

<h1>Regulatory Analysis Form</h1> <p><i>(Completed by Promulgating Agency)</i></p> <p><i>(All Comments submitted on this regulation will appear on IRRC's web site)</i></p>		<p><b>INDEPENDENT REGULATORY REVIEW COMMISSION</b></p> <div style="border: 1px solid black; padding: 5px; text-align: center;"> <p><b>RECEIVED</b></p> <p>JAN 16 2020</p> <p>Independent Regulatory Review Commission</p> </div>	
<p>(1) Agency <b>Department of State, Bureau of Professional and Occupational Affairs, State Board of Examiners of Nursing Home Administrators</b></p>		<p>IRRC Number: <b>3250</b></p>	
<p>(2) Agency Number: 16A Identification Number: 6219</p>			
<p>(3) PA Code Cite: 49 Pa. Code §§ 39.1, 39.11, 39.11a, 39.11b, 39.44, 39.51, 39.52, 39.61, and 39.71</p>			
<p>(4) Short Title: <b>Continuing Education</b></p>			
<p>(5) Agency Contacts (List Telephone Number and Email Address):</p> <p>Primary Contact: <b>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 717-787-0251) <a href="mailto:jschulder@pa.gov">jschulder@pa.gov</a>.</b></p> <p>Secondary Contact: <b>Cynthia K. Montgomery, Deputy Chief Counsel, P.O. Box 69523, Harrisburg, PA 17106-9523 (phone 717-783-7200) (fax 717-787-0251) <a href="mailto:cymontgome@pa.gov">cymontgome@pa.gov</a>.</b></p>			
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input checked="" type="checkbox"/> <b>PROPOSED REGULATION</b></p> <p><input type="checkbox"/> Final Regulation</p> <p><input type="checkbox"/> Final Omitted Regulation</p>		<p><input type="checkbox"/> Emergency Certification Regulation;</p> <p><input type="checkbox"/> Certification by the Governor</p> <p><input type="checkbox"/> Certification by the Attorney General</p>	
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p><b>The regulation reduces the minimum number of continuing education clock hours from 48 to 36 per biennium, clarifies current biennial renewal procedures and adds a provision addressing continued competence for individuals whose licenses have been expired or inactive for 5 years or longer.</b></p>			
<p>(8) State the statutory authority for the regulation. Include <u>specific</u> statutory citation.</p> <p><b>Section 9(b) of the Nursing Home Administrators License Act (act) (63 P.S. § 1109(b)) requires licensees to complete not less than 24 hours of board-approved continuing education courses and programs as a condition of biennial renewal. Section 9(e) of the act (63 P.S. § 1109(e)) addresses renewal/reactivation of expired or inactive licenses. Section 4(a)(9) of the act (63 P.S. § 1104(a)(9)) provides the statutory authority for the proposed continued competency provision. Paragraph (9) authorizes the Board to develop standards of professional practice and standards of professional conduct appropriate to establish and maintain a high level of integrity and performance in the practice of nursing home administration. Additionally, section 4(c) of the act (63 P.S. § 1104(c)) authorizes the Board to promulgate regulations to effectuate the act.</b></p>			

(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.

**On October 24, 2017, Governor Wolf signed Executive Order 2017-3, requiring the Commissioner of Professional and Occupational Affairs to comprehensively review and catalog the processes, fees, training requirements, criminal history policies, portability, and continuing education requirements for occupational and professional licensure within the purview of the 29 licensing boards and commissions under the Commissioner's authority. The order further directed the Commissioner to benchmark that data against regional averages from twelve states with similar or equivalent licenses that comprise the Northeast geographic region—Ohio, West Virginia, Maryland, Delaware, New Jersey, New York, Massachusetts, Rhode Island, Connecticut, New Hampshire, Vermont, and Maine—to identify requirements or functions that presented unnecessary burdens to licensure and occupational employment within the Commonwealth.**

**That report, issued on June 12, 2018, revealed that Pennsylvania carried one of the highest continuing education requirements in the regional comparison group for seven different occupational/professional licenses, including nursing home administrators. The Wolf administration believes that public protection through the function of continuing education must be balanced against the burden to the regulated community. Therefore, because these requirements are significantly above the regional average, and no superseding Federal requirement or imminent public threat to health and safety mandates the increase, the administration recommended that the biennial requirement for continuing education be reduced to the statutory minimum.**

**The Board initially considered reducing the continuing amount to at least 24 hours, but, after discussion with stakeholders who opposed the reduction, the Board determined that a reduction by one-quarter, to at least 36 hours per biennium, would accomplish the Governor's goal of reducing the required continuing education to be competitive with states within the region while at the same time ensure that licensees obtain sufficient continuing education given the complexities of nursing home regulation. The proposed rulemaking effectuates this reduction and makes similar proportionate revisions to the length of an educational program and the number of clock hours awarded for various continuing education activities. Applying this same logic, the Board would remove the proration provision for licensees renewing the first time and instead exempt them from completing the continuing education requirement for their first biennial renewal. This exemption is consistent with other licensure boards within the Health Licensing Division of the Bureau of Professional and Occupational Affairs.**

**Additionally, the proposal would institute a continued competence provision. The Board believes that it is appropriate to require licensees whose licenses have been expired or inactive for 5 years or longer to demonstrate their competence to resume the practice of nursing home administration by passing the licensure examinations; taking additional coursework; or otherwise demonstrating that they are or have been actively engaged in the practice of nursing home administration in another jurisdiction, have been employed by a nursing home in a supervisory or consultant capacity, or have been teaching long term care subject matter in an accredited college or university or in a board-approved 120-hour training program.**

**There are approximately 1,737 active NHA licensees, each of whom are required to meet the continuing education requirements to renew their licenses. Last year 10-12 NHA licensees reactivated expired/inactive licenses.**

**(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 that are implicated by this regulation.**

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

**Of the 12 states within this region, 9 states will have minimum continuing education hours higher than that being proposed and 3 will have lower clock hour requirements than that being proposed. Specifically, New Jersey requires a minimum of 60 hours, New York and Delaware require a minimum of 48 hours, Connecticut, Massachusetts, Maryland, Rhode Island, Vermont and New Hampshire require a minimum of 40 hours, Maine requires a minimum of 24 hours and Ohio and West Virginia require a minimum of 20 hours. The reduction in the required number of hours of continuing education would not adversely affect Pennsylvania's ability to compete with other states.**

**As for the continued competence requirement, 7 states within this region—Delaware, Connecticut, Maine, Ohio, Maryland, West Virginia and Vermont—require licensees whose licenses have lapsed or expired to retake the National Association of Long Term Care Administrator Boards' (NAB) licensure examinations or apply anew meeting the education and examination requirements. Of those states, the time frame for lapse/expiration varies by state, from 1 year (i.e. Delaware and Ohio) to 5 years of lapse/expiration (i.e. Vermont). Like the Board's current requirement, New Hampshire, Massachusetts, New Jersey, New York and Rhode Island require licensees to complete continuing education for the years that the licensee does not have a current license. The addition of a continued competence requirement would not adversely affect Pennsylvania's ability to compete with other states.**

(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.)

