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Rulemaking Hearing, March 7, 2012

STATEMENT OF BASIS AND PURPOSE
FOR REVISION OF RULES AND REGULATIONS

BASIS: The authority for revision of these Rules and Regulations by the Colorado State Board of Examiners of Nursing Home administrators is set forth in Section 12-39-105(4), C.R.S.

PURPOSE: The purpose for the added language to Rule 1 is to implement the requirement of HB11-1100 that the Board adopt a rule in response to those new statutory provisions. The purpose for the revisions to Rule 2.A. and 2.B., and Rule 3.4 and Rule 3.5. is to allow the Board the ability to accept additional education, training, and experience towards licensure that is appropriate to protect the public. These proposed revisions also allow an opportunity for more qualified candidates to seek licensure in the state of Colorado.

The Board is also using this opportunity to renumber all its rules, so they are easier to identify and follow, and to provide consistency in the use of commas and space.

The Board believes the proposed revisions to the existing rules are fair, impartial and non-discriminatory.



DEPARTMENT OF REGULATORY AGENCIES

State Board of Examiners of Nursing Home Administrators

RULES AND REGULATIONS FOR NURSING HOME ADMINISTRATORS

3 CCR 717-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

RULE ~~4~~1. GENERAL LICENSING PROVISIONS (AMENDED ON JULY 29, 2009 AND EFFECTIVE AUGUST 30, 2009; AMENDED ON JANUARY 27, 2010 AND EFFECTIVE MARCH 30, 2010; AMENDED ON MARCH 7, 2012 AND EFFECTIVE APRIL 30, 2012)

~~4~~A. Change of name and address

~~a~~1. The licensee shall supply legal evidence of name change by court record or marriage certificate in order for such change to be made on Board records.

~~b~~2. Notice of change of address shall be submitted in writing to the Board by the licensee within thirty (30) days of such change.

~~e~~3 Any notification by the Board to licensees or applicants, required or permitted, under section 12-39-101, et seq., C.R.S., or the State Administrative Procedure Act, found at section 24-4-101, et seq., C.R.S., shall be served personally or by first class mail to the last address of record provided in writing to the Board. Service by mail shall be deemed sufficient and proper upon licensees and applicants.

~~2~~B. All documents needed for licensing approval must be received within one (1) year of the date of receipt of application. If all required information is not submitted within a one (1) year period, then the original licensing documents will be destroyed and applicants interested in pursuing licensure will be required to submit a new application, fee, and all required documentation.

~~3~~C. All applicants who have met the education requirements and have otherwise complied with the rules of the Board must successfully pass a Board approved national and state examination.

~~4~~D. The national examination shall consist of those questions constituting an examination formulated by a national association, approved by the Board.

~~5~~E. The content areas covered by the state examination are derived and updated through regular, systematic inquiries designed to identify job-relevant, state-specific areas of competence essential to protecting consumers served by licensed nursing home administrators in Colorado and may include questions in the following content areas:

~~a~~1. Long-Term Care Facilities: including management and administration; resident care, rights, security and safety; medical, nursing, dental, dietary, pharmaceutical, diagnostic, and social services; therapeutic aspects of resident care; infection control; emergency services; admissions and facility records; housekeeping, linen, and laundry services; and pest control and waste disposal services.

~~b~~2. General Building and Fire Safety and General Licensure: including building fire and safety; facility evacuation and disaster preparedness; interior finishes; submission and approval of building plans and specifications; licensure provisions; quality management; access to patient medical records; incident reporting; grievance mechanisms; and facility obligations to the patient.

~~63.~~ Laws and regulations governing nursing home administrators and long term care facilities including compliance with local, state, and federal regulatory requirements and investigations; facility management and operations; provisions for resident health, safety, welfare, and rights; integrity of fiscal operations, programs, and systems to account for and protect residents personal funds and property within the facility; ethical, professional decision-making and maintaining proficiencies that meet current industry standards to effectively perform responsibilities; communication and accountability with respect to the Board.

~~6F.~~ Candidates shall be informed in writing regarding examination performance.

~~7G.~~ Candidates seeking licensure pursuant to section 12-39-106, C.R.S., must successfully complete both licensing examinations within one (1) year after approval to take the examination has been granted. If the candidate does not successfully complete the examinations within the time period specified, the candidate shall be required to reapply for licensure and pay all appropriate fees.

