

**COLORADO STATE BOARD OF**  
**EXAMINERS OF NURSING HOME ADMINISTRATORS**  
**BOARD POLICIES**

(Updated November 16, 2011)

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## **SECTION 1: ADMINISTRATIVE POLICIES**

### **1.A. LEGISLATIVE BILL UPDATES (Adopted December 3, 1997; revised February 1, 2006; amended July 23, 2008)**

The Program Director is authorized to provide information and notice to Board members in a timely manner on matters concerning the status of legislative bills that may affect the Board's operation, ability to carry out its duties, and the intent of its statutes.

### **1.B. EMERGENCY BOARD MEETINGS (Adopted July 23, 2008)**

When an issue arises that may necessitate an emergency Board meeting, the Program Director shall confer with the Board Chair. The Chair will then determine if a meeting shall be held and may authorize an emergency Board meeting. Emergency Board meetings may be conducted by telephone conference call.

### **1.C. REPORTS OF INVESTIGATIONS (ROI) AND USE OF CONSULTANTS (Adopted July 23, 2008)**

1. The Board may request investigators to forward a case directly to a consultant in specific situations. The Board may provide specific questions to be presented to the consultant for a response.
2. Written reports from consultants and any other experts will not be summarized. The entire report will be attached to the Report of Investigation (ROI) and listed under attachments.
3. If a complaint involves any of the following allegations, it will be forwarded directly to the Office of Investigations, without a request for a response being sent by Board staff to the respondent in the case:
  - a. Allegations involving drugs or alcohol.
  - b. Allegations of sexual misconduct.
  - c. Allegations of unlicensed practice.
  - d. Allegations relating to fraud, theft or misappropriation.
  - e. Allegations relating to practice beyond the statutory or customary scope of practice.
  - f. Allegations relating to a termination from participation in Medicare and/or Medicaid programs.
  - g. Any complaint where it is apparent to the Program Director that an immediate investigation is needed.

4. If a complaint is referred directly to the Office of Investigations for any of the above allegations, then the investigator assigned to the case will be responsible for presenting a copy of the complaint to the respondent and requesting their response to the complaint. The investigator shall document in the file the date that the complaint was provided to the respondent. Any unannounced investigation shall be conducted during normal business hours. The investigator may be accompanied by a consultant who has expertise in the conduct being investigated.
5. If the ROI or any report, including that of an expert consultant, demonstrates that the public health, safety and/or welfare imperatively requires emergency action and/or that there is a deliberate and willful violation of statute or rule, the Board may initiate summary suspension proceedings pursuant to section 24-4-104(4)(a), C.R.S.

## **SECTION 2: ENFORCEMENT**

### **2.A. CHILD SUPPORT ENFORCEMENT (Adopted June 3, 1998; revised February 1, 2006; amended July 23,2008)**

The Program Director is granted the authority to suspend and reinstate the licenses of practitioners who are in violation and subsequently in compliance with the Child Support Enforcement Act as notified by the Colorado Department of Human Services.

### **2.B. CONTINUING EDUCATION REQUIREMENTS (Adopted November 20, 2002; revised February 1, 2006; amended July 23, 2008; amended September 30, 2009)**

1. It is the position of the Board that nursing home administrators should remain up to date with current trends and developments in the long term care community. Although not required by law, continuing education is one means of maintaining currency in the profession.
2. The Board may require continuing education as part of a disciplinary action. In those instances, to ensure the full benefit of continuing education, the Board recommends that no more than 30% of any required education submitted for approval be in the form of audio/visual or internet courses with proof of completion. The Board will consider, at its sole discretion, any request to increase the total percentage of audio/visual/internet courses to up to 50% due to hardship, including, but not limited to, the unavailability of courses due to rural location or lack of offering.

3. A Board member may be appointed to review and approve requests for approval of continuing education that are submitted to the Board following the conclusion of a regularly scheduled meeting. Any action taken with respect to continuing education approval shall be submitted to the Board for ratification at the next scheduled meeting.

2.C. INITIAL DECISION (Adopted March 3, 1999; revised February 1, 2006; amended July 23, 2008; amended November 16, 2011)

It is the policy of the Board of Examiners of Nursing Home Administrators that any Initial Decision of an Administrative Law Judge (ALJ) from the Office of Administrative Courts (OAC) will be appropriately served with the approved Board Procedural Order Regarding Review of Initial Decision (“Order”) upon parties involved in a case or cases before the Board.

