

Regulatory Analysis Form

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INDEPENDENT REGULATORY
REVIEW COMMISSION

11:32 Am

(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-627

IRRC Number: 2600

(3) Short Title

Administrator-in-Training Program

(4) PA Code Cite

49 Pa. Code §§ 39.1, 39.5,
39.61, 39.72, 39.101 – 39.103

(5) Agency Contacts & Telephone Numbers

Primary Contact: **Roberta L. Silver, 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.

The administrator-in-training program would give NHA candidates who have baccalaureate or master's degrees an incentive and an alternative option to become licensed NHAs. Specifically, the program will permit an individual who meets the educational standards to serve as an administrator-in-training (AIT), or intern, under the supervision of a licensed NHA, who will function as a mentor to the AIT.

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

The regulatory amendments are proposed under sections 4(a)(1) and 4(c) of the Nursing Home Administrators License Act (act), 63 P.S. §§ 1104(a)(1) and (c).

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(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.

No. The regulation is not mandated by any federal or state law or court order, or federal regulation.

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

This is a profession that has seen a significant decline in the number of licensees over the past 5 years. Under the current regulations, candidates seeking permission from the Board to sit for the NHA examination must have served 6 to 12 months as assistant NHAs. Many, if not most, nursing homes simply cannot afford to hire and pay assistant administrators. Therefore, it has become exceedingly difficult for candidates to obtain the requisite experience under the current regulations. Under this regulation, the profession will attract candidates by giving them an alternative way to gain the experience required to sit for the NHA examination and become licensed NHAs.

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

Nonregulation would adversely impact the health and safety of the consumer. The regulation will ensure that potential NHA licensees have the skills to safely run nursing homes.

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

Obviously, candidates who are seeking to become NHAs would benefit greatly from the regulation because it would give them an additional means to gain the skills and become licensed. The residents of nursing homes would also benefit because they would be assured that the administrators of the homes in which they are residents are well qualified.

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(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 one would be adversely affected by the regulation.

(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.)

Candidates who cannot meet the requirement that they serve as an assistant administrator or supervisor will be required to complete the requisite hours as an administrator-in-training. It is impossible to quantify the number of candidates.

(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.

An exposure draft was sent to approximately twenty-five interested parties on September 28, 2001. The Board did not receive any responses. However, after substantial revisions by the Board, another draft was sent to interested parties on May 27, 2004. The Board received one response from the Pennsylvania Association of County Affiliated Homes (PACAH) which stated that "PACAH and its members support the Board's efforts whole-heartedly."

The proposed rulemaking was published in the *Pennsylvania Bulletin* on April 7, 2007, subject to a 30-day comment period. The Board received favorable comments from PACAH and the Pennsylvania Health Care Association. The Board also received comments from the House Professional Licensure Committee and the Independent Regulatory Review Commission. The Board addressed all substantive comments in the final-form rulemaking.

(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 regulated community would not incur any costs or savings associated with this regulation. Only those candidates participating in the AIT program would incur costs associated with compliance.

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(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 will 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 will incur an increase in administrative costs by implementing the regulation. However, that cost will be paid by the AIT.

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(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 fiscal year and five subsequent years.

	2007-2008	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013
SAVINGS:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community	\$3,500	\$ 3,500	\$3,500	\$3,500	\$3,500	\$3,500
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

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

The Board estimates 70 individuals will apply for AIT status each year. The application fee of \$50.00 results in an estimated annual cost to the regulated community of \$3,500.

The costs to the Board of implementing the AIT program are not easily quantifiable, however most of the costs will be offset by the application fees, which will be reviewed and adjusted as needed.

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

Program	FY-3 (2004-2005) Actual	FY- 2 (2005-2006) Actual	FY- 1 (2006-2007) Actual	Current FY (2007-2008)
State Board of Examiners of Nursing Home Administrators	\$ 201,242.06	\$208,123.21	\$ 213,042.26	\$ 250,000.00*
				* Budgeted

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

The benefits identified in (13) outweigh the minimal costs associated with the proposed rulemaking.

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

No nonregulatory alternatives were considered.

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

No alternative regulatory schemes were considered.

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(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?

This regulation will not put Pennsylvania licensees at a competitive disadvantage with other states. There are several states that have AIT regulations. Pennsylvania is among the few states that do not. This rulemaking package was modeled after those regulations that have proved successful in Ohio, Maryland and North Carolina.

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

This regulation will have no effect on other regulations of the Board or other state agencies.

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

The Board reviews its regulatory proposals at regularly scheduled public meetings each month, generally on the second Wednesday of every month. Meetings are held in the Bureau of Professional and Occupational Affairs' offices at 2601 North Third Street, Harrisburg, Pennsylvania. Please contact the Board Administrator for further information or see the Department of State's website at www.dos.state.pa.us/nha.

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(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 increase the amount of paperwork for the Board office. Specifically, the prospective licensee will file an AIT application with the Board office. There will be additional follow-up paperwork associated with the program. The forms necessary for implementation of the AIT program have not yet been created.

(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 upon publication in final-form in the Pennsylvania Bulletin.

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

There is no schedule at this time for continual review of the regulation. The Board continuously monitors its regulations as required by Executive Order 1996-1.

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REVIEW COMMISSION

FACE SHEET
FOR FILING DOCUMENTS
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(Pursuant to Commonwealth Documents Law)

2600

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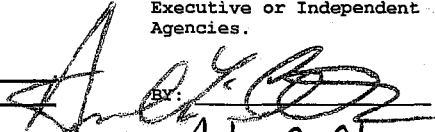
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BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Examiners of Nursing Home Administrators

(AGENCY)

BY: 
Andrew C. Clark


DOCUMENT/FISCAL NOTE NO. 16A-627

APR 1 2008

DATE OF APPROVAL

DATE OF ADOPTION: _____

DATE OF APPROVAL

BY: 
Barry S. Ramper, II, NHA

(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.

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

ADMINISTRATOR-IN-TRAINING PROGRAM
16A-627

The State Board of Examiners of Nursing Home Administrators (Board) hereby amends §§ 39.1, 39.5, 39.61 and 39.72 and adds §§ 39.101 – 39.103 (relating to AIT Program), to read as set forth in Annex A.

A. Effective Date

The amendments will be effective on publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

B. Statutory Authority

Under section 4(c) of the Nursing Home Administrators Licensing Act (act) (63 P.S. § 1104(c)), the Board is authorized to make rules and regulations as may be necessary for the proper performance of its duties. Under section 4(a)(1) of the act, the Board is authorized to develop, impose and enforce standards that must be met by individuals in order to receive a license as a nursing home administrator (NHA). These standards must be designed to ensure that NHAs will be individuals who are of good character and are otherwise suitable and qualified by training or experience in the field of institutional administration to serve as NHAs. Section 4(a)(1) further provides that these standards “may include a requirement for supervised experience prior to licensure.” This rulemaking creates an alternate method by which individuals may receive that supervised experience.