~~8H.~~ Education, training, or service gained in military services outlined in C.R.S. section 24-34-102(8.5), C.R.S., to be accepted and applied towards receiving a license, must be substantially equivalent, as determined by the Board, to the qualifications otherwise applicable at the time of receipt of the application. It is the applicant's responsibility to provide timely and complete evidence for review and consideration. Satisfactory evidence of such education, training, or service will be assessed on a case by case basis.

RULE ~~2II.~~ LICENSING REQUIREMENTS (AMENDED ON JULY 29, 2009 AND EFFECTIVE ON AUGUST 30, 2009; AMENDED ON JANUARY 27, 2010 AND EFFECTIVE MARCH 30, 2010; AMENDED ON MAY 26, 2010 AND EFFECTIVE JULY 15, 2010 AND JULY 1, 2011; AMENDED ON MARCH 7, 2012 AND EFFECTIVE APRIL 30, 2012)

A. Licensure by Examination

1. Persons who qualify for licensure by examination by means of sections 12-39-106-(1)(b) or (c), C.R.S., must have successfully completed study in colleges or universities approved by an organization nationally recognized by the United States Department of Education for regional institutional accrediting.
2. For purposes of section 12-39-106-(1)(b), C.R.S., degrees deemed appropriate by the Board include, but are not limited to, the following:
 - a. A Bachelor of Science degree or higher in Health Care Management; ~~or~~
 - b. A Bachelor of Science degree or higher in Gerontology; or
 - c. A Bachelor of Science degree or higher in Nursing Home Administration.
3. For purposes of section 12-39-106-(1)(c), C.R.S., degrees in a health-care related field shall include, but not be limited to, the following:
 - a. Nursing; ~~or~~
 - b. ~~Nursing home administration.~~ Social Services, if related to long-term health care;
 - c. Sociology, as long as the applicant has practiced as a social worker in long-term care;
 - d. Physical Therapy; or

e. Occupational Therapy.

4. Degrees the Board does not deem to be health-care related shall include, but not be limited to, engineering, language arts, communication, political science, theology, or a degree in general studies.
5. For purposes of section 12-39-106-(1)(c), C.R.S., experience in administration shall require:
 - a. Day to day on-site involvement in and/or responsibility for supervising, directing, managing, monitoring and exercising reasonable control ~~over no less than five (5) subordinates. A direct reporting relationship must exist. This may include direct supervision of subordinates or involvement in the supervision of subordinates;~~
 - b. The coordination of interdisciplinary patient care and services; and
 - c. Planning, organizing, and controlling events toward a goal. Examples include involvement in finance, budget, and policy-making decisions.
6. For purposes of section 12-39-106-(1)(c), C.R.S., experience in administration shall not include housekeeping, laundry, food service, activities, social services, medical records, bookkeeping, or clerical responsibilities.
7. Applicants who have successfully completed an Administrator-in-Training Program approved by the Board shall qualify for licensure by examination.

B. Licensure by Endorsement

1. To qualify for licensure by endorsement, an applicant must have:
 - a. Practiced as a nursing home administrator, taught in an accredited health care program, or served as a member of a nursing home survey or accreditation team for twelve (12) consecutive months immediately preceding the date of receipt of application; or
 - b. Practiced as a nursing home administrator, taught in an accredited health care program, or served as a member of a nursing home survey or accreditation team for three (3) of the five (5) years immediately preceding the date of receipt of application, or
 - c. Demonstrate current competency as a nursing home administrator by submitting proof of having successfully completed one or more of the following:
 - i. Practice under a probationary or otherwise restricted license for a specified period of time;
 - ii. Successful completion of courses approved by the Board;
 - iii. Any other professional standard or measure of continued competency as determined by the Board, including successful completion of the state and/or national examination.
 - d. If an applicant is qualified for licensure by endorsement by meeting the requirements listed in section 1.a, 1.b, or 1.c of this Rule B.1, then he or she shall also meet the requirements of B.2.

