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May 21, 2013

Congress of the United States
House of Representatives
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington DC 20515-6115

Re: Nevada's response to abortion clinic regulation inquiry

Dear Committee Members:

Attached you will find Nevada's response to your letter dated May 8, 2013 which requests information concerning the regulation and monitoring of abortion clinics. We are also providing you with the pertinent statutes and regulation.

I certify that a diligent search has been completed of all relative documents in our possession, custody, and control which answer the questions provided in your letter. In addition, no documents responsive to the request have been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee since the date of receiving the Committee's request. All documents identified during the search that are responsive to the Committee's request are being submitted.

Respectfully,

A handwritten signature in blue ink, appearing to read "Michael J. Willden".

Michael J. Willden
Director

MW/kd

Attachments: Response to questions
Applicable Nevada Revised Statutes
Applicable Nevada Administrative Codes

Nevada's response to the Committee on Energy and Commerce's inquiry dated May 8, 2013, regarding abortion clinics

Please see below for Nevada's answers to the abortion regulation questions stated in the Committee on Energy and Commerce's letter of May 8, 2013. All questions are numbered and preceded by a "Q." Applicable answers immediately follow each question and are designated by an "A" and the same number as the question it addresses.

Q1. Does your state license abortion clinics or those facilities and providers who perform abortions?

A1. Nevada does not license abortion clinics per se. However, some clinics are regulated and receive permits due to Nevada Revised Statutes (NRS) 449.442(1). These statutes require physician offices and other health care facilities that offer the services of sedation or general anesthesia to become permitted by the Nevada State Health Division. In those instances when sedation or general anesthesia is not used, the physicians performing abortion procedures would only be regulated by their professional licensing boards. In the case of a physician office/clinic where sedation/general anesthesia is offered, the permitting process includes an application and inspection for compliance with Nevada Administrative Code (NAC) 449.9994 through 449.999448. These "Outpatient Facilities" (Nevada's term) must meet several of the same infection control requirements as licensed ambulatory surgery centers but don't have to achieve the same construction standards. In addition, outpatient facilities must obtain accreditation from a nationally recognized accrediting organization in accordance with NRS 449.442(2).

Since the term outpatient facility is not synonymous with abortion clinic and since Nevada doesn't gather specific information about the reasons why a particular facility offers sedation/general anesthesia, we can only estimate the number of outpatient facilities associated with abortion. It appears that 2 of the 44 permitted outpatient facilities may provide abortion services.

Q2. For the years 2008-2013, please identify each abortion clinic for which your state has suspended or revoked its license and the reason for this action.

A2. NRS 449.442(1) became effective October 1, 2010. The two outpatient facilities that appear to be associated with abortion were permitted July and October of 2011. The Nevada State Health Division has not taken any action to suspend or revoke the permits for either of these facilities.

Q3. Does your state conduct inspections of abortion clinics or facilities that perform abortions?

A3. Outpatient facilities must be inspected on an annual basis according to NRS 449.446(1). For the two facilities possibly associated with abortions: 1) Permit #6143 was inspected on 7/20/2011 and 9/18/12; and 2) Permit #6131 was inspected 10/26/11 and 11/26/12. Inspections are conducted by trained staff that uses several inspection tools to assess compliance with regulatory requirements. Inspectors make observations, conduct interviews, review records and document violations. Facilities are provided with a report of findings after each inspection and must respond with an acceptable plan of correction.

Q4. Does your state monitor complaints or adverse health events relating to abortions? If so, how are these complaints filed and processed? How many complaints relating to abortions or abortion clinics have been filed for each year from 2008-2013?

A4. The Nevada State Health Division accepts complaints regarding all licensed and permitted health facilities. Complaints may come in any form and are input into a computerized tracking system. Complaints are then prioritized and investigated based on a priority/time to investigate protocol. For the two facilities possibly associated with abortions, only one facility has had complaints filed. The Health Division received 2 complaints against Permit #6131 on 11/15/2011 and 12/8/2011. All allegations in both complaints were not substantiated.