**The Board discussed the rulemaking in open session at its public board meeting on August 1, October 3, and November 14, 2018, and sent a pre-exposure draft to interested parties on August 2, 2018. (See Attachment 1 for the list of specific persons and/or groups who were sent the pre-draft rulemaking.) During those meetings, representatives of the professional associations representing members of the regulated community were in attendance. The Board reviewed written comments at its October 3 and November 14, 2018, meetings and heard from stakeholders who appeared and participated at those meetings. It adopted the Annex in proposed form at its November 14, 2018, meeting.**

**Stakeholder comments were received from: Thomas A. Farley, MD, MPH, Health Commissioner, Philadelphia Department of Health; Kelly Andrisano, JD, Executive Director, Pennsylvania Coalition of Allied Healthcare & Living Committees; Terence Brennan, NHA, Administrator, Berks Heim Nursing and Rehabilitation; Brittany Countis, Symtech Solutions; Ginny Johnson, HNA, Mennonite Home Communities; Jackie McKenna, RD, LDN, NHA, Pocopson Home; John Tarson, NHA, Mary K. Hess, RN, NHA, Executive Director, Philadelphia Nursing Home/Fairmount Long Term Care; W. Russell McDaid, President and CEO, Pennsylvania Health Care Association; Raymond Soto, MSN, NHA, Gracedale Nursing Home; Sheri C. Gifford, LCSW, NHA, Associate Administrator, Philadelphia Nursing Home/Fairmount Long Term Care; Mary Marshall, Director, Workforce and Professional Development, Hospital Association of Pennsylvania; Thomas Parsons, NHA, Premier Armstrong Rehabilitation and Nursing; and Beth Greenberg, Senior Director of Regulatory Affairs, LeadingAge PA.**

(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 approximately 1,737 active nursing home administrator licensees in Pennsylvania. According to the Pennsylvania Department of Labor and Industry in 2014, the most recent data available, in the category of "Medical and Health Services Managers," 920 individuals worked in "nursing care facilities," while 680 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 \$27.5 million or less in annual receipts. Likewise, "continuing care retirement communities" are also \$27.5 million or less in annual receipts. In considering these small business thresholds set by NAICS for the businesses in which nursing home administrators work, it is probable that most of the 1,737 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 \$27.5 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. Likewise, their clients, who are patients in nursing homes, and their employees will benefit from the professional training that the licensees will receive.**

**(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 approximately 1,737 nursing home administrators licensed by the Board, including those who work for small businesses, which will be required to comply with the rulemaking. In addition, the Board estimates no more than 10-12 reactivation applications are processed each year, and a majority of those have not been expired for 5 years or longer. Thus, the Board estimates that perhaps 3 nursing home administrators may be impacted by the continued competency requirements each year.**

**(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.**

**Because licensees will continue to renew their licenses in the same manner as they currently do, the reduction in the minimum number of continuing education clock hours that have to be completed per biennium will not result in any increased fiscal impact or additional paperwork requirements on the Board. For licensees, it will result in a decrease in costs as they will have to complete three-quarters of the currently required clock hours. Assuming an average cost of \$25 per clock hour – a reduction of 12 clock hours of continuing education would result in a biennial savings of \$300 to each licensee, or a total savings of \$521,100 biennially.**

**For licensees who pay their own continuing education costs or employers who pay the costs of their nursing home administrators' continuing education, this regulation will result in reduced costs as the number of clock hours of required continuing education are being reduced by one quarter.**

**Licensees who desire to reactivate licenses that have expired or been inactive for 5 years or longer may have an increased fiscal impact depending upon the continued competence activity selected. Those who select reexamination or completion of the 120-hour course in new § 39.11b(1) and (2) will experience the highest costs as the fee for state and national portions of the examination is \$785 and an average cost for the 120-hour course is \$2,650. In both of these activities there will be no additional paperwork requirements as § 39.11 (e) currently requires submission of an application, a fee and documentation for "renewal" of an expired or inactive license. The continued competence activities in new § 39.11b(3), (4) and (5) will have no increased costs but will have some additional paperwork requirements. Each of these activities involve work experience that the licensee would need to document. However, these costs and paperwork requirements could be avoided by keeping one's license active.**

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

**Reducing the minimum number of clock hours that must be completed per biennium from 48 to 36 and crediting learning in 15-minute increments beyond the 30-minute minimum reduces barriers to continued licensure and the costs of satisfying the continuing education requirement. Costs are also saved for new licensees as they will be exempt from the continuing education requirement for their first biennial renewal.**

**As for the new continued competence requirement, given the increasing complexity of State and Federal rules affecting nursing homes and their patients, requiring licensees whose licenses have been inactive or expired for 5 years or longer to demonstrate continued competence assures their currency in nursing home administration thereby protecting the health, safety and welfare of the residents of nursing homes and their families as well as nursing home employees. For licensees who choose reexamination or completion of the 120-hour course, the costs will be higher than for those who reactivate under § 39.11b(3), (4) or (5). (See Answer to Question 17 above.)**

**Assuming no more than 3 nursing home administrators each year would need to reactivate a lapsed or expired license after 5 years or longer, with the maximum costs associated with the continued competence requirement being \$7,950 for completing the 120-hour program or \$2,355 for passing the examination, the benefit of assuring continued competence outweighs the costs.**

(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 reduce the costs on active licensees within the regulated community as they will have to complete three quarters of the current continuing education requirement. Assuming an average cost of \$25 per clock hour – a reduction of 12 clock hours of continuing education would result in a biennial savings of \$300 to each licensee, or a total savings of \$521,100 biennially.**

**Licensees whose licenses have been inactive or expired for more than 5 years could have increased costs depending on how they demonstrate continued competence. Assuming no more than 3 nursing home administrators each year would need to reactivate a lapsed or expired license after 5 years or longer, the maximum costs associated with the continued competence requirement would be \$7,950 for completing the 120-hour program or \$2,355 for passing the examination. However, those costs could be avoided by simply keeping their licenses active.**

(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, except when the local government owns the nursing home and pays the costs associated with the nursing home administrator's continuing education. In those instances, the costs will be reduced by one-quarter.**

(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.

**There may be some costs associated with administering the new continued competency requirements, but it would not be significantly more than currently required when processing reactivation applications for individuals who have been expired or inactive for 5 years or longer.**

(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.

**Licensees will continue to renew their licenses in the same manner as they currently do. No new renewal forms are required for licensees to complete. Reactivation applications will have to be amended to include the various continued competence activities in new § 39.11b.**

(22a) Are forms required for implementation of the regulation?

**Yes.**

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here**. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

**The reactivation application will be modified to include a question about continued competence. See attached form.**

(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.

