

Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY
REVIEW COMMISSION

(All Comments submitted on this regulation will appear on IRRC's website)

2016
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(1) Agency:
Department of State, Bureau of Professional and Occupational Affairs, State Board of Examiners of Nursing Home Administrators

(2) Agency Number: 16A
Identification Number: 6217

IRRC Number: 3070

(3) PA Code Cite: **49 Pa. Code §§ 39.92, 39.93**

(4) Short Title:
Notice Requirements

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: **Judith Pachter Schulder, Counsel, State Board of Examiners of Nursing Home Administrators, P.O. Box 69523, Harrisburg, PA 17106-9523 (phone 717-783-7200) (fax 787-0251) jschulder@pa.gov.**

Secondary Contact: **Cynthia K. Montgomery, Regulatory Counsel, P.O. Box 69523, Harrisburg, PA 17106-9523 (phone 717-783-7200) (fax 787-0251) cymontgome@pa.gov.**

(6) Type of Rulemaking (check applicable box):

- Proposed Regulation
- FINAL REGULATION**
- Final Omitted Regulation

- Emergency Certification Regulation;
- Certification by the Governor
- Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The regulation adds provisions which require licensees to notify the Board of any felony conviction, probation without verdict, disposition in lieu of trial or ARD in disposition of felony charges, or any disciplinary action taken by a licensing body in another jurisdiction. The regulation also adds a provision which requires licensees to return their licenses to the Board within 30 days of voluntarily surrendering the license or being actively suspended or revoked.

(8) State the statutory authority for the regulation. Include specific statutory citation.

Sections 8.1(b), 9.1 and 12(a)(4) and (6) of the Nursing Home Administrators License Act (act) (63 P.S. §§ 1108.1(b), 1109.1 and 1112(a)(4) and (6)) authorize the Board to discipline licensees who have been convicted of or plead guilty or nolo contendere to any felony or have been disciplined by the licensing authority of another state, territory or country. Additionally, Section 13(a.1) of the act (63 P.S. § 1113(a.1)) directs the Board to require licensees to return suspended and revoked licenses to the Board.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

No, this regulation is not mandated by Federal or State law, court order or regulations.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

Sections 8.1(b) and 12(a)(4) and (6) of the Nursing Home Administrators License Act (act) (63 P.S. §§ 1108.1(b) and 1112(a)(4) and (6)) authorize the Board to discipline licensees who have been convicted of or plead guilty or nolo contendere to any felony, or receive probation without verdict, disposition in lieu of trial or ARD in the disposition of felony charges. However, the Board's regulations do not require that its licensees report these convictions and other dispositions to the Board in advance of biennial renewal. As such, it may be almost 2 years before the Board first learns of these matters. To ensure that the Board receives information about these convictions/dispositions in a timelier manner, the Board is adding § 39.92 (relating to reporting of crimes and disciplinary actions) to expedite the reporting of felonies. In addition, because the Board is adding regulations regarding the reporting of felonies, the Board believes that it is prudent to also add provisions requiring the reporting of disciplinary sanctions taken by other states against licensees as required by section 9.1 of the act (63 P.S. § 1109.1).

Similarly, although section 13(a.1) of the act (63 P.S. § 1113(a.1)) requires licensees to return suspended and revoked licenses to the Board, there is no provision in the Board's regulations to require that they be returned within a specified time. To ensure that licensees return their licensure documents in a timelier manner, the Board is adding § 39.93 (relating to return of actively suspended or revoked licenses) requiring their return within 30 days of a voluntary surrender, suspension or revocation.

(11) 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 regulations.

There are no Federal licensure standards.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

The final regulations do not adversely affect Pennsylvania's ability to compete with other states.

The states are divided in connection with requiring reporting of criminal convictions and disciplinary actions. Of the states that responded to the Board's inquiry, about 1/3 required notification ranging from contemporaneously to within 30 days of the action, 1/3 require notification upon renewal and less than 1/3 only require notification at initial licensure. New Jersey has contemporaneous reporting through a fingerprinting system and West Virginia requires reporting within 30 days. New York, Maryland and Ohio require reporting at renewal.

