

Subtitle 33 BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

10.33.01 Nursing Home Administrators

Authority: Health Occupations Article, §§1-212 and 9-101—9-502; State Government Article, §10-617(h)(3); Annotated Code of Maryland

Notice of Proposed Action

[09-369-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .02, .04— .10, .12—.15, .17, and .18 under **COMAR 10.33.01 Nursing Home Administrators**. This action was considered by the Board of Examiners of Nursing Home Administrators at a public meeting held on May 13, 2009, notice of which was given by publication in 36:9 Md. R. 686 (April 24, 2009), pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to:

- (1) Clarify definitions, and update the term nursing home to nursing facility to reflect current terminology;
- (2) Increase the minimum age of an applicant for licensure from 18 to 21;
- (3) Add a certificate of health and a photograph to the licensure application requirements;
- (4) Increase fees for biennial license renewal, reinstatement, duplicate of original license or license renewal, inactive fee, biennial inactive renewal, and failure to notify the Board of address change;
- (5) Eliminate fees for administrator-in-training program and application for approval of continuing education programs of study;
- (6) Remove specific subjects for examination;
- (7) Change continuing education criteria and carry over hours;
- (8) Clarify Administrator In Training (AIT) requirements, documentation, and current employment credits;
- (9) Clarify the requirements of a preceptor;

(10) Add to the grounds for suspension or revocation of a license; and

(11) Add the provision that a hearing held before the Board shall have three nursing home administrators present.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The revenue increase for the Board, and cost increase to the licensees due to fee increases is approximately \$24,950 for 12 months. The majority of the Board's revenue is collected through the biennial renewal of licenses. Due to salary hardships for trainees, all fees assessed prior to licensure (application and examinations) will remain the same, and the Administrator-In-Training fee has been eliminated. The Maryland Board will no longer process continuing education approval and has eliminated that fee. Continuing education programs will be exclusively approved through the National Continuing Education Review Service offered by the National Association of Long Term Care Administrator Boards, whose approval process is already accepted by the Maryland Board.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(R+)	\$24,950
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(-)	\$24,950
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. and D. 23 Inactive Applications received annually x \$50 increase = \$1,150; 234 License Renewals received annually x \$100 increase = \$23,400; 2 Fines for Failing to Notify of Change received annually x \$50 increase = \$100; and 3 Reinstatement Licenses received annually x \$100 increase = \$300; (\$1,150 + \$23,400 + \$100 + \$300 = \$24,950).

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499, or email to regs@dhmh.state.md.us, or fax to 410-333-7687. Comments will be accepted through December 21, 2009. A public hearing has not been scheduled.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(3) (text unchanged)

(4) “Examination” means the tests consisting of:

(a) Written questions on general nursing [home] *facility* administration compiled by the National Association of [Boards of Examiners of] Long Term Care [Administrators] *Administrator Boards* (NAB examination); and (b) Written questions on nursing [home] *facility* licensure State standards of the Office of Health Care Quality (State Standards examination).

(5) “Family-owned or family-operated nursing [home] *facility*” means a nursing [home] *facility* owned or operated by any one or more of the following relatives of the trainee:

(a)—(x) (text unchanged)

(6) “Nursing [home] *facility*” means [an institution or part of an institution] *a facility, other than a facility offering domiciliary care*, as defined in Health Occupations Article, §9-101(e), Annotated Code of Maryland, *which offers nonacute inpatient care to patients:*

(a) Suffering from a disease, condition, disability, or advanced age, or terminal disease requiring maximal nursing care without continuous hospital services; and

(b) Who require medical services and nursing services rendered by or under the supervision of a licensed nurse together with convalescent services, restorative services, or rehabilitative services.