C. Background and Purpose

In a profession that has seen a significant decline of licensees over the past 5 years, the institution of an administrator-in-training program (AIT), as adopted by this rulemaking, will give candidates who do not meet the experience requirements of existing § 39.5(b) (relating to requirements for admission to licensing examination; examination procedures) an incentive and an alternative option to become licensed NHAs. The Board believes that, by offering candidates who meet the rigid standards of higher education an additional means of gaining supervised experience in order to qualify to sit for the examination, more candidates would be encouraged to enter the field of nursing home administration.

D. Description of the Amendments

The final-form rulemaking amends § 39.1 (relating to definitions) to define AIT and the AIT program. It further amends § 39.5 (relating to requirements for admission to licensing examination; examination procedures) to establish the AIT program as an alternative method of obtaining required supervised experience for admission to the licensing examination.

The rulemaking amends § 39.61(b)(5) (relating to requirements) pertaining to continuing education clock hour requirements to allow a supervisor for the AIT program to receive credits for continuing education, and amends § 39.72 (relating to fees) to establish a \$50 fee for an AIT application. Finally, the amendments adopt §§ 39.101-39.103 (relating to AIT; AIT program; and AIT program reports) to implement the AIT program.

E. Response to Public Comment and Regulatory Review of Proposed Rulemaking

Publication of proposed rulemaking on April 7, 2007, at 37 Pa.B 1494, was followed by a 30-day public comment period during which the Board received favorable comments from the Pennsylvania Association of County Affiliated Homes (PACAH) and the Pennsylvania Health Care Association (PHCA). The PACAH indicated its support of the rulemaking, stating, "As the shortage of qualified Nursing Home Administrators continues to worsen, the AIT program offers a practical approach to address the issue, and PACAH encourages the adoption of these rules as final." PHCA congratulated the Board on proposing the AIT program and asked the Board to seek to finalize the regulations as quickly as possible, noting that "the current fiscal constraints in many cases make it nearly impossible to afford the salaries of assistant administrators thus making it difficult for interested individuals to obtain the required experience to become nursing home administrators. This is precisely the wrong time, with the growing demographics of older Pennsylvanians who will require care and services in our nursing homes, to have regulatory roadblocks in the way of fine individuals who have a desire to become nursing home administrators."

Following the close of the public comment period, the Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC). The Board did not receive comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). The following represents a summary of the comments received from the HPLC and IRRC, and the Board's response:

General Comments

The HPLC questioned the Board's authority to promulgate regulations to create an AIT program and requested further explanation. As noted above, under section 4(a)(1) of the act, (63 P.S. § 1104(a)(1)), the Board is authorized to develop, impose and enforce standards that must be met by individuals in order to receive a license as a nursing home administrator (NHA). These standards must be designed to ensure that NHAs will be individuals who are of good character and are otherwise suitable and qualified by training or experience in the field of institutional administration to serve as NHAs. Section 4(a)(1) of the act also provides that these standards "may include a requirement for supervised experience prior to licensure." Pursuant to that authority, the Board had previously adopted the supervised experience requirements in § 39.5 (relating to requirements for admission to licensing examination; examination procedures), which require candidates for licensure to gain experience by serving as a full-time assistant administrator, or by serving as a full-time supervisor in a nursing home or related health facility. In recent years, the profession has seen a

significant decline in the number of nursing home administrators. Additionally, many nursing homes cannot afford to employ full-time assistant administrators or supervisors. Therefore, under the authority granted in section 4(a)(1) of the act, the Board is recognizing an additional way for individuals, who cannot find employment either as an assistant administrator or supervisor in a nursing home, to gain the experience needed to qualify for licensure.

The HPLC also noted the requirement for criminal background checks to be completed upon employees of a nursing home pursuant to the act of November 6, 1987 (P.L. 381, No. 79) known as the Older Adult Protective Services Act. The Committee also noted the absence of any provision which would apply this same standard to an AIT. The Committee, therefore, requests that the AIT be required to also have a criminal background check.

While the Nursing Home Administrators Act (act) does not explicitly require applicants to obtain a criminal background check, the act does require an applicant to submit "evidence of good character and suitability prescribed by the board..." (63 P.S. § 1106(a)). In addition, the Criminal History Record Information Act gives all boards and commissions the authority to deny a license if an applicant has been convicted of any felony or a misdemeanor related to the profession." 18 Pa. C.S.A. § 9124. And as the HPLC pointed out, all employees of nursing homes are already subject to criminal background checks under the Older Adult Protective Services Act. Currently, all applicants for licensure are required to submit criminal background checks to the Board. Therefore, the Board has sufficient implicit authority to require criminal background checks of AITs and the AIT application will also require criminal background checks of all AIT program applicants.

§ 39.5. Requirements for admission to licensing examination; examination procedures.

The HPLC noted that under the proposed regulations at § 39.5(b)(3)(ii), the burden is on the candidate to demonstrate that the candidate's degree is equivalent to one in nursing home administration and suggested that the Board provide minimum criteria for the candidate to do so. In determining equivalence, the Board will review the transcripts and course descriptions submitted by the candidate in comparison to the educational criteria listed in § 39.14(a)(2)(i) – (xvi) to make that determination. Similarly, IRRC questioned the criteria the Board will use under subsection (b)(3)(ii), which requires the Board to evaluate the transcripts and course descriptions of the candidate to determine if the 120-hour program was successfully completed as part of the baccalaureate curriculum. In general, the Board will use the breakdown of subjects required in § 39.14(a)(2) to determine if a candidate has successfully completed the requirements of the 120-hour program. If a candidate is deficient in subject areas, the candidate will be permitted to complete the remaining hours/courses through a 120-hour program. The candidate will not be required to complete the full 120-hour program. In the final-form rulemaking, the Board has complied with IRRC's suggestion that § 39.14(a)(2) be cross-referenced.

IRRC also noted that subsection (b)(3)(iii)(C) adds language that the candidate have 1,000 hours of experience working with an NHA licensed in PA "or in another state whose licensing standards are equal to those of the Commonwealth." IRRC noted a similar concern applies to subsection (b)(4)(ii)(B), and asked if the Board will publish a list of states whose licensing standards are "equal" to Pennsylvania or if the information would be made available on the Board's website. Currently, almost every state has licensing standards that are equal to or greater than the Pennsylvania requirements. In fact, Pennsylvania is one of the few states that will license a nursing home administrator without a college degree. The Board would encourage the General Assembly to amend the licensing statute to require a minimum of a baccalaureate degree. However, for purposes of determining whether the AIT supervisor qualifies under these regulations, the Board will be able to look at the other states' current licensing standards to determine whether those standards are equal to the Pennsylvania standards. As licensing standards change periodically, the Board does not intend to publish or make available on its website a list of the states whose licensing standards are "equal" to Pennsylvania.

§ 39.101. AIT.

The HPLC noted that, pursuant to § 39.101(b)(1), an AIT applicant may be enrolled in the final year of a baccalaureate or master's degree program at an accredited college or university. The Committee requested further information on whether the Board plans to coordinate the efforts of this program with colleges and universities and how the Board would facilitate this. The Board will encourage colleges and universities to establish relationships with local nursing homes to provide students who are in their final year of school opportunities to work as AITs at the local facilities. Provided the 120-hour program is included in the four-year baccalaureate curriculum, the graduating individual who served as an AIT during his or her final year of school would be able to sit for the nursing home examination immediately after graduation.

