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**INDEPENDENT REGULATORY REVIEW COMMISSION**  
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

November 3, 2000

Honorable Robert H. Morrow, Chairperson  
State Board of Examiners of Nursing Home Administrators  
116 Pine Street  
P.O. Box 2649  
Harrisburg, PA 17105

Re: Regulation #16A-623 (#1999)  
State Board of Examiners of Nursing Home Administrators  
Continuing Professional Education

Dear Chairperson Morrow:

On November 3, 2000, we discussed some problems with this final-form regulation with Board Counsel Martha Brown, Esq. These problems can be corrected or clarified by tolling. Therefore, we recommend that you toll the review period to consider the following revisions:

1. Subsection 39.52(a) on page 9 of the regulation states that all continuing education programs "require pre-approval." The Preamble indicates there are two exceptions to this rule. To provide for these exceptions, the following clause should be added to the end of Subsection 39.52(a): "... except as hereinafter provided in §§ 39.61(b)(4) and (5)."
2. Subsections 39.41(c) – (g) on page 6 of the regulation were marked for deletion in the proposed regulation. To clarify this intent in the final-form regulation, a bracket should be placed in front of Subsection (c) to mark Subsections (c) – (g) for deletion.
3. Subsection 39.61(b)(3) on pages 12 and 13 of the regulation has two subparagraphs. Subparagraph (ii) has been deleted leaving only Subparagraphs (i) and (iii). Subparagraph (iii) should be renumbered as (ii).

If the Board chooses to toll the review period, it must deliver written notice to the House Professional Licensure Committee, Senate Consumer Protection and Profession Licensure Committee, and Commission on the same day. The written notice must be delivered prior to any Standing Committee action on the regulation, or before the end of the Standing Committees' review period on November 20, 2000, whichever occurs first.

November 3, 2000  
Page Two

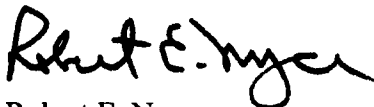
As required by Section 307.5 of our regulations, written notice must include:

1. A citation to the section(s) the Board is considering revising,
2. A description of the revisions being contemplated, and
3. An explanation of how the revisions will satisfy our concerns.

If the Commission objects to tolling the review period, we will notify you and the Committees within two business days after receipt of your tolling notice. In the event the Commission objects to your tolling notice, the review period will not be tolled and your regulation will be considered by the Commission at our public meeting on December 14, 2000. If the Commission does not object, the review period is tolled for up to 30 days beginning with receipt of your letter and ending on the day you resubmit the regulation.

If you have any questions, please call me at 783-5506.

Sincerely,



Robert E. Nyce  
Executive Director  
cae

cc: Honorable Mario J. Civera, Jr., Majority Chairman, House Professional Licensure Committee  
Honorable William W. Rieger, Democratic Chair, House Professional Licensure Committee  
Honorable Clarence D. Bell, Chairman, Senate Consumer Protection & Professional Licensure Committee  
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection & Professional Licensure Committee  
Office of General Counsel  
David J. DeVries, Esq.  
Martha Brown, Counsel, State Board of Examiners of Nursing Home Administrators

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**INDEPENDENT REGULATORY REVIEW COMMISSION**  
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

November 9, 2000

Honorable Robert H. Morrow, Chairperson  
State Board of Examiners of Nursing Home Administrators  
116 Pine Street  
Harrisburg, PA 17105

Re: Regulation #16A-623 (IRRC #1999)  
State Board of Examiners of Nursing Home Administrators  
Continuing Professional Education

Dear Chairperson Morrow:

We received your November 8, 2000, letter informing us of your intent to toll the subject regulation and your revisions to the regulation. The Commission does not object to tolling the review of the regulation and acknowledges receipt of the revisions.

Pursuant to Section 5.1(g)(3) of the Act (71 P.S. § 745.5a(g)(3)), the Committees will have until November 20, 2000, to complete their review. The Commission will act on this regulation at its public meeting on December 14, 2000.

If you have any questions, please contact me at 783-5506 or [bobn@irrc.state.pa.us](mailto:bobn@irrc.state.pa.us).

Sincerely,

A handwritten signature in black ink that reads "Robert E. Nyce".

Robert E. Nyce  
Executive Director

wbg

cc: Honorable Mario J. Civera, Jr., Majority Chairman, House Professional Licensure Committee  
Honorable William W. Rieger, Democratic Chairman, House Professional Licensure Committee  
Honorable Clarence D. Bell, Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee  
David J. DeVries, Esq., Office of Attorney General  
Office of General Counsel  
Martha Brown, Board Counsel, State Board of Examiners of Nursing Home Administrators  
Joyce McKeever, Deputy Chief Counsel, Department of State

# Regulatory Analysis Form

This space for use by IRRC

(1) Agency

Department of State, Bureau of Professional and Occupational Affairs, State Board of Examiners of Nursing Home Administrators

(2) I.D. Number (Governor's Office Use)

16A-623

RECEIVED  
2000 OCT 30 AM 11:05

IRRC Number: 1999

(3) Short Title

### Continuing Education

(4) PA Code Cite

§§39.1, 39.11, 39.14, 39.31-39.65, 39.72

(5) Agency Contacts & Telephone Numbers

Primary Contact: Robert G. Cameron, Counsel  
State Board of Examiners of Nursing Home Administrators (717) 783-7200  
Secondary Contact: Joyce McKeever, Deputy Chief Counsel, Department of State (717) 783-7200

(6) Type of Rulemaking (check one)

- Proposed Rulemaking  
 Final Order Adopting Regulation  
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No  
 Yes: By the Attorney General  
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

Section 9(b) of the Act requires licensees to complete continuing education as a condition of biennial renewal. Current sections 39.31-39.64 of the Board's regulations, 49 Pa. Code §§ 39.31-39.64, establish the parameters of the continuing education requirement. The proposed regulations add definitions of frequently used continuing education terms in section 39.1, eliminates outdated language and unnecessary requirements in sections 39.11, 39.14, 39.31-39.32, 39.41-39.42, and 39.53, codify the requirements for provider and program approval in sections 39.43-39.44, and 39.52, identify the types of programs which the Board will and will not approve in section 39.51, and update the required hours which a licensee must accrue in section 39.61.

9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Sections 9(b) of the Nursing Home Administrators License Act, Act of June 22, 1970, P.L. 378, as amended, 63 P.S. §1109(b), authorizes the Board to require continuing education as a condition of biennial renewal and to approve continuing education programs.

## Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

**Yes, Section 9(b) of the Act, 63 P.S. §1109(b).**

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

**Nursing home administrators must keep abreast of numerous changes in state and federal law and regulations in order to assure that long term facilities are efficiently and effectively operated.**

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

**The physical and financial welfare of disabled and elder citizens who are residents of long term facilities are at risk when administrators of these facilities fail to obtain knowledge and skills regarding operation, management and financial accountability of facilities.**

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

**Patients in nursing homes and their families will benefit from the regulation because the continuing education requirement assures that nursing home administrators update their skills biennially. Licensees will benefit from this regulation because they will know in advance whether a program has been approved and the number of hours granted. In addition, licensees will be able to obtain additional credit for serving as an instructor or authoring a book or article. Continuing education providers will benefit because the period of time to submit an application for program approval has been reduced from 90 days to 60 days, and in some instances, 30 days.**

**Regulatory Analysis Form**

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

**No groups of individuals or entities are known to be subject to adverse effects as a consequence of these regulations.**

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

**Nursing home administrators will be required to complete continuing education as a condition of biennial renewal and reactivation. Board records show 4533 persons hold licenses, 1930 licenses hold an active license.**

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

**The Board sought input from the public by disseminating numerous drafts of the proposed regulation to the entities listed on the attached list.**

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

**The costs associated with implementing these regulations, including an audit, will be borne by the general licensee/certificate holder population through biennial renewal fees which generate revenue for all Board activities, as well as provider and program application fees. In addition to the above costs, some costs may be incurred in processing any disciplinary matter against a licensee/certificate holder who fails to complete the required continuing education.**

**Currently, licensees pay \$108.00 to biennially renew their license. The Continuing education provider application fee is \$50.00. The continuing education program application fee is \$10.00 per credit.**

**Regulatory Analysis Form**

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

**Local governments would not be affected by this regulation.**

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

**The Board estimates that it will not incur an increase in its administrative cost in reviewing biennial renewal applications and auditing compliance with the continuing education requirement. Additionally, no other legal, accounting or consulting activities are anticipated. However, the Board will review the costs during its biennial reconciliation.**

## Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY	FY +1	FY +2	FY +3	FY +4	FY +5
<b>SAVINGS:</b>	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A	\$N/A
Regulated						
Local Government						
State Government						
Total Savings						
<b>COSTS:</b>	N/A	N/A	N/A	N/A	N/A	N/A
Regulated						
Local Government						
State Government						
Total Costs						
<b>REVENUE LOSSES:</b>	N/A	N/A	N/A	N/A	N/A	N/A
Regulated						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

N/A



**Regulatory Analysis Form**

(20b) Provide the past three year expenditure history for programs affected by the regulation.

N/A

Program	FY-95-96	FY- 96-97	FY -97-98	Current FY
Nursing Home administrators	111,121.45	153,952.63	147,671.58	159,000.00
				*Budgeted

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

**These regulations amend current continuing education requirements. Costs of reviewing continuing education compliance will be borne by Board licensees through the biennial renewal fee, as well as the program and provider application fees.**

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

**No non-regulatory alternatives were considered because Section 9(b) of the Act requires the Board to promulgate continuing education regulations.**

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

**See No. 22 above.**

**Regulatory Analysis Form**

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

**No federal licensure standards apply.**

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

**The regulations are consistent with the continuing education requirements in other states.**

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

**No.**

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

**The Board will consider comment from the public on these regulations during the course of its regularly scheduled meetings. Board meetings are held on the second Wednesday of every month. Meetings are held in the Board's offices at 116-124 Pine Street, Harrisburg, Pennsylvania.**

**Regulatory Analysis Form**

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

**The regulation will not add new reporting, record keeping and paperwork requirements for biennial renewal.**

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

**The Board has perceived no special needs of any subset of its licensees for whom special provisions should be made.**

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

**The regulation will be effective on publication of the final form regulation in the Pennsylvania Bulletin.**

(31) Provide the schedule for continual review of the regulation.