	<b>Current FY Year 19-20</b>	<b>FY +1 Year 20-21</b>	<b>FY +2 Year 21-22</b>	<b>FY +3 Year 22-23</b>	<b>FY +4 Year 23-24</b>	<b>FY +5 Year 24-25</b>
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>	\$0	\$521,000	\$521,000	\$521,000	\$521,000	\$521,000
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Savings</b>	\$0	\$521,000	\$521,000	\$521,000	\$521,000	\$521,000
<b>COSTS:</b>						
<b>Regulated Community</b>	\$0	\$0-\$7,950	\$0-\$7,950	\$0-\$7,950	\$0-\$7,950	\$0-\$7,950
<b>Local Government</b>						
<b>State Government</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Costs</b>	\$0	\$0-\$7,950	\$0-\$7,950	\$0-\$7,950	\$0-\$7,950	\$0-\$7,950
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Revenue Losses</b>	\$0	\$0	\$0	\$0	\$0	\$0

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

<b>Program</b>	<b>FY -3 2016-17 (Actual)</b>	<b>FY -2 2017-18 (Actual)</b>	<b>FY -1 2018-19 (Projected)</b>	<b>Current FY 2019-20 (Budgeted)</b>
State Board of Examiners of Nursing Home Administrators	\$233,954.98	\$134,960.91	\$214,000.00	\$ 139,000.00

(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 renew their licenses biennially. 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. There are no additional reporting, recordkeeping or other administrative costs imposed on nursing homes. Reactivation requirements are imposed on the individual licensee. 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.

**The Board considered the administration's proposal to reduce the required continuing education to at least 24 hours. However, the Board believes this regulation, which reduces burdens on licensees, is the least burdensome acceptable alternative consistent with the continued protection of the public health, safety and welfare.**

(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 performance 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 compliance reporting requirements or schedules or deadlines or exemptions for licensees employed by small businesses would be contrary to the public interest. For these reasons, the Board did not conduct a regulatory flexibility analysis.**

(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.

**The only data that served as a basis for this rulemaking is that presented by the Executive Order 2017-03 Report – “Review of State Professional and Occupational Licensure Board Requirements and Processes.” The report can be viewed at:**

**<https://www.dos.pa.gov/ProfessionalLicensing/Documents/EO2017-03-Executive-Report-Occupational-Licensing.pdf>**. The description of the data gathering methods are available in the report.

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

A. The length of the public comment period: 30 days

B. The date or dates on which any public meetings or hearings will be held: The proposal was discussed at a public Board meeting on August 1, October 3 and November 14, 2018. No specific date has been scheduled for future discussions, however, the Board will discuss the public comments and those received by the applicable Legislative Committees and the Independent Regulatory Review Commission (IRRC) at regularly schedule board meetings. A schedule is provided in item (30) below.

C. The expected date of delivery of the final-form regulation: Winter 2019-2020

D. The expected effective date of the final-form regulation: Upon publication in the PA Bulletin as final – Anticipated in Winter 2019-2020

E. The expected date by which compliance with the final-form regulation will be required: Upon publication in the PA Bulletin as final – Anticipated in Winter 2019-2020.

F. The expected 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 remaining meeting dates for 2019 are: August 28, 2019 and December 4, 2019. The Board's scheduled 2020 meeting dates are: February 26, May 27, August 26 and December 2, 2020.

16A-6219 Continuing Education  
Pre-draft Stakeholder Mailing List

NAME/INSTITUTION	INSTITUTION/COMPANY	BLDG OR 1ST ADDRESS LINE	STREET ADDRESS	CITY, ST ZIP
RAY LANDIS	AMERICAN ASSOC OF RETIRED PERSONS		225 MARKET ST	HARRISBURG PA 17101
WILLIAM VAN SL-YKE	AMERICAN COLLEGE OF HEALTH CARE ADMINISTRATION-PENNSYLVANIA CHAPTER		200 S MAIN ST	ATHENS PA 18810-1614
DEB AMES ADMINISTRATOR	ASHTON HEALTHCARE		200 SOUTH MAIN ST	ATHENS PA 18810-1698
MARK DAVIS	COALITION FOR ADVOCACY OF RIGHTS OF INFIRMED		100 N 17 <sup>TH</sup> ST STE 600	PHILADELPHIA PA 19103
DAVID GINGERICH DEPUTY SECRETARY	DEPARTMENT OF AGING	RACHEL CARSON STATE OFFICE BLDG	400 MARKET ST 7 <sup>TH</sup> FL	HARRISBURG PA 17101-2301
DEPARTMENT OF HEALTH	BUREAU OF QUALITY ASSURANCE	DIVISION OF NURSING CARE FACILITIES	526 HEALTH AND WELFARE BLDG	HARRISBURG PA 17108
DEPT OF PUBLIC WELFARE	OFFICE OF SOCIAL PROGRAMS PERSONAL CARE HOMES	3 <sup>RD</sup> FLOOR BERTOLINO BLDG	1401 N 7 <sup>TH</sup> ST	HARRISBURG PA 17102-1422
GORDON E KUTLER	INDIANA UNIVERSITY OF PA	WHITMYRE HALL	290 PRATT DR	INDIANA PA 15705
KINGS COLLEGE	INST FOR CONTINUING EDU AND RESEARCH		PO BOX 339	FLOURTOWN PA 19031-0339
BETH GREENBERG	HEALTH CARE ADMINISTRATION		133 N RIVER ST	WILKES-BARRE, PA 18711
JOHN R PRATT DIRECTOR	LTC MANAGEMENT INSTITUTE		1100 BENT CREEK BLVD.	MECHANICSBURG PA 17050
AURORA WEAVER	MILLERSVILLE UNIVERSITY		278 WHITES BRIDGE RD	STANDISH ME 04084-5263
SHERRY L SHADDUCK CPCS	NORTHAMPTON COMMUNITY COLLEGE		PO BOX 1002	MILLERSVILLE PA 17551-0302
MICHAEL J WILL	PA ASSOC OF COUNTY AFFILIATED HOMES		3835 GREEN POND RD	BETHLEHEM PA 18017
KIM DELINE	PA ASSOC OF PRIVATE SCHOOL ADMIN	HAMOT MEDICAL CENTER	201 STATE ST	ERIE PA 16550
MARY M. AUSTIN	PA HEALTH CARE ASSOCIATION	RICHARD DUMARESQ EXEC DIR	17 N. FRONT ST	HARRISBURG PA 17101
TIM SOLOMON DIRECTOR	PCOM		2090 WEXFORD CT	HARRISBURG PA 17112-1579
JANET NERBECKI	ROBERT MORRIS COLLEGE		315 N 2 <sup>ND</sup> ST	HARRISBURG PA 17101
MARY MARSHALL	SCHOOL OF CONTINUING EDUCATION		4190 CITY AVE	PHILADELPHIA PA 19131-1693
	SLIPPERY ROCK UNIVERSITY	CONTINUING EDUCATION	600 FIFTH AVE	PITTSBURGH PA 15219
	St. Josephs College - LTC Management Institute	MARYWOOD UNIVERSITY	2300 ADAMS AVE	SCRANTON PA 18509
	THE HOSPITAL ASSOCIATION OF PA	OFF CAMPUS PROGRAMS	1 MORROW WAY	SLIPPERY ROCK, PA 16057
	THE KENDAL CORPORATION		278 Whites Bridge Rd	Standish ME 04084-5263
	UNIVERSITY OF SCRANTON	PO BOX 8600	4750 LINDLE RD	HARRISBURG PA 17105-8600
	YORK COLLEGE OF PA	HEALTH ADMINISTRATION PROGRAM	PO BOX 100	KENNETT SQUARE PA 19348
		ST. THOMAS HALL	312 O'HARA HALL	SCRANTON PA 18510
			800 LINDEN ST	SCRANTON PA 18510
			441 COUNTRY CLUB RD	YORK PA 17405-7199

Draft per 16A-6219  
(01/12/2019)

**STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS**

P.O. Box 2649  
Harrisburg, PA 17105-2649

**Telephone:** (717) 783-7155  
**Fax:** (717) 787-7769  
**Website:** www.dos.pa.gov/nursinghome  
**E-Mail:** st-nha@pa.gov

**Courier Address:**  
2601 North Third Street  
Harrisburg, PA 17110

**Reactivation Checklist**

- Fully completed Reactivation Application.
- Check or money order made payable to the "Commonwealth of PA" for the biennial renewal fee(s) and applicable late fees if necessary.

