



Joe Lombardo
Governor

NEVADA HEALTH AUTHORITY
DIVISION OF PURCHASING AND COMPLIANCE

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Stacie Weeks
Director

Todd Rich
Administrator

NOTICE OF PUBLIC HEARING

BATTLE MOUNTAIN GENERAL HOSPITAL, 535 SOUTH HUMBOLDT STREET, BATTLE MOUNTAIN, NV 89820, IS REQUESTING A VARIANCE, #795, FROM THE NEVADA STATE BOARD OF HEALTH REGULATIONS.

NOTICE IS HEREBY GIVEN THAT BATTLE MOUNTAIN GENERAL HOSPITAL located at 535 SOUTH HUMBOLDT STREET, BATTLE MOUNTAIN, NV 89820, has requested a variance from Nevada Administrative Code (NAC) 449.3154.2 and the Facility Guidelines Institute, *Guidelines for Design and Construction of Outpatient Facilities*, 2018 Edition.

A public hearing will be conducted on March 6, 2026, at 9:00 am by the Nevada State Board of Health to consider this request. This meeting will be held online and at physical locations, listed below.

Physical Locations:

Southern Nevada Health District (SNHD)
Red Rock Trail Rooms A and B
280 S. Decatur Boulevard; Las Vegas, Nevada 89107

Nevada Division of Public and Behavioral Health (DPBH)
Hearing Room No. 303, 3rd Floor
4150 Technology Way; Carson City, Nevada 89706

Virtual Information

Meeting Link:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_MzU0OWU5NGEtYTtYyNy00MmJlLWI3NDAtMzc3NDMwZTJiYTMy%40thread.v2/0?context=%7b%22id%22%3a%22e4a340e6-b89e-4e68-8eaa-1544d2703980%22%2c%22oid%22%3a%22768e443d-3be6-48f0-9bb0-7e72f1276b8d%22%7d

Please Note: If you experience technical difficulties connecting online, please call into the meeting to participate by phone.

Join by Phone:

1-775-321-6111
Phone Conference ID Number: 915 170 796#

BATTLE MOUNTAIN GENERAL HOSPITAL, located at 535 South Humboldt Street, Battle Mountain, NV 89820 is requesting a variance from NAC 449.3154 which states:

NAC 449.3154(2) states in pertinent part as follows:

Except as otherwise provided in this section, any new construction, remodeling or change in the use of a hospital must comply with the applicable provisions of the guidelines adopted by reference in paragraphs (c) and (d) of subsection 1 of NAC 449.0105, unless the remodeling is limited to refurbishing an area of the hospital, including, without limitation, painting the area, replacing the flooring in the area, repairing windows in the area and replacing window or wall coverings in the area.

NAC 449.0105 states in pertinent part as follows:

1. The State Board of Health hereby adopts by reference:
 - (c) *Guidelines for Design and Construction of Hospitals and Outpatient Facilities*, in the form most recently published by the Facility Guidelines Institute, unless the Board gives notice that the most recent revision is not suitable for this State pursuant to subsection 2. A copy of the guidelines may be obtained from the Facility Guidelines Institute at AHA Services, Inc., P.O. Box 933283, Atlanta, Georgia 31193-3283, at the Internet address <http://shop.fgiguilines.org/> or by telephone at (800) 242-2626, for the price of \$200.

The Facility Guidelines Institute, *Guidelines for Design and Construction of Hospitals* (2018 Edition) states in pertinent part as follows:

2.2-2 Patient Care Units

2.2-2.2 Medical/Surgical Patient Care Unit

2.2-2.2.2 Patient Room

See Section 2.1-2.2 (Patient Room) for requirements in addition to those in this section.

2.2-2.2.2.2 Space Requirements

(2) Clearances

(a) The dimensions and arrangement of rooms shall provide a minimum clearance of 3 feet (91.44 centimeters) between the sides and foot of the bed and any wall or any other fixed obstruction.

2.4-2.2 Critical Access Patient Care Unit

2.4-2.2.2 Patient Room

See Section 2.2-2.2.2 (Medical/Surgical Patient Care Unit-Patient Room) for requirements.

BATTLE MOUNTAIN GENERAL HOSPITAL current standards require at least 3 feet of clearance on the sides and foot of the patient's bed. Applicant claims the encroachments do not interfere with hospital functions, the environment is safe and accommodates patient's comfort. The patient room was measured on August 27, 2025, and it was determined the clearance on both sides of the patient bed, located in Room 362, was less than the required 3 feet. In order for the facility to come into compliance with the 3 feet, the facility would be required to redo the entire project as this project was fully completed on August 21, 2025, with plans being accepted on April 15, 2022. The total project would cost approximately \$587,000.