**The Board will review the effectiveness of the regulation during the course of implementation of the continuing education requirement.**

(5) If the licensee has been convicted, by final judgment, of a felony.

(6) If in the conduct of his affairs under the license, the licensee has shown himself to be, and is so deemed by the Commissioner, incompetent or untrustworthy, or a source of injury and loss to the public.

(b) Every order suspending a license shall specify the period during which suspension will be effective, which may in no event exceed 12 months.

(c) The holder of any license which has been revoked or suspended shall immediately surrender the license to the Commissioner at his request.

(d) The Commissioner may not reinstate the license or relicense a licensee or former licensee whose license has been suspended, revoked or renewal refused while the cause for the suspension, revocation or refusal of the license persists.

(e) Except as otherwise provided in the act, actions of the Commissioner shall be taken subject to the right of notice, hearing and adjudication, and the right to appeal therefrom as provided by law.

(f) The license of an individual found in violation of this chapter or the act may be suspended or revoked by the Commissioner. In addition, a person who violates this chapter or the act may be guilty of a misdemeanor and upon conviction thereof, for each offense, may be sentenced to pay a fine not exceeding \$500, or to undergo imprisonment not exceeding 1 year, or both.]

[Pa.B. Doc. No. 99-186. Filed for public inspection February 5, 1999. 9:00 a.m.]

## STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

[49 PA. CODE CH. 39]

### Continuing Professional Education

The State Board of Examiners of Nursing Home Administrators (Board) proposes to amend its regulations in §§ 39.1, 39.11, 39.14, 39.41, 39.43, 39.51—39.61 and 39.72, to delete §§ 39.31 and 39.32, 39.42 and 39.62—39.64 and to add §§ 39.44 and 39.65, as set forth in Annex A. The proposed amendments relate to continuing education requirements.

#### A. Effective Date

The proposed amendments would be effective upon publication of the final-form regulations in the *Pennsylvania Bulletin*. The continuing education requirement will apply to the 2001—2003 biennial renewal.

#### B. Statutory Authority

The Board has authority to adopt regulations pertaining to continuing education under section 9(b) of the Nursing Home Administrators License Act (act) (63 P.S. § 1109(b)).

#### C. Background and Purpose

Section 9(b) of the act (63 P.S. § 1109(b)), requires licensees to complete continuing education as a condition of biennial renewal. Current §§ 39.31—39.64 of the Board's regulations establish the parameter of the continuing education requirement. The proposed amendments clarify, update and expand on those provisions.

#### D. Description of Amendments

##### Substantive amendments

##### 1. Program preapproval.

Section 39.41 (relating to provider registration) of the current regulations requires continuing education providers to be preapproved by the Board. Individual programs, however, do not require preapproval under current § 39.52(b). Rather, after the program is offered or completed, licensees file individual applications with the Board, under § 39.64, seeking program approval. If the Board believes that the program satisfies its qualifications, approval will be granted. If the Board does not believe the program satisfies its qualifications, the licensee will not receive any credit and will be required to obtain additional continuing education.

As proposed, the Board's continuing education regulations would be amended to require preapproval of all programs. The Board believes that preapproval will be of assistance to licensees since they would know in advance that the program has been approved and the number of hours granted. In order to assure that the preapproval process would not burden providers, proposed § 39.52(b) would be amended to reduce the program application submission date from 90 days to 60 days. Programs limited to significant changes in State or Federal law or regulations which will be implemented within 60 days of their publications need only be submitted to the Board for approval within 30 days of their presentation.

In addition to reducing the time for seeking program approval, the proposed amendments would also reduce the paperwork requirements on providers. Under proposed § 39.43 (relating to standards for provider approval), prospective providers would no longer need to inform the Board of the provider's area of expertise, the adequacy of the facilities, qualifications, reputation and character of the instructors and appropriateness of the educational materials on the provider applications.

The proposed amendments would also eliminate the restrictions on providers by deleting current § 39.42 which identifies categories of providers.

The proposed amendments would also eliminate the individual program application fee in current section 39.72.

##### 2. Clock hour and reporting requirements.

Proposed § 39.61 consolidates and refines the requirements in current §§ 39.61—39.64. Under proposed subsection (b), licensees may complete the 48 clock hours per biennium in lecture or computer interactive courses approved by the National Association of Boards of Examiners of Long-Term Care Administrators (NAB) or the Board, college or university courses, including distance learning, individual study, serving as an instructor or author of a book, article or continuing education program.

Under the proposed amendments, current § 39.61(b)(2)(i)—(iv), regarding community, professional and health-care activities, would be eliminated. The Board believes that while these activities are worthwhile to the community and the licensee, they do not constitute

education or learning which contributes directly to the professional competence of nursing home administrators

Current §§ 39.61(b)(2)(vi)—(vii), 39.63 and 39.64, regarding home study, individual study, or serving as an instructor or author, would be consolidated into § 39.61(b)(3). Proposed subsection (b)(3)(ii) expands the publication credit for licensees. Under the current regulation, authors may only obtain 3 clock hours per article. Under this provision, up to 12 clock hours may be awarded based on the complexity of the subject matter or work. In exceptional circumstances, where an article is published in a refereed journal, a licensee may be awarded up to 24 clock hours.

Proposed subsection (b)(3)(ii) also expands the credit available for instructors. Under the current regulation, licensees are capped at 3 clock hours. Under the proposed regulation, instructors may earn 1 clock hour for each hour of participation up to 12 clock hours.

Proposed subsections (c) and (e) would set forth the exceptions to the credit hour requirement codifying current Board policy. A licensee who obtains a license after the biennial period begins would only need to complete 24 clock hours, of which 12 must be taken in NAB or Board-approved programs. Under new subsection (e) licensees who cannot meet the continuing education requirement due to illness, emergency or hardship would be able to seek a waiver from the Board.

New subsection (d) clarifies that licensees whose license is suspended would not be exempt from the continuing education requirement. New subsection (f) clarifies that licensees will not receive credit for repeating a program in the same renewal period unless the subject matter has substantially changed during that period.

New § 39.65 would describe the reporting requirements. Licensees would be required to certify that they have met the continuing education requirements on their application for biennial renewal. Documentation, listed in subsection (b), which would evidence completion of the continuing education requirement, would only have to be provided to the Board upon request. Licensees would be responsible for maintaining a copy of the documentation for 4 years. Failure to provide documentation when requested or falsification of the requested information would constitute a violation of the act and could result in disciplinary action.

### 3. Subject matter.

Under the current regulations, licensees must complete their continuing education hours in the subjects listed in §§ 39.7 and 39.14. Current § 39.14 repeats the approved subject areas in both subsections (a) and (b). In the proposed amendments, § 39.14 would be amended to delete the redundant reference in subsection (b). In addition, subsection (b)(2) has been amended to clarify that the appropriate subject areas must be appropriate to long-term care. The reference to § 39.7 has also been deleted in proposed § 39.51(a) as unnecessary.

Current section 39.51(b) would be amended to codify current Board policy that two types of programs, while capable of being in the subject areas listed in § 39.14, are not deemed acceptable to the Board: inservice programs which are not open to any licensee and programs limited to the organization and operation of the employer. The Board believes that these programs are designed to enhance job performance rather than improve clinical competency.

### 4. Provider responsibilities.

New § 39.44 would delineate provider responsibilities ranging from the disclosure obligations prior to presenting a program to verification requirements following the presentation of the program.

#### *Technical amendments*

Section 39.1 would be amended to add definitions of "continuing education certificate," "clock hour," "individual study" and "NAB."

The amendments to § 39.11 would clarify that licensees shall complete 48 clock hours of continuing education during the preceding renewal period as a condition of biennial renewal. In addition, subsection (e) would clarify that licensees whose licenses have expired shall not only submit the required late fee, if they have practiced during the preceding renewal period, or a verification of nonpractice, if they have not practiced during the preceding renewal period, but also shall provide documentation evidencing the satisfactory completion of the continuing education requirement for the preceding biennial period. This requirement is in lieu of the personal hearing previously required in current subsection (f).

Current §§ 39.13 and 39.32 are being deleted as unnecessary or redundant. Relevant subsections have been reinserted where appropriate.

#### *E. Compliance with Executive Order 1996-1.*

In accordance with the requirements of Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the proposed amendments the Board solicited input and suggestions from the regulated community by providing drafts to organizations and entities which represent the professions, educational institutions and interested individuals.

#### *F. Fiscal Impact and Paperwork Requirements*

1. Commonwealth—There is no fiscal impact associated with this proposal. Current regulations require the Board to assure compliance with the continuing education requirement before renewing a license. The costs associated with the regulations, including an audit, are borne by the general licensee population through biennial renewal fees which generate revenue for all Board activities. Additional paperwork will be incurred by the Board to amend renewal application forms.

2. Political subdivisions—There will be no adverse fiscal impact or paperwork requirements imposed.

3. Private sector—There will be no adverse fiscal impact or paperwork requirements imposed.

#### *G. Sunset Date*

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

#### *H. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 27, 1999, the Board submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee (Committees). In addition to submitting the proposed amendments, the Board has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

I. Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Robert G. Cameron, Counsel, State Board of Examiners of Nursing Home Administrators, 116 Pine Street, Post Office Box 2649, Harrisburg, PA 17105-2649, within 30 days of publication of this proposed rulemaking. Please reference No. 16A-623 (Continuing Education), when submitting comments.