The Board delegates authority to the Program Director or his/her designee to issue procedural orders for the Board and to rule upon motions, including but not limited to requests for extensions of time for good cause.

The Board further delegates authority to the Section Director and the prosecuting attorney to determine whether or not to file exceptions on behalf of the Board.

2.D. MEDIATION AUTHORITY (Adopted February 1, 2006; amended July 23, 2008)

The Board delegates to its legal counsel the authority to select any member of the Board to participate in mediation. Unless more restrictive or specific guidance is given to counsel at a Board meeting, the Board also delegates to the participating member the settlement authority to resolve the pending complaint at mediation with the exception that any recommendation for dismissal of the complaint must be reviewed by a quorum of the Board at the next scheduled meeting.

2.E. REQUEST FOR ENFORCEMENT DOCUMENTS FROM STATE BOARD OR LAW ENFORCEMENT ENTITY (Adopted May 15, 2002; amended July 23, 2008)

Upon the receipt of a formal request for information submitted by another licensing board or a law enforcement entity, the Board staff may share licensing, investigatory, and disciplinary information with the other licensing boards or law enforcement agencies. Prior to release of information, Board staff shall consult, to the extent necessary, with the Office of the Attorney General to ensure that no information is released that must be kept confidential by law.

2.F. SIGNING STIPULATIONS AND OTHER BOARD ACTIONS (Adopted February 4, 2004; amended July 23, 2008; amended September 30, 2009)

The Board delegates the signing of Letters of Admonition, Confidential Letters of Concern, Subpoenas, Cease and Desist Orders, Stipulations, Final Agency Orders and other formal actions of the Board to the Program Director.

2.G. SUBPOENA ENFORCEMENT (Adopted February 1, 2006; amended July 23, 2008)

The Board authorizes its Assistant Attorney General to take whatever action is required to enforce a subpoena. The Program Director is authorized to direct enforcement of the subpoena on behalf of the Board in consultation with the Board Chair.

2.H. SUMMARY SUSPENSION (Adopted March 3, 1999; revised February 1, 2006; amended July 23, 2008)

The Program Director, with the approval of the Board Chair, may order a summary suspension pursuant to section 24-4-104(4), C.R.S. as well as a mental or physical examination of a licensee pursuant to section 12-39-113, C.R.S. in an emergency situation. The Program Director may sign the appropriate order on behalf of the Board. It is understood that such action may be taken prior to full Board review of complaint information. The Board will be asked to ratify the action at its next scheduled meeting.

2.I. SURVEY REPORTS (Original Implementation January 1997; revised September 1997; revised June, 1998, revised November, 2000; revised March, 2001; revised May, 2001, revised August, 2001; revised August, 2003; revised August 2006; amended July 23, 2008; amended September 30, 2009)

Policy regarding Use of Enforcement Actions of the Colorado Department of Public Health and Environment.

1. The Colorado Department of Public Health and Environment (CDPHE) will send information to the Board regarding surveys under the following conditions:
  - a. A survey finding of immediate jeopardy;
  - b. A survey finding of substandard care to include deficiencies cited at the scope and severity of level H (a pattern of actual harm that is not immediate jeopardy) and above;
  - c. A revisit survey finding uncorrected or new deficiencies cited at the scope and severity of level G (isolated actual harm that is not immediate jeopardy);

- d. Other survey, complaint or occurrence information that evidences a pattern of concern and upon which is cause for CDPHE to believe that licensing standards may have been violated by individuals licensed by the Board; and
  - e. Other surveys, complaints or occurrence information that causes CDPHE to believe that licensing standards may have been violated by individuals required to be licensed by the Board.
2. Upon receipt of the survey, Board staff will enter the information into a log. Staff will identify all persons who had served as the nursing home administrator for the facility during the prior year and identify the administrator(s) most likely accountable for the facility on the date of survey.
  3. The material received from CDPHE and information relating to administrators may be transmitted to the Office of Investigations. The information may be provided to a Board member for additional direction.
  4. The Board will be notified at the next scheduled Board meeting about the survey results obtained from CDPHE.
  5. Investigators are authorized to notify Board staff if an additional administrator(s) who had possible accountability is identified during the investigation so the appropriate complaint may be initiated. The Report of Investigation generated by the investigator assigned to the case will be reviewed by the Board. The Board may dismiss, refer back to Office of Investigations for more information, issue a Letter of Admonition, dismiss with a Confidential Letter of Concern, refer to the Office of Expedited Settlement in order to settle a disciplinary action, or refer to the Attorney General's office for formal disciplinary proceedings.