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

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

Secretary, State Board of Health
Division of Public and Behavioral Health
4150 Technology Way, Suite 300

Carson City, NV 89706

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

This notice has also been posted at the following locations:

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

<https://www.dpbh.nv.gov/boards/board-of-health-boh/>



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NEVADA HEALTH AUTHORITY
DIVISION OF PURCHASING AND COMPLIANCE

NVHA.NV.GOV



Stacie Weeks
Director

Cynthia Leech
Administrator

MEMORANDUM

February 6, 2026

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

From: Cynthia Leech, Administrator
Division of Purchasing and Compliance

RE: Variance Request # 795, for Battle Mountain General Hospital Variance Request to Patient Room Space Requirements

Subject: Request for Variance to Nevada Administrative Code (NAC) 449.3154.2, *Guidelines for Design and Construction of Hospitals*, Section 2.2-2.2.2.2 “Space Requirements.”

Staff Review

Nevada Administrative Code (“NAC”) 449.3154(2) states as follows,

Except as otherwise provided in this section, any new construction, remodeling or change in the use of a hospital must comply with the applicable provisions of the guidelines adopted by reference in paragraphs (c) and (d) of subsection 1 of NAC 449.0105, unless the remodeling is limited to refurbishing an area of the hospital, including, without limitation, painting the area, replacing the flooring in the area, repairing windows in the area and replacing window or wall coverings in the area.

NAC 449.0105 states as follows,

1. The State Board of Health hereby adopts by reference:
 - (c) *Guidelines for Design and Construction of Hospitals and Outpatient Facilities*, in the form most recently published by the Facility Guidelines Institute, unless the Board gives notice that the most recent revision is not suitable for this State pursuant to subsection 2. A copy of the guidelines may be obtained from the Facility Guidelines Institute at AHA Services, Inc., P.O. Box 933283, Atlanta, Georgia 31193-3283, at the Internet address <http://copyfgiguideines.org/> or by telephone at (800) 242-2626, for the price of \$200.

The Facility Guidelines Institute (FGI), *Guidelines for Design and Construction of Hospitals* (2018 Edition) states in pertinent part as follows:

2.2-2 Patient Care Units

2.2-2.2 Medical/Surgical Patient Care Unit

2.2-2.2.2 Patient Room

See Section 2.1-2.2 (Patient Room) for requirements in addition to those in this section.

2.2-2.2.2.2 Space Requirements

(2) Clearances

(a) The dimensions and arrangement of rooms shall provide a minimum clearance of 3 feet (91.44 centimeters) between the sides and foot of the bed and any wall or any other fixed obstruction.

2.4-2.2 Critical Access Patient Care Unit

2.4-2.2.2 Patient Room

(1) See Section 2.2-2.2.2 (Medical/Surgical Patient Care Unit-Patient Room) for requirements.

STAFF REVIEW

On November 17, 2025, Hope Bauer (“Ms. Bauer”), on behalf of Battle Mountain General Hospital (hereinafter “Applicant”) submitted an application for a variance from Nevada Administrative Code (NAC) 449.3154.2, relating to the Patient Room space requirements as related to the clearances of the patient bed in Battle Mountain General Hospital (BMGH), a Critical Access Hospital (CAH), located at 535 South Humboldt Street, Battle Mountain, NV 89820. Applicant asserts coming into compliance with the required clearances would cause an exceptional and undue hardship from a strict application of the regulation. Ms. Bauer claims that current layout is safe and accommodates patients’ comfort.

In review of the application, the findings of the circumstances are unique to the Applicant. The Applicant renovated their existing Acute care unit and Emergency Department, to expand from five (5) Medical/Surgical beds to seven (7) Medical/Surgical beds, two (2), Treatment rooms, an Observation room, and two (2) Exam rooms. The Acute Care department was originally built with five (5) Medical/Surgical beds, with two double occupancy and one single isolation room. The renovated area provides seven (7) single occupancy rooms, with two (2) of the seven (7) designed for isolation and are located directly adjacent to the nurse station. The seven private rooms will provide a safer environment for patients who are being treated for an infectious disease. The renovation of this area to include two additional rooms will allow BMGH to utilize an acute room as a recovery area for procedures. This project is essential to serve the needs of the community as a rural healthcare facility is designed to improve access to essential services to Lander County. Applicant operates twenty-four (24) hours a day, seven (7) days a week.