(7) “Nursing home administrator” means an individual licensed by the Board, who:

(a) Administers, directs, manages, supervises, or is in general administrative charge of a nursing [home] *facility*, whether or not the individual has an ownership interest in the [home] *facility*, and whether or not the individual's functions and duties are shared with one or more individuals; or

(b) Is in supervisory control over one or more nursing home administrators of one or more nursing [homes] *facilities* and has authority to substitute the supervisor's judgment for that of the administrator of record in the day-to-day operation of the facility.

(8) (text unchanged)

(9) “Practice of nursing home administration” means the exercise of final authority of any act or the making of any decision involved in the planning, organizing, directing, or controlling of the day-to-day operation of a nursing [home] *facility*.

(10) “Preceptor” means an individual certified to serve as an instructor in [a] *an AIT* program, pursuant to the law and these regulations.

.04 Board of Examiners; General Powers.

A. (text unchanged)

B. Board members or designees may enter any nursing [home] *facility* in the State in order to carry out its functions under Health Occupations Article, §9-205, Annotated Code of Maryland.

C. The Board shall have access to the licensing file of any nursing [home] *facility* in order to carry out its functions under Health Occupations Article, §9-205, Annotated Code of Maryland.

D. The State agency responsible for licensing nursing [homes] *facilities* may be requested by the Board to assist in carrying out Health Occupations Article, §9-205, Annotated Code of Maryland.

E.—F. (text unchanged)

.05 Board of Examiners; Officers and Duties.

A.—C. (text unchanged)

D. The Board shall provide all nursing [homes] *facilities* with a current list of Board members and its appointed representatives and consultants.

E. (text unchanged)

F. Board members may not make public statements or visitations to nursing [homes] *facilities* as official representatives of the Board unless authorized by the Board.

.06 Minimum Requirements for Licensure of Nursing Home Administrators.

The applicant shall:

A. Be at least [18] 21 years old.

B. At the time of submitting the application, have successfully completed a baccalaureate degree. [This provision does not apply to persons who were in possession of a valid Maryland nursing home administrators license by December 15, 1988, or had applied by that date and subsequently met all requirements for licensure.] Applicants from out-of-State will be processed for licensure in accordance with Health Occupations Article, §9-302, Annotated Code of Maryland.

C.—D. (text unchanged)

E. Successfully complete:

(1) (text unchanged)

(2) 1 year as the full-time nursing home administrator of record in a nursing [home] *facility* within the last 5 years.

F.—G. (text unchanged)

.07 Application for License.

A.—C. (text unchanged)

D. An applicant shall submit with the application [a certificate] *on the form supplied by the Board, a certificate of health*, signed by a licensed physician, describing the current health status of the individual, and reflecting the date of the examination.

D-1. An applicant shall submit with the application a finished, unmounted, photograph of himself or herself, which shall have been taken within 3 months prior to the date of application.

E.—F. (text unchanged)

.08 Fees.

A.—C. (text unchanged)

D. Fee Schedule.

(1)—(2) (text unchanged)

(3) Biennial license renewal - [~~\$100~~] *\$200*.

(4) Reinstatement fee—[~~\$100~~] *\$200*.

(5) Duplicate of original license or license renewal—[~~\$25~~] *\$50*.

(6) Inactive fee—[~~\$50~~] *\$100*.

(7) Biennial inactive renewal—[~~\$50~~] *\$100*.

(8)—(9) (text unchanged)

[(10) Administrator-in-training program . . . ~~\$50.~~] *Repealed.*

[(11) Application for approval of continuing education programs of study . . . ~~\$50.]~~
Repealed.

(12) Fine for failure to notify Board of change in either name or home address of the licensee, or change in name or address of the employer or business connection of the licensee within 30 days of the change . . . [~~\$50~~] *\$100*.

(13) NAB Examination. The administration fee is \$100. The National Association of [Boards of Examiners of] Long Term Care [Administrators] *Administrator Boards, Inc.*, determine the fees for the National Licensure Examination for nursing home administrators. A fee is charged each time a candidate takes the examination.

(14) (text unchanged)

E. (text unchanged)

.09 Subjects for Examination.