2. Persons who qualify for licensure by endorsement by means of section 12-39-110, C.R.S. must have obtained licensure to practice as a nursing home administrator in another state or territory of the United States with credentials and qualifications which are substantially equivalent to the requirements for licensure by examination in the state of Colorado.

a. An applicant for licensure by endorsement who is required to complete an Administrator-In-Training program pursuant to section 12-39-106(1)(a), C.R.S., may request a waiver of any portion of the training period as set forth in Board Rule 3.4.

b. An applicant for licensure by endorsement who has practiced in good standing as an actively licensed nursing home administrator for a minimum of five (5) years without any pending or final disciplinary action against his or her license to practice as such in any state or territory of the United States is deemed to possess credentials and qualifications which are substantially equivalent to the requirements of section 12-39-106, C.R.S.

3. To qualify for licensure by endorsement, an applicant ~~has~~must have successfully completed the national examination.

C. Temporary Licensure

1. Applicants must have submitted an application for licensure as a nursing home administrator prior to consideration for any temporary license.

a. If the applicant is the current Director of Nursing at the facility and is eligible for a temporary license for an emergency situation as stated below in section 2.a., then the applicant is not required to submit an application for licensure prior to consideration for any temporary license.

2. Temporary License for Emergency Situations

a. A temporary license, not to exceed ninety (90) days, may be issued to a qualified applicant in the case of death of the administrator, termination of the administrator, resignation of the administrator without notice, or other similar emergent circumstances. Promotion or transfer made at the discretion of the ownership, management, or facility governing board does not qualify as an emergency.

b. The Program Director is authorized to issue only one ninety (90) day emergency temporary license per occurrence.

c. A qualified applicant is one who meets the requirements for nursing home administrator licensing and may include the following:

i. An individual who has completed the Administrator-in-Training (AIT) program;

ii. An individual who qualifies for licensure by exam or endorsement and is working in the facility and has made application for licensure.

d. An applicant for an emergency temporary license must submit an application and payment of the appropriate fee. A representative of the facility must attest to the nature of the emergency.

- e. The applicant cannot practice in the capacity of a nursing home administrator until the Board has acted upon the application for a temporary license.

3. Temporary License for a Hospital Administrator

- a. The applicant under this section must submit the following:
 - i. A completed application;
 - ii. The appropriate fee; and
 - iii. A letter from the general hospital board of directors or similar authority indicating that the applicant is, in fact, employed as the hospital administrator and that the hospital does need to have this person serve as the nursing home administrator.

D. Renewal of Licensure

A licensee shall have a sixty (60) day grace period after the expiration of the license to renew without the imposition of a disciplinary sanction for practicing on an expired license. A delinquency fee will be charged for late renewal during this grace period. A licensee who does not renew his or her license within the sixty (60) day grace period shall be treated as having an expired license and therefore, ineligible to practice until such license is reinstated.

E. Reinstatement of an Expired License

1. To be considered for licensure reinstatement, the applicant must submit the following:
 - a. Completed application for reinstatement with a reinstatement fee; and
 - b. Attestation in a form determined by the Board that the applicant has not violated any statute, rule, or regulation. The Board may require additional information to determine the applicant's ability and competence to practice with reasonable skill and safety based on the information provided by the applicant.
2. The Board may deny an applicant for reinstatement upon a finding that the applicant has violated any provisions of the statute and regulations.
3. If the license has been expired for more than two (2) years, the applicant must submit a current National Practitioner Data Bank – Healthcare Integrity and Protection Data Bank (NPDB-HIPDB) report.
4. If the license has expired for more than two (2) years, the applicant shall satisfactorily demonstrate to the Board that he or she is competent to practice as a nursing home administrator. The Board shall require the following as a demonstration of competency to practice:
 - a. Documentation of active practice in another state for the two (2) years immediately preceding the filing of the reinstatement application; or
 - b. Practice under a probationary or otherwise restricted license for a specified period of time; or
 - c. Successful completion of courses approved by the Board; or

- d. Any other professional standard or measure of continued competency as determined by the Board, including successful completion of the state and/or national examination.
- 5. An applicant may petition the Board for reinstatement with a waiver of the competency requirements in this rule, upon demonstration of hardship. The Board, in its discretion, may grant such waiver and reinstatement so long as the public is protected.