Applicant is requesting a variance to the requirement of providing three (3) feet of clearance on both sides of the patient bed in Room 362. Due to the existing conditions of the building, one (1) of the seven (7) rooms failed to meet the required clearance on both sides of the patient’s bed after the renovation was complete. On August 27, 2025, the clearance in Patient Room 362 measured 21.25 inches on anatomical left of the patient bed and 26 inches on anatomical right of the patient bed.

Granting this variance is necessary as a CAH faces substantial limitations and is unable to support structural changes of this scale. In order to meet the clearance requirement, as the project is complete, the Applicant would need to redo two (2) of the rooms with increased scope.

Applicant states the regulation would cause significant hardships to the Battle Mountain Community based on the Applicant's location. The Applicant's patients would be required to travel East to Elko or West to Winnemucca; both of which present logistical and safety challenges, particularly for elderly or medically fragile individuals during winter months or medical emergencies. A complete redo of this project would cost the Applicant an estimated \$587,000.

EXCEPTIONAL AND UNDUE HARDSHIP:

The financial hardship as described by Applicant is specific to existing conditions of the building. The finishes would need to be removed on the exterior wall sections to open up the structure. Floors would need to be cut out to install the required foundations. There would be removal of existing structural steel, shoring, and new posts and beams designed, fabricated, and installed. The footing would have impacted the adjacent long-term care (LTC) room for over one (1) year. Once the modified structure is complete, the Applicant would be required to put the new finishes back in place, which includes all new interior and exterior finishes. The Applicant would need to have the heating, ventilation, and air conditioning (HVAC) system re-balanced and tested for the required air changes per hour (ACH).

The Applicant received a bid to complete the scope of work as described above totaling approximately \$587,000. With the facility being a small Critical Access Hospital, the facility would not be able to take on the financial burden of redoing this project. This would result in significant hardship, further delay, deferred maintenance and planned direct patient care enhancements.

DEGREE OF RISK TO PUBLIC HEALTH AND SAFETY:

There is a minimal degree of risk with regards to the one (1) patient room not meeting the required clearances. The Applicant will ensure full compliance with patient safety standards by pushing the bed closer to the column to allow room for a standard sized wheelchair in between the bed and the counter. The utilization of a Hoyer lift would be used to safely lift, move, and lower a patient into a wheelchair. The wheelchair could be placed at the lower end of the bed where there is more room. Although a standard wheelchair will fit, the medical staff would remove the wheelchair armrest and swing away footrests while using a gate belt to create more room to transfer the patient into the wheelchair, move the chair a few feet down where there is more room and replace the armrest and footrests.

INTENT OF THE REGULATION:

The intent of the regulation is to provide at least three (3) feet of clearance on both sides and foot of the bed and any wall or fixed object. The regulation does not state the clearance may only be met on one side; however, this clearance is required to be met on both sides of the bed. This ensures that both staff and patients have sufficient space for safe transfers on and off the bed, while also allowing multiple medical personnel to provide care simultaneously. Additionally, the clearances would be necessary for a nonambulatory patient transferred from a wheelchair. This space would be necessary for staff and equipment.

STAFF RECOMMENDATION:

Staff recommends that the Board of Health approve the request for variance. Battle Mountain General Hospital's remodeling project was to create two additional acute care beds within private, single-occupancy rooms from the originally designed shared occupancy rooms to provide better quality and care to their patients in the Lander County Community. There have been no current or historical patient safety issues, staff safety concerns, or patient care incidents related to the existing clearances in these rooms. Patient safety and accessibility remain central to the Hospital's mission.

Presenter:

Michael Kupper, Acting Health Facilities Inspection Manager
Nevada Health Authority, Division of Purchasing and Compliance

Attachments:

BMGH Floorplan Patient Room Exhibit
BMGH Variance for Acute Room Remodel Budget & Scope
BMGH Revised Variance App 02062026

BEFORE THE STATE BOARD OF HEALTH

IN THE MATTER OF)
BATTLE MOUNTAIN GENERAL)
VARIANCE REQUEST: CASE # 795)

The Nevada State Board of Health (“Board”), having considered the application of Battle Mountain General Hospital for a variance and all other related documents submitted in support of the application in the above referenced matter, makes the following Findings of Fact, Conclusions of Law and Decision.