The examination may include, but is not limited to, the following subjects:

A. Applicable standards of environmental health and safety[:];

[(1)—(8)] (proposed for repeal)

B. (text unchanged)

C. General administration[:];

[(1)—(4)] (proposed for repeal)

D. Psychology of patient care[:] ;

[(1)—(5)] (proposed for repeal)

E. Principles of medical care[:] ;

[(1)—(11)] (proposed for repeal)

F. Personal and social care[:] ;

[(1)—(5)] (proposed for repeal)

G. Therapeutic and supportive care and services in long-term care[:] ;

[(1)—(9)] (proposed for repeal)

H. Departmental organization and management[:] ; *or*

[(1)—(5)] (proposed for repeal)

I. Community interrelationships[:] .

[(1)—(5)] (proposed for repeal)

.10 Grading Examinations.

A.—B. (text unchanged)

C. Minimum Passing Grades. The following apply:

(1) Written questions on general nursing [home] *facility* administration (NAB examination)—scale score of 113;

(2) Written questions on nursing [home] *facility* licensure (State's Standards examination)—75 percent correct answers.

.12 Continuing Education.

A. Before relicensure, an individual shall submit satisfactory evidence of having completed a minimum of 40 hours, unless otherwise specified by State or federal law, of continuing education, approved by the Board, within the 2-year period before the relicensure date. A maximum of [6] 10 hours of Board-approved continuing education may be carried over into the next renewal period. The approval of the continuing education shall be at the discretion of the Board.

[B.—E.] (proposed for repeal)

B. In order for the Board to approve a program of study for continuing education, the program study shall:

(1) Relate to health care administration; and

(2) Be approved by the National Association of Long Term Care Administrator Boards.

C. The Board shall award 10 clock hours of continuing education for each completed accredited college course that falls within the core of knowledge.

.13 Administrator-in-Training.

[A. Eligible candidates desiring to meet the requirements for licensure shall complete a Board-approved program of practical training that includes a minimum of 12 months of experience in nursing home administration. This requirement may be satisfied in whole or part by:

(1) The administrator-in-training (AIT) program;

(2) Board-approved credit for prior experience qualifying under §F; or

(3) A combination of §A(1) and (2), above.]

A. An Administrator-in-training (AIT) is a supervised 12-month internship during which the AIT works under the guidance and supervision of a preceptor, a licensed administrator meeting the qualifications set forth in Regulation .14 of this chapter. The AIT program is a required phase of education consisting of both the supervised practice of nursing home administration in the environment of the nursing facility, performing and participating in the day-to-day duties of each position, when legally permissible, in each of the following service areas:

(1) Administration;

(2) Business office;

(3) Nursing;

(4) Resident activities;

(5) Social services;

(6) Medical records;

(7) Dietary;

(8) *Maintenance; and*

(9) *Environmental, including housekeeping and laundry.*

B. An AIT may not, during the normal working hours of the program, fill a specific, specialized position in the nursing facility.

C. If the AIT is a department head, notice shall be conspicuously posted in the nursing facility stating who the acting department head will be while the AIT is performing training duties.

[B.] *D.—[C.] E. (text unchanged)*

[D.] *F. Application Requirements.*

(1) The Board may approve an application for a nursing [home] *facility* AIT program only if it determines that the application contains satisfactory evidence that:

(a)—(d) (text unchanged)

(2) (text unchanged)

(3) The applicant shall participate in training provided in [:] *a nursing facility licensed in Maryland, as defined in Regulation .02B of this chapter, with at least 60 beds.*

[(a) A licensed “related institution” as defined in Health-General Article, §19-301(o), Annotated Code of Maryland, of at least 76 beds; or

(b) A continuing care facility as defined in Article 70B, §7, Annotated Code of Maryland, which includes both a nursing facility as defined in Health-General Article, §19-1401(e), Annotated Code of Maryland, and a facility that provides domiciliary care as defined in Health-General Article, §19-301(f), Annotated Code of Maryland, as long as the combined number of beds exceeds 75.]