Staff who are trained in investigation methods conduct investigations using standard investigative techniques, including documenting observations, conducting interviews, reviewing records and collecting evidence. After each investigation, the facility is provided with a report of findings. If violations are identified, the facility must respond with an acceptable plan of correction. Complainants are notified regarding the findings for each allegation.

Q5. Please explain whether your state, including state professional licensure boards, has initiated any disciplinary actions against facilities or health care providers relating to abortions?

A5. The Nevada State Health Division has not taken any disciplinary actions regarding the two outpatient facilities possibly associated with abortions.

Q6. Please provide copies of the rules and regulations that govern facilities and licensed health care providers in your state that perform abortions, including the rules and regulations that specifically govern how abortions are conducted in your state.

A6. Nevada's rules and regulations regarding outpatient facilities are attached. These rules do not specifically address abortions or abortion clinics; rather, they address outpatient facilities that provide services of sedation or general anesthesia.

The Nevada State Health Division is responsible for enforcing all laws and regulations specifically associated with outpatient facilities in Nevada.

Q7. a) What actions has your state taken since 2005 to ensure that, at every licensed health care facility that provides abortions, there is a designated individual to report suspected medical neglect (including withholding of medically indicated treatment from disabled infants with life-threatening conditions) of born-alive infants to the state child protective services agency? Has the state received any such notifications and what were the outcomes?

As stated in question "1" the State of Nevada does not license abortion clinics per se. However, some clinics are regulated and receive permits due to Nevada Revised Statutes (NRS) 449.442(1). These statutes require physician offices and other health care facilities that offer the services of sedation or general anesthesia to become permitted by the Nevada State Health Division. As stated previously only 2 of the 44 permitted outpatient facilities may provide abortion services. CAPTA has no federal mandatory reporting provision, but rather requires states to pass mandatory reporting provision in order to receive federal grants. NRS 432B.220 are the mandatory reporting requirements for the State of Nevada and the law specifies the persons required to make reports. We have not received any notifications of withholding of medically indicated treatment of born alive-infants with life-threatening conditions.

b) Does your state child protective services agency annually contact each health care facility to obtain purpose of coordination, and notification pursuant to 45 CFR section 1340.15? Does this contact include health care facilities that provide abortions?

The Nevada State Child Protective Services Agency contacts health care facilities through the investigative process. As stated in Question "7" the State of Nevada does not license abortion clinics and only two in the State of Nevada have permits. NRS 432B.260-270 provides procedures for responding to the reporting of medical neglect and the investigative action upon the receipt of a report that are required by a child welfare services agency. During any assigned investigation the child protective services agency contacts any health care facility for the purpose of coordination, consultation and notification.

ABORTION

NRS 442.240 “Abortion” defined. As used in [NRS 442.240](#) to [442.270](#), inclusive, unless the context requires otherwise, “abortion” means the termination of a human pregnancy with an intention other than to produce the birth of an infant capable of sustained survival by natural or artificial supportive systems or to remove a dead fetus.

(Added to NRS by 1973, 1637; A 1981, 1163; 1985, 2307)

NRS 442.250 Conditions under which abortion permitted. [\[NRS 442.250](#) was submitted to and approved by referendum at the 1990 general election and therefore is not subject to legislative amendment or repeal.]

1. No abortion may be performed in this state unless the abortion is performed:

(a) By a physician licensed to practice in this state or by a physician in the employ of the government of the United States who:

(1) Exercises his or her best clinical judgment in the light of all attendant circumstances including the accepted professional standards of medical practice in determining whether to perform an abortion; and

(2) Performs the abortion in a manner consistent with accepted medical practices and procedures in the community.

(b) Within 24 weeks after the commencement of the pregnancy.

(c) After the 24th week of pregnancy only if the physician has reasonable cause to believe that an abortion currently is necessary to preserve the life or health of the pregnant woman.

2. All abortions performed after the 24th week of pregnancy or performed when, in the judgment of the attending physician, there is a reasonable likelihood of the sustained survival of the fetus outside of the womb by natural or artificial supportive systems must be performed in a hospital licensed under [chapter 449](#) of NRS.