ROBERT H. MORROW,  
Chairperson

Fiscal Note: 16A-623. No fiscal impact; (8) recommends adoption.

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 39. STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

GENERAL

§ 39.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

*Continuing education record*—A document issued by the provider to the participant which contains the title of the program, the hours of education and the dates attended or completed.

*Clock hour*—A minimum unit of education consisting of 60 minutes of instruction. Programs longer than 60 minutes will be credited in 30 minute increments.

\* \* \* \* \*

*Individual study*—A continuing education course which does not have an instructor or other interactive learning methodologies and which requires a passing grade on a written examination or workbook.

\* \* \* \* \*

*NAB*—The National Association of Boards of Examiners of Long-Term Care Administrators.

\* \* \* \* \*

§ 39.11. [Registration] Biennial renewal.

(a) [Certificate of registration for nursing home administrators are required to be renewed] Licenses are renewable each biennium, [2 years,] in the even-numbered years.

(b) Applications for [a new certificate of registration shall] renewal will be forwarded [biennially] to each active [registrant] licensee at the licensee's address of record with the Board prior to the expiration [date] of the current [biennium certification of registration] biennial period. [However, if for any reason the renewal application is not received, the licensee is obligated to make inquiry of the Board.]

(c) [Upon making application for a new certificate, the applicant] As a condition of biennial renewal, licensees shall [submit evidence satisfactory to the Board that] complete 48 clock hours of continuing education during the preceding biennial period [immediately preceding the application for registration, he has attended a Board approved continuation education program or course of study of not less than 24 clock hours] as required in § 39.61 (relating to requirements).

(d) Renewal [application forms] applications shall be completed and returned to the Board office accompanied by the required renewal fee. Upon approval of each application, the applicant shall receive a certificate of registration for the current renewal period.

(e) An application for the renewal of a license which has expired shall be accompanied by a late fee, [as determined by the Board in addition to] or a verification of nonpractice, the [prescribed] renewal fee and documentation evidencing the satisfactory completion of the continuing education requirement for the preceding biennial period.

[ (f) The Board may require a personal hearing and representation of satisfactory proof of compliance with section 9(e) of the act (63 P.S. § 1109(e)) before issuing a certificate of registration to a licensee whose certificate of registration has expired for the reasons therein contained. ]

§ 39.14. Approval of programs of study.

(a) A program of study designated to [train] educate and qualify an applicant for licensure as a nursing home administrator [as required by the act and this chapter] offered by an accredited university or college shall be deemed acceptable and approved for the purpose, if the program:

- (1) [The program has been] Is registered with the Board.
- (2) [The program includes] Includes a minimum of 7 1/2 [contact] clock hours [or their equivalent], in [each of] the following subject areas, appropriate to long-term care:
  - (i) [General administration] Administration, organization and management [in nursing homes].
  - \* \* \* \* \*
  - (iii) The role of government in health policy[, ] and regulation [and reimbursement].
  - \* \* \* \* \*
  - (vi) [Third-party] Government and third-party reimbursement.
  - (vii) Preparing for licensure/certification/accreditation surveys and meeting other regulatory requirements.
  - \* \* \* \* \*
  - (ix) The nursing department and [patient] resident care management.
  - \* \* \* \* \*
  - (xiii) Dietary department and [patient] resident nutrition.

(xiv) Social services, family and community relationships and [ patient ] resident rights.

\* \* \* \* \*

(b) [ A program of study designed and offered by an association, professional society or organization other than an accredited college or university to meet the requirements and qualifications for biennial registration shall be approved by the Board if:

(1) The program has been registered with the Board. The following general subject areas or their equivalents will be considered by the Board for approval for continuing educational hours:

(i) General administration, organization and management in nursing homes.

(ii) Gerontology, diseases of aging, death and dying.

(iii) The role of government in health policy, regulation and reimbursement.

(iv) Fiscal management, budgeting and accounting.

(v) Personnel management and labor relations.

(vi) Third-party reimbursement.

(vii) Preparing for licensure/certification surveys and meeting other regulatory requirements.

(viii) Understanding regulations, deficiencies, plans of correction and quality assurance.

(ix) The nursing department and patient care management.

(x) Rehabilitation services and special care services.

(xi) Health support services: pharmacy, medical records and diagnostic services.

(xii) Facility support services: building/grounds, housekeeping, laundry and central supply.

(xiii) Dietary department and patient nutrition.

(xiv) Social services, family and community relationships and patient rights.

(xv) Risk management, safety and insurance.

(xvi) Strategic planning, marketing and public relations.

(2) The program of study has been submitted to the Board for approval prior to announcement or publication, at least 2 months prior to the anticipated registration of students.

(c) ] Upon completion of an approved program of study, the sponsors of the program shall issue certificates of attendance or other evidence of attendance satisfactory to the Board.

**CONTINUING EDUCATION FOR NURSING HOME ADMINISTRATORS**

§ 39.31. [ Purpose ] (Reserved).

[ (a) The Board believes the mandate of continuing education for relicensure of nursing home administrators constitutes a major responsibility of the Board in relation to approval of educational programs. The almost overwhelming growth of the health-care field, with a great proportion of this growth affecting the aging population and long-term facilities, demands that those individuals who

assume a leadership role in this area of health-care be knowledgeable in subject matter and skilled in performance. To be effective, this knowledge shall be current and transferable to permit the individual to function in the total sphere of the health-care system.

(b) The Board believes that a formal educational setting which is staffed and equipped to offer health and other related educational programs is the preferred setting to accomplish these objectives and that the pattern established at this time will greatly determine the future course of professionalism of the nursing home administrator. ]

§ 39.32. [ Guidelines ] (Reserved).

[ The following guidelines are to be used to help insure that the educational program is a meaningful, educational experience:

(1) The program should provide a clear statement of its educational objectives.

(2) The program should selectively utilize the faculty format and educational modalities best suited to the topic.

(3) The program should conclude with an evaluation to determine if the educational objectives have been accomplished. ]

**APPROVAL PROCESS—PROVIDERS**

§ 39.41. Provider registration.

[ (a) An agency, organization, institution or center ] Anyone seeking to offer [ an organized ] a program for continuing education [ may apply to the Board as a provider.

(b) Providers seeking Board approval of continuing education programs ] shall [ complete and submit an application ]:

(1) Apply for approval as a provider [ of continuing education. The application shall be submitted to ] on forms provided by the Board [ for approval or rejection.

(c) Statements made in the application shall be sworn to be true and correct to the best of the provider's information, knowledge and belief.

(d) Upon approval of a qualified provider, a provider number will be assigned.

(e) Each provider shall indicate the area of expertise on the provider application form supplied by the Board. Programs will be approved only in that area of expertise. A change in the area of expertise shall be recorded and communicated to the Board within 60 days of that change.

(f) Each approved provider shall request reregistration each biennium and each application for reregistration shall be accompanied by a statement

(g) Applications for initial registration and future reregistration will be sent on request. ]

(2) File the application at least 60 days prior to the first scheduled date of the program.

(3) Register biennially outlining major changes in the information previously submitted.

§ 39.42. [ Provider categories ] (Reserved).

[ Categories of providers shall include:

- (1) Academic institutions properly accredited by regional or Pennsylvania Educational Authorities.
- (2) Health-care or professional organizations.
- (3) Government agencies.
- (4) Private recognized institutions or centers.]

§ 39.43. Standards for [ providers ] provider approval.

[ (a) Prior to approval each provider ] Prospective providers shall document the following on their applications:

- (1) [ Establish a ] The mechanism measuring the quality of the program being offered.
- (2) [ Establish ] The criteria for selecting and evaluating faculty instructors, subject matter and instructional materials.
- (3) [ Establish ] The criteria for [ the evaluation of ] evaluating each program [ upon completion ] to determine its effectiveness.

[ (b) The provider shall provide adequate facilities and appropriate instructional materials to carry out continuing education programs.

(c) The provider shall ensure that the instructors have suitable qualifications and are of good reputation and character.

(d) After the completion of each program, the provider shall submit to the Board a roster of those persons completing the program.

(e) The provider shall comply with this section, §§ 39.41, 39.42 and 39.51—39.54 as a sponsoring agency for continuing education of nursing home administrators.]

(4) A clear statement of educational objectives.

(5) The subjects in which proposed programs will be offered.

§ 39.44. Provider responsibilities.

For each program, providers shall:

- (1) Disclose the objectives, content, teaching method and number of clock hours in advance to prospective participants.
- (2) Open each program to licensees.
- (3) Provide adequate physical facilities for the number of anticipated participants and the teaching methods to be used.
- (4) Provide accurate instructional materials.
- (5) Employ qualified instructors who are knowledgeable in the subject matter.
- (6) Evaluate the program through the use of questionnaires of the participants and instructors.
- (7) Issue continuing education records.
- (8) Retain attendance records, written outlines and a summary of evaluations for a 5-year period.

APPROVAL PROCESS—PROGRAMS

§ 39.51. Standards for continuing education programs.

(a) [ The subject material for continuing education shall be within the course subject areas ] A program shall consist of the subjects listed in §[ § 39.7 and ] 39.14(a)(2 (relating to [ subject matter for examinations; and ] approval of programs of study). [ In addition, providers will be limited to present programs within their area of expertise as indicated on the provider application. ]

(b) The [ content, length and instruction of programs to be approved by the Board shall be consistent in quality with the standards deemed acceptable to the Board and shall be of value in developing skills in long-term or related health-care administrations. ] The Board does not deem the following programs acceptable:

[ (c) ] (1) Inservice programs [ will not be approved for continuing education credits.