**FEES ARE NOT REFUNDABLE.** *A processing fee of \$20.00 will be charged for any check or money order returned unpaid by your bank, regardless of the reason for non-payment.*

- Fully completed Verification of Practice/Non-Practice.
- If your license has been expired/inactive for **LESS than 5 years**, submit documentation of completion of the required number of continuing education clock hours. *Please review the attached Continuing Education Information for assistance in providing acceptable continuing education documentation.*

If your license has been expired/inactive for **5 or more years**, submit one of the following:

- Documentation from NAB evidencing passage of the licensing examinations-- Core of Knowledge Exam for Long Term Care Administrators, Core of Knowledge Exam for Long Term Care Administrators, and State Based Licensing Exam - Pennsylvania, within the last 5 years.
- Successfully completing 120 clock hours in a program of study approved by the Board within the last 5 years.
- Having practiced nursing home administration in another jurisdiction for at least 2 of the last 5 years under a current license in that state.
- Having been employed in a nursing home in a supervisory or consultant capacity for at least 3 of the last 5 years.
- Having been employed to teach long term care subject matter for at least 3 years within the last 5 years.

*Please review the attached Continued Competency Requirements for assistance in providing acceptable documentation.*

- Completion of 2 hours of Department of State/Board approved training in child abuse recognition and reporting requirements as a condition of reactivation. Please review the Board website for further information on approved CE providers. Once you have completed a course, the approved provider will electronically submit your name, date of attendance, etc., to the Board. Child Abuse Continuing Education Providers Information can be found here.

Draft per 16A-6219  
(01/12/2019)

- Provide a Self-Query from the National Practitioner Data Bank completed within 90 days of submission of this application to the Board. A Self-Query can be requested online at [www.npdb.hrsa.gov](http://www.npdb.hrsa.gov) by choosing "Place a Self-Query Order". When you receive the "Self-Query Response" from the National Practitioner Data Bank, forward it to the Board office. (Verify that "Self-Query Response" is sent to the Board and not a discrepancy notice.)

**PLEASE NOTE: Licenses expire on June 30<sup>th</sup> of the even numbered year, regardless of reinstatement date.**

DRAFT - SLIP OFS FILED 16A-6219

## STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

### Reactivation Application

*Licenses expire on June 30<sup>th</sup> of the even numbered year, regardless of reinstatement date.*

PLEASE PRINT				
Full Name	Last	First	Middle	
Address				
Address				
Address	City	State	Zip	
Email				
License No.	NH			

**Send to:**  
 State Board of Examiners of  
 Nursing Home Administrators  
 P.O. Box 2649  
 Harrisburg, PA 17105-2649

*Courier address for mailing  
 services requiring a street  
 address:*  
 State Board of Examiners of  
 Nursing Home Administrators  
 2601 North Third Street  
 Harrisburg, PA 17110

Name Change			
For a name change, indicate new name below and attach and 8 ½ x 11 photocopy of a legal document verifying the name change (i.e., marriage certificate, divorce decree or legal document indicating retaking of a maiden name, court order, etc.).			
New Name	Last	First	Middle

**THE FOLLOWING QUESTIONS MUST BE ANSWERED**

YES	NO	If YES to questions 2 through 12 – provide details AND attach certified copies of legal document(s).
		1. Do you hold, or have you ever held, a license, certificate, permit, registration or other authorization to practice any health-related profession in any state or jurisdiction?  If you answered YES to the above question, please provide the profession and state or jurisdiction. Please do not abbreviate the profession.  <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/>
		2. Since your initial application or last renewal, whichever is later, have you had disciplinary action taken against a professional or occupational license, certificate, permit, registration or other authorization to practice a profession or occupation issued to you in any state or jurisdiction or have you agreed to voluntary surrender in lieu of discipline?
		3. Do you currently have any disciplinary charges pending against your professional or occupational license, certificate, permit or registration in any state or jurisdiction?
		4. Since your initial application or last renewal, whichever is later, have you withdrawn an application for a professional or occupational license, certificate, permit or registration, had an application denied or refused, or for disciplinary reasons agreed not to apply or reapply for a professional or occupational license, certificate, permit or registration in any state or jurisdiction?
		5. Since your initial application or last renewal, whichever is later, have you been convicted (found guilty, pled guilty or pled nolo contendere), received probation without verdict or accelerated rehabilitative disposition (ARD), as to any criminal charges, felony or misdemeanor, include any drug law violations? Note: You are not required to disclose any ARD or other criminal matter that has been expunged by order of a court.
		6. Do you currently have any criminal charges pending and unresolved in any state or jurisdiction?
		7. Since your initial application or last renewal, whichever is later, have you engaged in the intemperate or habitual use or abuse of alcohol or narcotics, hallucinogenics or other drugs or substances that may impair judgment or coordination?

		8. Since your initial application or last renewal, whichever is later, have you had your DEA registration denied, revoked or restricted?
YES	NO	If YES to questions 2 through 12 – provide details AND attach certified copies of legal document(s).
		9. Since your initial application or last renewal, whichever is later, have you had provider privileges denied, revoked, suspended or restricted by a Medical Assistance agency, Medicare, third party payor or another authority?
		10. Since your initial application or last renewal, whichever is later, have you had practice privileges denied, revoked, suspended or restricted by a hospital or any health care facility?
		11. Since your initial application or last renewal, whichever is later, have you been charged by a hospital, university, or research facility with violating research protocols, falsifying research, or engaging in other research misconduct?

**Check one applicable statement.**

- YES**, I have practiced as a nursing home administrator in Pennsylvania after my license expired and I want to reactivate my license at this time by paying the biennial renewal fee of \$297.00 and applicable late renewal fees (\$5.00 per month or part of the month after the expiration date).
- NO**, I have not practiced as a nursing home administrator in Pennsylvania at any time after my license expired and I want to reactivate my license at this time by paying the biennial renewal fee of \$297.00.

**FEE** – Check/money order payable to "COMMONWEALTH OF PENNSYLVANIA". Write your license number on your payment. **FEES ARE NOT REFUNDABLE**. A processing fee of \$20.00 will be charged for any check or money order returned unpaid by your bank, regardless of the reason for non-payment.

**Verification of Continuing Education:**

**VERIFICATION OF CONTINUING EDUCATION OR CONTINUED COMPETENCE:** If your license has expired or was inactive for less than 5 years, copies of certificates of attendance for the required number of continuing education clock hours must be submitted with this reactivation application. If your license has expired or was inactive for 5 or more years, documentation evidencing satisfaction of the continued competence requirement must be submitted with this reactivation application.

