

Clearinghouse Rule 14-078

STATE OF WISCONSIN
NURSING HOME ADMINISTRATOR
EXAMINING BOARD

IN THE MATTER OF RULEMAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : NURSING HOME ADMININSTRATOR
NURSING HOME ADMINISTRATOR : EXAMINING BOARD
EXAMINING BOARD : ADOPTING RULES
 : (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Nursing Home Administrator Examining Board to repeal NHA 2.02 (1), 2.02 (4) (Note 2), 2.03; to renumber NHA 4.01 (1)(d) as 4.01(1) (d) (intro.); to amend NHA 2.02 (4), 2.02 (4) (Note 1), 4.01 (1) (c) (Note), 4.01 (1) (d), 4.02 (1) (c), and 4.02 (2) (a) 4.; and to create NHA 4.01 (1) (d) 1. to 3. and 4.02 (3), related to entrance to examinations.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted:

Sections 440.071 and 456.11, Stats.

Statutory authority:

Sections 15.08 (5) (b) and 227.11 (2) (a), Stats., and 2013 Wisconsin Act 114

Explanation of agency authority:

The Nursing Home Administrator Examining Board is generally empowered by ss. 15.08 (5) (b) and 227.11 (2) (a), Stats., to promulgate rules that will provide guidance within the profession and interpret the statutes it administers. 2013 Wisconsin Act 114 provides that neither the Department, nor any of its attached boards, may require applicants for licensure to complete their post-secondary education before being eligible to take their licensure exam. This legislation prompted the Nursing Home Administrator Examining Board to exercise its rule-making authority to amend pertinent sections of Wis. Admin. Code ch. NHA 1 to 5 in order to give guidance within the profession related to entrance to examinations.

Related statute or rule:

Wis. Admin. Code chs. NHA 2 and 4

Plain language analysis:

These rules address changes instituted by the passage of 2013 Wisconsin Act 114. The Act requires the Department and its attached boards to allow applicants for licensure to take their credentialing examination before completing any post-secondary education, program of study, or specialized courses. These proposed rules carryout the legislative intent by amending Wis. Admin. Code ss. NHA 2, and 4. These rules also address the reinstatement of a license by adding the term to Wis. Admin. Code s. NHA 4.02. The new provision sets forth what applicants should do to reinstate a suspended or revoked license with unmet disciplinary requirements.

SECTION 1. deletes the provision requiring education as a prerequisite to sit for the examination.

SECTION 2. amends a provision by removing language referring to the administration of an examination.

SECTION 3. amends the first note under NHA 2.02 (4) by updating where applicants can receive applications.

SECTION 4. repeals the second note under NHA 2.02 (4) and the provision regarding examination requirements.

SECTION 5. amends the first note under NHA 4.01 (1) (c) by updating where applicants can receive applications and adds education as a prerequisite for licensure.

SECTION 6. creates an introductory phrase for NHA 4.01 (1) (d).

SECTION 7. creates new educational requirements for licensure.

SECTION 8. updates citations regarding fees that accompany applications.

SECTION 9. sets forth the requirements for reinstatement of a license.

Summary of, and comparison with, existing or proposed federal regulation:

42 USCS § 1396g sets forth the federal requirements for licensure of nursing home administrators. The statute states it is the function and duty of state agencies to, “develop, impose, and enforce standards which must be met by individuals in order to receive a license as a nursing home administrator...” 42 USCS § 1396g (c) (1). This proposed rule institutes a new standard with regard to nursing home administrator examination requirements. By instituting this new standard, the Nursing Home Administrator Examining Board is in line with 42 USCS § 1396g (c) (1) which allows state agencies to regulate licensed nursing home administrators.

Comparison with rules in adjacent states:

Illinois: Nursing Home administrators are regulated by the Illinois Department of Financial and Professional Regulation via the Nursing Home Administrators Licensing and Disciplinary Act, 225 ILCS 70. Illinois requires applicants for a license as a nursing home administrator to be either a graduate of a college or university or to have completed a course of instruction regarding the operation of nursing homes that is approved by the Department. 225 ILCS 70/8 (e).