(d) A number system code for approved programs will be established by the Board.

(e) Each program will do the following:

(1) Be subject to onsite review of the program being presented.

(2) Establish a mechanism measuring the quality of the program.

(3) Establish criteria for selecting and evaluating the faculty.

(4) Establish criteria for evaluation of each program upon completion ] which are not open to licensees.

(2) Programs limited to the organization and operation of the employer.

§ 39.52. [ Application for program approval ] Program registration.

(a) All programs require preapproval.

[ (a) ] (b) [ Each approval provider shall submit a properly documented ] An application for program approval shall be submitted at least [ 90 ] 60 days before the scheduled starting date. The Board may consider an application submitted within 30 days if the program is limited to significant changes in State or Federal law or regulations which will be implemented within 60 days of their publication.

[ (b) With the exception of programs listed under §§ 39.62 and 39.64 (relating to college or university courses; and individual programs) only program applications submitted by approved providers will be considered by the Board. ]

(c) The provider number [ of the program sponsor ] shall appear on the program application.

(d) [ Subject material shall be within the course subject areas as listed in §§ 39.7 and 39.14 (relating to subject matter for examinations; and approval of programs of study).

(e) Disapproval will include a statement setting forth reasons. Applicants may submit new applications within 10 days after receipt of disapproval.



New applications shall document alterations in program to meet Board requirements. Notification will occur as soon as possible within the Board's capability on action taken on new applications.

(f) An [ application ] applicant for program approval shall [ contain ] provide the following information:

- (1) [ Full ] The full name and address of the eligible provider.
- (2) [ Title ] The title of the program.
- (3) [ Dates ] The dates and location of the program.
- (4) Faculty names, [ titles, affiliations and degrees ] and biographical sketches, including curriculum vitae.
- (5) [ Schedule ] A schedule of program—title of subject, lecturer, time allotted and the like.
- (6) [ Total ] The total number of [ credit ] clock hours requested.
- (7) [ Attendance ] An attendance certification method.
- (8) [ Provider ] A provider number.
- (9) [ Provider category ]
- (10) Objectives.
- [ (11) Admission requirements. ]
- [ (12) ] (10) Core subjects.
- [ (13) Program ] (11) The program coordinator.
- [ (14) Instruction and evaluation methods. ]

[ (g) ] (e) A program number will be issued on approval of program.

§ 39.53. [ Issuance of program number; revocation ]  
Revocation or suspension of approval.

(a) [ Once a program has been reviewed and approved by the Board, a program number will be assigned.

(b) [ A provider may not indicate in any manner that approval has been granted [ as a provider or for a program unless a provider number or program number ] until notification has been [ issued ] received from the Board.

[ (c) ] (b) \* \* \*

§ 39.54. Review.

(a) [ The Continuing Education Committee of the Board will review provider applications and continuing education program applications submitted. The Committee will make recommendations to the Board for approval or rejection of the applications. Reasons for rejection will be communicated in writing. No member of the Committee will participate in the review of an application in which they have a vested interest.

(b) [ Approved providers shall be subject to onsite and offsite review of the program being presented by representatives of the Board.

[ (c) ] (b) Ongoing review of a provider will be on a selected basis subject to the physical presence of Board members or appointed representatives selected by the Board to evaluate program content, relevancy and acceptability.

[ CREDIT ] CLOCK HOURS REQUIREMENT

§ 39.61. Requirements.

(a) [ Continuing education consisting of ] A licensee shall complete at least 48 clock hours [ per biennium shall be required for each licensee ] during the preceding biennial period.

(b) Of the 48 hours required, the following applies:

(1) [ Twenty-four hours as a minimum ] At least 24 hours shall be [ earned by attendance at educational seminars which provide a program previously approved by the Board. Programs presented by seminars shall consist of core subjects listed in §§ 39.7 and 39.14 (relating to subject matter for examinations; and approval of programs of study) ] taken in lecture or computer interactive courses approved by NAB or the Board.

(2) [ A licensee may earn a total of 12 credit hours by actively participating in community, professional and health-care activities. Examples follow:

(i) Serving as an elected officer of a health-care-related association or organization recognized by the Board and requiring attendance and participation at all yearly meetings may earn one credit hour per meeting.

(ii) Serving on committees, boards, advisory groups and the like of a health-care-related organization recognized by the Board—including government appointment—may earn one credit hour per meeting.

(iii) Attending and participating in the annual business meeting of recognized organizations irrespective of holding office or committee membership may earn one credit hour per meeting.

(iv) Actively participating as an officer or committee member in voluntary community health-care-related organizations that are recognized by the Board may earn two credit hours per meeting. ]

Up to 24 clock hours may be taken through college or university courses, including distance learning.

(3) A maximum of 12 clock hours may be taken in any of the following categories:

(i) *Individual study.*

[ (v) Publication of professional ] (ii) *Authoring an article on long-term care.* Authors whose articles [ relating to nursing home administration ] are published in professional journals may earn [ three credit ] 3 clock hours per article. Additional credit, up to 12 of the required hours may be awarded based on the complexity of the subject matter or work. In exceptional circumstances, if an article is published in a refereed journal, a licensee may be awarded up to 24 clock hours.

[ (iv) Participation as lecturer in ] (iii) *Serving as an instructor of a continuing education program or a college or university course.* Instructors may earn

[ three credit hours per presentation ] clock hour for each hour of instruction up to 12 clock hours.

(c) A licensee who obtains a license after the biennial period begins shall complete only 24 clock hours, of which 12 clock hours shall be taken in NAB or Board approved programs.

(d) A licensee suspended for disciplinary reasons is not exempt from the continuing education requirements in subsection (a).

(e) A licensee who cannot meet the continuing education requirement due to illness, emergency or hardship may apply to the Board in writing prior to the end of the renewal period for a waiver. The request shall explain why compliance is impossible, and include appropriate documentation. Waiver requests will be evaluated by the Board on a case-by-case basis.

(f) A licensee will not be credited for repeating a program in the same renewal period unless the subject matter has substantially changed during that period.

§ 39.62. [ College or university courses ] (Reserved).

[ (a) Credit will be given only for hours actually spent in the classroom, with no more than 24 hours of continuing education credits granted by the Board in any biennium for courses obtained in an accredited university or college.

(b) The requests for credits shall be submitted in an application for program approval and assigned a number if approved. Prior approval of the program will not be required. Programs presented by college or university shall consist of core subjects listed in §§ 39.7 and 39.14 (relating to subject matter for examinations; and approval of programs of study). ]

§ 39.63. [ Home study courses ] (Reserved).

[ No more than 18 hours of continuing education credits will be granted by the Board in any biennium for home study courses. The home study courses shall have prior approval of the Board. Prior approval shall be obtained by the filing of a provider registration approval application by the provider sponsoring the course and by submission of an application for program approval as required by §§ 39.41, 39.51 and 39.54 (relating to provider registration; standards for continuing education programs; and review). ]

§ 39.64. [ Individual programs ] (Reserved).

[ Credit hours may be obtained on an individual basis for attendance at programs which have not had prior approval of the Board subject to the following:

(1) Individuals shall submit proper application for program approval as set forth in § 39.51 (relating to standards for continuing education programs).

(2) Individuals must submit supporting documentation and verify attendance.

(3) Program subject material shall meet the requirements of core subjects as set forth in § 39.7 and 39.14 (relating to subject matter for examinations; and approval of programs of study).

(4) The Board reserves the right to withhold granting credit hours for previously nonapproved individual programs until the review process in § 39.54 (relating to review) is satisfactorily completed. ]

§ 39.65. Reporting continuing education clock hours.

(a) A licensee shall provide a copy of the required documentation supporting the completion of the required hours when requested to do so by the Board.

(b) Acceptable documentation consists of:

(1) A continuing education certificate or sponsor-generated printout.

(2) A certified transcript of courses taken for credit in an accredited university or college. For noncredit courses taken, a statement of hours of attendance, signed by the instructor.

(3) Evidence of publication for published articles, books or continuing education programs.

(4) Evidence obtained from the provider of having been an instructor, including an agenda and time schedule.

(c) A licensee is responsible for documenting the continuing education requirements. Required documentation shall be maintained for 4 years after the completion of the program.

(d) Failure to comply with this section shall constitute grounds for disciplinary action under section 9(d) of the act (63 P. S. § 1109(d)).

RENEWAL

§ 39.72. Fees.

The following is the schedule of fees charged by the Board:

	* * * * *
Continuing education program application fee per [ credit ] clock hour.....	\$10
[ Continuing education individual program application fee.....	\$20 ]

[Pa.B. Doc. No. 99-187. Filed for public inspection February 5, 1999, 9:00 a.m.]

FACE SHEET  
FOR FILING DOCUMENTS  
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REVIEW DIVISION



# 1999

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DOCUMENT/FISCAL NOTE NO. 16A-623

DATE OF APPROVAL

DATE OF ADOPTION: \_\_\_\_\_

9/9/00  
DATE OF APPROVAL

BY: Robert H. Morrow  
Robert H. Morrow

(Deputy General Counsel  
(Chief Counsel,  
Independent Agency  
(Strike inapplicable  
title)

TITLE: Chairperson  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

[ ] Check if applicable  
Copy not approved.  
Objections attached.

[ ] Check if applicable. No Attorney General approval or objection within 30 day after submission.

NOTICE OF FINAL RULEMAKING  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
49 PA. CODE, CHAPTER 39  
STATE BOARD OF NURSING HOME ADMINISTRATORS  
Continuing Education

The State Board of Examiners of Nursing Home Administrators ("Board") adopts regulations regarding continuing education requirements by amending Chapter 39 as set forth in Annex A.