RULE ~~3~~III. ADMINISTRATOR-IN-TRAINING (AIT) PROGRAM (AMENDED ON JULY 29, 2009 AND EFFECTIVE AUGUST 30, 2009; AMENDED ON JANUARY 27, 2010 AND EFFECTIVE MARCH 30, 2010; AMENDED ON MARCH 26, 2010 AND EFFECTIVE JULY 15, 2010; AMENDED ON MARCH 7, 2012 AND EFFECTIVE APRIL 30, 2012)

~~4~~A. The AIT program is the way in which a person seeking licensure as a nursing home administrator may obtain practical training and experience in nursing home administration under the direct supervision of a licensed nursing home administrator (preceptor) who is in full-time practice in the facility.

~~2~~B. Education and experience criteria for admission into the AIT program.

~~a~~1. The applicant must have two (2) years college level study in areas relating to health care or two (2) years of experience in nursing home administration or comparable health care management for each year of required education.

~~ia~~. College level study

~~A~~i. Study must be successfully completed in a college or university approved by an organization nationally recognized by the United States Department of Education for regional institutional accrediting.

~~B~~ii. The types of courses which will be considered "relating to health care" ~~for~~ entry into the AIT program include, but are not limited to:

~~(1)~~ nursing

~~(2)~~ social services if related to health care

~~(3)~~ recreational therapy (not physical education)

~~(4)~~ dietary

~~(5)~~ psychology

~~(6)~~ sociology

~~(7)~~ physiology

~~(8)~~ anatomy

~~(9)~~ biology

~~(10)~~ speech

~~(11)~~ health care management

~~(12)~~ administration

~~ii~~b. Experience

~~A~~i. Experience must be obtained in nursing home administration or comparable health care management.

~~B~~ii. Experience in comparable health care management may include:

~~(1)~~ Direct health care, which includes nursing, therapies, clinical social services, and activities.

~~(2)~~ Ancillary services, which includes business office, medical records, environmental services, human resources, and marketing.

~~(3)~~ Planning, organizing and controlling events toward a goal such as involvement in finance, budget, and policy making decisions.

~~iii~~c. The Board may approve substitution of two (2) years of Board approved experience for one (1) year of education, or may approve proportional experience for various amounts of education.

~~iv~~d. Applicants will not be required to possess experience in administration as defined in Rule 2.A.5 in order to apply for the AIT program. This experience will be gained through participation in the program.

~~3~~C. Applying for the AIT program

~~a~~1. An applicant for the nursing home AIT program shall meet the statutory requirements of section 12-39-106 and section 12-39-107, C.R.S., and shall submit the following:

~~ia~~. A complete and accurate application form.

~~ib~~. If applicable, transcripts sent directly in a manner acceptable to the Board.

~~ic~~. Any required additional or supplemental documentation.

~~id~~. An application for approval of a preceptor, signed by the applicant and the proposed preceptor. It shall be the responsibility of the AIT applicant to enter into an agreement with a Colorado licensed nursing home administrator who meets the qualifications to be a preceptor and who is willing to accept and supervise the AIT applicant in accordance with Board rules.

~~ie~~. The full AIT program plan for a period of two thousand (2,000) hours, with supporting documentation, not to exceed two (2) years. The program plan must include a detailed timetable of planned learning experiences and a description of objectives. The program plan must include the methods of instruction, the hours and days of the week to accomplish the AIT program separate from other job duties, and a detailed description of the program of study addressing the following areas:

~~A~~i. Principles of administration including budgeting, accounting, records management, organization, personnel, and business management.

Bii. Medical, sociological, psychological, environmental, quality assurance, and therapeutic aspects of resident care.

Ciii. Federal, state, and local laws and regulations in relation to the administration of a nursing home.

- b2.** The AIT shall work under the personal direction of the preceptor for the duration of the approved program. It is the responsibility of the preceptor and of the AIT to ensure that the AIT is engaged in the AIT program in order for the hours to be considered.
- e3.** The application and all required information shall be on file with the Board at least one **(1)** month prior to the regular meeting of the Board preceding the requested beginning date of the AIT program. The AIT program must be approved in full by the Board prior to the applicant beginning the plan.
- d4.** Before approving the applicant for the AIT program, the Board must be satisfied that the applicant does not have a substantial financial interest in the nursing home which is to be the site wherein the major portion of the training time will be served.
- e5.** Once the applicant has successfully completed the AIT program, then a complete application for licensure by examination must be submitted. Please refer to Rule 2.A. for further information concerning that process.
- f6.** Unless good cause is demonstrated to the Board, persons who have participated in an AIT program must successfully complete both the national and state examinations and meet all other licensing requirements within one (1) year after completion of the program.