These policy guidelines do not prohibit the Board from reviewing and/or taking action on survey results of CDPHE other than those identified above should the Board have reasonable cause to believe that a nursing home administrator may have violated section 12-39-111, C.R.S.

2.J. WITHDRAWAL OF COMPLAINTS (Adopted August 29, 2001) (Adopted March 3, 1999; revised February 1, 2006; amended July 23, 2008)

A complainant cannot withdraw a complaint, once received by the Board. If an investigation cannot continue because of lack of cooperation with the complainant, the Board will be notified and either dismiss or provide further guidance.

The Board delegates authority to the Program Director, with the approval of the Board Chair, to determine pursuant to section 12-39-114(6), C.R.S., on a case by case basis, if it is in the best interest of a complainant or other recipient of service to keep proceedings and/or documents relating to Office of Investigations closed to the public prior to formal initiation of charges.

2.K. PRACTICE MONITOR APPLICATIONS (Adopted September 10, 1997; amended July 23, 2008)

1. Individuals applying for approval to act as Practice Monitors for licensees under Stipulation with the Board must have an active license without any conditions in the State of Colorado. If a Practice Monitor, at some point in time after approval, has his or her license to practice in CO revoked or suspended, or allows the license to expire, then he or she cannot continue to perform the duties of an approved Practice Monitor.
2. Applicants and current Practice Monitors are required to inform the Board of past and/or current professional discipline administered by any State Board or jurisdiction as it relates to their professional license in CO. It is within the Board's sole discretion to determine whether the affected individuals may be approved to act as a Practice Monitor or to continue performing in such a capacity.
3. A Practice Monitor is required to be fair and impartial. Therefore, the Practice Monitor shall not be related to the monitored nursing home administrator by blood or marriage and shall not have any personal financial interest in the monitored administrator's license or practice. The Board may, on a case by case basis, approve a request for exception based upon hardship provided that the Practice Monitor submit sufficient proof that he or she is, and can remain, fair and impartial during the monitoring period.
4. A Board member may be appointed to review and approve Practice Monitor applications submitted to the Board following the conclusion of the regularly scheduled meeting. Any action taken with respect to a Practice Monitor application shall be submitted to the Board for review and ratification at the next scheduled meeting.

2.L. CASES DISMISSED WITH CONFIDENTIAL LETTERS OF CONCERN (LOC): CLARIFICATION OF BASIS FOR DISMISSAL, REOPENING OF SUCH CASES AND CASE RETENTION PERIOD (Adopted July 23, 2008)

1. Complaints that are dismissed with Confidential Letters of Concern (LOC) are not dismissed as being without merit but rather are dismissed due to no reasonable cause to warrant further action at that time. Cases that are dismissed with a LOC will be retained in the Board's files for a period of five (5) years.

2. The Board may reopen a case that was dismissed with a LOC in the face of a change in circumstances. Such a change in circumstances would include but not be limited to:
  - a. Discovery of new evidence supporting the underlying charges.
  - b. Evidence that the licensee has engaged in further unprofessional conduct or grounds for discipline following issuance of the LOC in which there is a nexus between the new conduct and in the case that was dismissed with the LOC.
3. After five (5) years from the date of the LOC, the file will be disposed of in accordance with the Division's records management procedures. If the licensee has other active cases pending at the end of the five (5) year retention period, the LOC may be kept for a longer period of time at the discretion of the Program Director.

#### 2.M. REPORTING PUBLIC ACTIONS (Adopted July 23,2008)

Any final action taken by the Board will be reportable to the Healthcare Integrity and Protection Data Bank (HIPDB) and as otherwise required by law. Additionally, the Program Director is delegated the authority to release such information to other licensing or regulatory bodies, law enforcement agencies, and any national data bank relating to nursing home administrators. Additionally, any such action shall be a public record admissible at any hearing held before the Board.

#### 2.N. DISCIPLINARY REPORTING IN THE NEWSLETTER (Adopted July 23, 2008)

The Board acknowledges the policy of the Division of Registrations, Department of Regulatory Agencies to publish all names of licensees disciplined, including those issued Letters of Admonition.