3. Before performing an abortion pursuant to subsection 2, the attending physician shall enter in the permanent records of the patient the facts on which the physician based his or her best clinical judgment that there is a substantial risk that continuance of the pregnancy would endanger the life of the patient or would gravely impair the physical or mental health of the patient.

(Added to NRS by 1973, 1637; A 1975, 367; 1977, 961; 1981, 1164; 1985, 2307)

NRS 442.252 Physician to certify informed consent, marital status and age of woman before performing abortion. No physician may perform an abortion in this state unless, before the physician performs it, he or she certifies in writing that the woman gave her informed written consent, freely and without coercion. The physician shall further certify in writing the pregnant woman’s marital status and age based upon proof of age offered by her.

(Added to NRS by 1981, 1162; A 1985, 2308)

NRS 442.253 Requirements for informed consent.

1. The attending physician or a person meeting the qualifications established by regulations adopted by the Health Division shall accurately and in a manner which is reasonably likely to be understood by the pregnant woman:

(a) Explain that, in his or her professional judgment, she is pregnant and a copy of her pregnancy test is available to her.

(b) Inform her of the number of weeks which have elapsed from the probable time of conception.

(c) Explain the physical and emotional implications of having the abortion.

(d) Describe the medical procedure to be used, its consequences and the proper procedures for her care after the abortion.

2. The attending physician shall verify that all material facts and information, which in the professional judgment of the physician are necessary to allow the woman to give her informed consent, have been provided to her and that her consent is informed.

3. If the woman does not understand English, the form indicating consent must be written in a language understood by her, or the attending physician shall certify on the form that the information required to be given has been presented in such a manner as to be understandable by her. If an interpreter is used, the interpreter must be named and reference to this use must be made on the form for consent.

(Added to NRS by 1981, 1162; A 1985, 2308)

NRS 442.255 Notice to custodial parent or guardian; request for authorization for abortion; rules of civil procedure inapplicable.

1. Unless in the judgment of the attending physician an abortion is immediately necessary to preserve the patient's life or health or an abortion is authorized pursuant to subsection 2 or [NRS 442.2555](#), a physician shall not knowingly perform or induce an abortion upon an unmarried and unemancipated woman who is under the age of 18 years unless a custodial parent or guardian of the woman is personally notified before the abortion. If the custodial parent or guardian cannot be so notified after a reasonable effort, the physician shall delay performing the abortion until the physician has notified the parent or guardian by certified mail at the last known address of the parent or guardian.

2. An unmarried or unemancipated woman who is under the age of 18 years may request a district court to issue an order authorizing an abortion. If so requested, the court shall interview the woman at the earliest practicable time, which must be not more than 2 judicial days after the request is made. If the court determines, from any information provided by the woman and any other evidence that the court may require, that:

- (a) She is mature enough to make an intelligent and informed decision concerning the abortion;
- (b) She is financially independent or is emancipated; or
- (c) The notice required by subsection 1 would be detrimental to her best interests,

↪ the court shall issue an order within 1 judicial day after the interview authorizing a physician to perform the abortion in accordance with the provisions of [NRS 442.240](#) to [442.270](#), inclusive.

3. If the court does not find sufficient grounds to authorize a physician to perform the abortion, it shall enter an order to that effect within 1 judicial day after the interview. If the court does not enter an order either authorizing or denying the performance of the abortion within 1 judicial day after the interview, authorization shall be deemed to have been granted.

4. The court shall take the necessary steps to ensure that the interview and any other proceedings held pursuant to this subsection or [NRS 442.2555](#) are confidential. The rules of civil procedure do not apply to any action taken pursuant to this subsection.

(Added to NRS by 1981, 1163; A 1985, 2309)

NRS 442.2555 Procedure if district court denies request for authorization for abortion: Petition; hearing on merits; appeal.