**SELECT ONE OF THE FOLLOWING:**

- I completed 36 clock hours of NAB or Pennsylvania-Board approved continuing education approved by the Board within the last two years. **APPLICABLE ONLY FOR LICENSES THAT ARE EXPIRED/INACTIVE FOR LESS THAN 5 YEARS.**
- I passed the \_\_\_\_\_ within the last 5 years. **APPLICABLE ONLY FOR LICENSES THAT ARE EXPIRED/INACTIVE FOR 5 OR MORE YEARS.**
- I completed 120 clock hours in a program of study approved by the Board during the period of \_\_\_\_\_. **APPLICABLE ONLY FOR LICENSES THAT ARE EXPIRED/INACTIVE FOR 5 OR MORE YEARS.**
- I practiced nursing home administration in another jurisdiction for at least 2 from \_\_\_\_ to \_\_\_\_ under a current license in \_\_\_\_\_. License No. \_\_\_\_\_. **APPLICABLE ONLY FOR LICENSES THAT ARE EXPIRED/INACTIVE FOR 5 OR MORE YEARS.**
- I was employed in at/by:
- \_\_\_\_\_, a nursing home, in a supervisory capacity from \_\_\_\_\_ to \_\_\_\_\_.
  - \_\_\_\_\_, a nursing home, in a consultant capacity from \_\_\_\_\_ to \_\_\_\_\_.
  - \_\_\_\_\_, an educational institution teaching long term care subject matter from \_\_\_\_\_ to \_\_\_\_\_.
- APPLICABLE ONLY FOR LICENSES THAT ARE EXPIRED/INACTIVE FOR 5 OR MORE YEARS.**

I verify that this application is in the original format as supplied by the Department of State and has not been altered or otherwise modified in any way. I am aware of the criminal penalties for tampering with public records or information under 18 Pa.C.S. § 4911.

Draft per 16A-6219  
(01/12/2019)

I verify that the statements in this application are true and correct to the best of my knowledge, information and belief. I understand that false statements are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) and may result in the suspension, revocation or denial of my license, certificate, permit or registration.

Signature (Mandatory): \_\_\_\_\_

Date: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

UNSWORN FALSIFICATION

Draft per 16A-6219  
(01/12/2019)  
State Board of Examiners of Nursing Home Administrators  
P. O. Box 2649  
Harrisburg, PA 17105-2649

## Verification of Practice/Non-Practice

\*\*\* Your reactivation cannot be processed unless this page is completed \*\*\*

Name	
License No.	NH
Profession	Nursing Home Administrator

Be sure you are familiar with the definition of your profession from the licensing law which pertains to the license you are renewing/reactivating. THEN answer the following questions.

1. Have you engaged in the practice of your profession in Pennsylvania since your Pennsylvania license lapsed or since you placed it on inactive status? CIRCLE ONE: YES NO
2. Have you been employed by the federal government in the practice of your profession since your Pennsylvania license lapsed or since you placed it on inactive status? CIRCLE ONE: YES NO

I understand that any false statement made is subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities and may result in the suspension or revocation of my license and/or certification.

\_\_\_\_\_  
(Signature of Licensee)

\_\_\_\_\_  
(Date)

## Continuing Education Information

Reactivation Applications for licensees whose licenses have been inactive or expired for less than 5 years must be accompanied by proof of completion of at least 36 clock hours of acceptable continuing education completed within two years of the date of reactivation. Continuing education programs must be approved by the PA NHA Board or the National Association of Long Term Care Administrator Boards (NAB).

- All 36 clock hours of continuing education may be taken in lecture, college or university, computer interactive, distance learning or correspondence courses preapproved by NAB or the PA NHA Board.

### Documentation

Certificates of attendance/completion must contain the following information:

- Your name
- Date of course/program
- Number of continuing education hours earned
- A statement that the course/program was approved by the PA NHA Board or NAB (NAB approval may also be reflected as NCERS)

- A maximum of 9 clock hours of continuing education may be earned by serving as an instructor of an NAB or PA NHA Board approved continuing education program or a college or university course. Instructors may earn 1 clock hour for each hour of instruction up to 9 clock hours.

### Documentation

- i) For serving as an instructor of an NAB or PA NHA Board approved continuing education program, a certificate or letter from the approved sponsor identifying the following:

- Your name
- Course/program name
- Date of course/program
- Number of hours

- ii) For serving as an instructor of a college or university course, you must submit a copy of the approval letter received from the PA Board identifying the number of clock hours awarded (maximum of 9 clock hours).

- A maximum of 18 clock hours of continuing education may have been awarded by the PA Board for authoring an article on long-term care in a professional journal, if you previously submitted an NHA Request for Continuing Education Approval application and received an approval letter from the Board.

### Documentation

Copy of the approval letter received from the PA Board identifying the number of clock hours awarded.

- A maximum of 9 clock hours of continuing education may have be awarded retroactively by the PA NHA Board for attending programs, to include lectures, and college or university courses, which were not been preapproved by NAB or the PA NHA Board, if you previously submitted an NHA Request for Continuing Education application and received an approval letter from the Board.

### Documentation

Copy of the approval letter received from the PA NHA Board identifying the number of clock hours awarded.

- A maximum of 18 clock hours may be obtained by serving as a supervisor in a Board-approved Administrator In Training (AIT) program, when the AIT successfully completes the AIT program.

### Documentation

Copy of the Completed Administrator In Training Program certificate received from the PA NHA Board.

## CONTINUED COMPETENCE REQUIREMENT

Reactivation Applications whose licenses are expired or inactive for 5 or more years must be accompanied by proof of one of the following:

- Documentation from NAB evidencing passage of the:

Core of Knowledge Exam for Long Term Care Administrators,  
Core of Knowledge Exam for Long Term Care Administrators, and  
State Based Licensing Exam – Pennsylvania

within the last 5 years.

Candidates must apply online to take the examinations, using a credit or debit card. The application can be accessed online via the "Exam Info," link from the NAB home page ([www.nabweb.org](http://www.nabweb.org)).

- A Certificate of Completion evidencing successful completion of the 120 clock hour program of study approved by the Board within the last 5 years.

A list of approved providers is available on the Board's web page. Upon completion submit the Certificate of with your Reactivation Application.

- Having practiced nursing home administration in another jurisdiction for at least 2 of the last 5 years under a current license in that state.

Submit:

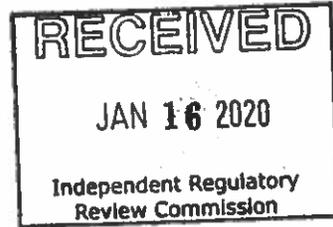
- A letter from the facility wherein you practiced as a Nursing Home Administrator with your Reactivation Application.
- A letter of good standing from the state wherein you practiced as a Nursing Home Administrator for at least 2 of the last 5 year. The letter must be sent to the Board directly from the other state.

- Having been employed in a nursing home in a supervisory or consultant capacity for at least 3 of the last 5 years.

Submit a letter from the Nursing Home Administrator explaining the capacity in which the Applicant was employed and the dates of that employment totaling at least 3 years within the last 5 years. The Applicant will be required to appear before the Board to discuss the scope and length of the employment as well as any authority to hire, terminate, discipline and monitor nursing home activities/staff.