**A. Effective Date**

The amendments will be effective upon publication in the Pennsylvania Bulletin. The continuing education requirement will apply to continuing education credits earned during the biennial period beginning July 1, 2002.

**B. Statutory Authority**

The Board has authority to adopt regulations pertaining to continuing education under Section 9(b) of the Nursing Home Administrators License Act (the Act), Act of June 22, 1970, P.L. 378, as amended, 63 P.S. §1109(b).

**C. Background and Purpose**

Section 9(b) of the Act, 63 P.S. §1109(b), requires licensees to complete continuing education as a condition of biennial renewal. Current Sections 39.31-39.64 of the Board's regulations, 49 Pa. Code §§39.31-39.64, establish the parameters of the continuing education requirement. The proposed regulations clarify, update, and expand on those provisions.

**D. Summary of Comments and Responses on Proposed Rulemaking**

Notice of the proposed rulemaking was published at 29 Pa.B. 662 (February 6, 1999). The Board received comments from the House Professional Licensure Committee (HPLC); the Independent Regulatory Review Commission (IRRC) and ten public commentators: The Hospital and Healthsystem Association of Pennsylvania (HAP); Pennsylvania Association of Non-Profit Homes for the Aging (PANPHA); Guthrie Troy Community Hospital (Guthrie); Green County Memorial Hospital (Green County); Jeannette District Memorial Hospital (Jeannette); Grand View Hospital (Grand View); Herbert Skuba, NHA; Martha Ann J. Douds, RN, NHA; Sandra K. Fine, NHA; and Stuart H. Fine, NHA. Responses to these comments are organized by subject as follows.

**1. §§39.41 and 39.44. Provider registration and responsibilities.**

IRRC recommended that §39.41(a) should be changed to clarify that the term "providers" includes colleges, universities, associations, professional societies and organizations. The Board concurs and has made this change in final rulemaking.

IRRC and PANPHA noted that in proposed rulemaking, the preamble used the term "verification requirements" to describe a portion of proposed §39.44, but that §39.44 did not contain this term. Both commentators requested clarification. Section 39.44 delineates provider responsibilities and the term "verification requirements" was used in the preamble to describe the records the program must keep in order to verify attendance by licensees. Specifically, the term described §39.44(h) which requires that attendance records, written outlines and summary of evaluations must be retained for a five-year period in order to provide verification of attendance by licensees.

## **2. §§39.52 and 39.61. Program registration and programs requiring preapproval.**

HPLC, IRRC and nine public commentators objected to the elimination of retroactive approval for continuing education credit. Currently retroactive approval is allowed under §39.52(b). HPLC, IRRC, HAP and Guthrie expressed concern about program availability. HPLC observed the wide range of subject areas which are acceptable for continuing education credits and noted that a number of providers may not have National Association of Boards of Examiners of Long Term Care Administrators (NAB) or Board approval. HPLC requested additional information regarding the impact of deleting retroactive approval on the availability of such programs to licensees. IRRC requested that the Board examine costs to licensees to locate and attend preapproved programs.

### **a. Program availability.**

In response to the requests of HPLC and IRRC, the Board has examined the Board's continuing education programs in 1998 and 1999. The Board concludes that requiring preapproval of programs will not have an adverse impact on the availability of continuing education programs or the cost of those programs to licensees. A licensed nursing home administrator may attend any NAB or Board-approved course anywhere and receive Board approval for continuing education credit. Licensees may locate preapproved programs by contacting the Board office, NAB (<http://www.nabweb.org/> allows licensees to search for NAB-approved programs by state), or asking the program provider if the program has been approved by the Board. In 1998 and 1999, the Board preapproved 788 programs offered by 111 providers. During the same period of time, NAB approved 1,749 courses offered by 250 providers. Within the past two years, licensees had the opportunity to attend 2,537 courses offered by 361 providers. In 1998 and 1999, the Board retroactively approved 436 programs for 325 licensees. The Board notes that these retroactive approval numbers encompass multiple requests for approval of one program by several licensees, as well as multiple requests for approval of several different programs by one licensee, and thus may be inflated figures. Therefore, the Board believes that there will be a more than adequate supply of preapproved programs available to its licensees.

To further assure program availability, the Board has attempted to improve the approval

process for providers. The changes to the regulations streamline the approval process by reducing the time period for program approval applications and by reducing paperwork requirements for prospective providers. The time period to submit applications for new programs has been reduced from 90 to 60 days. The time period is further reduced to 30 days if the program deals with significant changes in state or federal law or regulations which will be implemented within 60 days of their publication. Paperwork has been reduced by no longer requiring prospective providers to inform the Board of the provider's area of expertise, the adequacy of the facilities, qualifications, reputation and character of the instructors and appropriateness of the educational materials on the provider applications. Because of the wide range of subject matter, the vast number of providers and programs that have been preapproved, the reduction in time to submit new program applications from 90 days to 60 days, and in some instances, 30 days, and the reduction in paperwork, the Board does not believe that requiring preapproval of programs will adversely affect the availability of continuing education programs. The Board has examined the cost issue and concluded that retroactive approval of continuing education programs is not demonstrably less costly than preapproval.

**b. Retroactive approval.**

IRRC suggested that instead of eliminating retroactive approval of continuing education programs, retroactive approval should be retained and limited. HAP recommended that the current requirements allowing retroactive approval should be retained and that there should be more flexibility. HAP also noted that some quality programs do not seek preapproval and that some timely topics do not have the benefit of 60 days-plus preplanning to obtain preapproval. PANPHA was pleased to see a reduction in the time for program application submission from 90 days to 60 days. PANPHA noted that many of the programs which do not obtain preapproval may have failed to do so because their primary audience is not nursing home administrators, though the program may be relevant to long term care. Martha Ann J. Douds wrote that she does not believe that national programs will seek preapproval because there may be few attendees from Pennsylvania, with even fewer of the attendees being nursing home administrators. Herbert S. Skuba stated that certain programs which do not receive preapproval are extremely beneficial and relevant to current issues. Jeanette noted that some programs are not always granted preapproval. Guthrie observed that retroactive approval has been used frequently in the past. Three public commentators (Grandview, Stuart H. Fine and Sandra K. Fine) sent letters critical of preapproved programs and noted that they believe that they have better opportunities for more pertinent education than is garnered through preapproved courses.

The Board believes that preapproval of programs for continuing education is important to insure that the program is relevant to long-term care and to prevent licensees from squandering their time and money on programs which may not subsequently be retroactively approved. It has been the experience of the Board that national programs which do not have nursing home administrators

as part of their target audience and do not seek preapproval, generally offer topics that are only tangentially, if at all, related to long-term care. Additionally, many of these programs do not seek preapproval because the program directors do not believe their programs are related to long-term care. However, the Board, in light of the concerns of the commentators, has adopted IRRC's suggestion to provide for limited retroactive approval. The Board believes that attendance at preapproved programs should be encouraged and therefore, limits retroactive approval to six clock hours per biennium by changing §39.52(a) and adding §39.61(b)(5) in final rulemaking. New §39.61(b)(5) allows for retroactive approval of up to six clock hours per biennium and requires licensees to demonstrate that the program is relevant to long term care in order to be retroactively approved. Licensees who submit requests for retroactive approval must submit a written request within 30 days of attending the program and must document attendance, the program provider, and the program's objective.

**c. Published articles.**

IRRC noted that §39.52(a) should include "authoring a published article" as an exception to the preapproval rule. The Board agrees and has made the change in final rulemaking. In final rulemaking, the Board has also changed §39.61(b)(4) to state that all published articles which the licensee uses for continuing education credit must be submitted to the Board within 30 days of publication in order to allow for timely review by the Board.

**d. College and university courses.**

IRRC noted that §39.61(b)(2) should clearly state that college and university courses need to be preapproved by the Board. The Board concurs and has made this change in final rulemaking. The Board has also made similar changes to §§39.61(b)(3)(i) and 39.61(b)(3)(ii) clarifying that NAB or Board preapproval is required for the specified programs.

**e. Submission of program applications.**

IRRC recommended that licensees be allowed to individually submit applications for program preapproval when a program provider has not obtained program preapproval. The Board does not concur with this recommendation. The program provider is responsible for obtaining preapproval of programs related to long-term care because they are in the best position to know if their programs are related to long-term care. Additionally, if individual licensees were allowed to submit applications for program approval, the Board would receive and process multiple applications, one from each licensee who attended the program, and would have to respond with multiple acceptances or rejections, one to each licensee, for each program. Conversely, when a program provider submits an application, only one application needs to be processed and only one response is necessary. Further, the Board does not believe that licensees should be burdened by

taking on the providers' responsibilities.

**3. §39.61(b). Clock hours for individual study and authoring published articles.**

IRRC recommended that proposed §39.61(b)(3) should be clarified so that only categories in which a maximum of 12 clock hours may be taken are enumerated within the subsection. IRRC suggested removing proposed §39.61(b)(3)(ii), creating §39.61(b)(4), and renumbering proposed §39.61(b)(3)(iii) to §39.61(b)(ii). The Board concurs and in final rulemaking has made the suggested changes.

IRRC questioned how clock hours would be determined for individual study in §39.61(b)(3)(i). In final rulemaking, the Board has specified that licensees doing individual studies must use NAB or Board preapproved correspondence courses. Clock hours for correspondence courses are determined at the time the program application is received. The number of clock hours is based upon approximately how long it will take a licensee to complete the course.