FINDINGS OF FACT

1. On December 23, 2025, the Division of Public and Behavioral Health (“Division”) received a request for variance from Nevada Administrative Code (NAC) 449.3154.2.
2. NAC 449.3154 (2) states:

Except as otherwise provided in this section, any new construction, remodeling or change in the use of a hospital must comply with the applicable provisions of the guidelines adopted by reference in paragraphs (c) and (d) of subsection 1 of NAC 449.0105, unless the remodeling is limited to refurbishing an area of the hospital, including, without limitation, painting the area, replacing the flooring in the area, repairing windows in the area and replacing window or wall coverings in the area.

Further, NAC 449.0105 (1)(c) states:

Guidelines for Design and Construction of Hospitals and Outpatient Facilities, in the form most recently published by the Facility Guidelines Institute, unless the Board gives notice that the most recent revision is not suitable for this State pursuant to subsection 2. A copy of the guidelines may be obtained from the Facility Guidelines Institute at AHA Services, Inc., P.O. Box 933283, Atlanta, Georgia 31193-3283, at the Internet address <http://www.fgiguilines.org/> or by telephone at (800) 242-2626, for the price of \$200.

The Facility Guidelines Institute (hereinafter referred to as “FGI”), *Guidelines for Design and Construction of Hospitals* (2018 Edition)

2.2-2 Patient Care Units

2.2-2.2 Medical/Surgical Patient Care Unit

2.2-2.2.2 Patient Room

See Section 2.1-2.2 (Patient Room) for requirements in addition to those in this section.

2.2-2.2.2.2 Space Requirements

(2) Clearances

(a) the dimensions and arrangement of rooms shall provide a minimum clearance of 3 feet (91.44 centimeters) between the sides and foot of the bed and any wall or any other fixed obstruction.

2.4-2.2 Critical Access Patient Care Unit

2.4-2.2.2 Patient Room

(1) See Section 2.2-2.2.2 (Medical/Surgical Patient Care Unit-Patient Room) for requirements.

3. Battle Mountain General Hospital has requested a variance from the requirements of NAC 449.3154 (2). Battle Mountain General Hospital is requesting a variance from the code that there be at least 3 feet of clearance around the sides of the patient bed. This regulation exists to ensure patients and staff have a sufficient amount of space for the necessary care. Additionally, the clearance requirement exists for patients who are nonambulatory and require staff assistance to be transferred on and off the bed into a wheelchair.
4. NAC 449.3154(2) requires hospitals to comply with the most current construction standards when a hospital conducts any new construction or remodeling. FGI requires a minimum of 3 feet of clearance on the sides and foot of the bed and any wall or other fixed obstruction. In meeting the clinical needs of patients, staff may be required to assist a patient on and/or off, thus requiring the 3 feet around both sides and foot of the table.
5. In August 2025, the Nevada Health Authority's Division of Health Care Purchasing and Compliance completed an onsite construction standards and Life Safety Code survey and measured the renovated Acute Care area at Battle Mountain General Hospital and found the 3-foot clearances were not met in Room 362. Anatomical patient left of the bed measured 21.25 inches to the sink, and anatomical right of the bed measured 26 inches to a structural column. In January 2026, the Nevada Health Authority's Division of Health

Care Purchasing and Compliance received communication from Battle Mountain General Hospital, where the representatives provided one option to meet the required 3-foot clearance in Room 362; however, this option would create an exceptional and undue hardship. Battle Mountain General Hospital is a Critical Access Hospital and faces substantial financial limitations. The Battle Mountain General Hospital would be required to redo the entire project with increased scope to come into compliance with the required clearances.

CONCLUSIONS OF LAW

1. This matter is properly before the board pursuant to NRS 439.200 and determination of the matter on the merits is properly within the subject matter jurisdiction of the board
2. NRS 439.200 provides:
The State Board of Health may grant a variance from the requirements of a regulation if it finds that:
 - a. Strict application of that regulation would result in exceptional and undue hardship to the person requesting the variance; and
 - b. The variance, if granted, would not:
 1. Cause substantial detriment to the public welfare; or
 2. Impair substantially the purpose of the regulation.
3. The Board finds that strict application of the regulation would result in an exceptional and undue hardship.
4. The Board finds that granting this variance would not impair the purpose of the regulation or cause a substantial detriment to the public welfare.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, and good cause appearing, therefore, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the variance to NAC 449.3154(2) is APPROVED as presented; specifically, the hospital will be allowed to have clearances around Room 362's patient bed less than the required 3 feet.