4D. Waivers

- a1.** The Board may consider requests for waivers of any portion of the AIT period provided the applicant has had responsibility for performing all of the administrative or supervisory tasks in a nursing home in each of the following categories including, but not limited to:
 - ia.** Budgeting, accounting, records management, organization, personnel, and business management.
 - ib.** Medical, sociological, psychological, environmental, quality assurance, and therapeutic aspects of resident care.
- b2.** Waiver up to, but no more than, five hundred (500) hours may be considered for an applicant who has had a minimum of one (1) year of responsibility for performing administrative or supervisory tasks in a nursing home in one of the above categories.
- e3.** Waiver up to, but no more than, ~~one thousand fifteen hundred~~ **(40001,500)** hours may be considered for an applicant who has a minimum of two (2) years of responsibility for performing administrative or supervisory tasks in a nursing home in both of the above categories.
- d4.** For applicants for licensure by endorsement, the Board may consider requests for waivers of any portion of the AIT period for individuals who submit documentation of active practice in good standing as a Nursing Home Administrator for the three (3) years immediately preceding the date of application.
- e5.** Waiver considerations

ia. Supervisory experience shall be defined as:

Ai. Day to day on-site involvement in and/or responsibility for directing, controlling, managing, ~~and monitoring,~~ and exercising reasonable control. no less than five (5) subordinates. A direct reporting relationship must exist; This may include direct supervision of subordinates or involvement in the supervision of subordinates;

B-ii The coordination of interdisciplinary patient care and services; and

Ciii. Planning, organizing, and controlling events toward a goal. Examples include involvement in finance, budget, and policy-making decisions.

ib. Administration shall not include experience in housekeeping, laundry, food services, activities, social services, medical records, bookkeeping, or clerical responsibilities.

f6. If the AIT requests a waiver, he or she must submit a detailed plan outlining the requested areas of waiver as well as the areas of study to be completed. The detailed waiver plan must be submitted in addition to the full two thousand (2,000) hour program.

g7. Once the Board reviews and takes action on a waiver request, it will not consider any further waivers for that AIT.

5E. Preceptors

a1. "Preceptor"- – a nursing home administrator who:

ia. Has been licensed for no less than three (3) years; ~~and~~ and has actively practiced nursing home administration for the preceding twenty-four (24) months in the ~~State state~~ of Colorado; ~~and has been the administrator of record for no less than one (1) year at the facility where the AIT program is to take place.~~ The Board may consider ~~previous~~ survey, survey, and disciplinary history when reviewing preceptor applications.

ib. Agrees to abide by the terms of the AIT agreement set forth by the Board for any AIT under their supervision.

iii. ~~Is the administrator of record in a facility eligible by federal and state law to offer a nurse aide training and/or competency evaluation program.~~

b2. No preceptor shall have more than one (1) AIT under supervision at any one time unless pre-approval is obtained from the Board.

e3. A preceptor shall remain fair and impartial during review of the AIT performance. No preceptor shall receive any financial remuneration from or on behalf of an AIT for services as a preceptor under the program. A preceptor shall not be related by blood or marriage to the AIT nor shall the preceptor have a personal financial interest in the licensure of the AIT. An AIT applicant in a rural or remote area may request a waiver of this requirement upon demonstration of hardship and that the preceptor can, and will, remain fair and impartial during the AIT program. Any such waiver shall be in writing and shall be subject to the full discretion of the Board.

d4. Each preceptor shall serve at the discretion of the Board.

- e5. All preceptors shall comply with the rules and regulations regarding the AIT program and may be disciplined for failure to do so.
- f6. All preceptors shall abide by the terms of any agreement entered into with the Board to act as a preceptor.
- g7. It is the responsibility of the preceptor to assist the AIT applicant in developing this detailed program of training. Such program may include classroom experience received while in the AIT program if Board approval is obtained.