1. If the order is denied pursuant to [NRS 442.255](#), the court shall, upon request by the minor if it appears that she is unable to employ counsel, appoint an attorney to represent her in the preparation of a petition, a hearing on the merits of the petition, and on an appeal, if necessary. The compensation and expenses of the attorney are a charge against the county as provided in the following schedule:

- (a) For consultation, research and other time reasonably spent on the matter, except court appearances, \$20 per hour.
- (b) For court appearances, \$30 per hour.

2. The petition must set forth the initials of the minor, the age of the minor, the estimated number of weeks elapsed from the probable time of conception, and whether maturity, emancipation, notification detrimental to the minor's best interests or a combination thereof are relied upon in avoidance of the notification required by [NRS 442.255](#). The petition must be initialed by the minor.

3. A hearing on the merits of the petition, on the record, must be held as soon as possible and within 5 judicial days after the filing of the petition. At the hearing the court shall hear evidence relating to:

- (a) The minor's emotional development, maturity, intellect and understanding;
- (b) The minor's degree of financial independence and degree of emancipation from parental authority;
- (c) The minor's best interests relative to parental involvement in the decision whether to undergo an abortion;

and

(d) Any other evidence that the court may find useful in determining whether the minor is entitled to avoid parental notification.

4. In the decree, the court shall, for good cause:

(a) Grant the petition, and give judicial authorization to permit a physician to perform an abortion without the notification required in [NRS 442.255](#); or

(b) Deny the petition, setting forth the grounds on which the petition is denied.

5. An appeal from an order issued under subsection 4 may be taken to the Supreme Court, which shall suspend the Nevada Rules of Appellate Procedure pursuant to [NRAP 2](#) to provide for an expedited appeal. The notice of intent to appeal must be given within 1 judicial day after the issuance of the order. The record on appeal must be perfected within 5 judicial days after the filing of the notice of appeal and transmitted to the Supreme Court. The

Court, shall, by court order or rule, provide for a confidential and expedited appellate review of cases appealed under this section.

(Added to NRS by 1985, 2306)

NRS 442.256 Records. A physician who performs an abortion shall maintain a record of it for at least 5 years after it is performed. The record must contain:

1. The written consent of the woman;
2. A statement of the information which was provided to the woman pursuant to [NRS 442.253](#); and
3. A description of efforts to give any notice required by [NRS 442.255](#).

(Added to NRS by 1981, 1163; A 1985, 2310)

NRS 442.257 Criminal penalty. Any person who violates any provision of [NRS 442.252](#) to [442.256](#), inclusive, is guilty of a misdemeanor.

(Added to NRS by 1981, 1163)

NRS 442.260 Health Division to adopt regulations governing performance and reporting of abortions.

1. The Health Division shall adopt and enforce regulations governing the conditions under and the methods by which abortions may be performed, the reasonable minimum qualifications of a person authorized to provide the information required in [NRS 442.253](#), as well as all other aspects pertaining to the performance of abortions pursuant to [NRS 442.250](#).

2. The Health Division shall adopt and enforce regulations for a system for reporting abortions. This system must be designed to preserve confidentiality of information on the identity of women upon whom abortions are performed. The Health Division may require that the following items be reported for each abortion:

- (a) The date of the abortion;
- (b) The place of the abortion including the city, county and state;
- (c) The type of facility;
- (d) The usual residence of the woman, including the city, county and state;
- (e) Her age;
- (f) Her ethnic group or race;
- (g) Her marital status;
- (h) The number of previous live births;
- (i) The number of previous induced abortions;
- (j) The duration of her pregnancy, as measured from first day of last normal menses to date of abortion, and as estimated by uterine size prior to performance of the abortion;
- (k) The type of abortion procedure; and
- (l) If a woman has had a previously induced abortion, the information in paragraphs (a) to (k), inclusive, or as much thereof as can be reasonably obtained, for each previous abortion.