DATED this 6 day of March, 2026

Jon Pennell, DVM, Chairperson

Department of Health and Human Services

CERTIFICATE OF MAILING

I hereby certify that I am employed by the Nevada Health Authority, Division of Purchasing and Compliance, and that on the 6 day of March , 2026, I served the foregoing FINDINGS OF FACT AND DECISION by mailing a copy thereof to:

Battle Mountain General Hospital
C/O: Hope Bauer
535 South Humboldt Street
Battle Mountain, Nevada 89820



NEVADA STATE BOARD OF HEALTH

APPLICATION FOR VARIANCE

Please check the appropriate box that pertains to the NAC for which you are requesting a variance.

- Division Administration (NAC 439, 441A, 452, 453A, & 629)
- Child, Family, & Community Wellness (NAC 392, 394, 432A, 439, 441A, & 442)
- Public Health & Clinical Services (NAC 211, 444, 446, 447, 583, & 585)
- Health Care Quality & Compliance (NAC 449, 457, 459, & 652)
- Office of State Epidemiology (NAC 440, 450B, 452, 453, 453A, & 695C)

Date:

Applicant Name:

Phone Number:

Mailing Address:

Date of initial operation (if existing):

“We do hereby apply for a variance to the Nevada Administrative Code,”

NAC:

Title of code section in question:

Statement of existing or proposed conditions in violation of the code in question:

Statement of degree of risk of health:



NEVADA DIVISION of PUBLIC
and BEHAVIORAL HEALTH

NEVADA STATE BOARD OF HEALTH

APPLICATION FOR VARIANCE

Attention: Please read this section closely. Your request for variance will be examined against these criteria:

Any person who, because of unique circumstances, is unduly burdened by a regulation of the State Board of Health and thereby suffers a hardship and the abridgement of a substantial property right may apply for a variance from a regulation. (NAC 439.200(1)).

1. The State Board of Health will grant a variance from a regulation only if it finds from the evidence presented at the hearing that:
 - a. There are circumstances or conditions which:
 - (1) Are unique to the applicant;
 - (2) Do not generally affect other persons subject to the regulation;
 - (3) Make compliance with the regulation unduly burdensome; and
 - (4) Cause a hardship to and abridge a substantial property right of the applicant; and
 - b. Granting the variance:
 - (1) Is necessary to render substantial justice to the applicant and enable them to preserve and enjoy their property; and
 - (2) Will not be detrimental or pose a danger to public health and safety.
2. Whenever an applicant for a variance alleges that they suffer or will suffer economic hardship by complying with the regulation, they must submit evidence demonstrating the costs of compliance with the regulation. The Board will consider the evidence and determine whether those costs are unreasonable. (NAC 439.240)

Therefore, it is important for your variance request to be as complete as possible. It is your responsibility to attach documentation supporting your variance request.



NEVADA STATE BOARD OF HEALTH

APPLICATION FOR VARIANCE

Please state in detail the circumstances or conditions which demonstrate that:

1. An exceptional and undue hardship results from strict application of the Regulation:

2. The variance, if granted, would not:
 - a. Cause substantial detriment to the public welfare:

- b. Impair substantially the purpose of the regulation from which the applicant seeks a variance:



NEVADA STATE BOARD OF HEALTH

APPLICATION FOR VARIANCE

The program may require the following supporting documentation to be submitted with and as part of this application:

1. Specifics of the request: The hospital would like to keep the room licensed as is with the column encroachment into the bed clearance
2. A legal description of the property concerned
3. General area identification map of the property concerned
4. A plot map showing locations of all pertinent items and appurtenances
5. A well log (if applicable)
6. Lab reports (if applicable)
7. Any engineering or construction/remodeling information
8. Other items to be attached

This application must be accompanied by evidence demonstrating the costs of your compliance with regulations or specific statutory standards. Your request will be placed on the following Board of Health agenda 40 days or more after receipt by the office, if accompanied by the required fee (NAC 439.210). The application and supporting documentation will form the basis for the program staff report and recommendation(s) to the Board. Failure to respond to the above statements may cause the Board to deny consideration of the application at the requested Board meeting

"I am/we are requesting this application for variance be placed on the next regularly scheduled Board of Health agenda. It is understood that I/we can attend the meeting in person, at either physical location, and/or we may attend virtually."

Applicant Signature: _____

Printed Name: _____

Title: _____

Date: _____



NEVADA DIVISION of PUBLIC
and BEHAVIORAL HEALTH

NEVADA STATE BOARD OF HEALTH

APPLICATION FOR VARIANCE

Please submit your application for variance by using any of the following methods:

MAIL TO:

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

FAX:

(775) 687-7570

EMAIL:

DPBH@health.nv.gov
StateBOH@health.nv.gov