§ 39.102. AIT program.

IRRC noted that § 39.102(a)(1) (relating to AIT program) requires the AIT and the AIT supervisor to jointly make a "pretraining assessment" of certain aspects of the AIT's background and training and asked what criteria will be required to be used to ensure that uniform assessments are made. As noted in § 39.102(a)(1), the assessments will be based on the AIT's educational level, experience, motivation and initiative. The AIT and AIT supervisor will then develop a training plan, pursuant to § 39.102(a)(2), the training plan will include educational objectives, subject areas, training sites, estimated number of hours needed for mastering each objective and the total number of hours in the training plan. Each training plan will be submitted to the Board for approval as required under § 39.102(a)(4). Each training plan will be individualized, according to the AIT's background.

However, the Board will be able to determine, according to each individualized assessment, whether the proposed training program will enable the AIT to gain sufficient experience to become a licensed nursing home administrator.

IRRC and the HPLC questioned what kind of "agencies" the Board is referring to in § 39.102(a)(2)(iii), which requires that the training plan include "training sites or agencies involved." Because the required experience must be attained by working in nursing homes under the supervision of a Nursing Home Administrator, the Board has deleted the reference to "agencies" in the final-form rulemaking.

Both the HPLC and IRRC questioned § 39.102(d)(4), which provides that only one discontinuance of an AIT program will be permitted. The HPLC asked for clarification. IRRC asked if this provision was intended to apply to those individuals who may have two or more discontinuances of their program due to involuntary military service. As a result of the comments, the Board has reconsidered this provision and has deleted subsection (d)(4) from the final-form rulemaking.

The HPLC requested information regarding an AIT's remedy for discontinuance by a supervisor or inadequate supervision, per § 39.102(d)(3). The AIT should inform the Board that the supervisor has discontinued supervision of the AIT or that the supervision is inadequate. Depending on the individual circumstances, the Board may permit the AIT to obtain a new supervisor and receive credits for the amount of training the AIT already received.

The HPLC also requested information regarding how the board will monitor a supervisor or an AIT. Section 39.102(b) gives the Board "the right to monitor and call for conference any AIT or AIT supervisor during the course of the AIT program." This will be determined by individual circumstances that require more direct Board involvement. For example, if the Board receives information pertaining to inadequate supervision by an AIT supervisor or an AIT who is not abiding by the training plan, the Board has the authority to schedule a conference with the parties involved.

§ 39.103. AIT program reports.

Relating to program reports required at the completion of the AIT program, IRRC pointed out that §§ 39.103(2) and (3), relating to training site and subjects covered during the training are redundant because this information is required in the pretraining assessment required by § 39.102(a)(2) and (3). The Board agrees and has deleted items (2) and (3) in the final-form rulemaking and renumbered the remaining items accordingly.

IRRC also questioned how the AIT and supervisor will know if the Board requests other information pursuant to § 39.103(8) after the conclusion of the AIT program. IRRC also asked what type of "other information" would be included. Section 39.103 has been amended in the final-form rulemaking by breaking it down into two subsections. Subsection (a) lists all the information required in the report at the conclusion of the training program. Subsection (b) will be added, which will give the Board the option to request additional information after the report is submitted. Other information could include clarification of training the AIT received during the program.

F. Fiscal Impact and Paperwork Requirements

The final-form rulemaking will have a limited fiscal impact on the Commonwealth or its political subdivisions. The final-form rulemaking establishes a new fee associated with the AIT program application. However, this fee is intended to defray a portion of the Board's operational costs. There are no other costs or savings to the State government associated with implementation of the rulemaking.

The final-form rulemaking will require the Board to alter some of its forms to reflect the new fee and to create applications for AITs. The Board will further provide a detailed training plan to NHAs who supervise AITs. Further, the rulemaking will create additional paperwork for AITs and supervisors, who will be responsible for submitting a detailed, individualized AIT framework for each AIT and documentation of progress and completion of the AIT program.

G. Sunset Date

The Board continuously monitors the effectiveness of 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 March 28, 2007, the Board submitted a copy of the notice of proposed rulemaking, published on April 7, 2007, at 37 Pa. B. 1494, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on _____, the final-form rulemaking was approved by the HPLC. On _____, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on _____, and approved the final-form rulemaking.

I. Contact Person

Further information may be obtained by contacting Christina Stuckey, Administrator, State Board of Examiners of Nursing Home Administrators, P.O. Box 2649, Harrisburg, Pennsylvania 17105-2649, (cstuckey@state.pa.us).

J. Findings

The State Board of Examiners of Nursing Home Administrators finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations promulgated thereunder, 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) The amendments to the final rulemaking do not enlarge the purpose of proposed rulemaking published at 37 Pa. B. 1494.
- (4) The final-form rulemaking adopted by this order is necessary and appropriate for administering and enforcing the authorizing act identified in Part B of this Preamble.

K. Order

The State Board of Examiners of Nursing Home Administrators, acting under its authorizing statutes, orders that:

- (a) The regulations of the Board are amended by amending §§ 39.1, 39.5, 39.61 and 39.72; and by adding §§ 39.101-39.103, to read as set forth in Annex A.
- (b) The Board shall submit this order and Annex A to the Office of General Counsel and to the Office of Attorney General for approval as required by law.

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

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

Barry S. Ramper, II,
Chairperson

ANNEX

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:

AIT-Administrator-in-training—An individual registered with the Board under § 39.101 (relating to AIT) to serve a period of practical training and experience under the supervision of a licensed nursing home administrator.

AIT program—A program established by the Board as a means for an applicant for licensure as a nursing home administrator to obtain practical training and experience under the supervision of a licensed nursing home administrator.

* * * * *

§ 39.5. Requirements for admission to licensing examination; examination procedures.

* * * * *

(b) A candidate who seeks admission to the licensing examination shall also meet one of the following sets of education and experience requirements. The candidate shall:

(1) Have:

(i) [Commencing March 1, 1993, successfully] Successfully completed 120 clock hours in a program of study approved by the Board as prescribed in § 39.14(a)(2) (relating to approval of programs of study).

* * * * *

(iii) Done one of the following:

(A) During the 18 months immediately preceding the date of [examination] application, acquired experience in the practice of nursing home administration by having served satisfactorily in a nursing home or related health facility as a full-time assistant administrator under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of [this] the Commonwealth.

(B) During 3 of the 5 years immediately preceding the date of [examination] application, served satisfactorily as a full-time supervisor in a nursing home or related health facility, 1,000 hours of which service shall have been in the practice of nursing

home administration under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth.

(2) Have:

(i) [Commencing March 1, 1993, successfully] Successfully completed 120 clock hours in a program of study approved by the Board as prescribed in § 39.14(a)(2).

* * * * *

(iii) Done one of the following:

(A) [Served] During the 18 months immediately preceding the date of the application, served satisfactorily as a full-time Director of Nursing for 6 months and, during the 12 months immediately preceding the date of [examination] application, but not concurrent with the service as a Director of Nursing, acquired experience in the practice of nursing home administration by having served satisfactorily as a full-time assistant administrator in a nursing home or related health facility under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of [this] the Commonwealth.