3. The Health Division may adopt regulations to permit studies of individual cases of abortion, but these studies must not be permitted unless:

- (a) Absolute assurance is provided that confidentiality of information on the persons involved will be preserved;
- (b) Informed consent of each person involved in the study is obtained in writing;
- (c) The study is conducted according to established standards and ethics; and
- (d) The study is related to problems of health and has scientific merit with regard to both design and the importance of the problems to be solved.

(Added to NRS by 1973, 1638; A 1973, 1406; 1985, 2310)

NRS 442.265 Hospital to submit monthly report to State Registrar of Vital Statistics. Each hospital shall submit a monthly report to the State Registrar of Vital Statistics which contains the following information:

1. The number of patients admitted for hospital care for a complication which resulted from an abortion;
2. The nature of the complication by its diagnostic name; and
3. The type of abortion.

(Added to NRS by 1981, 1941)

NRS 442.268 Civil immunity of person performing judicially authorized abortion in accordance with provisions of [NRS 442.240](#) to [442.270](#), inclusive. If an abortion is judicially authorized and the provisions of [NRS 442.240](#) to [442.270](#), inclusive, are complied with, an action by the parents or guardian of the minor against persons performing the abortion is barred. This civil immunity extends to the performance of the abortion and any

necessary accompanying services which are performed in a competent manner. The costs of the action, if brought, must be borne by the parties respectively.

(Added to NRS by 1985, 2307)

NRS 442.270 Liability for failure to exercise reasonable care to preserve life of infant born as result of attempted abortion. Whenever an abortion results in the birth of an infant capable of sustained survival by natural or artificial supportive systems, the failure to take all reasonable steps, in keeping with good medical practice, to preserve the life and health of the infant subjects the person performing the abortion to the laws of this state governing criminal liability and civil liability for wrongful death and medical malpractice.

(Added to NRS by 1973, 1639; A 1975, 368; 1985, 2311)

PERMIT FOR SERVICES OF GENERAL ANESTHESIA, CONSCIOUS SEDATION AND DEEP SEDATION; NATIONAL ACCREDITATION; INSPECTIONS OF SURGICAL CENTERS FOR AMBULATORY PATIENTS AND CERTAIN PHYSICIANS' OFFICES AND FACILITIES

NRS 449.435 Definitions. As used in [NRS 449.435](#) to [449.448](#), inclusive, unless the context otherwise requires, the words and terms defined in [NRS 449.436](#) to [449.439](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by [2009, 528](#))

NRS 449.436 "Conscious sedation" defined. "Conscious sedation" means a minimally depressed level of consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, in which the patient retains the ability independently and continuously to maintain an airway and to respond appropriately to physical stimulation and verbal commands.

(Added to NRS by [2009, 528](#))

NRS 449.437 "Deep sedation" defined. "Deep sedation" means a controlled state of depressed consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by a partial loss of protective reflexes and the inability to respond purposefully to verbal commands.

(Added to NRS by [2009, 528](#))

NRS 449.438 "General anesthesia" defined. "General anesthesia" means a controlled state of unconsciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by partial or complete loss of protective reflexes and the inability independently to maintain an airway and respond purposefully to physical stimulation or verbal commands.

(Added to NRS by [2009, 528](#))

NRS 449.439 "Physician" defined. "Physician" means a person who is licensed to practice medicine pursuant to [chapter 630](#) of NRS or osteopathic medicine pursuant to [chapter 633](#) of NRS.

(Added to NRS by [2009, 528](#))

NRS 449.441 Exemption from provisions if physician's office or facility only administers certain type of pain medication. The provisions of [NRS 449.435](#) to [449.448](#), inclusive, do not apply to an office of a physician or a facility that provides health care, other than a medical facility, if the office of a physician or the facility only administers a medication to a patient to relieve the patient's anxiety or pain and if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

(Added to NRS by [2009, 529](#))

NRS 449.442 Permit required for certain physicians' offices and facilities to offer services; national accreditation required; cessation of services for failure to maintain accreditation.

1. An office of a physician or a facility that provides health care, other than a medical facility, must obtain a permit pursuant to [NRS 449.443](#) before offering to a patient a service of general anesthesia, conscious sedation or deep sedation. An office of a physician or a facility that provides health care, other than a medical facility, which operates at more than one location must obtain a permit for each location where a service of general anesthesia, conscious sedation or deep sedation is offered.