Iowa: Nursing home administrators in Iowa are regulated by the Iowa Board of Nursing Home Administrators in the Bureau of Professional Licensure in the Iowa Department of Public Health. Applicants must take the approved national examination to be eligible for licensure. 645 IAC 141.2.

Michigan: Licensure as a nursing home administrator in Michigan requires either having sufficient education and training in the fields of study set forth in statute, or having experience of not less than 5 years of employment as a chief executive or administrative officer at a hospital. MCLS 333.17309 (3).

Minnesota: The Board of Examiners for Nursing Home Administrators of the Minnesota Health Licensing Board regulates nursing home administrators in Minnesota. Minnesota requires applicants for nursing home administrator licensure to obtain a bachelor's degree from an accredited postsecondary institution as well as passing the national examination for nursing home administrator and the state examination which test Minnesota laws and rules governing nursing facility operations. Minn. R. 6400.6000.

Summary of factual data and analytical methodologies:

The methodologies used in developing this proposed rule include comparing 2013 Wisconsin Act 114 to current statutes and rules regarding nursing home administrators.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis are attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

Agency contact person:

Shawn Leatherwood, Administrator Rule Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4438; email at Shancethea.L Leatherwood@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Shawn Leatherwood, Administrator Rule Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8366, Madison, WI 53708-8935, or by email to Shancethea.L Leatherwood@wisconsin.gov. Comments must be received on or before February 5, 2015 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. NHA 2.02 (1) is repealed.

SECTION 2. NHA 2.02 (4) is amended to read:

NHA 2.02 (4) A qualified applicant with a disability shall be provided with reasonable accommodations requested in connection with the completion of an application for examination submitted under this section, ~~or relating to the administration of an examination required under s. NHA 2.03.~~

SECTION 3. NHA 2.02 (4) (Note 1) is amended to read:

NHA 2.02 (4) Note: ~~Application forms are available on request to the board office at~~ Applications are available from the Department of Safety and Professional Services, Division of Professional Credentialing, 1400 E. Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or from the department's website at: <http://dsps.wi.gov>.

SECTION 4. NHA 2.02 (4) (Note 2) and 2.03 are repealed.

SECTION 5. NHA 4.01 (1) (c) (Note) is amended to read:

NHA 4.01 (1) (c) Note: ~~Application forms for licensure are available on request to the board office located at~~ Applications are available from the Department of Safety and Professional Services, Division of Professional Credentialing, 1400 E. Washington

Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or from the department's website at: <http://dsps.wi.gov>.

SECTION 6. NHA 4.01 (1) (d) is renumbered 4.01 (1)(d) (intro.) and is amended to read:

NHA 4.01 (1) (d) (intro.) Satisfy any one of the following educational requirements ~~specified in s. NHA 2.02.~~:

SECTION 7. NHA 4.01 (1) (d) 1. to 3. are created to read:

NHA 4.01 (1)(d) 1. A regular course of study.

2. A program of study.

3. Specialized courses.

SECTION 8. NHA 4.02 (1) (c) and 4.02 (2) (a) 4. are amended to read:

NHA 4.02 (1) (c) ~~A The fee in the amount~~ required under ~~s. 440.08 (2) (a) 51., Stats~~
s.440.05 (1), Stats.

NHA 4.02 (2) (a) 4. The required renewal fees ~~specified in s. 440.08 (2) (a) 51. under ss.~~
440.05 (1) and 440.08 (3), Stats.

SECTION 9. NHA 4.02 (3) is created to read:

NHA 4.02 (3) REINSTATEMENT. (a) A licensee whose license has been surrendered or revoked or has a license with unmet disciplinary requirements which has not been renewed within 5 years of the renewal date may submit an application for reinstatement of their license with all of the following:

1. Evidence of completion of requirements in s. 4.02 (2) (b) if the licensee has not held an active Wisconsin license within the last 5 years.

2. Evidence of completion of disciplinary requirements, if applicable.

3. Evidence of rehabilitation or change in circumstances, warranting reinstatement of license.

(b) A licensee may not practice as a nursing home administrator prior to being granted reinstatement of their license.

SECTION 10. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

Dated _____

Agency _____

Chairperson
Nursing Home Administrator
Examining Board