

Joe Lombardo
Governor

Richard Whitley, MS
Director



**DEPARTMENT OF
HEALTH AND HUMAN SERVICES**

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH

Helping people. It's who we are and what we do.



Cody Phinney, MPH
Administrator

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

NOTICE OF PUBLIC HEARING

AZURA SURGERY CENTER HENDERSON, 3051 WEST HORIZON RIDGE PARKWAY, SUITE #110, HENDERSON, NEVADA 89052, IS REQUESTING A VARIANCE, CASE #786, FROM THE NEVADA STATE BOARD OF HEALTH REGULATIONS.

NOTICE IS HEREBY GIVEN THAT AZURA SURGERY CENTER located at 3051 WEST HORIZON RIDGE, Suite #110 HENDERSON, NEVADA 89052, has requested a variance from Nevada Administrative Code (NAC) 449.9843.2 and the Facility Guidelines Institute, *Guidelines for Design and Construction of Outpatient Facilities*, 2022 Edition.

A public hearing will be conducted on June 6, 2025, at 9:00 am by the Nevada State Board of Health to consider this request. This meeting will be held in person and online.

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_OWQzYjU1Y2UtZmU4OC00MWM2LTk2NmMtZGMyNjhiMzI5MTk2%40thread.v2/0?context=%7b%22Tid%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: 233 211 116#

AZURA SURGERY CENTER, 3051 WEST HORIZON RIDGE, Suite #110, HENDRSON, NEVADA 89052 is requesting a variance from NAC 449.9843.2 which states:

NAC 449.9843 Compliance with certain standards, laws, ordinances and codes; submission and approval of building plans; prerequisites to approval of center for licensure. ([NRS 439.200](#), [449.0302](#))

2. Any new construction, remodeling or change in the use of an ambulatory surgical center must comply with the applicable provisions of the guidelines adopted by reference in paragraphs (c), (d) and (e) of subsection 1 of [NAC 449.0105](#), unless the remodeling is limited to refurbishing an area within the center, including, without limitation, painting the area, replacing flooring in the area, repairing windows in the area and replacing window or wall coverings in the area.

NAC 449.0105 Adoption of certain publications by reference; revision of publication after adoption. ([NRS 439.200](#), [449.0302](#))

1. The State Board of Health hereby adopts by reference:

e) *Guidelines for Design and Construction of 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.

2. A copy of the guidelines may be obtained from the Facility Guidelines Institute at the Internet address <https://shop.fgiguideelines.org> or by telephone at (800) 798-9296, for the price of \$235.

Guidelines for Design and Construction of Outpatient Facilities (2022 Edition):

Section 2.7-3.5 Pre- and Postoperative Patient Care.

Section 2.7-3.5.8.10 Ice-making equipment

Section 2.7-3.5.8.10(1) Ice-making equipment shall be provided in accordance with Section 2.1-3.8.10 (Ice-making Equipment).

Section 2.7-3.5.8.10(2) Ice making equipment shall not be located in the semi-restricted area.

Section 2.1-3.8.10 Ice-Making Equipment.

Section 2.1-3.8.10.1 Where ice-making equipment provides ice designated for human consumption, it shall be of the self-dispensing type.

Section 2.1-3.8.10.2 Where ice-making equipment provides ice designated for treatment purpose, use of storage bin-type equipment for making and dispensing ice shall be permitted. This equipment shall be located in areas restricted to staff.

Azura Surgery Center at 3051 West Horizon Ridge Parkway, Henderson, Nevada 89052, is a proposed surgical center for ambulatory patients with three Class B operating rooms. Azura Surgery Center intends to provide vascular surgeries/implants for dialysis patients that utilize grafts or fistulas (or possibly ports). The facility believes that it does not need ice-making equipment for the services they intend to provide. The facility indicated that they would be using disposable ice packs, which they believed would be less of an infection control concern.

Azura Surgery Center is requesting a variance to the requirement of having ice-making equipment in their proposed surgical center for ambulatory patients.

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

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Cody Phinney,
MPH
Administrator

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

MEMORANDUM

May 12, 2025

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

From: Cody Phinney, Administrator
Division of Public and Behavioral Health

RE: Variance Request #786, for Azura Surgery Center (Applicant) Ice-making Equipment

REGULATIONS:

NAC 449.9843 (2) states,

“2. Any new construction, remodeling or change in the use of an ambulatory surgical center must comply with the applicable provisions of the guidelines adopted by reference in paragraphs (c), (d) and (e) of subsection 1 of [NAC 449.0105](#), unless the remodeling is limited to refurbishing an area within the center, including, without limitation, painting the area, replacing flooring in the area, repairing windows in the area and replacing window or wall coverings in the area.”

