureau may impose a monetary penalty for each day of noncompliance from the date the noncompliance occurs or is identified until compliance is verified.

4. A facility is not subject to a monetary penalty for a de minimis deficiency.
(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99897 Imposition of initial penalty pending hearing or appeal; stay of payment of penalties pending appeal. ([NRS 449.037](#), [449.165](#))

1. The Bureau shall impose an initial monetary penalty pending a hearing or appeal. The payment of the initial penalty must not be stayed during the pendency of any administrative appeal.

2. The payment of any daily monetary penalties or interest that accrue while the facility has a hearing pending on the initial determination of deficiencies leading to the imposition of sanctions must be stayed pending the appeal.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99898 Procedure for imposition; interest on total penalty assessed. ([NRS 449.037](#), [449.165](#)) If the Bureau imposes a monetary penalty, the penalty must be imposed as provided in [NAC 449.99899](#) to [449.99908](#), inclusive. In imposing the monetary penalty, the total penalty assessed against any facility bears interest at the rate of 10 percent per annum.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99899 Determination of amount of penalties. ([NRS 449.037](#), [449.165](#))

1. In determining the amount of an initial monetary penalty, the Bureau shall consider the severity alone if the severity level is four. In determining the amount of the monetary penalty where the severity level is less than four, both severity and scope must be considered. In determining whether to impose a daily monetary penalty, the Bureau shall consider the severity and scope and the factors indicated for increased and decreased penalties provided in [NAC 449.99902](#) and [449.99904](#).

2. For initial deficiencies with a severity level of four, an initial monetary penalty of \$1,000 per deficiency must be imposed.

3. For initial deficiencies rated with a severity level of three and a scope level of three, a monetary penalty of \$800 per deficiency must be imposed.

4. For initial deficiencies with a severity level of three and a scope level of two or less, an initial monetary penalty of \$400 per deficiency must be imposed.

5. For initial deficiencies with a severity level of two and a scope level of three, an initial monetary penalty of \$200 per deficiency may be imposed. The payment of this monetary penalty must be suspended if the facility has corrected the deficiencies within the time specified in the plan of correction approved by the Bureau.

6. In addition to any monetary penalty imposed pursuant to this section, the Bureau may impose a monetary penalty of not more than \$10 per recipient per day for each day the deficiency continues.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

NAC 449.999 Limitation on principal amount of total daily penalty. ([NRS 449.037](#), [449.165](#)) In no event may the principal amount of the total daily monetary penalty assessed against any facility exceed \$1,000 per deficiency per day.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99901 Daily penalty: Computation according to number of recipients. ([NRS 449.037](#), [449.165](#)) If a monetary penalty is assessed on a daily basis according to the number of recipients and the number of recipients fluctuates, the penalty must be computed on the basis of the average daily number of recipients during the 3 months preceding the imposition of the penalty.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99902 Increase in penalty for repeated deficiencies or false compliance. ([NRS 449.037](#), [449.165](#))

1. Penalties must be increased if deficiencies are repeated or compliance is falsely alleged.
2. For each repeat deficiency present within 18 months after an initial deficiency, the monetary penalty must be computed at the rate of one and one-half times the rate that was or could have been assessed initially for a deficiency of that severity and scope.
3. The Bureau may double the daily monetary penalty that was or could have been assessed if the facility alleges compliance and the Bureau finds on a survey that at the time compliance was alleged the deficiencies continued to exist.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

NAC 449.99903 Presumption regarding deficiencies identified on resurvey. ([NRS 449.037](#), [449.165](#)) There is a rebuttable presumption that deficiencies identified on a resurvey were present on each day between the date of the initial deficiency and the date of the resurveyed deficiency.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

NAC 449.99904 Reduction of penalty. ([NRS 449.037](#), [449.165](#)) If a facility against which a monetary penalty is imposed:

1. Waives the right to a hearing;
 2. Corrects the deficiencies that were the basis for the sanction; and
 3. Pays the monetary penalty within 15 days after receipt of the notice of the penalty,
- ↳ the penalty must be reduced by 25 percent and no interest may be charged.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99905 Daily penalty: Effective beginning date. ([NRS 449.037](#), [449.165](#)) The effective beginning date of a daily monetary penalty is:

1. In the case of an immediate and serious threat, the date the deficiency occurred; or
2. In any other case, the day the deficiency is identified.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99906 Daily penalty: Date and period of computation; notice to facility. ([NRS 449.037](#), [449.165](#))

1. Daily penalties and interest must be computed after compliance has been verified or the provider has been sent notice of termination of a license or provisional license. A daily monetary penalty must end on the effective date of compliance or termination of the license of the facility.
2. If a provider achieves compliance, the Bureau shall send a separate notice to the facility containing:

- (a) The amount of the penalty per day;
- (b) The number of days involved;
- (c) The due date of the penalty; and
- (d) The total amount due.

3. If the license of a facility is to be terminated, the Bureau shall send the information required by subsection 2 in the notice of termination.

4. If the Bureau's decision of noncompliance is upheld on appeal or the facility waives its right to a hearing, the monetary penalty must be imposed for the number of days between the effective date of the penalty and the date of correction of the deficiencies or, if applicable, the date the license of the facility is terminated.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99907 Termination of daily penalties; failure of Medicaid facility to remove immediate and serious threat after appointment of temporary management. ([NRS 449.037](#), [449.165](#))

1. The daily accrual of a monetary penalty must end if the facility demonstrates that substantial improvements have been made to correct the deficiencies and that the health, safety and well-being of recipients are adequately protected and safeguarded.

2. A monetary penalty may be imposed on a daily basis for not longer than 6 months, after which the Bureau shall deny, suspend or revoke the license of the facility and, if the facility is a Medicaid facility and major deficiencies remain, request the Division of Health Care Financing and Policy to terminate the Medicaid provider agreement of the facility.

3. If a deficiency in a Medicaid facility presents an immediate and serious threat and continues to exist on the 23rd day after the appointment of temporary management, the Bureau shall request the Division of Health Care Financing and Policy to terminate the Medicaid provider agreement of the facility.

4. If the provider can supply credible evidence that substantial compliance with participation requirements was attained on a date preceding that of the survey, monetary penalties accrue only until that date of correction for which there is credible evidence. As used in this subsection, "credible evidence" means actual documentation that compliance has been achieved.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

NAC 449.99908 Time for payment of penalties. ([NRS 449.037](#), [449.165](#))

1. Initial monetary penalty assessment payments are due within 15 days after the notice of the penalty and must be paid irrespective of any administrative appeal.

2. The daily monetary penalty is due and must be paid within 15 days after compliance is verified or termination of a license is effective and the facility is notified of the amount of the total daily monetary penalty and interest due.

3. If the facility has appealed a decision imposing a monetary penalty, the daily penalty is due and must be paid after the final administrative decision is rendered and 15 days after the facility has been notified of the amount of the total daily penalty and interest due.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99909 Assessment of interest on unpaid balance of penalty. ([NRS 449.037](#), [449.165](#)) Unless it is waived as provided in this chapter, interest at the rate prescribed in [NRS 449.163](#) will be assessed on the unpaid balance of the penalty, beginning on the due date.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.9991 Recovery of costs for collection of penalty. ([NRS 449.037](#), [449.165](#)) Any costs, including attorney's fees, incurred by the Bureau or the Health Division in the collection of any monetary penalty may be recovered from the facility.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99911 Failure to pay penalty: Suspension of license of facility. ([NRS 449.037](#), [449.165](#))

1. If the facility fails to pay a monetary penalty, the Health Division may suspend the license of the facility.

2. The Health Division shall, in accordance with the requirements of [NAC 439.345](#), provide notice of its intention to suspend the license of the facility.