- Having been employed to teach long term care subject matter for at least 3 years within the last 5 years.

Submit a letter from a Board-approved provider of the 120-hour program or an accredited college or university evidencing that the Applicant taught long term care for at least 3 years within the last 5 years. The Applicant may be required to appear before the Board to discuss the scope and length of the instruction.



FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

(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: Ang M. Elliott  
(DEPUTY ATTORNEY GENERAL)

State Board of Examiners of  
Nursing Home Administrators

BY: Marisa A. Z. John

(AGENCY)

JUL 23 2019

DEC 30 2019  
DATE OF APPROVAL

DOCUMENT/FISCAL NOTE NO. 16A-6219

DATE OF APPROVAL

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

DATE OF ADOPTION:

BY: Kimberly Cobough  
Kimberly Cobough, 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)

PROPOSED RULEMAKING

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

49 Pa. Code §§ 39.1, 39.11, 39.11a, 39.44, 39.51, 39.52, 39.61, and 39.71

CONTINUING EDUCATION

The State Board of Examiners of Nursing Home Administrators (Board) proposes to amend §§ 39.1, 39.11, 39.44, 39.51, 39.52 and 39.61, add new §§ 39.11a and 39.11b (relating to reactivation; and continued competence) and rescind § 39.71 (related to licensure renewal) to read as set forth in Annex A.

### *Effective Date*

The proposed amendments will be effective upon publication of final-form rulemaking in the *Pennsylvania Bulletin*. The reduction in continuing education clock hours will be applied for the first time when licensees renew for the July 1, 2020 – June 30, 2022 biennial period. That is, licensees must have completed no less than 36 hours of continuing education as a condition of renewal in 2020.

### *Statutory Authority*

Section 9(b) of the Nursing Home Administrators License Act (act) (63 P.S. § 1109(b)) requires licensees to complete not less than 24 hours of board-approved continuing education courses and programs as a condition of biennial renewal. Section 9(e) of the act (63 P.S. § 1109(e)) addresses reactivation of expired or inactive licenses. Section 4(a)(9) of the act (63 P.S. § 1104(a)(9)) provides the statutory authority for the proposed continued competency provision. Paragraph (9) authorizes the Board to develop standards of professional practice and standards of professional conduct appropriate to establish and maintain a high level of integrity and performance in the practice of nursing home administration. Additionally, section 4(c) of the act (63 P.S. § 1104(c)) authorizes the Board to promulgate regulations to effectuate the act.

### *Background and Need for Amendments*

On October 24, 2017, Governor Wolf signed Executive Order 2017-3, requiring the Commissioner of Professional and Occupational Affairs to comprehensively review and catalog the processes, fees, training requirements, criminal history policies, portability and continuing education requirements for occupational and professional licensure within the purview of the 29 licensing boards and commissions under the Commissioner's authority. The order further directed the Commissioner to benchmark that data against regional averages from twelve states with similar or equivalent licenses that comprise the Northeast geographic region—Ohio, West Virginia, Maryland, Delaware, New Jersey, New York, Massachusetts, Rhode Island, Connecticut, New Hampshire, Vermont, and Maine—to identify requirements or functions that presented unnecessary burdens to licensure and occupational employment within the Commonwealth.

That report, issued on June 12, 2018, revealed that Pennsylvania carried one of the highest continuing education requirements in the regional comparison group for seven different occupational/professional licenses, including nursing home administrators. The Wolf

administration believes that public protection through the function of continuing education must be balanced against the burden to the regulated community. Therefore, because these requirements are significantly above the regional average, and no superseding Federal requirement or imminent public threat to health and safety mandates the increase, the administration recommended that the biennial requirement for continuing education be reduced to the statutory minimum.

The Board initially considered reducing the continuing amount to at least 24 hours, as recommended. However, after discussion with stakeholders who opposed the reduction, the Board determined that a reduction by one-quarter to at least 36 hours per biennium would accomplish the Governor's goal of reducing the required continuing education while at the same time ensure that licensees obtain sufficient continuing education given the complexities of nursing home regulation. The proposed rulemaking effectuates the reduction to at least 36 hours and makes similar revisions related to the length of an educational program and the number of clock hours awarded for various continuing education activities. Applying this same logic, the Board would remove the proration provision for licensees renewing for the first time; and instead exempt them from completing the continuing education requirement for their first biennial renewal. This exemption is consistent with other licensure boards within the Health Licensing Division of the Bureau of Professional and Occupational Affairs.

Additionally, the proposal would institute a continued competence provision. The Board believes that it is appropriate to require licensees whose licenses have been inactive or expired for 5 years or longer to demonstrate their competence to resume the practice of nursing home administration by passing the licensure examinations, taking additional coursework, or otherwise demonstrating that they are or have been actively engaged in the practice of nursing home administration in another state, have been employed by a nursing home in a supervisory or consultant capacity, or have been teaching long term care subject matter in an accredited college or university or in a board-approved 120-hour training program.

#### *Description of Proposed Amendments*

The definition of "clock hour" in § 39.1 (relating to definitions) would be amended to reduce the minimum course length to 30 minutes (.5 clock hours) and to grant additional credit in 15-minute increments.

Section 39.11(b) and (d) (relating to biennial renewal) would be amended to include current biennial renewal procedures. Rather than sending applications for renewal to licensees, the Board emails licensees approximately 3 months prior to the end of the biennial period and advises them about the availability of the online renewal process to renew licenses in the Pennsylvania Licensing System (PALS). Licensees are then required to submit the completed renewal application and the biennial renewal fee and, unless there is a discrepancy, will be accepted by the Board and renewed. Subsection (c) would be amended to reduce the minimum number of continuing education clock hours required for biennial renewal from 48 to 36.

Subsection (e) would be deleted, as it is a reactivation provision, which has now been included in proposed § 39.11a (relating to reactivation).

New § 39.11a would set forth the reactivation requirements for licenses that are expired or inactive. Subsection (a), which replaces current § 39.11(e), provides the requirements when the license is expired or inactive for fewer than 5 years while subsection (b) provides the requirements when the license has been expired or inactive for 5 years or longer. In the latter circumstance, the licensee must also demonstrate continued competence as provided in new § 39.11b (relating to continued competence).

Section 39.11b would provide five options for demonstrating continued competence: (1) passing the licensure examinations approved by the Board (the Core of Knowledge Exam for Long Term Care Administrators, the Line of Service Exam – Nursing Home Administrators, and the State Based Licensing Exam – Pennsylvania); (2) successfully recompleting a Board-approved 120-hour program of study; (3) documenting that the licensee has practiced as a nursing home administrator in another jurisdiction for at least 2 of the last 5 years; (4) documenting that the licensee has served in a supervisory or consultant capacity in a nursing home for at least 3 of the last 5 years; or (5) documenting that the licensee taught long term care courses for a Board-approved 120-hour program of study provider or a college or university for at least 3 of the last 5 years. The Board believes that requiring licensees who have not had a current license for 5 years or longer to demonstrate continued competence assures their currency in nursing home administration thereby protecting the health, safety and welfare of the residents of nursing homes and their families, as well as nursing home employees. In the last three continued competence options, the licensee would be required to appear before the Board to demonstrate actual involvement in nursing home administration in another jurisdiction or through supervision, consultation or instruction. To meet the requirements of paragraph (4), the supervision or consulting provided to a nursing home in at least 3 of the last 5 years must be significant; merely providing supervision or consulting for 2 or 3 months a year does not demonstrate significant involvement.