2.O. PROCESS FOR HANDLING COMPLAINTS INVOLVING CURRENT/PAST BOARD MEMBERS (Adopted September 30,2009)

1. It is the policy of the Board of Examiners of Nursing Home Administrators that any signed complaint received by the Board against a current licensee who is a member of the Board or one who has served on the Board within the past five (5) years, or a licensee who has an ongoing formal relationship with the Board will be handled as follows:
  - a. If the complaint alleges a violation of the Nursing Home Administrators Act, Article 39 of Title 12 or Board Rules, the complaint will be sent to the Office of Investigations within the Division of Registrations for a formal investigation.
  - b. If the complaint alleges substandard practice, the Office of Investigations will have the case reviewed by an independent consultant selected by the Office of Investigations.
  - c. If the complaint alleges sexual boundary violations, substance abuse, or physical or mental impairment, the Board may require the licensee to undergo an evaluation by a Board approved peer assistance provider or a qualified healthcare provider selected by the Office of Investigations. At a minimum, the complaint shall be sent to the Office of Investigations to determine if there is any validity to the allegations.
2. Upon completion of the investigation and/or evaluation, the report will be referred to the Board for appropriate action.
  - a. If the complaint alleged sexual boundary violations, substance abuse, or physical or mental impairment, and the report from the Office of Investigations substantiates such allegations, the Board shall require the licensee to undergo an evaluation by a Board approved peer assistance provider or a qualified healthcare provider selected by the Office of Investigations, if the Board has not already done so.
3. If the complaint is against a current Board member, he or she shall recuse from all discussions regarding the complaint and physically leave the meeting room during these discussions.
4. All other customary procedures for the handling of a complaint by the Board will apply. These include but are not limited to initiation of the complaint process by the Board, notification to the licensee and complainant of Board decisions, and the confidentiality of the complaint and investigation as provided by the Board's organic statute.

5. Anonymous complaints filed against a current licensee who is a member of the Board or one who has served on the Board within the past five (5) years, or a licensee who has an ongoing formal relationship with the Board will be evaluated by the Board in accordance with the Board's policy regarding anonymous complaints.

2.P. ANONYMOUS COMPLAINTS (Adopted September 30, 2009)

It is the policy of the Board of Examiners of Nursing Home Administrators not to encourage anonymous complaints. The Board will not automatically investigate anonymous complaints. Rather, they will be subject to review on a case-by-case basis.

**SECTION 3: LICENSING POLICIES**

3.A. ADMINISTRATIVE REVIEW OF APPLICATIONS FOR LICENSURE (Adopted December 8, 1993; revised February 1, 2006; revised June 13, 2007)

The Board delegates authority to the Program Director to review applications for licensure by Examination and Endorsement and license persons whose applications clearly meet requirements. If the Program Director has any concerns about an application, the application will be referred to the Board for its review and disposition. The names of all applicants licensed will be placed on the agenda for Board ratification.

3.B ADMINISTRATIVE REVIEW OF APPLICATIONS FOR TEMPORARY LICENSURE (Adopted June 13, 2007; amended July 23, 2008)

The Board delegates authority to the Program Director to review and approve all applications for temporary licensure to individuals who meet the requirements for licensure as a nursing home administrator in Colorado. Any such action shall be brought to the Board for ratification at the next scheduled meeting. The Program Director has discretion to deny a request for a temporary license. If the Program Director denies a request for a temporary license, the application will be presented to the Board at its next scheduled meeting. If a temporary license is granted for less than twelve (12) months to a hospital administrator, then the Program Director must present the application to the Board at its next scheduled meeting.

3.C. DEADLINES (Adopted April 23, 1986; amended July 23, 2008)

The Board will only consider completed applications that are submitted by the deadline date. These applications must have all of the required supporting documentation in the Board Office three weeks prior to a scheduled Board meeting.

3.D. AIT TRAINING PROGRAMS (Adopted July 11, 1984, revised September 8, 1993; revised February 1, 2006)

The Board will not endorse any one AIT training program. All programs will be evaluated on their own merits and tailored to individual applicants.

3.E. EXAMINATION: PASSING SCORE (Revised February 1, 2006; amended July 23, 2008)

The Board accepts the passing score on the national exam to be the score recommended by National Association of Boards of Examiners of Long Term Care Administrators.

3.F. REINSTATEMENT OF LICENSES (Adopted July 23, 2008)

Practice time accrued while engaged in unlicensed practice will not be counted towards maintenance of competency.