6F. Monitoring

- a1. Each AIT shall file monthly progress reports on a form prescribed by the Board. In addition, the preceptor shall submit monthly reviews of the AIT on a form prescribed by the Board.
- b2. The monthly progress reports submitted by the AIT shall be co-signed by the AIT and the preceptor and filed with the Board no more than ten (10) days following the end of the reporting period.
- c3. If an AIT fails to file reports as prescribed above, the AIT may be deemed to have abandoned the AIT program.
- d4. Any falsification or misrepresentation contained in any report or document attesting to the facts, conditions, and activities of the AIT and submitted by the AIT, preceptor, or other licensees under the jurisdiction of the Board may be considered conduct which fails to meet generally accepted standards for nursing home administration practice and may subject the AIT, preceptor, or other licensees to discipline pursuant to the statute.
- e5. The Board or its designee shall have the right to monitor, call for conference any party, or visit the facility during the course of the AIT program to assure compliance with these rules.
- f6. The AIT and the preceptor shall be held responsible to adhere to Rule 4 during participation in any AIT program. Failure to do so may be grounds for denial of licensure and/or action on the license of the preceptor.

7G. Interruption, discontinuance, or disqualification

- a1. Termination of the AIT/preceptor agreement shall be reported by the AIT in writing to the Board within seven (7) days of such termination.
- b2. Discontinuance by the AIT of the program shall be reported by the AIT in writing to the Board within seven (7) days after such discontinuance.
- c3. The AIT program, in whole or in part, may be disqualified if the AIT violates any Board rule. Additionally, the Board may deny the AIT's application for licensure.
- d4. Acceptance into the AIT program in no way implies authority for the AIT to serve in the capacity of a nursing home administrator; such action by the AIT may disqualify the entire period of the AIT program.
- e5. In the event the preceptor fails to provide the AIT an opportunity for adequate professional and occupational experience, the Board may disqualify the preceptor from further service in the AIT program.

- ~~f6.~~ In the event that during the AIT program the training experience proves unsatisfactory, the Board may terminate or rearrange all or part of the program.

RULE 4IV. STANDARDS OF PRACTICE (AMENDED ON JULY 29, 2009 AND EFFECTIVE ON AUGUST 30, 2009; AMENDED ON MARCH 7, 2012 AND EFFECTIVE APRIL 30, 2012)

- ~~4A.~~ Pursuant to section 12-39-105(3)(a), C.R.S., the following requirements must be met by any individual who receives and retains a license or a temporary license as a nursing home administrator. The licensee must:
- ~~a1.~~ Comply with all local, state, and federal laws and regulations concerning the operation or reimbursement of nursing homes and/or nursing home administrators. The licensed nursing home administrator shall cooperate with any investigation of these regulatory bodies.
 - ~~b2.~~ Exercise reasonable supervision over the activities of nursing home personnel.
 - ~~c3.~~ Maintain a clean and safe environment to ensure the health, safety, and welfare of residents and staff in the licensee's facility.
 - ~~d4.~~ Ensure a quality of care and quality of life that is consistent with the health and safety of the residents in the licensee's facility. This includes, but is not limited to, the promotion of care, related medical and other services provided by the facility to assist each resident to attain or maintain the highest practicable mental, physical, and psychosocial well being to the extent it is consistent with the resident's wishes.
 - ~~e5.~~ Protect resident rights as required by state and federal laws including, but not limited to, the protection against abuse, neglect, and other mistreatment.
 - ~~f6.~~ Participate with the ownership, management, or facility governing board to plan, implement, and evaluate written policies and procedures to promote facility systems to function properly and ensure compliance with law and regulation.
 - ~~g7.~~ Communicate and problem solve regularly with the governing body, department heads, facility staff, and residents to allocate resources properly. The nursing home administrator shall also foster effective communication and problem solving between management, staff, residents, family, community, and all parties involved to ensure appropriate management and operation of the facility and to provide for residents' rights, health, safety, and welfare.
 - ~~h8.~~ Plan, implement, and evaluate an integrated financial program for the facility which ensures compliance with applicable laws and regulations; quality of care and life; and appropriate and accurate billing for services.
 - ~~i9.~~ Possess and maintain the competencies necessary to effectively perform his/her responsibilities as a nursing home administrator through:
 - ~~ia.~~ exercising ethical and professional decision making and judgment;
 - ~~ib.~~ assuming leadership in the facility;
 - ~~ic.~~ exemplifying an administrative philosophy congruent with the mission and goals of the organization as well as generally accepted standards;

~~ivd.~~ planning, organizing, and directing those responsibilities delegated to the administrator by the ownership, management, or governing board of the facility and inherent in the role of an administrator;

~~ve.~~ abiding by and keeping confidential resident information; and

~~vif.~~ keeping current with trends and industry standards of practice. The above list of competencies is for illustrative purposes only and is not intended to be exhaustive.