NAC 449.0105 states,

“1. The State Board of Health hereby adopts by reference:

e) *Guidelines for Design and Construction of 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.

2. A copy of the guidelines may be obtained from the Facility Guidelines Institute at the Internet address <https://shop.fgiguideines.org> or by telephone at (800) 798-9296, for the price of \$235.”

Guidelines for Design and Construction of Outpatient Facilities (2022 Edition):

Section 2.7-3.5 Pre- and Postoperative Patient Care.

Section 2.7-3.5.8.10 Ice-making equipment

Section 2.7-3.5.8.10(1) Ice-making equipment shall be provided in accordance with Section 2.1-3.8.10 (Ice-making Equipment).

Section 2.7-3.5.8.10(2) Ice making equipment shall not be located in the semi-restricted area.

Section 2.1-3.8.10 Ice-Making Equipment.

Section 2.1-3.8.10.1 Where ice-making equipment provides ice designated for human consumption, it shall be of the self-dispensing type.

Section 2.1-3.8.10.2 Where ice-making equipment provides ice designated for treatment purpose, use of storage bin-type equipment for making and dispensing ice shall be permitted. This equipment shall be located in areas restricted to staff.

STAFF REVIEW:

Azura Surgery Center at 3051 West Horizon Ridge Parkway, Henderson, Nevada 89052, is a proposed surgical center for ambulatory patients with three Class B operating rooms. Azura Surgery Center intends to provide vascular surgeries/implants for dialysis patients that utilize grafts, fistulas and catheters, with the aid of C-Arm imaging device(s). The facility believes that it does not need ice-making equipment for the services they intend to provide. The facility indicated that they would be using single-use cold packs.

Azura Surgery Center is requesting a variance to the requirement of having ice-making equipment in their proposed surgical center for ambulatory patients.

INTENT OF THE REGULATION:

The intent of the regulation is to have ice readily available for either patient consumption while in the postoperative care unit (when the patient is not experiencing postoperative nausea and vomiting), or ice can also be used to reduce the patient's post-surgical inflammation.

DEGREE OF RISK TO PUBLIC HEALTH AND SAFETY:

The facility's proposed utilization of single-use cold packs for patients' post-surgical care could be acceptable due to the limited size of the patients' post-surgical involved body site, and the surgical procedures being superficial in nature.

EXCEPTIONAL AND UNDUE HARDSHIP:

Applicant states strict application of NAC 449.9843(2) and *Guidelines for Design and Construction of Outpatient Facilities* (2022 Edition), Section 2.7-3.5.8.10 would cause an exceptional financial hardship. The facility indicated that to have two ice-makers (cube and flake style); added filtration system; floor drains added; electrical power added; heating, ventilation, and air conditioning (HVAC) load concerns; and general contractor expenses would total between \$130,594.04 to \$160,362.04 dependent upon if one type of ice-making machine is added or both ice-making machines. Denial of the variance application would require the applicant to redesign that portion of the facility and modify the plumbing in order to install the ice-making equipment.

STAFF RECOMMENDATION:

Bureau of Health Care Quality and Compliance staff recommends the State Board of Health approve Variance Request #786 as it finds that strict application of NAC 449.9843(2) and *Guidelines for Design and Construction of Outpatient Facilities*, Sections 2.7-3.5.8.10 would result in exceptional or undue hardship for the Applicant.

PRESENTER: Steve Gerleman, Health Facilities Inspection Manager, BHCQC



NEVADA DIVISION of PUBLIC
and BEHAVIORAL HEALTH



NEVADA STATE BOARD OF HEALTH
4150 Technology Way, Suite 300 CARSON CITY, NV 89706

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)

☐

Health Care Quality & Compliance
(NAC 449, 457, 459 & 652)

☐

Child, Family & Community Wellness
(NAC 392, 394, 432A, 439, 441A, & 442)

☐

Office of State Epidemiology
(NAC 440, 450B, 452, 453, 453A, & 695C)

☐

Public Health & Clinical Services
(NAC 211, 444, 446, 447, 583, & 585)

Date: _____

Name of Applicant: _____

Phone: _____

Mailing Address: _____

City: _____

State: _____

Zip: _____

We do hereby apply for a variance to
chapter/section _____ of the Nevada
Administrative Code (NAC). (For example: NAC 449.204)

Title of section in
question: _____

Statement of existing or proposed conditions in violation of the NAC:



NEVADA STATE BOARD OF HEALTH
4150 Technology Way, Suite 300 CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

Date of initial operation (if existing): _____

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 him to preserve and enjoy his 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 he/she/they suffers 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.