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

The regulation will not affect other regulations of the Board or other state agencies.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

In preparing this rulemaking, the Board shared drafts of the proposed amendments with stakeholders and interested parties. See Attachment 1 for the list of specific persons and/or groups who were involved. Following publication, the Board did not receive any comments from the public, the Legislative committees or the Independent Regulatory Review Commission.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

There are 1,882 active nursing home administrator licensees in Pennsylvania. According to the Pennsylvania Department of Labor and Industry in 2008, in the category of "Medical and Health Services Managers," 1,094 individuals worked in "nursing care facilities," while 751 individuals worked in "community care facility for the elderly."

For the business entities listed above, small businesses are defined in Section 3 of Act 76 of 2012, which provides that a small business is defined by the U.S. Small Business Administration's (SBA) Small Business Size Regulations under 13 CFR Ch. 1 Part 121. Specifically, the SBA has established these size standards at 13 CFR 121.201 for types of businesses under the North American Industry Classification System (NAICS). In applying the NAICS standards to the types of businesses where nursing home administrators work, a small business in a "nursing care facility (skilled nursing facilities)" is one with \$25.5 million or less in annual receipts. Likewise, "continuing care retirement communities" are also \$25.5 million or less in annual receipts. In considering all of these small business thresholds set by NAICS for the businesses in which nursing home administrators work, it is probable that most of the 1,882 licensed nursing home administrators work in small businesses.

The Board estimates that nursing home facilities with approximately 300 beds generally have annual receipts at the threshold amount of \$25.5 million. Based on data provided by the Pennsylvania Department of Health, of the 711 nursing homes in Pennsylvania, 687 (or 97 %) have 300 or fewer beds and would be considered small businesses, while 24 nursing homes (or 3 %) have more than 300 beds. Therefore, the Board concludes that a very large majority of the Pennsylvania nursing homes should be categorized as small businesses.

Although many licensed nursing home administrators work in small businesses, all licensees will be affected equally by the provisions in this regulation, whether or not these licensees work in small or large businesses. The licensees will benefit from these amendments and clarifications to the regulations.

This regulation package does not apply to small or large nursing homes. Because it changes timeframes for licensees to report crimes and disciplinary actions, it affects individuals rather than the small or large businesses in which they work.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

There are 1,882 nursing home administrators licensed by the Board, including those who work for small businesses, which will be required to comply with the rulemaking.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The requirement that nursing home administrators report felony criminal actions and disciplinary sanctions to the Board within 30 and 90 days, respectively, should have a slight fiscal and paperwork impact on the Board and licensees. Currently, licensees report this information on their biennial renewal applications. Under this proposal, these reports must be made sooner, triggering additional paperwork responsibilities for licensees. The Board anticipates that it will see an increase in reports as licensees comply with the regulatory requirement thereby incurring additional enforcement costs.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

Requiring licensees to report felony criminal convictions within 30 days of action and disciplinary actions within 90 days of the disposition benefits the public as the Board will receive more timely notice of actions impacting licensees and recipients of services from nursing home administrators. As a result, the Board will be better able to protect the public by reviewing such actions closer in time to their occurrences.

(19) 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. Explain how the dollar estimates were derived.

This regulation will impose, at best, a slight increase in costs on the regulated community. Currently such reports are made as part of the biennial renewal application. Under this proposal, licensees will be required to report felony criminal convictions and disciplinary actions to the Board in a shorter timeframe, other than at biennial renewal. At this time, the Bureau of Professional and Occupational Affairs is developing an electronic reporting process that will lessen any burden on licensees.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There are no costs or savings to local governments associated with compliance with the rulemaking.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

Savings: None.