~~j10.~~ Take appropriate steps to avoid discrimination on basis of race, color, sex, religion, age, national origin, disability, marital status, ancestry, sexual orientation, or any other factor that may be discriminatory or not related to bona fide requirements of quality care.

~~k11.~~ Provide appropriate systems to account for and to protect residents' personal funds and property within the facility. It shall be a violation of this rule to misappropriate resident or facility funds or property.

~~l12.~~ Disclose to the ownership, management, or facility governing board or other authority as may be appropriate, any actual or potential circumstance concerning the nursing home administrator that might reasonably be thought to create a conflict of interest or have an adverse impact on the facility or its residents.

~~m13.~~ Develop, participate, and monitor compliance of a functioning Quality Assurance Committee or its equivalent that evaluates and monitors the quality of resident care, residents' rights, and quality of life as required by Federal and State Regulations and generally accepted standards.

~~n14.~~ Adhere to the generally accepted standards of practice of a Colorado licensed nursing home administrator including, but not limited to, the development and implementation of policies and procedures to ensure the health and safety of the residents.

~~2B.~~ Any failure to meet these standards may result in disciplinary proceedings as set forth in section 12-39-111 & section 12-39-114, C.R.S.

RULE V.5 DECLARATORY ORDERS (AMENDED ON JULY 29, 2009 AND EFFECTIVE ON AUGUST 30, 2009; AMENDED MAY 26, 2010 AND EFFECTIVE ON JULY 15, 2010; AMENDED ON MARCH 7, 2012 AND EFFECTIVE APRIL 30, 2012)

~~4A.~~ Any person may petition the Board for a declaratory order to terminate controversies or to remove uncertainties as to the applicability to the petitioner of any statutory provision or of any rule or order of the Board.

~~2B.~~ The Board will determine, in its discretion and without notice to petitioner, whether to rule upon any such petition. If the Board determines that it will not rule upon such a petition, the Board shall promptly notify the petitioner of its action and state the reasons for such action.

~~3C.~~ In determining whether to rule upon a petition filed pursuant to this rule, the Board will consider the following matters, among others:

~~a1.~~ Whether a ruling on the petition will terminate a controversy or remove uncertainties as to the applicability to the petitioner of any statutory provision or rule or order of the Board.

- b2. Whether the petition involves any subject, question, or issue which is the focus of a formal or informal matter or investigation currently pending before the Board or a court but not involving any petitioner.
- c3. Whether the petition seeks a ruling on a moot or hypothetical question or will result in an advisory ruling or opinion.
- d4. Whether the petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to C.R.C.P. 57, which will terminate the controversy or remove any uncertainty as to the applicability to the petitioner of the statute, rule, or order in question.

4D. Any petition filed pursuant to this rule shall set forth the following:

- a1. The name and address of the petitioner and whether the petitioner is licensed pursuant to the provisions of section 12-39-101, C.R.S., et seq., as amended.
- b2. The statute, rule, or order to which the petition relates.
- c3. A concise statement of all of the facts necessary to show the nature of the controversy or uncertainty and the manner in which the statute, rule, or order in question applies or potentially applies to the petitioner.

5E. If the Board determines that it will rule on the petition, the following procedures apply:

- a1. The Board may rule upon the petition based solely upon the facts presented in the petition. In such a case, any ruling of the Board will apply only to the extent of the facts presented in the petition and any amendment to the petition.
- b2. The Board may order the petitioner to file a written brief, memorandum, or statement of position.
- c3. The Board may set the petition, upon due notice to the petitioner, for a non evidentiary hearing.
- d4. The Board may dispose of the petition on the sole basis of the matters set forth in the petition.
- e5. The Board may request the petitioner to submit additional facts in writing. In such event, such additional facts will be considered as an amendment to the petition. The Board may take administrative notice of the facts pursuant to the State Administrative Procedure Act, section 24-4-105(8), C.R.S., and may utilize its experience, technical competence, and specialized knowledge in the disposition of the petition.
- f6. If the Board rules upon the petition without a hearing, it shall promptly notify the petitioner of its decision.
- g7. The Board may, in its discretion, set the petition for hearing, upon due notice to the petitioner, for the purpose of obtaining additional facts or information or to determine the truth of any facts set forth in the petition or to hear oral argument on the petition.
- h8. The notice to the petitioner setting such hearing shall set forth, to the extent known, the factual or other matters into which the Board intends to inquire.