(B) During 2 of the 5 years immediately preceding the date of [examination] application, served satisfactorily as a full-time Director of Nursing in a nursing home or related health facility, 1,000 hours of which service shall have been in the practice of nursing home administration under the supervision of a full-time nursing home

administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth.

(3) Have:

* * * * *

(ii) [Commencing March 1, 1993, successfully] Successfully completed 120 clock hours in a program of study approved by the Board as prescribed in § 39.14(a)(2), unless the candidate has a baccalaureate degree in nursing home administration or a baccalaureate degree in a program equivalent to nursing home administration. The burden is on the candidate to demonstrate that the baccalaureate degree that the candidate has earned is equivalent to a baccalaureate degree in nursing home administration. Baccalaureate degree equivalency will be determined by the Board based upon the applicant's transcripts and course descriptions. Candidates who have successfully completed a baccalaureate curriculum which is not in nursing home administration or equivalent to nursing home administration, but incorporates the 120-hour program as part of the curriculum, are not required to complete the 120-hour program separately. The burden is on the candidate to demonstrate that the 120-hour program is incorporated in the baccalaureate curriculum. The Board will evaluate the transcripts and course descriptions of the candidate AND COMPARE THEM TO THE REQUIREMENTS OF § 39.14(a)(2) (RELATING TO APPROVAL OF PROGRAMS OF STUDY) to determine if the 120-hour program was successfully completed as part of the baccalaureate curriculum.

(iii) Done one of the following:

(A) During the 9 months immediately preceding the date of [examination] application, acquired experience in the practice of nursing home administration by having served satisfactorily in a nursing home or related health facility as a full-time assistant administrator under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth.

(B) During 18 months of the 5 years immediately preceding the date of [examination] application, served satisfactorily as a full-time supervisor in a nursing home or related health facility, 1,000 hours of which service shall have been in the practice of nursing home administration under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth.

(C) [During 2 of the 5 years preceding the date of examination, which date of examination may not be later than August 31, 1995, served satisfactorily as a full-time chief administrator in a nursing home or related health facility.] During the 2 years immediately preceding the date of application, acquired 1,000 hours of experience in the practice of nursing home administration by having served satisfactorily as an AIT in a nursing home under the supervision of a full-time nursing home administrator licensed in the Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth, in accordance with §§ 39.101-39.103 (relating to AIT program).

(4) Have:

* * * * *

(ii) [Either] Done one of the following:

(A) During the 5 years immediately preceding the date of application, either acquired 6 months of satisfactory full-time supervisory experience in the administration of a nursing home under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth or acquired 6 months of satisfactory full-time experience in the administration of a related health facility under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth[,except that an individual who is acquiring satisfactory full-time experience in the administration of a related health facility on December 31, 1994, even though the experience is not being acquired under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth, shall have until June 30, 1995, to apply for admission to the licensing examination under the regulations in effect immediately prior to December 31, 1994.]

(B) During the 2 years immediately preceding the date of application, acquired 800 hours of experience in the practice of nursing home administration by having served satisfactorily as an AIT in a nursing home under the supervision of a full time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth, in accordance with §§ 39.101-39.103.

(5) Have:

(i) [Commencing March 1, 1993, successfully] Successfully completed 120 clock hours in a program study approved by the Board as prescribed in § 39.14(a)(2).

* * * * *

(iii) Done one of the following:

(A) During the 18 months immediately preceding the date of [examination] application, acquired experience in the practice of nursing home administration by having served satisfactorily in a nursing home or related health facility as a full-time assistant administrator under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth.

(B) During 3 of the last 5 years immediately preceding the date of [examination] application, served satisfactorily as a full-time supervisor in a nursing home or related health facility, 1,000 hours of which service shall have been in the practice of nursing home administration under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth.

(c) The [1,000] hours of experience in the practice of nursing home administration required of a candidate qualifying under subsection (b)(1)(iii)(B), (2)(iii)(B), (3)(iii)(B) or (C), (4)(ii)(B) or (5)(iii)(B) is designed to insure that the candidate has been exposed to hands-on practical

application of the areas of educational training required in § 39.14(a)(2). The [1,000] hours of experience [shall] must include a minimum of 300 hours in general administration, a minimum of 250 hours in patient services and care and a minimum of 250 hours in health and social service delivery systems. [The 200] Any remaining hours may be distributed as needed to obtain the best results for each individual candidate. The nursing home administrator who supervised the candidate shall certify that the candidate has acquired the minimum number of hours for each area.

* * * * *

CLOCK HOURS REQUIREMENT

§ 39.61. Requirements.

* * * * *

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

* * * * *

(5) Up to 24 clock hours may be obtained by serving as a supervisor in a Board-approved AIT program, when the AIT successfully completes the AIT program.

(6) A maximum of 6 clock hours may be awarded retroactively for attending programs, to include lectures, and college or university courses, which have not been preapproved. The attendee shall submit a written request for approval within 30 days of attending the program and document attendance. The attendee shall 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; and standards for continuing education programs).

* * * * *

RENEWAL

§ 39.72. Fees.

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

* * * * *

AIT application fee.....\$50

* * * * *

AIT PROGRAM

§ 39.101. AIT.

(a) An applicant seeking to become an AIT shall file an application for approval on a form prescribed by the Board.

(b) To be approved as an AIT, the applicant shall:

(1) Have attained the general education requirements in § 39.5(b)(3)(i) or (b)(4)(i) (relating to requirements for admission to licensing examination; examination procedures) or be enrolled in the final year of a baccalaureate or master's degree program at an accredited college or university.

(2) Verify that if the AIT is employed at the nursing home in any capacity other than that of AIT during the period of practical training and experience, that employment is in addition to the hours required for the AIT program.

§ 39.102. AIT program.

(a) The AIT program must provide documentation that the following requirements have been met:

(1) The AIT and the AIT's supervisor have jointly made a pretraining assessment of the AIT's background in terms of educational level, pertinent experience, maturity, motivation and initiative.

(2) Based on the pretraining assessment, the AIT and the AIT's supervisor jointly have developed a detailed, goal-oriented training plan with supporting documentation which includes:

(i) Educational objectives.

(ii) Subject areas of the core of knowledge as required by §§ 39.5(c) and 39.7 (relating to requirements for admission to licensing examination; examination procedures; and subject matter for examinations).

(iii) Training sites or agencies involved.

(iv) Estimated number of hours needed for mastering each objective.

(v) Total of hours in the training plan.

(3) Prior to its implementation, the training plan must be submitted for approval by the Board on forms provided by the Board. The training plan must include supporting documentation for the training plan, including the allocation of hours to the subject areas required by §§ 39.5 (c) and 39.7.

(4) A minimum of 80 percent of the training must occur from Monday through Friday between 7 a.m. and 7 p.m. An AIT program may not consist of more than 60 hours per week nor less than 20 hours per week.

(b) The Board has the right to monitor and call for conference any AIT or AIT supervisor during the course of the AIT program.

(c) Following the completion of the AIT program and prior to admission to the examination for licensure, the Board will review the report required by § 39.103 (relating to AIT program reports) to determine if the applicant has received training consistent with this section.