2. To offer to a patient a service of general anesthesia, conscious sedation or deep sedation in this State, an office of a physician or a facility that provides health care, other than a medical facility, must maintain current accreditation by a nationally recognized organization approved by the Board. Upon receiving an initial permit, the office or facility shall, within 6 months after obtaining the permit, submit proof to the Health Division of accreditation by such an organization.

3. If an office of a physician or a facility that provides health care, other than a medical facility, fails to maintain current accreditation or if the accreditation is revoked or is otherwise no longer valid, the office or facility shall immediately cease offering to patients a service of general anesthesia, conscious sedation or deep sedation.

(Added to NRS by [2009, 529](#))

NRS 449.443 Application for permit; fee; inspection by Health Division; term of permit.

1. An office of a physician or a facility that provides health care, other than a medical facility, desiring a permit pursuant to [NRS 449.435](#) to [449.448](#), inclusive, must submit to the Health Division, on a form prescribed by the Health Division and accompanied by the appropriate fee, an application for a permit.

2. Before issuing a permit, the Health Division shall conduct an on-site inspection pursuant to [NRS 449.446](#) of each office of a physician or facility that applies for a permit.

3. Upon receipt of an application and the appropriate fee, the Health Division may, after conducting an inspection pursuant to [NRS 449.446](#), issue a permit.

4. A permit expires 1 year after the date of issuance and is renewable pursuant to [NRS 449.444](#).
(Added to NRS by [2009, 529](#))

NRS 449.444 Application for renewal of permit; fee.

1. The holder of a permit issued pursuant to [NRS 449.443](#) may annually submit to the Health Division, on a form prescribed by the Health Division and accompanied by the appropriate fee, an application for renewal of the permit before the date on which the permit expires. The application must include proof satisfactory to the Health Division that the office or facility maintains current accreditation by a nationally recognized organization approved by the Board.

2. Upon receipt of an application for renewal and the accompanying fee, the Health Division may renew a permit.

(Added to NRS by [2009, 529](#))

NRS 449.445 National accreditation required of surgical center for ambulatory patients; inspection by Health Division; cessation of operation for failure to maintain accreditation.

1. To operate in this State, a surgical center for ambulatory patients must maintain current accreditation by a nationally recognized organization approved by the Board. Upon initial licensure, a surgical center for ambulatory patients shall, within 6 months after obtaining its license, submit proof to the Health Division of the accreditation of the surgical center by such an organization.

2. Before issuing a license to a surgical center for ambulatory patients, the Health Division shall conduct an on-site inspection of the surgical center pursuant to [NRS 449.446](#).

3. If a surgical center for ambulatory patients fails to maintain current accreditation or if the accreditation is revoked or is otherwise no longer valid, the surgical center shall immediately cease to operate.

(Added to NRS by [2009, 529](#))

NRS 449.446 Annual inspections of holders of permits and surgical centers for ambulatory patients; correction of deficiencies identified in inspections; reporting of inspections to Legislature.

1. The Health Division shall conduct annual and unannounced on-site inspections of each office of a physician or a facility that provides health care, other than a medical facility, which holds a permit issued pursuant to [NRS 449.443](#) and each surgical center for ambulatory patients which holds a license issued pursuant to this chapter.

2. An inspection conducted pursuant to this section must focus on the infection control practices and policies of the surgical center for ambulatory patients, the office or the facility that is the subject of the inspection. The Health Division may, as it deems necessary, conduct a more comprehensive inspection of a surgical center, office or facility.

3. Upon completion of an inspection, the Health Division shall:

(a) Compile a report of the inspection, including each deficiency discovered during the inspection, if any; and

(b) Forward a copy of the report to the surgical center for ambulatory patients, the office of the physician or the facility where the inspection was conducted.