Section 39.44(7) (relating to provider responsibilities) would be amended to set forth the items that must be contained in continuing education records. Section 39.51(b) (relating to standards for continuing education programs) would be amended to add the prohibition in paragraph (3) that continuing education programs may not be less than 30 minutes in length. The Board believes that there is not sufficient time to engage in meaningful learning in less than 30 minutes. Section 39.52(a) (relating to program registration) would be amended to correct a cross-reference to § 39.61 (relating to requirements).

Section 39.61 sets forth the continuing education requirement. Subsections (a) and (c) would be amended to reduce the minimum number of continuing education hours from 48 to 36. Additionally, the maximum number of clock hours for being an instructor in paragraph (c)(2), being an author in paragraph (c)(3), serving as an Administrator-In-Training supervisor in paragraph (c)(4) and for completing college or university courses in paragraph (c)(5) would be

reduced incrementally to coincide with the overall reduction. Subsection (d) would be amended to remove the proration calculation for licensees' first biennial renewal in favor of an exemption of the continuing education requirement for that period. New subsection (h) provides that licensees will not be awarded credit for programs that have less than 30 minutes of instruction. In addition, the Board proposes to replace the undesignated center heading "Clock Hours Requirement" with "Continuing Education" to be more descriptive of the content of §§ 39.61 and 39.65 (relating to reporting continuing education clock hours).

The Board further proposes to rescind § 39.71 (relating to licensure renewal) because the information contained in this section is either outdated or duplicative of § 39.11. In addition, the undesignated center heading "Renewal" would be replaced with "Fees" because with the rescission of § 39.71, all that remains is § 39.72 (relating to fees).

#### *Fiscal Impact and Paperwork Requirements*

Because licensees will continue to renew their licenses in the same manner as they currently do, the reduction in the minimum number of continuing education clock hours that have to be completed per biennium will not result in any increased fiscal impact or additional paperwork requirements on the Board. For licensees, it will result in a decrease in costs as they will have to complete fewer required clock hours of continuing education.

Licensees who wish to reactivate licenses that have expired or been inactive for more than 5 years may have an increased fiscal impact depending upon the continued competence activity selected. Those who select completion of the 120-hour course in new § 39.11b(2) will experience the highest costs as the average cost for the 120-hour course is currently \$ 2,650. Individuals who chose to complete the licensure examinations would be required to pay the fee for the state and national portions of the examination, which is currently \$ 785. For either of these activities there will be no additional paperwork requirements, as § 39.11(e) currently requires application, a fee and documentation.

The continued competence activities in new § 39.11b(3), (4) and (5) will have no increased costs but will have some additional paperwork requirements. Each of these activities involve work experience. Under new § 39.11b(3), a licensee would have to document that the licensee practiced as a nursing home administrator in another jurisdiction for at least 2 of the last 5 years prior to application for reactivation. In new § 39.11b(4) and (5) the licensee would be required to demonstrate significant involvement in the field of nursing home administration or instruction in in long term care during the time the license was expired or inactive. That involvement may include, for example, serving as an assistant nursing home administrator or department head or teaching a nursing home administration course within the 120-hour program or bachelor's degree program.

*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 January 16, 2020, 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 shall 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.

*Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Jaime D. Black, Counsel, State Board of Examiners of Nursing Home Administrators, P.O. Box 69523, Harrisburg, Pennsylvania 17106-9523, or by email to [RA-STRegulatoryCounsel@pa.gov](mailto:RA-STRegulatoryCounsel@pa.gov), within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference No. 16A-6219 (Continuing Education) when submitting comments.

Kimberly Cobaugh, 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**

**GENERAL**

**§ 39.1. Definitions.**

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

\* \* \* \*

*Clock hour*—A [minimum] unit of education consisting of 60 minutes of instruction. Programs longer than [60] 30 minutes will be credited in [30] 15 minute increments.

\* \* \* \*

**§ 39.11. Biennial renewal.**

- (a) Licenses are renewable each biennium, in the even-numbered years.
- (b) [Applications for renewal] Notice of the availability of the renewal process will be forwarded to each active licensee at the licensee's address of record or current email address on file with the Board, or both, prior to the expiration of the current biennial period.
- (c) As a condition of biennial renewal, licensees shall complete [48] a minimum of 36 clock hours of continuing education during the preceding biennial period as required in § 39.61 (relating to requirements).

(d) Renewal applications shall be completed in a format and manner required by the Board and [returned to the Board office] accompanied by the required renewal fee in § 39.72 (relating to fees). Upon [approval of each] Board acceptance of the biennial renewal application, the license will be renewed and the applicant [shall] will receive a certificate of registration for the current renewal period.

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

**§ 39.11a. Reactivation.**

(a) A nursing home administrator who desires to reactivate a license that has been expired or inactive shall file an application for reactivation in a format and manner required by the Board and shall provide:

(1) A late fee as required by section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P.S. § 1401-225) or a verification of nonpractice, as applicable.

(2) The renewal fee in § 39.72 (related to fees).

(3) Documentation evidencing the satisfactory completion of the continuing education requirement for the preceding biennial period.

(b) In addition to complying with the requirements in subsection (a), a nursing home administrator whose license has been expired or inactive for 5 years or longer shall demonstrate continued competence under § 39.11 b (relating to continued competence).

**§ 39.11b. Continued competence.**

A nursing home administrator applying to reactivate a license that has been expired or inactive for 5 years or longer shall demonstrate continued competence by doing one of the following:

- (1) Passing the licensure examinations approved by the Board.
- (2) Successfully reCompleting 120 clock hours in a program of study approved by the Board as prescribed in § 39.14 (relating to approval of programs of study).
- (3) Providing written documentation to the Board evidencing that the licensee has practiced nursing home administration in another jurisdiction for at least 2 years within the last 5 years under a current license in that jurisdiction. The licensee shall appear personally before the Board to demonstrate that practice.
- (4) Providing written documentation to the Board that the licensee has been employed in a nursing home in a supervisory or consultant capacity for at least 3 years within the last 5 years. The licensee shall appear personally before the Board to demonstrate, to the Board's satisfaction, a significant involvement in the field of nursing home administration during the time the license has been expired or inactive. Sporadic or occasional involvement is not sufficient to demonstrate continued competence.
- (5) Providing written documentation to the Board that the licensee has been teaching long term care subject matter for a continuing educational provider approved by the Board to offer the 120-hour program or an accredited college or university for at least 3 years within the last 5 years. The licensee shall appear personally before the Board to discuss the scope of the education provided during the time the license has been expired or inactive.

\* \* \* \*

**APPROVAL PROCESS – PROVIDERS**

\* \* \* \*

**§ 39.44. Provider responsibilities.**

For each program, providers shall:

\* \* \* \*

(7) Issue continuing education records to each licensee who completed the course, which must include:

- (i) The name of the licensee.
- (ii) The title of the course or program.
- (iii) The date of the course or program.
- (iv) The number of continuing education clock hours provided.
- (v) The name of the course provider and the provider number.
- (vi) A statement that the course or program was approved by the Board or NAB, which must include the program approval number.