Costs: Licensees are currently required to report criminal and disciplinary actions. If the number increases over what is currently reported at biennial renewal, the Board may incur increased enforcement costs. Because the Board cannot calculate the number of reports it will receive, it cannot, with a reasonable degree of certainty, predict the actual costs of enforcement. However, assuming that all licensees who were convicted of felonies or received disciplinary action in another state truthfully report to the Board, the only difference should be in the timing of the reports, not the number of reports.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

Under this proposal, licensees will be required to report felony criminal convictions, pleas of guilty or nolo contendere, or admissions into a probation without verdict, disposition in lieu of trial or ARDs as well as disciplinary actions taken by other states and jurisdictions. Once received by the Board, the reports will be sent to the Bureau of Professional and Occupational Affairs' Professional Compliance Office (PCO) for processing. No specific forms are required for licensees to complete.

(23) 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 16-17	FY +1 17-18	FY +2 18-19	FY +3 19-20	FY +4 20-21	FY +5 21-22
SAVINGS:	\$0	\$0	\$0	\$0	\$0	\$0
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:	\$0	\$0	\$0	\$0	\$0	\$0
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:	\$0	\$0	\$0	\$0	\$0	\$0
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3 13-14 (Actual)	FY -2 14-15 (Actual)	FY -1 15-16 (Projected)	Current FY 16-17 (Budgeted)
State Board of Examiners of Nursing Home Administrators	\$134,907.28	\$118,942.95	\$238,654.62	\$230,000.00

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

There is no small business impact. Licensees are already required to report crimes and disciplinary actions at biennial renewal. Employers, be they small or large businesses, have no obligations under these regulations. As noted above, there are approximately 711 nursing homes in Pennsylvania and 97% of them would be considered small businesses. The projected reporting costs are negligible amounting to the cost of mailing a letter to the Board informing the Board of a felony conviction/disposition or disciplinary action taken by another state. In addition, the Bureau is currently developing an online process to report these actions to the Board, which will further reduce the costs associated with making these reports. However, these costs are imposed on the individual licensee, not the nursing home. The Board believes this regulation represents the least burdensome method of achieving the purpose of the proposal.

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

No groups with particular needs have been identified.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No alternatives have been considered as the requirements of this regulation are not burdensome on licensees. Furthermore, requiring licensees to report criminal and disciplinary actions is the most expeditious way to obtain this information.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

There is no small business impact as the requirements fall on individual nursing home administrators and not on their employers. Less stringent reporting requirements or schedules or deadlines or exemptions for licensees employed by small businesses would be contrary to the public interest.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

This rulemaking is not based upon any scientific data, studies or references.

(29) Include a schedule for review of the regulation including:

A. The date by which the agency must receive public comments: **The public comment period ended on September 15, 2014.**

B. The date or dates on which public meetings or hearings will be held: **No specific date has been scheduled. The Board holds regularly scheduled public meetings and considers public comment at those meetings.**

C. The expected date of promulgation of the proposed regulation as a final-form regulation: **Fall 2016.**

D. The expected effective date of the final-form regulation: **Upon publication in the PA Bulletin.**

E. The date by which compliance with the final-form regulation will be required: **Upon publication in the PA Bulletin.**

F. The date by which required permits, licenses or other approvals must be obtained: **N/A**

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The Board regularly evaluates the effectiveness of its regulations. Additionally, the Board regularly reviews requests by licensees and members of the public to amend its regulations causing the Board to evaluate the regulations' impact and necessity. The Board reviews all regulatory proposals at regularly scheduled meetings. The Board meeting dates for the remainder of 2016 are: October 5 and December 7, 2016.