(d) If the AIT program is discontinued prior to completion, the following apply:

(1) An AIT program which has been discontinued by a period of full-time military service may be completed within a year after that military service.

(2) An AIT program which has been discontinued for any reason other than military service may not be completed if the absence exceeds 1 year from the date of discontinuance.

(3) If an AIT program has been discontinued before completion for any reason beyond AIT or supervisor control, the AIT and supervisor may apply to the Board for consideration of credit for the period of time completed.

(i) The AIT requesting consideration shall explain why the AIT program was discontinued, how the AIT intends to complete the training and document his progress in the manner required by §39.104 (relating to AIT program reports).

(ii) The supervisor requesting consideration shall explain why the AIT program was discontinued and document the hours that the supervisor spent on the training program.

(4) Only one discontinuance will be permitted.

§ 39.103. AIT program reports.

A. Within 30 days of the completion of the AIT program, the AIT and supervisor shall submit to the Board a report on the AIT's progress on forms provided by the Board. The AIT and supervisor shall sign the report, verifying the accuracy of the information. The report must include, at a minimum:

(1) The names of the AIT and supervisor.

(2) The place of training.

(3) A statement of the subject areas covered during the program.

(4) A list of the departments in which the AIT trained, as well as initials of department managers to verify that the AIT trained in those departments.

(5) (3) The number of hours the AIT has completed during the program in each subject area.

(6) (4) A description of the administrative activities in which the AIT has participated.

(7) (5) Suggestions for improvement in the program.

(8) Other information that the Board requests.

B. THE BOARD RESERVES THE RIGHT TO REQUEST ADDITIONAL INFORMATION FROM THE AIT AND THE AIT'S SUPERVISOR ON A CASE-BY-CASE BASIS.

FEE REPORT FORM

Agency: State - BPOA

Date: April 11, 2006

Contact: Basil Merenda
Commissioner, Bureau of Professional & Occupational Affairs

Phone No. 783-7192

Fee Title, Rate and Estimated Collections:

Registration of Student for Nursing Home Administrator In Training Program:

Registration Fee: \$50.00

Estimated Biennial Revenue: (\$7,000.00) (140 Applications x \$50.00)

Fee Description:

The fee will be charged to every student registering for the Nursing Home Administrator In Training Program.

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Examiners of Nursing Home Administrators to process a registration for student training and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Staff time – process registration request:	(.25 hr)	4.27
Administrative Overhead:		<u>45.43</u>
	Total Estimated Cost:	\$46.70
	Proposed Fee:	\$50.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$50.00 be established for processing a registration of student training.

Registration for Student Training

Board Staff – receives application, reviews for completeness, contacts applicant to request any missing information and/or documents, issues registration when application is complete.

(e) A petition for early consideration must contain the information required by subsection (b). Upon receipt of the petition, the Bureau may file an answer in accordance with § 493a.5 (relating to answers).

(f) The Board may decide the petition for early consideration on the basis of the documents submitted by the excluded person and the Bureau. The Board may summarily deny the petition or may grant the petition and direct that a hearing be held in accordance with § 511a.6.

(g) The Board will consider the following criteria when making its decision on a petition for early consideration:

(1) Whether there are extraordinary facts and circumstances warranting early consideration of the excluded person's request for removal from the exclusion list.

(2) If exclusion was ordered under § 511a.5(a)(2) (relating to placement on the exclusion list), whether the excluded person has completed the period of probation or otherwise satisfied the terms of the court-ordered exclusion.

CHAPTER 513a. UNDERAGE GAMING

Sec.	
513a.1.	Definitions.
513a.2.	Exclusion requirements.
513a.3.	Responsibilities of licensees, permittees, registrants and certification holders
513a.4.	Signage requirements.
513a.5.	Enforcement.

§ 513a.1. Definitions.

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

Fully executed gaming transaction—An activity involving a slot machine or associated equipment which occurs on the gaming floor of a licensed facility and which results in an individual obtaining any money or thing of value from, or being owed any money or thing of value by, a slot machine licensee.

Winnings—Any money or thing of value received from, or owed by a slot machine licensee as a result of a fully executed gaming transaction.

§ 513a.2. Exclusion requirements.

(a) An individual under 18 years of age may not enter or be on the gaming floor of a licensed facility.

(b) An individual under 21 years of age, whether personally or through an agent, may not operate, use, play or place a wager on, a slot machine in a licensed facility.

(c) An individual under 21 years of age may not receive check cashing privileges, be rated as a player, or receive any complimentary service, item or discount as a result of, or in anticipation of, gaming activity.

(d) An individual under 21 years of age may not collect in any manner or in any proceeding, whether personally or through an agent, winnings or recover losses arising as a result of any gaming activity.

(e) Winnings incurred by an individual under 21 years of age shall be remitted to the Board to support compulsive and problem gambling programs.

(f) For the purposes of this section, winnings issued to, found on or about or redeemed by an individual under 21 years of age shall be presumed to constitute winnings and be subject to remittance to the Board.

§ 513a.3. Responsibilities of licensees, permittees, registrants and certification holders.

(a) A person holding a license, permit, certification or registration issued by the Board is prohibited from permitting or enabling an individual to engage in conduct that violates § 513a.2(a), (b), (c) or (d) (relating to exclusion requirements).

(b) Slot machine licensees shall establish procedures that are designed to prevent violations of this chapter and submit a copy of the procedures to the Board 30 days prior to initiation of gaming activities at the licensed facility. The slot machine licensee may not commence operations until the Board approves its procedures. Amendments to these procedures must be submitted to and approved by the Board prior to implementation.

(c) A slot machine licensee may be subject to Board imposed administrative sanctions if a person engages in conduct that violates § 513a.2(a), (b), (c) or (d) at its licensed facility. Under § 513a.2(e), winnings obtained by a slot machine licensee from or held on account of a person under 21 years of age shall be remitted to the Board and deposited into the Compulsive and Problem Gambling Treatment Fund.

(d) A person holding a license, permit, registration or certification issued by the Board who violates a provision of this chapter may be held jointly or severally liable for the violation.

§ 513a.4. Signage requirements.

A slot machine licensee shall post signs that include a statement that is similar to the following: "It is unlawful for any person under 21 years of age to engage in any gaming activities. Individuals violating this prohibition will be removed and may be subject to arrest for criminal trespass under 18 Pa.C.S. § 3503 (relating to criminal trespass)." The complete text of the sign shall be determined by the Board. The signs shall be prominently posted within 50 feet of each entrance and exit of the gaming floor.

§ 513a.5. Enforcement.

In a prosecution or other proceeding against a person for a violation of this chapter, it will not be a defense that the person believed an individual to be 21 years of age or older.

[Pa.B. Doc. No. 07-595. Filed for public inspection April 6, 2007, 9:00 a.m.]

STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

[49 PA. CODE CH. 39]

Administrator-in-Training Program

The State Board of Examiners of Nursing Home Administrators (Board) proposes to amend §§ 39.1, 39.5, 39.61 and 39.72 and add §§ 39.101—39.103 (relating to AIT Program) to read as set forth in Annex A. The proposed rulemaking updates and amends the requirements for admission to the licensing examination.