\* \* \* \*

**APPROVAL PROCESS – PROGRAMS**

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

- (a) A program shall consist of the subjects listed in § 39.41(a)(2) (relating to approval of programs of study).
- (b) The Board does not deem the following programs acceptable:
  - (1) Inservice programs which are not open to licensees.
  - (2) Programs limited to the organization and operation of the employer.
  - (3) Programs consisting of less than 30 minutes of instruction.

**§ 39.52. Program registration.**

- (a) All programs require preapproval, except as in § 39.61 [(b)(4) and (5)] (c)(2) – (5)  
(relating to requirements).

\* \* \* \*

**[CLOCK HOURS REQUIREMENT] CONTINUING EDUCATION**

**§ 39.61. Requirements.**

- (a) A licensee shall complete at least [48] 36 clock hours of continuing education during the preceding biennial period.

- (b) All continuing education clock hours shall be completed in courses preapproved by NAB or the Board, except as provided in subsection (c)(2)—(5).

- (c) Of the [48] 36 clock hours required, the following apply:

(1) Up to [48] 36 clock hours may be taken in lecture, college or university, computer interactive, distance learning or correspondence courses preapproved by NAB or the Board.

(2) A maximum of [12] 9 clock hours may be earned by serving as an instructor of a NAB or Board-approved continuing education program or as an instructor of a college or university course approved by NAB or the Board. Instructors may earn 1 clock hour for each hour of instruction up to [12] 9 clock hours.

- (3) Clock hours may be earned by authoring an article on long-term care as follows:

(i) Authors whose articles relating to long-term care are published in professional journals may earn 3 clock hours per article, up to a maximum of [12] 9 clock hours per biennium.

(ii) Additional credit per article, up to [12] 9 of the required clock hours, may be awarded based on the complexity of the subject matter or work.

(iii) In exceptional circumstances, when the article is published in a refereed journal, and the subject matter or work is complex, a licensee may be awarded up to [24] 18 clock hours.

(iv) Published articles used for continuing education credit shall be submitted to the Board within 60 days of publication. Upon review of the published article, the Board will determine the appropriate number of clock hours to be awarded based upon the complexity of the subject matter or work.

(4) Up to [24] 18 clock hours may be obtained by serving as a supervisor in a Board-approved AIT program, when the AIT successfully completes the AIT program.

(5) A maximum of [12] 9 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 60 days of attending the program and document attendance. The attendee shall demonstrate to the Board's satisfaction that the programs meet the requirements in §§ 39.14(a)(2) and 39.51 (relating to approval of programs of study; and standards for continuing education programs).

(d) A licensee [who obtains a license after the biennial period begins shall complete a prorated amount of clock hours equal to 2 clock hours per month through the end of the biennial period. For the purpose of calculating the number of clock hours required, partial months shall count as whole months] is not required to meet the continuing education requirement on the first renewal immediately following licensure.

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

(f) A licensee who cannot meet the overall continuing education clock hour requirement in subsection (a) or (d) due to illness, emergency or hardship may apply to the Board in writing prior to the end of the renewal period for an extension of time to complete the clock hours. A licensee who cannot meet any other requirement in this section due to illness, emergency or hardship may apply to the Board in writing prior to the end of the renewal period for a waiver of the requirement. An extension or waiver request must explain why compliance is impossible, and include appropriate documentation. An extension or waiver request will be evaluated by the Board on a case-by-case basis.

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

(h) A licensee will not be credited for any continuing education program less than 30 minutes of instruction in duration.

#### **[RENEWAL] FEES**

##### **§ 39.71. [Licensure renewal] (Reserved).**

[(a) Licensure renewal will be based on the payment of the required fee to the Commonwealth and submission of “certification of credit” form. This form is available from the State Board of Examiners of Nursing Home Administrators, Post Office Box 2649, Harrisburg, Pennsylvania 17105.

(b) Total credit hours for the 1982-84 biennium consist of 48 hours.

(c) Certification forms shall be submitted to the Board. Documentation of programs attended with proper signatures of provider and nursing home administrator shall be kept by the licensee for a period of 2 years.

(d) Certification of credit hours submitted by the nursing home administrator shall be properly signed as being correct and true. False statements shall be grounds for licensure revocation or suspension.]

\* \* \* \*



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

January 16, 2020

The Honorable George D. Bedwick, Chairman  
INDEPENDENT REGULATORY REVIEW COMMISSION  
14<sup>th</sup> Floor, Harristown 2, 333 Market Street  
Harrisburg, Pennsylvania 17101

Re: Proposed Regulation  
State Board of Nursing Home Administrators  
16A-6219: Continuing Education

Dear Chairman Bedwick:

Enclosed is a copy of a proposed rulemaking package of the State Board of Nursing Home Administrators pertaining to Continuing Education.

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 "Kimberly Cobaugh".

Kimberly Cobaugh, Chairperson  
State Board of Nursing Home Administrators

JDB:sw  
Enclosure

cc: K. Kalonji Johnson, Acting Commissioner of Professional and Occupational Affairs  
Sari Stevens, Executive Deputy Secretary, Department of State  
Marc Farrell, Deputy Director of Policy, Department of State  
Cynthia K. Montgomery, Deputy Chief Counsel, Department of State  
Jaime D. Black, Counsel, State Board of Nursing Home Administrators  
Jacqueline A. Wolfgang, Regulatory Unit Counsel, Department of State  
State Board of Nursing Home Administrators

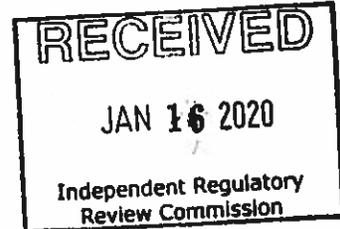
**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

**I.D. NUMBER:** 16A-6219

**SUBJECT:** Continuing Education

**AGENCY:** DEPARTMENT OF STATE  
Bureau of Professional and Occupational Affairs  
State Board of Examiners of Nursing Home Administrators

**TYPE OF REGULATION**



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

**FILING OF REGULATION**

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
		<i>HOUSE COMMITTEE ON PROFESSIONAL LICENSURE</i>
1-16-20	<u>Emily Lister</u>	MAJORITY CHAIR <u>Rep. David Hickernell</u>
1-16-20	<u>Shannon Hull</u>	MINORITY CHAIR <u>Rep. Harry A. Readshaw</u>
		<i>SENATE COMMITTEE ON CONSUMER PROTECTION &amp; PROFESSIONAL LICENSURE</i>
1/16/20	<u>Tammym Blanch</u>	MAJORITY CHAIR <u>Sen. Robert M. Tomlinson</u>
1/16/20	<u>Jennifer Beun</u>	MINORITY CHAIR <u>Sen. Lisa M. Boscola</u>
1/14/20	<u>K Cooper</u>	<i>INDEPENDENT REGULATORY REVIEW COMMISSION</i>
		<i>ATTORNEY GENERAL (for Final Omitted only)</i>
1/16/2020	<u>Sara Fisher</u>	<i>LEGISLATIVE REFERENCE BUREAU (for Proposed only)</i>