IRRC questioned how clock hours would be determined for authoring a published article on long term care. In final rulemaking the Board has made changes to §39.61(b)(4) to clarify how clock hours will be determined for authoring a published article on long term care. To have a published article approved for continuing education credit, the licensee must submit the article within 30 days of publication. For articles published in a professional journal, the licensee may receive up to three clock hours per article up to a maximum of 12 credits per biennium. For articles published in a refereed journal, which is subject to peer review, a maximum of 24 clock hours may be awarded for the article. The number of clock hours will be based upon the complexity of the subject matter or work. Because of the variability in the complexity of the subject matter, the Board believes the clock hour determination for published articles should be done on a case-by-case basis and that the clock hour determination is within the purview of the Board's expertise.

**4. §39.61(b)(2). Elimination of credit hours for participating in community, professional and health care activities.**

Eight commentators objected to the deletion of existing language from §39.61(b)(2) which currently allows licensees to obtain up to 12 credit hours by actively participating in community, professional and health-care activities. Green stated that such involvement gives administrators the opportunity to learn from one another and share ideas. Green suggested that limits should be placed on how many clock hours may be obtained and that the administrators should be required to submit proof of participation such as minutes and sign in sheets. Guthrie noted that credit under this section has been frequently used in the past. HAP disagreed with the Board's assessment that these activities do not constitute education or learning that contributes directly to the professional competence of nursing home administrators. Jeanette expressed concern that eliminating credit for



these activities may adversely impact an individual's willingness to participate in them. Fine and Grandview believe that eliminating this provision will increase costs, eliminate an incentive for nursing home administrators to become involved in professional activities and result in a decline in the overall quality of the NHA credential. IRRC requested that the Board explain why these activities are not valuable as continuing education for licensees.

The Board strongly believes that continuing education insures the professional competence of the licensee community. The Board believes that continuing education directly contributes to the professional competence of nursing home administrators when it is both relevant and effective. The Board has determined that continuing education is relevant to the licensee community when the program is focused on long-term care and that continuing education is most effective when it is a planned, well thought-out and structured event. Participating in community, professional and health-care activities may be worthwhile civic and/or social endeavors. However, it has been the Board's experience that these activities do not focus on long-term care. It has also been the Board's experience that because these activities are not intended to provide continuing education, they are not planned or structured to provide effective continuing education. The Board notes that the purpose of the community, professional and health-care activities is to promote the interests of the organizations sponsoring them. These organizations do not share the Board's purpose which is to protect the citizens of the Commonwealth from incompetent and/or unscrupulous nursing home administrators. The Board has determined that participating in community, professional and health-care activities is not a relevant and effective method to obtain continuing education clock hours and that clock hours should not be awarded for participation these activities. Therefore, the Board declines to eliminate the deletion of §39.61(b)(2) in final rulemaking.

#### **5. §39.61. Reasonableness and need.**

IRRC noted that Section 9(b) of the Nursing Home Administrator's Act, 63 P.S. §1109(b), requires licensees to attend "not less than 24 hours" of continuing education biennially. IRRC stated that the Board increased the requirement to 48 hours, and that though the Board has the authority to increase the minimum requirement, the Board should "explain the need and rationale for restricting licensees' ability to meet the requirement."

The provisions of 49 Pa. Code §39.61, which established the requirement of 48 credit hours of continuing education, were adopted February 25, 1983, and were effective February 29, 1983 upon publication in the Pennsylvania Bulletin, 13 Pa.B. 834. The practice of nursing home administration has become increasingly demanding and complex. The Board does not believe that reducing the credit hour requirement would be prudent or appropriate. Additionally, by only accepting relevant and effective continuing education programs and courses for continuing education credit hours, the Board believes that maintaining the current 48 credit hour requirement is appropriate to obtain and maintain the knowledge and skills regarding the operation, management

and financial accountability of long-term care facilities in this increasingly complex environment.

**6. §39.72. Cost effectiveness.**

HAP, Douds, Fine and Grandview questioned whether the proposed changes would be cost effective. The Board believes that the proposed changes will increase cost effectiveness. The Board notes that these amendments will delete the continuing education individual program application fee in §39.72. The Board further notes that program approval has always been a requirement and that whether the approval was done before or after the program was offered has had no impact on the costs for the licensees or providers. The Board believes that by requiring preapproval, licensees will benefit by the assurance that their money and time spent will meet the requirements for renewal. Providers will recognize savings by a streamlined approval process, in addition to the savings realized through the elimination of the individual program application.

**E. Compliance with Executive Order 1996-1, Regulatory Review and Promulgation**

In accordance with the requirements of Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the amendments, the Board solicited input and suggestions from the regulated community by providing drafts to interested associations and organizations, which represent the professions, educational institutions, and interested individuals. The Board reviewed and considered all comments and suggestions by interested parties received during the regulatory development process. The final regulations address a compelling public interest as described in this preamble and otherwise comply with Executive Order 1996-1.

**F. Fiscal Impact and Paperwork Requirements**

There should be no adverse fiscal impact or additional paperwork requirements incurred by the Board, political subdivisions, or the private sector.

**G. Sunset Date**

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

## **H. Regulatory Review**

Under Section 5(a) of the Regulatory Review Act, the Act of June 30, 1989, P.L. 73, No. 19 (71 P.S. §§745.5(a)), the Board submitted a copy of the notice of proposed rulemaking on January 27, 1999, published at 29 Pa.B. 662-668, to the Independent Regulatory Review Commission and to the Chairmen of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee for review and comment. In compliance with Section 5(b.1), the Board also provided the Commission and the Committees with copies of all comments received, as well as other documents.

In preparing this final form regulation, the Board has considered all comments received from the House Professional Licensure Committee, the Commission and the public. No comments were received from the Senate Consumer Protection and Professional Licensure Committee.

This final form regulation was (deemed) approved by the House Committee on \_\_\_\_\_ and (deemed) approved by the Senate Committee on \_\_\_\_\_. The Commission met on \_\_\_\_\_ and (deemed) approved the regulation in accordance with Section 5(e) of the Regulatory Review Act.

## **I. Contact Person**

Interested persons may obtain information regarding the amendments by writing to Martha H. Brown, Board Counsel, State Board of Examiners of Nursing Home Administrators, P.O. Box 2649, 116 Pine Street, Harrisburg, PA 17105-2649.

## **J. Findings**

(1) Public notice of proposed rulemaking was given under Sections 201 and 202 of the Act of July 31, 1968 (P.L. 769) (45 P.S. §§1201 and 1202) and the regulations promulgated thereunder at 1 Pa. Code §§7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) This amendment does not enlarge the purpose of proposed rulemaking published at 29 Pa. B. 662-668 (February 6, 1999).

(4) These amendments are necessary and appropriate for administration and enforcement

of the authorizing acts identified in Part B of this Preamble.

**K. Order**

The Board, acting under its authorizing statutes, orders that:

(1) The regulations of the Board, 49 Pa. Code Chapter 39, are amended as set forth in Annex A.

(2) The Board shall submit this order and Annex A to the Office of General Counsel and to the Office of Attorney General as required by law.

(3) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(4) This order shall take effect on publication in the Pennsylvania Bulletin.

**ANNEX A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS  
PART I. DEPARTMENT OF STATE  
SUBPART A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
CHAPTER 39. STATE BOARD OF EXAMINERS OF  
NURSING HOME ADMINISTRATORS**

**§39.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings unless the context clearly indicates otherwise:

\* \* \*

Continuing education record - a document issued by the provider to the participant which contains the title of the program, the hours of education and the dates attended or completed.

Clock hour - A minimum unit of education consisting of 60 minutes of instruction. Programs longer than 60 minutes will be credited in 30 minute increments.

\* \* \*

Individual study - A continuing education course which does not have an instructor or other interactive learning methodologies and which requires a passing grade on a written examination or workbook.

\* \* \*

NAB - The National Association of Boards of Examiners of Long-Term Care Administrators.

\* \* \*

**§39.11. [Registration] Biennial renewal.**

(a) [Certificate of registration for nursing home administrators are required to be renewed] Licenses are renewable each biennium, [2 years,] in the even-numbered years.

(b) Applications for [a new certificate of registration shall] renewal will be forwarded [biennially] to each active [registrant] licensee at the licensee's address of record with the

Board prior to the expiration [date] of the current [biennium certification of registration] biennial period. [However, if for any reason the renewal application is not received, the licensee is obligated to make inquiry of the Board.]

(c) [Upon making application for a new certificate, the applicant] As a condition of biennial renewal, licensees shall [submit evidence satisfactory to the Board that] complete 48 clock hours of continuing education during the preceding biennial period [immediately preceding the application for registration, he has attended a Board approved continuation education program or course of study of not less than 24 clock hours] as required in §39.61 (relating to requirements).

(d) Renewal [application forms] applications shall be completed and returned to the Board office accompanied by the required renewal fee. Upon approval of each application, the applicant shall receive a certificate of registration for the current renewal period.

(e) An application for the renewal of a license which has expired shall be accompanied by a late fee [as determined by the board in addition to] or a verification of non-practice, the [prescribed] renewal fee and documentation evidencing the satisfactory completion of the continuing education requirement for the preceding biennial period.

[(f) The Board may require a personal hearing and representation of satisfactory proof of compliance with section 9(e) of the act (63 P.S. §1109(e)) before issuing a certificate of registration to a licensee whose certificate of registration has expired for the reasons therein contained.]

\* \* \*

#### **§39.14. Approval of programs of study.**

(a) A program of study designated to [train] educate and qualify an applicant for licensure as a nursing home administrator [as required by the act and this chapter] offered by an accredited university or college shall be deemed acceptable and approved for the purpose, if the program:

(1)[The program has been] is registered with the Board.

(2) [The program includes] Includes a minimum of 7½ [contact] clock hours [or their equivalent], in [each of] the following subject areas, appropriate to long term care:

(i) [General administration] Administration, organization and management [in nursing homes].

\* \* \*

(iii) The role of government in health policy[,] and regulation [and reimbursement].