A. *Effective Date*

The proposed rulemaking will be effective on final-form publication in the *Pennsylvania Bulletin*.

B. *Statutory Authority*

Under section 4(c) of the Nursing Home Administrators Licensing Act (act) (63 P.S. § 1104(c)), the Board is authorized to make rules and regulations as may be necessary for the proper performance of its duties. Under section 4(a)(1) of the act, the Board is authorized to develop, impose and enforce standards that must be met by individuals in order to receive a license as a nursing home administrator (NHA). These standards must be designed to insure that NHAs will be individuals who are of good character and are otherwise suitable and qualified by training or experience in the field of institutional administration to serve as NHAs.

C. *Background and Need for Amendments*

Section 39.5(a) (relating to requirements for admission to licensing examination; examination procedures) provides that a candidate who seeks admission to the licensing examination shall meet the following requirements: (1) be at least 21 years of age; (2) submit evidence of good moral character and suitability as prescribed by the Board in the examination application; and (3) pay the required fee for examination and licensure.

In addition to these general requirements, § 39.5(b) gives candidates the opportunity to sit for the examination provided they meet certain educational and experience requirements. Each of the five options requires candidates to serve 6 to 12 months as assistant NHAs prior to sitting for the examination. Many nursing homes simply cannot afford to hire and pay assistant administrators. Therefore, it is exceedingly difficult for candidates to obtain the requisite experience under the current regulations.

In a profession that has seen a significant decline of licensees over the past 5 years, the institution of an administrator-in-training program (AIT), as proposed by this rulemaking, will give candidates who do not meet the requirements of § 39.5(b) an incentive and an alternative option to become licensed NHAs. The Board believes that, by offering candidates who meet the rigid standards of higher education an additional means of qualifying to sit for the examination, more candidates would be encouraged to enter the field of nursing home administration.

The proposed AIT program will permit an individual with a baccalaureate or master's degree to serve as an AIT, or intern, under the supervision of an NHA, who will function as a mentor to the AIT. Under the NHA's supervision, a candidate with a baccalaureate degree will be required to obtain 1,000 hours of experience in the practice of nursing home administration, while a candidate with a master's degree will be required to obtain 800 hours. Each AIT program will be individualized and approved, in advance, by the Board. Each program must have a detailed, goal-oriented training plan with supporting documentation that relates educational objectives, subject areas of the required core of knowledge, estimated number of hours for mastering each objective and the total number of hours involved. This program must consist of no less than 20 hours nor more than 60 hours per week. At the completion of the AIT program, both the supervising NHA and candidate shall submit to the Board comprehensive documentation that the candidate is qualified to sit for the examination.

North Carolina, Ohio and Maryland currently have AIT programs in place. This proposed rulemaking is similar to

the AIT regulations of those states. Those states, however, require that the supervising NHA attend a training course to become "preceptors" to the AIT. This proposed rulemaking requires that the supervisor to the AIT be licensed by the Board and be employed as the administrator-of-record at the facility where the AIT is training.

D. *Description of Proposed Amendments*

§ 39.1. Definitions.

The Board proposes to add definitions of "AIT—administrator-in-training" and "AIT program" to § 39.1.

§ 39.5. Requirements for admission to licensing examination; examination procedures.

The proposed amendments to § 39.5 would change the experience requirements to immediately precede the date of application, not date of examination.

Section 39.5(b)(3)(ii) would be amended to add a baccalaureate degree equivalent to nursing home administration as an alternative to a baccalaureate degree in nursing home administration and the requirement that the candidate who possesses the equivalent degree provide transcripts that demonstrate that the candidate has completed a 120-hour course in nursing home administration as part of the baccalaureate curriculum.

Section 39.5(b)(3)(iii)(C) and (4)(ii)(B) would be amended to add an experience alternative for candidates with baccalaureate or baccalaureate-equivalent degrees and master's degrees to participate in the AIT program in lieu of obtaining actual experience in a nursing home or health related facility prior to sitting for the examination.

§ 39.61. Requirements.

The Board proposes to add § 39.61(b)(5) to provide that up to 24 clock hours of continuing education may be obtained through serving as a supervisor in a Board-approved AIT program, when the AIT successfully completes the AIT program under § 39.103 (relating to AIT program reports).

§ 39.72. Fees.

The Board proposes to amend § 39.72 to include a \$50 AIT application fee.

§§ 39.101—39.103. AIT Program.

The Board proposes to add §§ 39.101—39.103 to institute the AIT program.

Section 39.101 (relating to AIT) requires an AIT applicant to file an application with the Board and describes the criteria for approval as an AIT.

Section 39.102 (relating to AIT program) requires documentation for the individualized AIT program, which includes a pretraining assessment of the AIT's background and a written training plan prepared by the AIT and supervisor for approval by the Board. This section also sets forth the weekly and hourly requirements and that the program may not consist of more than 60 hours per week nor less than 20 hours per week. Further, this section sets forth procedures in the event the AIT program is discontinued or terminated before completion.

Section 39.103 sets forth the procedure for AIT program reports that must be submitted to the Board by both the AIT and the AIT's supervisor within 30 days of completion of the AIT program.

E. *Fiscal Impact*

The proposed rulemaking will have a limited fiscal impact on the Commonwealth and its political subdivisions. The proposed rulemaking establishes a new fee associated with the proposed AIT program. However, this fee is intended to defray a portion of the Board's operational costs. There are no other costs or savings to the State government associated with implementation of the proposed rulemaking.

F. *Paperwork Requirements*

The proposed rulemaking will require the Board to alter some of its forms to reflect the new fee and to create applications for AITs. The Board will further provide a detailed training plan to NHAs who supervise AITs. Further, the proposed rulemaking will create additional paperwork for AITs and supervisors, who will be responsible for submitting a detailed, individualized AIT framework for each AIT and documentation of progress and completion of the AIT program.

G. *Sunset Date*

The Board continuously monitors the effectiveness of 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 March 28, 2007, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

I. *Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking within 30 days of publication of this proposed rulemaking to Christina Stuckey, Administrator, State Board of Examiners of Nursing Home Administrators, P. O. Box 2649, Harrisburg, PA 17105-2649, cstuckey@state.pa.us. Reference No. 16A-627 (Administrator-in-Training Program) when submitting comments.

BARRY S. RAMPER, II,
Chairperson

Fiscal Note: 16A-627. 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:

AIT—Administrator-in-training—An individual registered with the Board under § 39.101 (relating to AIT), to serve a period of practical training and experience under the supervision of a licensed nursing home administrator.

AIT program—A program established by the Board as a means for an applicant for licensure as a nursing home administrator to obtain practical training and experience under the supervision of a licensed nursing home administrator.

* * * * *

§ 39.5. Requirements for admission to licensing examination; examination procedures.

* * * * *

(b) A candidate who seeks admission to the licensing examination shall also meet one of the following sets of education and experience requirements. The candidate shall:

(1) Have:

(i) [Commencing March 1, 1993, successfully] Successfully completed 120 clock hours in a program of study approved by the Board as prescribed in § 39.14(a)(2) (relating to approval of programs of study).