(4) (text unchanged)

(5) The applicant shall participate in training provided in not more than two duly *Maryland* licensed [related institutions or continuing care] *nursing* facilities approved by the Board for training. One of the licensed [related institutions or continuing care] *nursing* facilities shall [exceed a 75-bed capacity] *have at least 60 beds.*

(6)—(8) (text unchanged)

(9) A minimum of 80 percent of the training shall occur during 8 consecutive hours each day (except for regular days off) between the hours of 7 a.m. and 7 p.m. A minimum of 40 hours per week shall be devoted to [steady] *continuous*, bona fide training activities *which include observing and performing the day-to-day duties of each position, when*

legally permissible, in the service areas referred to in §A of this regulation. The trainee shall be exposed to all shifts during the AIT program.

(10) The applicant may spend a maximum of 6 months in a family-owned or family-operated nursing [home] facility, and the remainder of the time shall be spent in another Board-approved facility, under a Board-approved preceptor.

(11) (text unchanged)

[E.] G. [The contract form provided by the Board as part of the AIT application shall be signed by the trainee, preceptor, and the Board before the anticipated starting date.]
Required AIT Reports.

(1) *The AIT and preceptor shall maintain a progress report for the training program on forms prescribed by the Board for every 3 months of the training program.*

(2) *The report shall:*

(a) *Be submitted to the Board's office on the dates specified by the Board; and*

(b) *Include the following:*

(i) *A brief description of activity or area covered, or both, and dates of rotation;*

(ii) *A brief analysis of any problems observed, new experiences, insights gained, and the AIT's role in problem solutions; and*

(iii) *A checklist including signatures from preceptor, AIT, and department managers to verify that the AIT trained in those departments.*

(3) *At the conclusion of the training program, the AIT shall complete a brief survey and return it to the Board's office providing feedback with suggestions for continuing improvements.*

(4) *If the reports are not submitted to the Board's office on the date specified by the Board, the AIT shall be considered to have violated the terms of the AIT contract.*

[F.] (proposed for repeal)

H. Credit for Prior Experience.

(1) *The AIT program is a minimum of 12 months unless the Board awards credit for prior experience within the last 5 years. The amount of credit awarded is at the discretion of the Board, based on exposure to the core of knowledge set forth in Regulation .09 of this chapter, but may not exceed;*

(a) *6 months for a hospital assistant administrator;*

- (b) 8 months for a hospital administrator;*
- (c) 6 months for a nursing facility assistant administrator;*
- (d) 6 months for a department head;*
- (e) 3 months for an executive director of a continuing care retirement community;*
- (f) 3 months for an assisted living manager;*
- (g) 3 months for a health-care-related senior management official;*
- (h) 3 months for a non-health-care-related senior management official.*

(2) Qualifying Experience. The following requirements set the minimum experience required for receiving credit:

(a) Minimum of 18 months as a full-time employee, with line responsibility for hiring, firing, budget, and supervision of at least one department comprised of ten or more employees;

(b) Reporting directly to the facility administrator or chief executive officer;

(3) Experience credit can be awarded on a month-to-month basis totaling 12 months for:

(a) An individual who has worked as a licensed nursing home administrator in another state;

(b) A resident or intern in a program offered by an accredited college or university for the purpose of satisfying the requirements for a baccalaureate or master's degree in health care administration; or

(c) An individual who has successfully completed an AIT program in another state, if the program is substantially comparable to the AIT program in Maryland, as determined by the Board.

[G.] I. Discontinuance of AIT Status in a Nursing [Home] Facility in Which the Trainee is Registered.

(1)—(2) (text unchanged)

(3) The trainee may fulfill the minimum 1 year training requirement in not more than two licensed nursing [homes] facilities, with not more than 90 days lapse between the two periods of training.