ATTACHMENT 1

ORGANIZATION	FIRST NAME	LAST NAME	STREET ADDRESS	CITY	STATE	ZIP CODE
American Assoc. of Retired Persons	Shirley	Sharp	225 Market Street	Harrisburg	PA	17101
American College of Health Care Admin - Pennsylvania Chapter	William	Van Slyke	200 South Main Street	Athens	PA	18810-1614
Coalition for Advocacy of Rights of Infirm			100 North 17th Street, Suite 600	Philadelphia	PA	19103
Community College of Allegheny Co.			625 Starwik Street 11th Floor	Pittsburgh	PA	15222
			Rachel Carson State Office Building			
Dept of Aging	Richard	Browdie	400 Market Street 7th Floor	Harrisburg	PA	17101-2301
Dept. of Health, Bureau of Quality Assurance			526 Health & Welfare Building	Harrisburg	PA	17108
Division of Nursing Care Facilities			3rd Floor Bertolino Building			
Dept of Public Welfare			1401 North 7th Street	Harrisburg	PA	17102-2301
Office of Social Programs, Personal Care Homes			Whitnyre Hall	Indiana	PA	15705
Indiana University of PA			P.O. Box 339	Flourtown	PA	19031-0339
Institute for Continuing Education & Research	Gordon	Kutler	2300 Adams Avenue	Scranton	PA	18509
Marywood University School of Continuing Education	Janet	Nergecki	P.O. Box 1002	Millersville	PA	17551-0302
Millersville University			3835 Green Pond Road	Bethlehem	PA	18017
Northampton Community College	Aurora	Weaver	1100 Bent Creek Boulevard	Mechanicsburg	PA	17050
Pa Assoc. of Non Profit Homes for the Aging			17 North Front Street	Harrisburg	PA	17101
Pa Association of County Affiliated Homes	Michael	Wilt	Hanot Medical Center	Erie	PA	16550
			201 State Street	Harrisburg	PA	17112-1579
PA Assoc. of Medical Staff Services	Sherry	Shaddock	2090 Wexford Court	Harrisburg	PA	17101
P.A. Assoc. of Private School Administrators	Richard	Durnarasq	315 North Second Street	Harrisburg	PA	15108-1189
Pennsylvania Health Care Association	Patricia	Zeller	Narrows Run Road	Pittsburgh	PA	15219
Robert Morris College	Tim	Solomon	600 Fifth Avenue	Slippery Rock	PA	15057
Robert Morris College - Continuing Education			Off Campus Programs	Standish	ME	04084-5263
Slippery Rock University	John	Pratt	278 Whites Bridge Road			
St. Josephs College - LTC Management Institute			4750 Lindlie Road	Harrisburg	PA	17105-8600
The Hospital Association of PA	Paula	Bussard	P.O. Box 8600	Kennett Square	PA	19348
The Kendal Corporation			P.O. Box 100	Scranton	PA	18510
University of Scranton			St. Thomas Hall	Scranton	PA	18510
University of Scranton Health Administration Program			312 Ohara Hall	Lebanon	PA	17042
	Eva	Bergin	359 Timber Boulevard	Harrisburg	PA	17120
	William	Borner	528 Health & Welfare Bldg.	Chadds Ford	PA	19317
	Sidney	Brookes, Jr.	2 Concord Way	Pittston	PA	18640
	Ronhaine	Campenni	23 East Sunrise Drive	State College	PA	16803
	Robert	Etchells	1291 Barnstable Lane	Harrisburg	PA	17110
	Seth	Levy	1313 Laurel Point Center	Millersville	PA	17551
	William	McIlwaine	53 Brenner Street	Dunmore	PA	18509
	Jarres	Miller Jr.	1738 Madison Avenue	North Huntingdon	PA	15642
	Leonard	Oddo	611 Oak Crest Drive	Harrisburg	PA	17110
	Bary	Ramper II	3001 Rose Hill Road	Erie	PA	16506
	Robert	Smith	2909 Willowood			
			777 E. Park Dr.	Harrisburg	PA	17105-8820
	Catherine	Wilson	PO Box 8820	Harrisburg	PA	17120
	Kimberly	Wuchina	14th Floor Strawberry Square	Orefield	PA	18069
	Barbara	Zsigovits	3032 Woodlane Avenue			

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FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

2016 AUG 29 AM 10: 52

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality.
Attorney General

Copy below is hereby certified to be a true and correct copy of a
document issued, prescribed or promulgated by:

Copy below is approved as to form and
legality.
Executive or Independent Agencies.

BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Examiners of
Nursing Home Administrators
(AGENCY)

BY: Manson H. Z. [Signature]

AUG 15 2016
DATE OF APPROVAL

DATE OF APPROVAL

DOCUMENT/FISCAL NOTE NO. 16A-6217

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

DATE OF ADOPTION:

BY: Mary Ann Hewston [Signature]
Mary Ann Hewston, NHA

- Check if applicable
Copy not approved.
Objections attached.
- Check if applicable. No Attorney
General approval or objection within 30 day
after submission.

TITLE: Chairperson
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

FINAL RULEMAKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF EXAMINERS OF
NURSING HOME ADMINISTRATORS

49 Pa. Code §§ 39.92 and 39.93

NOTICE REQUIREMENTS

The State Board of Examiners of Nursing Home Administrators (Board) hereby adopts §§ 39.92 and 39.93 (relating to reporting of crimes and disciplinary actions; and return of actively suspended or revoked licenses) to read as set forth in Annex A.

Effective Date

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

Statutory Authority

Sections 8.1(b) and 12(a)(4) and (6) of the Nursing Home Administrators License Act (act) (63 P.S. §§ 1108.1(b) and 1112(a)(4) and (6)) authorize the Board to discipline licensees who have been convicted of or plead guilty or nolo contendere to any felony or have been disciplined by the licensing authority of another state, territory or country. Section 9.1 of the act (63 P.S. § 1109.1) requires licensees to notify the Board of disciplinary sanctions by other licensing Boards within 90 days of disposition or on biennial renewal applications, whichever is sooner. Additionally, section 13(a.1) of the act (63 P.S. § 1113(a.1)) directs the Board to require a person whose license has been suspended or revoked to return the license in the manner the Board directs.

Background and Purpose

Although the above cited statutory provisions authorize the Board to discipline licensees with felony convictions, the Board's regulations do not require that its licensees report these convictions to the Board in advance of biennial renewal. As such, it may be almost 2 years before the Board first learns of the convictions. To ensure that the Board receives information about these convictions in a timelier manner, the Board is adding § 33.92 to expedite the reporting of felony convictions. Because the Board is adding the reporting requirements for felony convictions, the Board finds it prudent to include the reporting requirement for disciplinary sanctions taken by other states against licensees as provided in section 9.1 of the act.

Additionally, although the act directs the Board to require licensees to return suspended and revoked licenses to the Board, there was no requirement that they be returned within a specified time. To ensure that licensees return their licensure documents in a timelier manner, the Board is adding § 39.93 requiring their return within 30 days of a voluntary surrender, suspension or revocation.

Summary and Responses to Comments

Notice of the proposed rulemaking was published at 44 Pa.B. 5490 (August 16, 2014). Publication was followed by a 30-day public comment period during which the Board did not receive any comments. The Independent Regulatory Review Commission (IRRC) submitted a

letter advising that it does not have any objections, comments or recommendations. Neither the House Professional Licensure Committee (HPLC) nor the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) submitted comment.

As there were no comments, objections or recommendations regarding the proposed rulemaking, the Board has made no substantive amendments to the final-form rulemaking. However, the Board is correcting an error made in the publication of the proposed rulemaking pertaining to the use of the legal term of art “disposition in lieu of trial” which is used in section 12(a)(4) of the act and is commonly used in criminal law. See, for example, section 18 of the Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. § 780-118).

Fiscal Impact and Paperwork Requirements

The requirement that licensees report criminal actions and disciplinary sanctions to the Board within 30 and 90 days, respectively, should have a slight fiscal and paperwork impact on the Board and licensees. Currently, licensees report this information on their biennial renewal applications. Under this final-form rulemaking, these reports must be made sooner, triggering additional paperwork responsibilities for licensees. The Board anticipates that it will see an increase in reports as licensees comply with the regulatory requirement thereby incurring additional enforcement costs.

Sunset Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on August 5, 2014 the Board submitted notice of this proposed rulemaking, published at 44 *Pa.B.* 5490 (August 16, 2014), to IRRC and the Chairpersons of the HPLC and SCP/PLC for review and comment. No comments were received.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on _____, 2016 the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC. Under section 5(g) of the Regulatory Review Act, IRRC deemed the final-form rulemaking approved on _____, 2016.

Additional Information

Additional information may be obtained by writing to Christina Stuckey, Board Administrator, State Board of Examiners of Nursing Home Administrators, P.O. Box 2649, Harrisburg, PA 17105-2649; ST-NHA@pa.gov.

Findings

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

- (1) Public notice of intention to adopt a regulation at 49 Pa. Code, Chapter 39, was given under sections 201 and 202 of the Act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201-1202) and the regulations promulgated under those sections at 1 Pa. Code §§ 7.1-7.2.
- (2) A public comment period was provided as required by law, but no comments were received.
- (3) These amendments to Chapter 39 are necessary and appropriate for the regulation of nursing home administrators in the Commonwealth.

Order

The Board therefore ORDERS that:

- (A) The regulations of the State Board of Examiners of Nursing Home Administrators, 49 Pa. Code, Chapter 39, are amended to read as set forth in Annex A.
- (B) The Board shall submit a copy of Annex A to the Office of the Attorney General and the Office of General Counsel for approval as required by law.
- (C) The Board shall submit this order and Annex A to IRRC, the HPLC and the SCP/PLC as required by law.
- (D) The Board shall certify this Order and Annex and shall deposit them with the Legislative Reference Bureau as required by law.
- (E) The regulations shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

MaryAnn Hewston, Chairperson
State Board of Examiners of Nursing Home Administrators

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

STANDARDS OF PROFESSIONAL PRACTICE AND
PROFESSIONAL CONDUCT

§ 39.92. Reporting of crimes and disciplinary actions.

(a) A licensee shall notify the Board of having been convicted of a felony, or having received probation without verdict, disposition instead IN LIEU of trial, or an Accelerated Rehabilitative Disposition in the disposition of felony charges, within 30 days of the conviction or other disposition, or on the biennial renewal application, whichever is sooner. As used in this section, the term “convicted” includes a judgment, an admission of guilt or a plea of nolo contendere.

(b) A licensee shall notify the Board of disciplinary action in the nature of a final order taken against the licensee by the licensing authority of another state, territory or country within 90 days of receiving notice of the disciplinary action, or on the biennial renewal application, whichever is sooner.

§ 39.93. Return of actively suspended or revoked licenses.

A licensee who has voluntarily surrendered a license instead of discipline or whose license has been actively suspended or revoked by the Board shall return the surrendered, suspended or revoked license to the Board within 30 days of the action.



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) 783-7200

August 29, 2016

The Honorable George D. Bedwick, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harrisstown 2, 333 Market Street
Harrisburg, Pennsylvania 17101


Re: Final Regulation
State Board of Examiners of Nursing Home Administrators
16A-6217

Dear Chairman Bedwick:

Enclosed is a copy of a final rulemaking package of the State Board of Examiners of Nursing Home Administrators pertaining to 16A-6217-Notice Requirements.

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

Sincerely,


Mary Ann Hewston, Chairperson
State Board of Examiners of Nursing Home
Administrators

MAH:JPS;jlt

Enclosure

cc: Ian J. Harlow, Commissioner of
Professional and Occupational Affairs
Leigh Chapman, Director of Policy, Department of State
Timothy Gates, Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Judith Pachter Schulder, 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-6217
SUBJECT: Notice Requirements
AGENCY: DEPARTMENT OF STATE
 Bureau of Professional and Occupational Affairs
 State Board of Examiners of Nursing Home Administration






TYPE OF REGULATION

- 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 Disapproved Regulation
 - a. With Revisions
 - b. Without Revisions

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FILING OF REGULATION

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
8/29/16		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE MAJORITY CHAIR <u>Julie Harhart</u>
8/29/16		MINORITY CHAIR <u>Harry A. Readshaw</u>
		SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
8/29/16		MAJORITY CHAIR <u>Robert M. Tomlinson</u>
8/29/16		MINORITY CHAIR <u>Lisa M. Boscola</u>
8/29/16		INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)