3. If the facility fails to pay the monetary penalty, including any additional costs incurred in collection of the penalty, within 10 days after receipt of the notice, the Health Division shall suspend the license of the facility. The suspension must not be stayed during the pendency of any administrative appeal.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R044-97, 10-30-97)

NAC 449.99912 Disposition of money collected. ([NRS 449.037](#))

1. Unless otherwise required by federal law, money collected by the Health Division as administrative sanctions must be deposited into a separate fund and applied to the protection of the health, safety, well-being and property of recipients, including residents of facilities that the Health Division finds deficient.

2. Any of the following applications of money collected, without limitation, are permissible:

(a) Reimbursement of costs related to the operation of a facility pending correction of deficiencies or closure;

(b) Reimbursement of residents for personal money lost; and

(c) Payment of the cost of relocating residents to other facilities.

(Added to NAC by Bd. of Health, eff. 8-1-91)

Temporary Management

NAC 449.99915 Appointment of temporary manager when there is immediate and serious threat: Notice; effect of failure to accept manager and to remove threat. ([NRS 449.037](#), [449.165](#), [449.170](#))

1. If a temporary manager is to be appointed, the Bureau shall orally notify the facility of the appointment. Written notice that complies with the requirements of [NAC 439.345](#) must be mailed within 48 hours after the oral notice.

2. If the facility does not accept the temporary manager or a temporary manager is not available within 10 days after the date of the deficiency, and the immediate and serious threat is not removed, the Bureau shall deny, suspend or revoke the license of the facility and, if applicable, shall recommend to the Division of Health Care Financing and Policy termination or suspension of the Medicaid provider agreement of the facility.

3. If the facility accepts the temporary manager, the Bureau shall:

(a) Notify the facility that, unless it removes the immediate and serious threat, its license will be denied, suspended or revoked pursuant to [NRS 449.160](#); and

(b) If applicable, recommend to the Division of Health Care Financing and Policy that the Medicaid provider agreement of the facility be terminated, effective on the 23rd day after the date of appointment of the temporary manager.

4. If the immediate and serious threat is not removed on or before the 23rd day after the appointment of the temporary manager, the Bureau shall deny, suspend or revoke the license of the facility and, if applicable, recommend to the Division of Health Care Financing and Policy that the Medicaid provider agreement be terminated.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R044-97, 10-30-97; R051-02, 7-24-2002)

NAC 449.99916 Appointment of temporary manager when there is no immediate and serious threat: Notice. ([NRS 449.037](#), [449.170](#)) Appointment of a temporary manager where there is not an immediate and serious threat must be made in conformity with the provisions for notice contained in [NAC 439.345](#).

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R044-97, 10-30-97)

NAC 449.99917 Temporary manager: Qualifications. ([NRS 449.037](#))

1. The temporary manager must:

(a) Be a person qualified to operate the facility pursuant to the provisions of [chapter 449](#) of NRS relating to the licensing of the facility;

(b) Demonstrate prior competency as an administrator of a medical facility or a facility for the dependent or have other relevant experience pertinent to the deficiencies identified; and

(c) Have had no disciplinary action taken against him by any licensing board or professional society in any state.

2. The temporary manager may be an employee of the Health Division or a private person or agency that contracts with the Health Division to serve in that capacity.

3. The temporary manager must not be:

(a) An employee of the facility or an affiliated facility; or

(b) A person or agency that has served as a consultant to the facility or an affiliated facility within the 2 years preceding the appointment of the temporary manager.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99918 Temporary manager: Authority. ([NRS 449.037](#), [449.165](#)) The temporary manager may take such action as is required to mitigate the immediate danger at the facility, including, without limitation, providing for the safe transfer of residents or prohibiting the transfer of residents.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99919 Effect of failure to agree to appointment of or to relinquish authority to temporary manager. ([NRS 449.037](#), [449.165](#)) If a facility fails to agree to the appointment of a temporary manager or fails to relinquish authority to the temporary manager, the Health Division shall:

1. Request the Attorney General to bring an action pursuant to [NRS 439.565](#);

2. Deny, suspend or revoke the license of the facility; and

3. If applicable, request the Division of Health Care Financing and Policy to terminate the provider agreement of the facility in accordance with the requirements of the Medicaid program.
(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

NAC 449.9992 Events requiring termination of management; initiation of judicial proceedings. ([NRS 449.037](#), [449.165](#))

1. Temporary management of a facility must be terminated if the Bureau determines that:

(a) The facility has substantially corrected the deficiency and has secured management capable of ensuring continued compliance with applicable state and federal statutes, regulations, conditions and standards; or

(b) The license of the facility has been denied, revoked or suspended.

2. If temporary management will be needed for more than 24 days, the Bureau shall request the Attorney General to initiate judicial proceedings as authorized by [NRS 439.565](#).

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99921 Payment of costs and expenses. ([NRS 449.037](#), [449.165](#)) The costs and expenses of temporary management, including the compensation of the manager, must be paid by the facility through the Bureau while the temporary manager is assigned to the facility.

(Added to NAC by Bd. of Health, eff. 8-1-91)

Closure of Facility and Transfer of Residents

NAC 449.99925 Authority of Bureau. ([NRS 449.037](#)) The Bureau shall in an emergency deny, suspend or revoke the license of a facility and, in the case of a residential facility that is no longer licensed to operate, arrange for the appointment of a temporary manager to oversee the timely and orderly transfer of any residents. This sanction may be used only if other less drastic measures are inadequate to prevent or remove a serious threat to the health, safety and well-being of recipients and, in the case of a residential facility, the action is deemed necessary to safeguard and protect the health of residents of the facility.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99926 Requirements for notification. ([NRS 449.037](#))

1. Except as otherwise provided in subsection 2, if the Bureau proposes to close a facility, the Health Division shall, at least 5 days before the transfer, notify or cause to be notified personally or by written or telephonic means:

(a) Each recipient; and

(b) Any person indicated on the record of the recipient as a person to be notified in case of an emergency,

↳ of the nature of the emergency and the proposed transfer.

2. In an acute emergency, residents may be transferred without prior notice. As used in this subsection, “acute emergency” means that action must be taken without prior notice as a result of an immediate and serious threat.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99927 Appointment of temporary manager. ([NRS 449.037](#)) If the Bureau denies, revokes or suspends the license of a facility, the Bureau shall appoint a temporary manager to assist in the orderly closure of the facility and, in the case of a residential facility, the transfer of residents.

(Added to NAC by Bd. of Health, eff. 8-1-91)

NAC 449.99928 Bureau to supervise or appoint temporary manager to supervise transfer; imposition of other appropriate sanctions. ([NRS 449.037](#)) If a residential facility is to be closed, the Bureau shall supervise, or appoint a temporary manager to supervise, the orderly transfer of residents. The Bureau may also impose other appropriate sanctions as authorized by the regulations of the Health Division.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

NAC 449.99929 Determination of appropriate placement of residents. ([NRS 449.037](#)) If the residents of a residential facility are to be transferred, the following criteria must be applied by the Bureau or temporary manager responsible for supervising the orderly transfer of residents in the following order to determine the most appropriate placement of each resident:

1. The medical and psychological health of the resident and the suitability of the proposed facility to meet the resident's medical and psychosocial needs;
2. The facility, if any, where the spouse or immediate family member of the resident is a resident; and
3. The geographical proximity of the proposed facility to the immediate family or regular visitors of the resident.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

NAC 449.9993 Rights of appeal for transferred residents. ([NRS 449.037](#)) Except in cases of emergency or termination of the license of a facility, the rights of appeal provided by federal and state statutes or regulations governing the transfer of residents apply to residents who are transferred.

(Added to NAC by Bd. of Health, eff. 8-1-91)

Facilities Participating in Medicaid

NAC 449.99935 Authorized recommendations in addition to available sanctions. ([NRS 449.037](#)) For a facility that participates in Medicaid, in addition to imposing any sanction authorized by [NAC 449.99863](#), the Bureau may recommend to the Division of Health Care Financing and Policy:

1. That the provider agreement of the facility be terminated.
2. That Medicaid payment for new admissions be denied.
3. That Medicaid payment for certain diagnostic categories or certain types of specialized care be denied.
4. That all or part of the Medicaid payments to the facility be suspended.
5. That the facility be allowed to continue to participate as a Medicaid facility for 6 months after the date of the survey if:
 - (a) The Bureau finds that it is more appropriate to impose alternative sanctions than to recommend termination of the facility from the Medicaid program;
 - (b) The facility has submitted an acceptable plan of correction;
 - (c) The Bureau approves the plan of correction; and
 - (d) The facility agrees to repay the Federal Government for any payments received under the Medicare or Medicaid program if timely corrective action is not taken in accordance with the approved plan of correction.

↪ If the facility does not substantially correct the cited deficiencies within 6 months after the last day of the survey, the Bureau shall recommend that the Division of Health Care Financing and Policy terminate the Medicaid agreement of any facility whose participation was continued under these conditions.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

NAC 449.99936 Withholding of monetary penalties from payments owed to facility. (NRS 449.037)

1. The amount of any monetary penalty owed by a Medicaid facility, if it has been determined, may be deducted from any money otherwise owed to the facility by the Division of Health Care Financing and Policy.

2. If the facility does not pay a monetary penalty by the date it is due and no extension of time to pay is granted, the administrator of the Health Division shall notify the Administrator of the Division of Health Care Financing and Policy of the amount of the penalty due and owing and shall request withholding of the amount owed.

3. The Administrator of the Division of Health Care Financing and Policy shall take the appropriate steps to withhold the amount of the monetary penalty owed, including any interest and costs of collection, from the Medicaid payment otherwise due the facility. Money so withheld must be remitted to the Health Division for deposit in the special fund established pursuant to [NAC 449.99912](#). Money withheld for costs of collection must be applied by the Administrator of the Health Division to the account incurring the costs.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

NAC 449.99937 Denial of payments for new admissions generally. (NRS 449.037)

1. The Bureau may request the Division of Health Care Financing and Policy to deny Medicaid payment to a facility for new admissions if:

(a) The facility does not substantially correct the deficiencies within 90 days or within the time required by federal Medicaid law after the facility is notified by the Bureau of the deficiencies; or

(b) The Bureau has cited a facility with substandard quality of care (severity score of level three or more and scope of level three) on two of the last three consecutive standard surveys.

2. If the facility achieves and maintains compliance with the requirements, the Bureau shall request the Division of Health Care Financing and Policy to resume payments to the facility prospectively, effective on the date compliance was achieved.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

NAC 449.99938 Denial of payments for new admissions who have certain specified diagnoses or special care needs. (NRS 449.037)

1. The Bureau may request the Division of Health Care Financing and Policy to deny payment to a facility for new admissions who have certain specified diagnoses or special care needs if:

(a) The facility is not currently able to provide appropriate care, services or treatment for those persons; or

(b) Caring for those persons will adversely affect care provided to other recipients.

2. If the facility achieves and maintains compliance with the requirements, the Bureau must request the Division of Health Care Financing and Policy to resume payment to the facility prospectively, effective on the date compliance was achieved.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)

NAC 449.99939 Suspension of payments for services furnished to Medicaid recipient on or after date of deficiency. ([NRS 449.037](#))

1. The Bureau may request the Division of Health Care Financing and Policy to suspend all or part of the Medicaid payments to a facility for services furnished to a Medicaid recipient on or after the date of the deficiency, regardless of whether the recipient was admitted before, on or after the date of the deficiency.

2. If the facility achieves compliance with the requirements, the Bureau shall request the Division of Health Care Financing and Policy to resume payments retroactively.

(Added to NAC by Bd. of Health, eff. 8-1-91; A by R051-02, 7-24-2002)