* * * * *

(iii) Done one of the following:

(A) During the 18 months immediately preceding the date of [examination] application, acquired experience in the practice of nursing home administration by having served satisfactorily in a nursing home or related health facility as a full-time assistant administrator under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of [this] the Commonwealth.

(B) During 3 of the 5 years immediately preceding the date of [examination] application, served satisfactorily as a full-time supervisor in a nursing home or related health facility, 1,000 hours of which service shall have been in the practice of nursing home administration under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth.

(2) Have:

(i) [Commencing March 1, 1993, successfully] Successfully completed 120 clock hours in a program of study approved by the Board as prescribed in § 39.14(a)(2).

* * * * *

(iii) Done one of the following:

(A) [Served] During the 18 months immediately preceding the date of the application, served satisfactorily as a full-time Director of Nursing for 6 months and, during the 12 months immediately preceding the date of [examination] application, but not concurrent with the service as a Director of Nursing, acquired experience in the practice of nursing home administration by having served satisfactorily as a full-time assistant administrator in a nursing home or related health facility under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of [this] the Commonwealth.

(B) During 2 of the 5 years immediately preceding the date of [examination] application, served satisfactorily as a full-time Director of Nursing in a nursing home or related health facility, 1,000 hours of which service shall have been in the practice of nursing home administration under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth.

(3) Have:

* * * * *

(ii) [Commencing March 1, 1993, successfully] Successfully completed 120 clock hours in a program of study approved by the Board as prescribed in § 39.14(a)(2), unless the candidate has a baccalaureate degree in nursing home administration or a baccalaureate degree in a program equivalent to nursing home administration. The burden is on the candidate to demonstrate that the baccalaureate degree that the candidate has earned is equivalent to a baccalaureate degree in nursing home administration. Baccalaureate degree equivalency will be determined by the Board based upon the applicant's transcripts and course descriptions. Candidates who have successfully completed a baccalaureate curriculum which is not in nursing home administration or equivalent to nursing home administration, but incorporates the 120-hour program as part of the curriculum, are not required to complete the 120-hour program separately. The burden is on the candidate to demonstrate that the 120-hour program is incorporated in the baccalaureate curriculum. The Board will evaluate the transcripts and course descriptions of the candidate to determine if the 120-hour program was successfully completed as part of the baccalaureate curriculum.

(iii) Done one of the following:

(A) During the 9 months immediately preceding the date of [examination] application, acquired experience in the practice of nursing home administration by having served satisfactorily in a nursing home or related health facility as a full-time assistant administrator under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth.

(B) During 18 months of the 5 years immediately preceding the date of [examination] application, served satisfactorily as a full-time supervisor in a nursing home or related health facility, 1,000 hours of which

service shall have been in the practice of nursing home administration under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth.

(C) [During 2 of the 5 years preceding the date of examination, which date of examination may not be later than August 31, 1995, served satisfactorily as a full-time chief administrator in a nursing home or related health facility.] During the 2 years immediately preceding the date of application, acquired 1,000 hours of experience in the practice of nursing home administration by having served satisfactorily as an AIT in a nursing home under the supervision of a full-time nursing home administrator licensed in the Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth, in accordance with §§ 39.101—39.103 (relating to AIT Program).

(4) Have:

* * * * *

(ii) [Either] Done one of the following:

(A) During the 5 years immediately preceding the date of application, either acquired 6 months of satisfactory full-time supervisory experience in the administration of a nursing home under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth or acquired 6 months of satisfactory full-time experience in the administration of a related health facility under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth, except that an individual who is acquiring satisfactory full-time experience in the administration of a related health facility on December 31, 1994, even though the experience is not being acquired under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth, shall have until June 30, 1995, to apply for admission to the licensing examination under the regulations in effect immediately prior to December 31, 1994] .

(B) During the 2 years immediately preceding the date of application, acquired 800 hours of experience in the practice of nursing home administration by having served satisfactorily as an AIT in a nursing home under the supervision of a full time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth, in accordance with §§ 39.101—39.103.

(5) Have:

(i) [Commencing March 1, 1993, successfully] Successfully completed 120 clock hours in a program study approved by the Board as prescribed in § 39.14(a)(2).

* * * * *

(iii) Done one of the following:

(A) During the 18 months immediately preceding the date of [examination] application, acquired experi-

ence in the practice of nursing home administration by having served satisfactorily in a nursing home or related health facility as a full-time assistant administrator under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth.

(B) During 3 of the last 5 years immediately preceding the date of [examination] application, served satisfactorily as a full-time supervisor in a nursing home or related health facility, 1,000 hours of which service shall have been in the practice of nursing home administration under the supervision of a full-time nursing home administrator licensed in this Commonwealth or in another state whose licensing standards are equal to those of the Commonwealth.

(c) The [1,000] hours of experience in the practice of nursing home administration required of a candidate qualifying under subsection (b)(1)(iii)(B), (2)(iii)(B), (3)(iii)(B) or (C), (4)(ii)(B) or (5)(iii)(B) is designed to insure that the candidate has been exposed to hands-on practical application of the areas of educational training required in § 39.14(a)(2). The [1,000] hours of experience [shall] must include a minimum of 300 hours in general administration, a minimum of 250 hours in patient services and care and a minimum of 250 hours in health and social service delivery systems. [The 200] Any remaining hours may be distributed as needed to obtain the best results for each individual candidate. The nursing home administrator who supervised the candidate shall certify that the candidate has acquired the minimum number of hours for each area.

* * * * *

CLOCK HOURS REQUIREMENT

§ 39.61. Requirements.

* * * * *

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

* * * * *

(5) Up to 24 clock hours may be obtained by serving as a supervisor in a Board-approved AIT program, when the AIT successfully completes the AIT program.

(6) A maximum of 6 clock hours may be awarded retroactively for attending programs, to include lectures, and college or university courses, which have not been preapproved. The attendee shall submit a written request for approval within 30 days of attending the program and document attendance. The attendee shall 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; and standards for continuing education programs).

* * * * *

RENEWAL

§ 39.72. Fees.

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

* * * * *

AIT application fee \$50

AIT PROGRAM

(Editor's Note: The following sections are new and are printed in regular type to enhance readability.)

§ 39.101. AIT.

(a) An applicant seeking to become an AIT shall file an application for approval on a form prescribed by the Board.

(b) To be approved as an AIT, the applicant shall:

(1) Have attained the general education requirements in § 39.5(b)(3)(i) or (4)(i) (relating to requirements for admission to licensing examination; examination procedures) or be enrolled in the final year of a baccalaureate or master's degree program at an accredited college or university.

(2) Verify that if the AIT is employed at the nursing home in any capacity other than that of AIT during the period of practical training and experience, that employment is in addition to the hours required for the AIT program.

§ 39.102. AIT program.

(a) The AIT program must provide documentation that the following requirements have been met:

(1) The AIT and the AIT's supervisor have jointly made a pretraining assessment of the AIT's background in terms of educational level, pertinent experience, maturity, motivation and initiative.

(2) Based on the pretraining assessment, the AIT and the AIT's supervisor jointly have developed a detailed, goal-oriented training plan with supporting documentation which includes:

(i) Educational objectives.