Statement of degree of risk of
health _____



NEVADA DIVISION of PUBLIC
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NEVADA STATE BOARD OF HEALTH
4150 Technology Way, Suite 300 CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

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

1. An exceptional and undue hardship results from a 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 application seeks a variance.

The bureau may require the following supporting documents to be submitted with and as a part of this application:

Specific Request:



NEVADA STATE BOARD OF HEALTH
4150 Technology Way, Suite 300 CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

1. Legal description of property concerned
- _ 2. General area identification map
- _ 3. Plot map showing locations of all pertinent items and appurtenances
- _ 4. Well log (if applicable)
- _ 5. Applicable lab reports
- _ 6. Applicable engineering or construction/remodeling information
- _ 7. Other items (see following pages)

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 Board of Health agenda 40 days or more after receipt in this office if accompanied by the required fee (NAC 439.210). The application and supporting documentation will form the basis for the Division of Public and Behavioral Health 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 variance request be placed on the next regularly scheduled Board of Health agenda. It is understood that I/we can attend in person at either physical location in Carson City or Las Vegas or we may attend virtual.

Signature: _____

Lisa Petrusky

Printed Name: _____

Title: _____

Date: _____



Fresenius Vascular Care Henderson ASC, LLC
3051 West Horizon Ridge Parkway
Suite 110
Henderson, NV 89052

Date: April 29, 2025

Project:
Transaction ID#: 350853
Fresenius Vascular Care Henderson ASC,
LLC 3051 West Horizon Ridge Parkway
Suite 110
Henderson, NV 89052

Attention:
Secretary, Nevada State Board of
Health Division of Public and
Behavioral Health 4150 Technology
Way, Suite 300
Carson City, NV 89706
Email: DPBH@health.nv.gov, StateBOH@health.nv.gov

Re: Variance Request for Ice-Making Equipment

Dear Nevada State Board of Health,

The following description outlines the services included in our functional program, which was submitted to the third-party plan reviewer. Additional details are to provide explanatory information supporting our request for a variance. We are seeking a variance based on the sections from the FGI Guidelines regarding ice making equipment, as detailed below.

Facility Guidelines Institute (FGI)
2022 1.2-2.2.3 Functional
Requirements
1.2-2.2.3.1 Project Components and Scope

(1) Services to be provided:

- This single specialty surgical center for ambulatory patients will provide interventional radiology / vascular access procedures also known as endovascular type procedures. These types of procedures utilize a percutaneous approach. Percutaneous endovascular intervention is defined as a procedure performed without open direct visualization of the target vessel, requires only needle puncture of an artery or vein followed by insertion of catheters, wires, or similar devices which are then advanced through the blood vessels using imaging guidance. There will be no cardiac procedures performed.
- The following procedures are to be provided:
 - Anesthesia (Local, Moderate Sedation)
 - Arteriogram
 - Atherectomy
 - Embolization (Arterial and Venous)



Fresenius Vascular Care Henderson ASC, LLC
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- Fistulagram
- Fluoroscopy
- Foreign Body Retrieval
- Ligation and Banding
- Percutaneous Transluminal Angioplasty (PTA) (Arterial and Venous)
- Peripheral Aneurysm Thrombosis / Occlusion
- Stent Insertion
- Thrombectomy of Catheters, Fistulas, and Grafts
- Thrombolytic Therapy
- Tunneled and Non-Tunneled Hemodialysis / Catheter Change, Insertion, Repositioning, Removal and Repair
- The primary population served is the chronic kidney disease (CKD) and end stage renal disease (ESRD) population.
- Most procedures require the use of moderate sedation in conjunction with a local anesthetic while others require only minimal sedation (anxiolytics) or no sedation with a local anesthetic. Moderate Sedation is administered only by privileged licensed practitioners or competent RNs under the direct supervision of a privileged practitioner. Moderate sedation usually consists of the combination of the drugs midazolam and fentanyl, but other sedative and analgesic combinations can be utilized by our trained professionals.
- General anesthesia is not utilized nor required for the types of procedures we perform in the facility. Flammable anesthetics are not utilized nor required. Anesthesia machines are not required.

2.7-3.5.8.10 Ice-Making Equipment

(1) Ice-making equipment shall be provided in accordance with Section 2.1-3.8.10 (Ice-Making Equipment)

(2) Ice-Making Equipment shall not be located in the semi-restricted

area. 2.1.-3.8.10 Ice-Making Equipment

2.1-3.8.10.1 Where ice-making equipment provides ice designated for human consumption, it shall be of the self-dispensing type.