\* \* \*

(vi) [Third Party] Government and third-party reimbursement.

(vii) Preparing for licensure/certification/accreditation surveys and meeting other regulatory requirements.

\* \* \*

(ix) The nursing department and [patient] resident care management.

\* \* \*

(xiii) Dietary department and [patient] resident nutrition.

(xiv) Social services, family and community relationships and [patient] resident rights.

\* \* \*

(b) [A program of study designed and offered by an association, professional society or organization other than an accredited college or university to meet the requirements and qualifications for biennial registration shall be approved by the Board if:

(1) The program has been registered with the Board. The following general subject areas or their equivalents will be considered by the Board for approval for continuing educational hours:

(i) General administration, organization and management in nursing homes.

(ii) Gerontology, diseases of aging, death and dying.

(iii) The role of government in health policy, regulation and reimbursement.

(iv) Fiscal management, budgeting and accounting.

(v) Personnel management and labor relations.

(vi) Third-party reimbursement.

(vii) Preparing for licensure/certification surveys and meeting other regulatory requirements.

(viii) Understanding regulations, deficiencies, plans of correction and quality assurance.

(ix) The nursing department and patient care management.

(x) Rehabilitation services and special care services.

(xi) Health support services: pharmacy, medical records and diagnostic services.

(xii) Facility support services: building/grounds, housekeeping, laundry and central supply.

(xiii) Dietary department and patient nutrition.

(xiv) Social services, family and community relationships and patient rights.

(xv) Risk management, safety and insurance.

(xvi) Strategic planning, marketing and public relations.

(2) The program of study has been submitted to the Board for approval prior to announcement or publication, at least 2 months prior to the anticipated registration of students.



(c)] Upon completion of an approved program of study, the sponsors of the program shall issue certificates of attendance or other evidence of attendance satisfactory to the Board.

\* \* \*

## **CONTINUING EDUCATION FOR NURSING HOME ADMINISTRATORS**

### **§39.31. [Purpose] (Reserved).**

[(a) The Board believes the mandate of continuing education for relicensure of nursing home administrators constitutes a major responsibility of the Board in relations to approval of educational programs. The almost overwhelming growth of the health-care field, with a great proportion of this growth affecting the aging population and long-term facilities, demands that those individuals who assume a leadership role in this area of health-care be knowledgeable in subject matter and skilled in performance. To be effective, this knowledge shall be current and transferable to permit the individual to function in the total sphere of the health-care system.

(b) The Board believes that a formal educational setting which is staffed and equipped to offer health and other related educational programs is the preferred setting to accomplish these objectives and that the pattern established at this time will greatly determine the future course of professionalism of the nursing home administrator.]

### **§39.32. [Guidelines] (Reserved).**

[The following guidelines are to be used to help insure that the educational program is a meaningful, educational experience:

- (1) The program should provide a clear statement of its educational objectives.
- (2) The program should selectively utilize the faculty format and educational modalities best suited to the topic.
- (3) The program should conclude with an evaluation to determine if the educational objectives have been accomplished.]

## APPROVAL PROCESS - PROVIDERS

### §39.41. Provider registration.

[(a) An agency, organization, institution or center] Anyone, TO INCLUDE COLLEGES, UNIVERSITIES, ASSOCIATIONS, PROFESSIONAL SOCIETIES AND ORGANIZATIONS, seeking to offer [an organized] a program for continuing education [may apply to the Board as a provider.

(b) Providers seeking Board approval of continuing education programs] shall [complete and submit an application]:

(1) Apply for approval as a provider [of continuing education. The application shall be submitted to] on forms provided by the Board [for approval or rejection].

(c) Statements made in the application shall be sworn to be true and correct to the best of the provider's information, knowledge and belief.

(d) Upon approval of a qualified provider, a provider number will be assigned.

(e) Each provider shall indicate the area of expertise on the provider application form supplied by the Board. Programs will be approved only in that area of expertise. A change in the area of expertise shall be recorded and communicated to the Board within 60 days of that change.

(f) Each approved provider shall request reregistration each biennium and each application for reregistration shall be accompanied by a statement.

(g) Applications for initial registration and future reregistration will be sent on request.]

(2) File the application at least 60 days prior to the first scheduled date of the program.

(3) Register biennially outlining major changes in the information previously submitted.

**§39.42. [Provider categories] (Reserved).**

[Categories of providers shall include:

(1) Academic institutions properly accredited by regional or Pennsylvania Educational Authorities.

(2) Health-care or professional organizations.

(3) Government agencies.

(4) Private recognized institutions or centers.]

**§39.43. Standards for Provider[s] Approval.**

[(a) Prior to approval each provider] Prospective providers shall document the following on their applications:

(1) [Establish a] The mechanism measuring the quality of the program being offered.

(2) [Establish] The criteria for selecting and evaluating faculty instructors, subject matter and instructional materials.

(3) [Establish] The criteria for [the evaluation of] evaluating each program [upon completion] to determine its effectiveness.

[(b) The provider shall provide adequate facilities and appropriate instructional materials to carry out continuing education programs.

(c) The provider shall ensure that the instructors have suitable qualifications and are of good reputation and character.

(d) After the completion of each program, the provider shall submit to the Board a roster of those persons completing the program.

(e) The provider shall comply with this section, §§39.41, 39.42 and 39.51-39.54 as a sponsoring agency for continuing education of nursing home administrators.]

(4) A clear statement of educational objectives.

(5) The subjects in which proposed programs will be offered.

**§39.44 Provider Responsibilities.**

For each program, providers shall:

(1) Disclose the objectives, content, teaching method and number of clock hours in advance to prospective participants.

(2) Open each program to licensees.

(3) Provide adequate physical facilities for the number of anticipated participants and the teaching methods to be used.

(4) Provide accurate instructional materials.

(5) Employ qualified instructors who are knowledgeable in the subject matter.

(6) Evaluate the program through the use of questionnaires of the participants and instructors.

(7) Issue continuing education records.

(8) Retain attendance records, written outlines and a summary of evaluations for a 5-year period.

**APPROVAL PROCESS - PROGRAMS**

**§39.51. Standards for continuing education programs.**

(a) [The subject material for continuing education shall be within the course subject areas] A program shall consist of the subjects listed in §[§39.7 and ] 39.14(a)(2) (relating to [subject matter for examinations; and ] approval of programs of study). [In addition, providers will be limited to present programs within their area of expertise as indicated on the provider application.]

(b) [The content, length and instruction of programs to be approved by the Board shall be consistent in quality with the standards deemed acceptable to the Board and shall be of value in developing skills in long-term or related health-care administrations.] The Board does not deem the following programs acceptable:

[(c)](1) Inservice programs [will not be approved for continuing education credits.

(d) A number system code for approved programs will be established by the Board.

(e) Each program will do the following:

(1) Be subject to onsite review of the program being presented.

(2) Establish a mechanism measuring the quality of the program.

(3) Establish criteria for selecting and evaluating the faculty.

(4) Establish criteria for evaluation of each program upon completion] which are not open to licensees.

(2) Programs limited to the organization and operation of the employer.

**§39.52. [Application for Program approval] Program Registration.**

(a) All programs require pre-approval.

[(a)](b) [Each approval provider shall submit a properly documented] An application for program approval shall be submitted at least [90]60 days before the scheduled starting date. The Board may consider an application submitted within 30 days if the program is limited to significant changes in state or federal law or regulations which will be implemented within 60 days of their publication.

[(b) With the exception of programs listed under §§39.62 and 39.64 (relating to college or university courses; and individual programs) only program applications submitted by approved providers will be considered by the Board.]

(c) The provider number [of the program sponsor] shall appear on the program application.

(d) [Subject material shall be within the course subject areas as listed in §§39.7 and 39.14 (relating to subject matter for examinations; and approval of programs of study).

(e) Disapproval will include a statement setting forth reasons. Applicants may submit new applications within 10 days after receipt of disapproval. New applications shall document alterations in program to meet Board requirements. Notification will occur as soon as possible within the Board's capability on action taken on new applications.

(f) An [application] applicant for program approval shall [contain] provide the following information:

(1) [Full] The full name and address of the eligible provider.

(2) [Title] The title of the program.

(3) [Dates] The dates and location of the program.

(4) Faculty names, [titles, affiliations and degrees.] and biographical sketches, including curriculum vitae.

(5) [Schedule] A schedule of program - title of subject, lecturer, time allotted and the like.

(6) [Total] The total number of [credit] clock hours requested.

(7) [Attendance] An attendance certification method.

(8) [Provider] A provider number.

(9) [Provider category].

(10)] Objectives.

[(11) Admission requirements.]

[(12)] (10) Core subjects.

[(13) Program] (11) The Program coordinator.

[(14) Instruction and evaluation methods.]

[(g)](e) A program number will be issued on approval of program.

**§39.53. [Issuance of program number; revocation] Revocation or suspension of approval.**

(a) [Once a program has been reviewed and approved by the Board, a program number will be assigned.

(b) A provider may not indicate in any manner that approval has been granted [as a provider or for a program unless a provider number or program number] until notification has been [issued] received from the Board.

[(c)] (b)\* \* \*

**§39.54. Review.**

(a) [The Continuing Education Committee of the Board will review provider applications and continuing education program applications submitted. The Committee will make recommendations to the Board for approval or rejection of the applications. Reasons for rejection will be communicated in writing. No member of the Committee will participate in the review of an application in which they have a vested interest.

(b) Approved providers shall be subject to onsite and offsite review of the program being presented by representatives of the Board.

[(c)] (b) Ongoing review of a provider will be on a selected basis subject to the physical presence of Board members or appointed representatives selected by the Board to evaluate program content, relevancy and acceptability.