(ii) Subject areas of the core of knowledge as required by §§ 39.5(c) and 39.7 (relating to requirements for admission to licensing examination; examination procedures; and subject matter for examinations).

(iii) Training sites or agencies involved.

(iv) Estimated number of hours needed for mastering each objective.

(v) Total of hours in the training plan.

(3) Prior to its implementation, the training plan must be submitted for approval by the Board on forms provided by the Board. The training plan must include supporting documentation for the training plan, including the allocation of hours to the subject areas required by §§ 39.5(c) and 39.7.

(4) A minimum of 80% of the training must occur from Monday through Friday between 7 a.m. and 7 p.m. An AIT program may not consist of more than 60 hours per week nor less than 20 hours per week.

(b) The Board has the right to monitor and call for conference any AIT or AIT supervisor during the course of the AIT program.

(c) Following the completion of the AIT program and prior to admission to the examination for licensure, the Board will review the report required by § 39.103 (relating to AIT program reports) to determine if the applicant has received training consistent with this section.

(d) If the AIT program is discontinued prior to completion, the following apply:

(1) An AIT program which has been discontinued by a period of full-time military service may be completed within a year after that military service.

(2) An AIT program which has been discontinued for any reason other than military service may not be completed if the absence exceeds 1 year from the date of discontinuance.

(3) If an AIT program has been discontinued before completion for any reason beyond AIT or supervisor control, the AIT and supervisor may apply to the Board for consideration of credit for the period of time completed.

(i) The AIT requesting consideration shall explain why the AIT program was discontinued, how the AIT intends to complete the training and document progress in the manner required by § 39.104 (relating to AIT program reports).

(ii) The supervisor requesting consideration shall explain why the AIT program was discontinued and document the hours that the supervisor spent on the training program.

(4) Only one discontinuance will be permitted.

§ 39.103. AIT program reports.

Within 30 days of the completion of the AIT program, the AIT and supervisor shall submit to the Board a report on the AIT's progress on forms provided by the Board. The AIT and supervisor shall sign the report, verifying the accuracy of the information. The report must include, at a minimum:

(1) The names of the AIT and supervisor.

(2) The place of training.

(3) A statement of the subject areas covered during the program.

(4) A list of the departments in which the AIT trained, as well as initials of department managers to verify that the AIT trained in those departments.

(5) The number of hours the AIT has completed during the program in each subject area.

(6) A description of the administrative activities in which the AIT has participated.

(7) Suggestions for improvement in the program.

(8) Other information the Board requests.

[Pa.B. Doc. No. 07-596. Filed for public inspection April 6, 2007, 9:00 a.m.]

STATE REAL ESTATE COMMISSION

[49 PA. CODE CH. 35]

Consumer Notice

The State Real Estate Commission (Commission) proposes to amend §§ 35.201 and 35.336 (relating to definitions; and disclosure summary for the purchase or sale of residential or commercial real estate or for the lease of residential or commercial real estate when the licensee is working on behalf of the tenant) to read as set forth in Annex A.

A. Effective Date

The proposed rulemaking will be effective 30 days after final-form publication in the *Pennsylvania Bulletin*. However, licensees will have 180 days to begin using the new Consumer Notice form.

B. Statutory Authority

The amendments are proposed under section 608 of the Real Estate Licensing and Registration Act (RELRA) (63 P. S. § 455.608).

C. Background and Purpose

The act of November 25, 1998 (P. L. 908, No. 112) (Act 112) amended the RELRA to establish the various agency relationships that real estate licensees are permitted to enter into with consumers. In accordance with section 608 of the RELRA, real estate licensees are required to provide consumers with a disclosure summary at the initial interview that delineates the following eleven items:

- The relationships in which the consumer may engage the broker.

- A statement informing sellers and buyers of their option to have an agency relationship with a broker, that an agency relationship is not to be presumed and that it will exist only as set forth in a written agreement between the broker and the consumer.

- A statement that a consumer has the right to enter into a negotiated agreement with the broker limiting the activities or practices that the broker will provide for on behalf of the consumer and that the fees and services to be provided are to be determined by negotiations between the consumer and the broker.

- A statement identifying any possibility that the broker may provide services to another consumer who may be party to the transaction and, if so, an explanation of the duties the broker may owe the other party and whether the broker may accept a fee for those services.

- A statement identifying any possibility that the broker may designate one or more licensees affiliated with the broker to represent the separate interest of the parties to the transaction.

- A statement of the broker's policies regarding cooperation with other brokers, including the sharing of fees.

- A statement that a buyer's broker may be paid a fee that is a percentage of the purchase price and the buyer's broker, even if compensated by the listing broker, will represent the interests of the buyer.

- A statement that the duration of the broker's employment and the broker's fees are negotiable.

- The purpose of the Real Estate Recovery Fund and the telephone number of the Commission at which further information about the fund may be obtained.

- A statement that the duration of the listing agreement or contract and the broker's commission are negotiable.

- A statement that any sales agreement must contain zoning classification of a property except in cases where the property (or each parcel thereof, if subdivided) is zoned solely or primarily to permit single-family dwellings.

At 30 Pa.B. 228 (January 8, 2000), the Commission published a final-form rulemaking containing a disclosure statement in accordance with section 608 of the RELRA. Licensees have advised the Commission that the current

State Board of Examiners of Nursing Home Administrators
16A-627 – Administrator-in-Training
Public Commentators

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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF EXAMINERS OF NURSING
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April 28, 2008

The Honorable, Arthur Coccodrilli, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Final Regulation
State Board of Examiners of Nursing Home Administrators
16A-627: Administrator-In-Training

Dear Chairman Coccodrilli:

Enclosed is a copy of a final rulemaking package of the State Board of Examiners of Nursing Home Administrators pertaining to Administrator-in-Training Program.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Eva J. Bering".

Eva J. Bering, Chairperson
State Board of Examiners of Nursing
Home Administrators

EJB/RLS:pah
Enclosure

cc: Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs
Albert H. Masland, Chief Counsel
Department of State
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Roberta L. Silver, 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-627
 SUBJECT: ADMINISTRATOR-IN-TRAINING PROGRAM
 AGENCY: DEPARTMENT OF STATE
 STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

TYPE OF REGULATION

RECEIVED

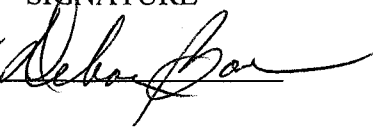
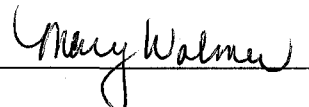

- Proposed Regulation
- X Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

APR 28 REC'D

INDEPENDENT REGULATORY
REVIEW COMMISSION

11:32 Am

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
4/28/08		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE MAJORITY CHAIRMAN <u>Mike Sturla</u>
4/28/08		SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE MAJORITY CHAIRMAN <u>Robert Tomlinson</u>
4/28/08		INDEPENDENT REGULATORY REVIEW COMMISSION ATTORNEY GENERAL (for Final Omitted only) LEGISLATIVE REFERENCE BUREAU (for Proposed only)

April 4, 2008