Justification for NOT installing ice making equipment:

Nourishment

- Patients receive nourishment in the form of pre-packaged, single-serve food items such as sandwiches and crackers, sourced from an external vendor. Beverages are provided in single-serve bottles or boxes with clearly labeled volume measurements (ml/ounces), eliminating the need for ice. Nourishment items are stored in a dedicated patient nourishment refrigerator.

- The procedures performed do not require dietary modifications post-operatively, except for fluid intake restrictions. The primary patient population consists of individuals with Chronic Kidney Disease (CKD) or End-Stage Renal Disease (ESRD) who require dialysis and must strictly limit their fluid intake, both orally and intravenously. Adding ice to beverages introduces unmeasured fluid volume, which is not permitted in the patient's diet. This restriction is not a post-operative guideline specific to our facility, but a standing order from their nephrologist and must be strictly followed at all times. To ensure compliance, we provide fluids only in pre-measured, pre-packaged formats.
 - Beyond the issue of unaccounted fluid intake, maintaining an ice machine presents hygiene concerns. Regular cleaning and maintenance are required to prevent mold, mildew, and bacterial contamination—issues of particular concern for dialysis patients with compromised immune systems. CKD/ESRD patients face a significantly higher risk of infection, which could lead to severe complications or hospitalization.
 - The elimination of an ice maker for nourishment does not impact patient care.
-

Post-Operative Nausea and Vomiting (PONV)

- Minimally invasive and percutaneous interventional radiology procedures are performed using moderate/conscious sedation or regional blocks, with minimal incidence of post-operative nausea and vomiting (PONV). Legend drugs to treat nausea and vomiting are stocked.
 - A review of adverse event reports from our sister facilities in Nevada recorded only three (3) cases of PONV over the past five (5) years, demonstrating the low occurrence of this issue in our practice.
-

2.1-3.8.10.2

Where ice-making equipment provides ice designated for treatment purposes, use of storage bin-type equipment for making and dispensing ice shall be permitted. This equipment shall be located in areas restricted to staff.

Treatment / Cold Therapy

- Cold therapy is administered using single-use cold packs. The procedures performed are percutaneous, with incision sizes typically ranging from 1-3 mm—often referred to as “stab” or “stick” incisions. Most cases require only a bandage post-operatively, with some requiring a single suture. Single-use cold packs effectively provide sufficient pain relief for these procedures.
-



Fresenius Vascular Care Henderson ASC, LLC
 3051 West Horizon Ridge Parkway
 Suite 110
 Henderson, NV 89052

Financial Burden

Item description	Price	Quantity	Extended Price	Notes
Ice Maker, Half Cube Iceomatic	\$3,094.04	1	\$3,094.04	Treatment Add Taxes
Ice Maker, Undercounter W/Bin Flake Style	\$4,268.00	1	\$4,268.00	Nourishment, PONV Add Taxes
Filtered Water	\$2,500.00	2	\$5,000.00	
Floor Drains	\$20,000.00	2	\$40,000.00	
Electrical Power	\$1,500.00	2	\$3,000.00	2 Circuits
HVAC Load Concerns	\$5,000.00	1	\$5,000.00	Estimated / May not be Required
G.C. OH&P and General Conditions	\$100,000	1	\$100,000	Estimated
Total Estimate based on installation of both units*			\$160,362.04	Estimate
Total Estimate based on installation of 1 of the 2 units*			\$130,594.04	Estimate
<i>*Estimates do not include continued maintenance.</i>				

Conclusion

The removal / non-installation of ice making equipment for nourishment, PONV management, or cold therapy does not hinder the delivery of necessary healthcare to our patient population. The denial of the variance would cause delays in providing necessary services to a fragile population while the equipment is installed.

If the variance is denied, we would be required to install and maintain equipment that is not clinically necessary and could pose a threat to the safety of our patients.

Fresenius Vascular Henderson further acknowledges the scope of practice is being limited to what is being proposed now, treatment of CKD / ESRD patients and no general anesthesia. In the event that credentialing membership is expanded to include additional medical disciplines necessitating the provision of ice for patient treatment, nourishment, or care, appropriate ice-making equipment will be installed accordingly. Fresenius further acknowledges that any future addition or modification of services may require the installation of such equipment.



Fresenius Vascular Care Henderson ASC, LLC
3051 West Horizon Ridge Parkway
Suite 110
Henderson, NV 89052

Regards,

Lisa Petrusky, RN, BSN, CASC, CAIP
Sr. Director of Integration and Life Safety
Azura Vascular
Care 717-870-
5697
Lisa.Petrusky@AzuraCare.com