i9. For the purpose of such a hearing, to the extent necessary, the petitioner shall have the burden of proving all of the facts stated in the petition, all of the facts necessary to show the nature of the controversy or uncertainty, ~~and~~ the manner in which the statute, rule or order in question applies or potentially applies to the petitioner, and any other facts the petitioner desires the Board to consider.

6F. The parties to any proceeding pursuant to this rule shall be the Board and the petitioner. Any other person may seek leave of the Board to intervene in such a proceeding, and leave to intervene will be granted at the sole discretion of the Board. A petition to intervene shall set forth the same matters as required by section 4 of this rule. Any reference to a "petitioner" in this rule also refers to any person who has been granted leave to intervene by the Board.

**RULE 6VI. REPORTING CONVICTIONS, JUDGMENTS AND ADMINISTRATIVE PROCEEDINGS
(AMENDED ON JULY 29, 2009 AND EFFECTIVE ON AUGUST 30, 2009; AMENDED ON MAY 26, 2010 AND EFFECTIVE JULY 15, 2010; AMENDED ON MARCH 7, 2012 AND EFFECTIVE APRIL 30, 2012)**

4A. A licensee as defined in section 12-39-102(2), C.R.S., shall inform the Board, in a manner set forth by the Board, within forty-five (45) days of any of the following occurrences:

a1. The conviction of the licensee of a felony under the laws of any state or of the United States, as described in section 12-39-111(1)(b), C.R.S. A guilty verdict, a plea of guilty, or a plea of nolo contendere (no contest) accepted by the court is considered a conviction.

b2. A disciplinary action imposed upon the licensee by another jurisdiction that registers or licenses nursing home administrators, as described in sections 12-39-111(1)(c) and (e), C.R.S., including, but not limited to, a citation, sanction, probation, civil penalty, or a denial, suspension, revocation, or modification of a license or registration whether it is imposed by consent decree, order, or other decision, for any cause other than failure to pay a license fee by the due date or failure to meet continuing professional education requirements.

e3. Revocation or suspension by another state board, municipality, federal or state agency of any health care related license, other than a license to practice nursing home administration as described in section 12-39-111(1)(c), C.R.S.

d4. Any judgment, award, or settlement of a civil action or arbitration proceeding in which the licensee was a party, if the action or proceeding included any allegation of gross negligence, violation of specific standards of practice, fraud, or misappropriation of funds in the practice as a nursing home administrator; provided, however, a licensee shall notify the Board only when such civil judgment, settlement, or arbitration award directly involves the practice of nursing home administration.

e5. The notice to the Board shall include the following information:

ia. If the event is an action by a governmental agency (as described above), the name of the agency, its jurisdiction, the case name, and the docket, proceeding or case number by which the event is designated, and a copy of the consent decree, order, or decision.

ib. If the event is a felony conviction, the court, its jurisdiction, the case name, the case number, a description of the matter or a copy of the indictment or charges, and any plea or verdict entered by the court. The licensee shall also provide to the Board a copy of the imposition of sentence related to the felony conviction and

the completion of all terms of the sentence with forty-five (45) days of such action.

iii.c. If the event concerns a civil action or arbitration proceeding, the court or arbiter, the jurisdiction, the case name, the case number, a description of the matter or a copy of the complaint, and a copy of the verdict, the court or arbitration decision, or, if settled, the settlement agreement and court's order of dismissal.

f6. The licensee notifying the Board may submit a written statement with the notice to be included with the licensee records.

Editor's Notes

History

Rules 1-6 eff. 07/30/2008.

Rules 1-7 eff. 10/30/2008.

Entire Rule eff. 08/30/2009.

Entire Rule eff. 03/30/2010.

Entire Rule eff. 07/15/2010.

Rule 2.B.1 eff. 07/01/2011.

[Rule 1.8, 2.A, 2.B, 3.4, and 3.5 eff. 04/30/2012.](#)

[Rules 1-6 re-numbered eff. 04/30/2012](#)