4. If a deficiency is indicated in the report, the surgical center for ambulatory patients, the office of the physician or the facility shall correct each deficiency indicated in the report in the manner prescribed by the Board pursuant to [NRS 449.448](#).

5. The Health Division shall annually prepare and submit to the Legislative Committee on Health Care and the Legislative Commission a report which includes:

(a) The number and frequency of inspections conducted pursuant to this section;

(b) A summary of deficiencies or other significant problems discovered while conducting inspections pursuant to this section and the results of any follow-up inspections; and

(c) Any other information relating to the inspections as deemed necessary by the Legislative Committee on Health Care or the Legislative Commission.

(Added to NRS by [2009, 530](#))

NRS 449.447 Violations; penalties; review of reports submitted pursuant to [NRS 630.30665](#) and [633.524](#); reporting to professional licensing board of violations; administrative sanctions.

1. If an office of a physician or a facility that provides health care, other than a medical facility, violates the provisions of [NRS 449.435](#) to [449.448](#), inclusive, or the regulations adopted pursuant thereto, or fails to correct a deficiency indicated in a report pursuant to [NRS 449.446](#), the Health Division, in accordance with the regulations adopted pursuant to [NRS 449.448](#), may take any of the following actions:

- (a) Decline to issue or renew a permit;
- (b) Suspend or revoke a permit; or
- (c) Impose an administrative penalty of not more than \$1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum.

2. The Health Division may review a report submitted pursuant to [NRS 630.30665](#) or [633.524](#) to determine whether an office of a physician or a facility is in violation of the provisions of [NRS 449.435](#) to [449.448](#), inclusive, or the regulations adopted pursuant thereto. If the Health Division determines that such a violation has occurred, the Health Division shall immediately notify the appropriate professional licensing board of the physician.

3. If a surgical center for ambulatory patients violates the provisions of [NRS 449.435](#) to [449.448](#), inclusive, or the regulations adopted pursuant thereto, or fails to correct a deficiency indicated in a report pursuant to [NRS 449.446](#), the Health Division may impose administrative sanctions pursuant to [NRS 449.163](#).

(Added to NRS by [2009, 530](#))

NRS 449.448 Regulations.

1. The Board shall adopt regulations to carry out the provisions of [NRS 449.435](#) to [449.448](#), inclusive, including, without limitation, regulations which:

(a) Prescribe the amount of the fee required for applications for the issuance and renewal of a permit pursuant to [NRS 449.443](#) and [449.444](#).

(b) Prescribe the procedures and standards for the issuance and renewal of a permit.

(c) Identify the nationally recognized organizations approved by the Board for the purposes of the accreditation required for the issuance of a:

(1) License to operate a surgical center for ambulatory patients.

(2) Permit for an office of a physician or a facility that provides health care, other than a medical facility, to offer to a patient a service of general anesthesia, conscious sedation or deep sedation.

(d) Prescribe the procedures and scope of the inspections conducted by the Health Division pursuant to [NRS 449.446](#).

(e) Prescribe the procedures and time frame for correcting each deficiency indicated in a report pursuant to [NRS 449.446](#).

(f) Prescribe the criteria for the imposition of each sanction prescribed by [NRS 449.447](#), including, without limitation:

(1) Setting forth the circumstances and manner in which a sanction applies;

(2) Minimizing the time between the identification of a violation and the imposition of a sanction; and

(3) Providing for the imposition of incrementally more severe sanctions for repeated or uncorrected violations.

2. The regulations adopted pursuant to this section must require that the practices and policies of each holder of a permit to offer to a patient a service of general anesthesia, conscious sedation or deep sedation and each holder of a license to operate a surgical center for ambulatory patients provide adequately for the protection of the health, safety and well-being of patients.

(Added to NRS by [2009, 531](#))

ABORTION

NAC 442.100 Definitions. As used in [NAC 442.100](#) to [442.200](#), inclusive, unless the context otherwise requires, the words and terms defined in [NAC 442.110](#) to [442.170](#), inclusive, have the meanings ascribed to them in those sections.

(Supplied in codification)

NAC 442.110 “Abortion” defined. ([NRS 439.200](#)) “Abortion” has the meaning ascribed to it in [NRS 442.240](#).

[Bd. of Health, Abortion Reg. § 1, eff. 12-1-72; A and renumbered as § 1.1, 2-24-78]

NAC 442.120 “Commencement of pregnancy” defined. ([NRS 439.200](#)) “Commencement of pregnancy” means the time of conception, the time of ovulation or 2 weeks after the first day of the last normal menses.

[Bd. of Health, Abortion Reg. § 2, eff. 12-1-72; A and renumbered as § 1.2, 2-24-78]

NAC 442.130 “First trimester” defined. ([NRS 439.200](#)) “First trimester” means the period from the commencement of pregnancy through the 12th week of pregnancy.

[Bd. of Health, Abortion Reg. § 4, eff. 12-1-72; A and renumbered as § 1.3, 2-24-78]

NAC 442.140 “Health” defined. ([NRS 439.200](#)) “Health” includes, but is not limited to, physical, emotional, psychological and familial considerations.

[Bd. of Health, Abortion Reg. § 7, eff. 12-1-72; A and renumbered as § 1.4, 2-24-78]

NAC 442.150 “Physician” defined. ([NRS 439.200](#)) “Physician” means a physician licensed in this State or employed by the Federal Government.

[Bd. of Health, Abortion Reg. § 3, eff. 12-1-72; A and renumbered as § 1.5, 2-24-78]

NAC 442.160 “Second trimester” defined. ([NRS 439.200](#)) “Second trimester” means the period from the 13th week of pregnancy through the 24th week of pregnancy.

[Bd. of Health, Abortion Reg. § 5, eff. 12-1-72; A and renumbered as § 1.6, 2-24-78]

NAC 442.170 “Third trimester” defined. ([NRS 439.200](#)) “Third trimester” means the period from the 25th week of pregnancy until the termination of the pregnancy.

[Bd. of Health, Abortion Reg. § 6, eff. 12-1-72; A and renumbered as § 1.7, 2-24-78]

NAC 442.180 Required training of counselor; verification by attending physician. ([NRS 442.260](#))

1. A person who counsels a pregnant woman before an abortion to obtain informed consent pursuant to [NRS 442.253](#), must have completed training in:

- (a) Sexual and reproductive health, including development of the fetus;
- (b) The psychological and physiological implications of abortion;
- (c) Locating sources to which the woman may be referred for an abortion, alternatives to abortion, prenatal care, adoption, further counseling before the abortion, financial aid and counseling after the abortion;
- (d) Requirements of informed consent;
- (e) Basic skills for communication and counseling; and

(f) The procedure to be used, its consequences and the proper procedures for care of the woman after the abortion.

2. The attending physician must verify to the Health Division, upon its request, that any person designated by him or her to obtain informed consent of a woman seeking an abortion has received the required training.

[Bd. of Health, Abortion Reg. § 5.0, eff. 12-1-72; A and renumbered as § 2.4, 2-24-78]—
(NAC A by Health Div., eff. 5-16-86)

NAC 442.190 Follow-up physical examinations. (NRS 439.200) An early interruption of a pregnancy must be followed by a suitable physical examination to determine that an ectopic pregnancy has not been left undisturbed following the abortion.

[Bd. of Health, Abortion Reg. § 6.0, eff. 12-1-72; renumbered as § 2.5, 2-24-78]

NAC 442.200 Reports. (NRS 439.200)

1. A form for reporting an abortion must be completed by the physician or the physician's staff for each abortion performed. The contents of the form must be substantially the same as the standard recommended by the National Center for Health Statistics of the United States Public Health Services.

2. The form must be completed in duplicate. The original must be sent to the section of Vital Statistics of the Health Division of the Department of Health and Human Services.

3. Only the physician may retain information identifying the patient by name.

[Bd. of Health, Abortion Reg. §§ 10.0-12.0, eff. 12-1-72; A and renumbered as §§ 3.1-3.3, 2-24-78]