[H.] J.—[J.] L. (text unchanged)

.14 Certification of Preceptor.

A. The Board shall issue a certificate of qualification to be a preceptor in the AIT program if the following conditions are met:

[A.] (1) (text unchanged)

[B.] (2) The proposed preceptor has been satisfactorily employed in nursing home administration for *a minimum of 3 years* [or longer as determined by two or more of the following:

(1) Is or has been recognized as the individual in charge of a long-term care facility by the Office of Health Care Quality,

(2) Is or has been recognized as the individual in charge by the owner, board of directors, or some other authority to whom the administrator reports,

(3) Meets the definition of nursing home administrator as set forth in Regulation .02G of this chapter] *as the nursing home administrator of record;*

[C.] (3) The proposed preceptor has no disciplinary action pending *nor is currently under investigation* by the State Board of Examiners of Nursing Home Administrators; [and]

[D.] (4) Persons seeking certification as preceptors in the AIT program shall submit evidence of the successful completion of a Board-approved training program for preceptors[.] ; *and*

(5) The proposed preceptor has been employed full time as a nursing home administrator for a minimum of 2 of the past 3 years immediately before application to precept.

B. If the proposed preceptor has not precepted an AIT program within the past 3 years, the proposed preceptor shall recertify as a preceptor by completing a Board-approved training program.

C. The Board may disapprove a preceptor for a training program:

(1) If the preceptor has failed to remain in compliance with this chapter; or

(2) At any time for good cause.

.15 Suspension and Revocation of Licenses.

A. Pursuant to Health Occupations Article, §9-314(b)(3), Annotated Code of Maryland, the Board may deny a license or limited license to any applicant, suspend or revoke a license of a nursing home administrator, or reprimand or otherwise discipline an applicant

or a licensee after due notice and an opportunity to be heard at a formal hearing, upon evidence that the applicant or licensee:

(1) (text unchanged)

(2) Has violated any of the provisions of the law or regulations of the licensing or supervising authority or agency of the State or political subdivision of it having jurisdiction of the operation and licensing of nursing [homes] *facilities*;

(3)—(5) (text unchanged)

(6) Has paid, given, has caused to be paid or given, or offered to pay or to give to any person a commission or other valuable consideration for the solicitation or procurement, either directly or indirectly of nursing [home] *facility* patronage;

(7)—(8) (text unchanged)

(9) Has *failed to act to promote the safety, health, and life of a resident, or* endangered or sanctioned the endangerment of the safety, health, and life of any patient;

(10) (text unchanged)

(11) Has discriminated in respect to patients, employees, or staff on account of race, religion, color, national origin, *sexual orientation*, or [handicap] *disability*;

(12)—(14) (text unchanged)

B. (text unchanged)

.17 Procedure of Board Hearings.

A.—D. (text unchanged)

E. Conduct of the Hearing.

(1) Board Majority. Each hearing shall be held before a majority of the Board, *which majority of the Board shall include not less than three nursing home administrators*, unless the hearing authority is delegated pursuant to State Government Article, §10-205, Annotated Code of Maryland. Board action shall be by majority vote of those Board members present at the hearing, unless the hearing authority has been delegated, in which case the provisions of State Government Article, §10-205, Annotated Code of Maryland, apply to any decision.

(2) (text unchanged)

F.—H. (text unchanged)

.18 Reciprocity.

The Board in its discretion, and otherwise subject to the laws pertaining to the licensing of nursing home administrators prescribing the qualification for a nursing home administrator license, may endorse, without retaking the national examination, a nursing home administrator license issued by the proper authorities of any other state, upon payment of the fee and upon submission of evidence satisfactory to the Board that the:

A.—B. (text unchanged)

C. Applicant for endorsement is familiar with State and local health and safety regulations related to nursing [homes] *facilities*, and has received a passing grade on the State's standards examination; and

D. (text unchanged)

JOHN M. COLMERS
Secretary of Health and Mental Hygiene