**[CREDIT] CLOCK HOURS REQUIREMENT**

**§39.61. Requirements.**

(a) [Continuing education consisting of] A licensee shall complete at least 48 clock hours [per biennium shall be required for each licensee] during the preceding biennial period.

(b) Of the 48 hours required, the following applies:

(1) [Twenty-four hours as a minimum] At least 24 hours shall be [earned by attendance at educational seminars which provide a program previously approved by the Board. Programs presented by seminars shall consist of core subjects listed in §§ 39.7 and 39.14 (relating to subject matter for examinations; and approval of programs of study)] taken in lecture or computer interactive courses approved by NAB or the Board.

(2) [A licensee may earn a total of 12 credit hours by actively participating in community, professional and health-care activities. Examples follow:

(i) Serving as an elected officer of a health-care-related association or organization recognized by the Board and requiring attendance and participation at all yearly meetings may earn one credit hour per meeting.

(ii) Serving on committees, boards, advisory groups and the like of a health-care-related organization recognized by the Board - including government appointment - may earn one credit hour per meeting.

(iii) Attending and participating in the annual business meeting of recognized organizations irrespective of holding office or committee membership may earn one credit hour per meeting.

(iv) Actively participating as an officer or committee member in voluntary community health-care-related organizations that are recognized by the Board may earn two credit hours per meeting.]  
Up to 24 clock hours may be taken through college or university courses, including distance learning. APPROVED BY NAB OR THE BOARD.

(3) A maximum of 12 clock hours may be taken in any of the following categories:

(i) Individual study USING NAB OR BOARD APPROVED CORRESPONDENCE COURSES.

~~v)ii) [Publication of professional] Authoring an article on long-term care. Authors whose articles [relating to nursing home administration] are published in professional journals may earn [three credit] 3 clock hours per article. Additional credit, up to 12 of the required hours may be awarded~~



~~based on the complexity of the subject matter or work. In exceptional circumstances, where an article is published in a refereed journal, a license may be awarded up to 24 clock hours.~~

[(v) Publication of professional articles relating to nursing home administration may earn three credit hours per article.

(vi)](iii) [Participation as lecturer in ] Serving as an instructor of a NAB OR BOARD APPROVED continuing education program or a college or university course. Instructors [nursing home administration seminars] may earn [three credit] one clock hour [per] for each hour of instruction up to 12 clock hours.

(4) Authoring an article on long-term care. Authors whose articles RELATING TO LONG-TERM CARE are published in professional journals may earn three clock hours per article. UP TO A MAXIMUM OF 12 CLOCK HOURS PER BIENNIUM. Additional credit per article, up to 12 of the required CLOCK hours, may be awarded based on the complexity of the subject matter or work. In exceptional circumstances, where the article is published in a refereed journal, AND THE SUBJECT MATTER OR WORK IS COMPLEX, a licensee may be awarded up to 24 clock hours. ALL PUBLISHED ARTICLES USED FOR CONTINUING EDUCATION CREDIT MUST BE SUBMITTED TO THE BOARD WITHIN 30 DAYS OF PUBLICATION. UPON REVIEW OF THE PUBLISHED ARTICLE, THE BOARD WILL DETERMINE THE APPROPRIATE NUMBER OF CREDIT HOURS TO BE AWARDED BASED UPON THE COMPLEXITY OF THE SUBJECT MATTER OR WORK.

(5) A MAXIMUM OF 6 CREDIT HOURS MAY BE AWARDED RETROACTIVELY FOR ATTENDING PROGRAMS, TO INCLUDE LECTURES, AND COLLEGE OR UNIVERSITY COURSES, WHICH HAVE NOT BEEN PRE-APPROVED. THE ATTENDEE MUST SUBMIT A WRITTEN REQUEST FOR APPROVAL WITHIN 30 DAYS OF ATTENDING THE PROGRAM AND MUST DOCUMENT ATTENDANCE. THE ATTENDEE MUST DEMONSTRATE TO THE BOARD'S SATISFACTION THAT THE PROGRAMS MEET THE REQUIREMENTS OF §§ 39.14(a)(2) AND 39.51 (RELATING TO APPROVAL OF PROGRAMS OF STUDY IN SUBJECT AREAS APPROPRIATE TO LONG TERM CARE AND STANDARDS FOR CONTINUING EDUCATION PROGRAMS).

(c) A licensee who obtains a license after the biennial period begins shall complete only 24 clock hours, of which 12 clock hours shall be taken in NAB or

~~Board approved programs.~~ A PRORATED AMOUNT OF CLOCK HOURS EQUAL TO 2 CLOCK HOURS PER MONTH THROUGH THE END OF THE BIENNIAL PERIOD. FOR THE PURPOSE OF CALCULATING THE NUMBER OF CREDIT HOURS REQUIRED, PARTIAL MONTHS SHALL COUNT AS WHOLE MONTHS.

(d) A licensee suspended for disciplinary reasons is not exempt from the continuing education requirements in subsection (a).

(e) A licensee who cannot meet the continuing education requirement due to illness, emergency or hardship may apply to the Board in writing prior to the end of the renewal period for a waiver. The request shall explain why compliance is impossible, and include appropriate documentation. Waiver requests will be evaluated by the Board on a case-by-case basis.

(f) A licensee will not be credited for repeating a program in the same renewal period unless the subject matter has substantially changed during that period.

**§39.62. [College or university course] (Reserved).**

[(a) Credit will be given only for hours actually spent in the classroom, with no more than 24 hours of continuing education credits granted by the Board in any biennium for courses obtained in an accredited university or college.

(b) The requests for credits shall be submitted in an application for program approval and assigned a number if approved. Prior approval of the program will not be required. Programs presented by college or university shall consist of core subjects listed in §§39.7 and 39.14 (relating to subject matter for examinations; and approval of programs of study).]

**§39.63. [Home study courses] (Reserved).**

[No more than 18 hours of continuing education credits will be granted by the Board in any biennium for home study courses. The home study courses shall have prior approval of the Board. Prior approval shall be obtained by the filing of a provider registration approval application by the provider sponsoring the course and by submission of an application for program approval as required by §§39.41, 39.51 and 39.54 (relating to provider registration; standards for continuing education programs; and review).]

**§39.64. [Individual programs] (Reserved).**

[Credit hours may be obtained on an individual basis for attendance at programs which have not had prior approval of the Board subject to the following:

- (1) Individuals shall submit proper application for program approval as set forth in §39.51 (relating to standards for continuing education programs).
- (2) Individuals must submit supporting documentation and verify attendance.
- (3) Program subject material shall meet the requirements of core subjects as set forth in §39.7 and 39.14 (relating to subject matter for examinations; and approval of programs of study).
- (4) The Board reserves the right to withhold granting credit hours for previously nonapproved individual programs until the review process in §39.54 (relating to review) is satisfactorily completed.]

**§39.65 Reporting continuing education clock hours.**

(a) Licensees shall provide a copy of the required documentation supporting the completion of the required hours when requested to do so by the Board.

(b) Acceptable documentation consists of:

- (1) A continuing education certificate or sponsor-generated printout.
- (2) A certified transcript of courses taken for credit in an accredited university or college. For noncredit courses taken, a statement of hours of attendance, signed by the instructor.
- (3) Evidence of publication for published articles, books or continuing education programs.
- (4) Evidence obtained from the provider of having been an instructor, including an agenda and time schedule.

(c) A licensee is responsible for documenting the continuing education requirements. Required documentation shall be maintained for 4 years after the completion of the program.

(d) Failure to comply with this section shall constitute grounds for disciplinary action under Section 9(d) of the Act, 63 P.S. §1109(d).

**RENEWAL**

\* \* \*

**§ 39.72. Fees.**

The following is the schedule of fees charged by the Board:

\* \* \*

Continuing education program application fee per [credit] clock hour. . . . . \$10

[Continuing education individual program application fee . . . . . \$20]



**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS**  
Post Office Box 2649  
Harrisburg, Pennsylvania 17105-2649  
(717) 783-7155

October 30, 2000

The Honorable John R. McGinley, Jr., Chairman  
Independent Regulatory Review Commission  
14<sup>th</sup> Floor, Harrisstown 2  
333 Market Street  
Harrisburg, Pennsylvania 17101


Re: Final Regulation  
State Board of Examiners of Nursing Home Administrators  
Continuing Education: 16A-623

Dear Chairman McGinley:

Enclosed is a copy of a final rulemaking package of the State Board of Examiners of Nursing Home Administrators pertaining to continuing education.

The Board will be pleased to provide whatever information the Committee may require during the course of its review of the rulemaking.

Sincerely,

  
Robert H. Morrow, Chairperson  
State Board of Examiners of Nursing Home  
Administrators

RHM/MHB/dn  
Enclosure

c: John T. Henderson, Jr., Chief Counsel  
Department of State  
David M. Williams, Deputy Commissioner  
Bureau of Professional and Occupational Affairs  
Joyce McKeever, Deputy Chief Counsel  
Department of State  
Herbert Abramson, Senior Counsel in Charge  
Bureau of Professional and Occupational Affairs  
Lee Ann Murray, Regulatory Review Counsel  
Bureau of Professional and Occupational Affairs  
Martha H. Brown, Counsel  
State Board of Examiners of Nursing Home Administrators  
State Board of Examiners of Nursing Home Administrators

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

I.D. NUMBER: 16A-623  
 SUBJECT: State Board of Nursing Home Administrators - Continuing Education  
 AGENCY: DEPARTMENT OF STATE

**TYPE OF REGULATION**

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
  - a. With Revisions
  - b. Without Revisions

RECEIVED  
 2000 OCT 30 PM 11:35  
 REG. DIVISION

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
10/30/00	<i>[Signature]</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
10/30/00	<i>[Signature]</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
10/30/00	<i>[Signature]</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU