

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA
BOARD OF EXAMINERS FOR
NURSING HOME ADMINISTRATORS

In the Matter of the Proposed Amendments to the Board of Examiners for Nursing Home Administrators relating to original licensure requirements, clarifying of present Rules and bring present Rules into conformity with State Statute.

STATEMENT OF NEED FOR AND
FACTS ESTABLISHING REASON-
ABLENESS OF PROPOSED
AMENDMENTS

Minnesota Board of Examiners for Nursing Home Administrators (Hereinafter "Board"), pursuant to Minn. Stat. 144A.19-144A.29 (1986), hereby affirmatively presents the need for and facts establishing the reasonableness of adopting the above captioned amendments to the Board's rules. The statutory authority for the proposed amendments is set forth in Minn. Stat. 144A.21 & 24 214.06, and 626.557, Subd. 16(6) ^b (1986) which authorizes the Board to make and publish uniform rules and regulations to enforce the provisions of the statutes under which it operates.

The need to adopt these proposed amendments to the Board's existing rules arises from several sources including studies and recommendations done by the Board's special committee on Rules Change; ambiguities in the current language; changes in State Statute; and advances and changes in the nursing home profession which must be addressed. Some of the proposed changes are language changes for clarification purposes only; other changes are editorial changes reorganizing topics presently located in different sections into one section relating to the same topic. These changes do not change the substance of existing rules. The proposed change that is perhaps the most noteworthy is in the academic requirements for original licensure. The rationale for all of the proposed changes are more fully explained below.

The Board is proposing in Board Rule 6400.0600-B the deletion of the word "physical". This is reasonable as the Board is of the opinion that no applicant should be ineligible or discriminated against for licensure based upon any physical impairment. It feels physical health does not have a direct bearing on the competency of an applicant. If a physical disability reaches the point that it affects a licensee's ability to practice, appropriate steps can be taken pursuant to Minn. Rule 6400.2200.

Also, the Board is proposing in Board Rule 6400.0600-B & C to define "mental health"

& "moral character" so as to provide a more specific and clear meaning of the terms or words. This is needed because the terms have several possible definitions and this rule will assist applicants to better understand the Board's intended usage of the terms.

The Board is proposing in Board Rule 6400.0600-D and other sections of the Board Rules, the deletion of the words "he/she" and the substitution of the term, "the individual" in order to avoid any possible sexual bias and to provide for standardization throughout.

The Board is proposing increasing all of its fees. In Board Rule 6400.0600-E it is proposing increasing its licensure and examination fees. Another fee increase is found in 6400.1700-subp. 2. Minnesota Statute, section 214.06 requires that the Board adjust fees so that the total fees collected "...will as closely as possible equal anticipated expenditures during the fiscal biennium." The proposed fee increases are necessary to provide this balance. Expenditures for fiscal year 1988 is anticipated to be \$145,800 and for fiscal year 1989 to be \$150,600. The proposed fees are reasonable because they provide for sufficient income, according to the projected number of applicants, to cover the expected fiscal year expenditures.

The Board is proposing in Board Rule 6400.0600-F, deletion of the present wordage, which is vague and non-specific, and insertion of an exact figure of 75%. This is necessary so that applicants for licensure may know the exact passing score on all required examinations. A 75% passing rate has been used for at least five years and thus is a reasonable score to require of individuals taking the examination in the future.

The Board is proposing in Board Rule 6400.0600-G-1-11, the deletion of most of the present language; the substitution of new language and the addition of certain academic courses. Each of the proposed changes is more fully explained below.

In G-1, 3, 4, 5, 6 and 7, the Board proposes to delete the present language which is general in nature; subject to a great variety of interpretation and not specifically long term health care related. The proposed language is needed to provide

specific course parameters and a clearer understanding by potential applicants, academic institutions and the public. Course requirements are further elaborated on by the enumeration of specific sub-topics which serve as a base to clarify and specify exactly what is to be contained in each course. This will reduce misinterpretation and misunderstanding. The increasing complexity and specificity of nursing home administration due to additional and increased government relations, requires more specific and germane academic courses. All of the Board approved academic institutions that provide courses in nursing home administration have reviewed these proposed courses or course changes and can/will offer suitable courses to meet these proposed rules.

In G-2, the Board is proposing an additional course requirement of an advanced managerial accounting course. This is urgently needed in order that administrators have adequate knowledge and experience to prepare increasingly complex and detailed reports to the various state regulatory agencies and also to more competently operate their facility.

It is reasonable that this be an advanced managerial accounting course because applicants will have the prerequisite of an introductory course, but such an introductory course usually does not go into sufficient detail to be of assistance to administrators who must manage the facility and be responsible for the accuracy and completeness of all required reports to state agencies. The Board has received repeated expressions from owners and Boards of nursing homes that new licensees do not have adequate accounting background or training and should have more sophisticated accounting courses, frequently specifying advanced managerial accounting.

In G-9, the Board is proposing a new course dealing with understanding computers and their application. This is reasonable in order to provide administrators with the type of skills considered essential for effective and efficient management in today's increasingly technical and sophisticated world of administration. The Board is also in receipt of requests from the Nursing Home Profession for a course of this nature so that new licensees will have the type of knowledge and skills required for adequate and competent job performance. The components of this course are reasonable in that

they have direct applicability to using computers in nursing homes or similar types of facilities. This subitem is temporarily waived for applicants applying for licensure before July 1, 1989. The reason for this temporary waiver is to allow adequate time for academic institutions to fully develop a course of study specific to the needs or requirements contained in this Rule. In discussion with each of the four academic institutions presently offering approved courses of study, full agreement was reached that this would be adequate time for the development of this specific course.

In G-10, the Board is proposing the structuring of a course specifically dealing with the various funding mechanisms and regulatory compliance requirements for nursing homes. While many of these topics have previously been found addressed in various other courses there has been no systematic or specific focusing in on these requirements. It is felt that a specific course is needed to centralize attention to the increasingly important emphasis being given by the various regulatory agencies to these funding mechanisms or regulations. New topics include third party payors and private health care coverage; Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and role of professional and trade organizations. Third party payor and private health care coverage is very rapidly emerging in the nursing home industry and adequate knowledge of the concepts, trends and services are felt essential. The importance and value of a nursing home being accredited by the JCAHO is increasingly being viewed as an essential indication of the provision of quality care and the meeting of high standards. New licensees need to be aware of the role, function and importance of the JCAHO. Nursing home professional and trade organizations are increasingly being regarded as advocates for any changes felt, by the profession, to be needed. These are organized on both a local and national level and licensees need to be fully aware of the purposes and role each of these organizations fulfill.

In G-11, the Board is basically only restating an existing rule with sub-parts specifying certain conditions which are considered essential for a trainee to experience in a practicum. It is reasonable and necessary to increase the number of hours from 300 to 400 hours to allow students more time in each of the departments of a nursing home.

Many students have expressed to the Board that frequently they felt the time available to them in each department was inadequate. With more emphasis being placed by regulatory agencies on quality of care and "patient-oriented outcomes", additional time for students is considered most essential. Also, it will provide some additional time for the student to devote to the development of the project study. The practicum has been required for many years. Two of the four Board approved schools offering the practicum have had a practicum course of 400 hours for several years.

In 6400.0700 Subp. 1, the Board is proposing a slight change to the present waiver of the degree requirement for original licensure by also requiring the applicant to have been the chief executive officer of a nursing home. Under the present rule a licensee need only have met the requirements for original licensure in another state for two years and need not have practiced in the profession at all. Also, many other states have considerably less stringent original licensure requirements than Minnesota. In Minnesota a nursing home administrator is generally equivalent to a Chief Executive Officer (C.E.O.) and thus the Board is requiring the same equivalency of individuals from other states wishing to obtain a waiver of the degree requirements when they apply for licensure in Minnesota. It is the belief of the Board that a minimum experience of two years functioning in the role of a chief executive officer of a nursing home is needed to develop an administrative competency considered the equivalent of a degree.

In 6400.0700 Subp. 2, the Board is proposing to add the requirement of "employment in the role of" an administrator to clarify the intent of the Board. This requirement is necessary for uniformity but also because the Board believes that only administrators with full time experiences in the role of administrator can be considered to be fully competent for licensure and consequently eligible for the waiver of the practicum requirement. Later in this section, the term "nursing home" is added to clarify or specify that only experience secured in a nursing home intermediate care facilities is acceptable for waiver of the practicum. The Board feels that broad experience is needed to qualify for waiver and only the breadth and full range of administrative responsibilities and experience can only be found in a nursing home intermediate care facility. Also in the sub-part, the Board proposes to delete the provision that permitted Director of Social Services to be waived of the practicum requirement.

It is the belief of the Board that with the significantly increased complexities and administrative responsibilities now required of an administrator, Social Service Directors do not have adequate exposure to, or range of experiences considered the equivalent of the experience secured in a practicum.

The proposed rule also increased from one year to two years the length of time an applicant needs to serve as a director of nurses in a facility. This is also reasonable because this period of time is needed in order to adequately secure the full range of experiences and competency, otherwise obtained in the practicum experience.

In 6400.0800 Subp. 1. The elimination of this portion of the rule is reasonable and necessary in order to clarify the length of time any application for licensure is valid. The current rule could be interpreted as allowing an applicant to maintain an active application by writing an examination and not pursuing licensure for a number of years, or taking courses over an extended period of time. This interpretation was not the Board's original intent. Deletion of that portion of the rule will eliminate possible misinterpretation and allow greater administrative convenience.

6400.0900 Subp. 2 & 3. These proposed rules are reasonable and necessary in order to fully inform affected parties of the exact length of time for which examination results are valid. A one year time period is considered appropriate as standards and competency frequently change significantly in a time period greater than one year. This rule will also clarify the application process and allow greater administrative convenience.

In 6400.1300. The Board is proposing the deletion of the present Rule because of a change in the Minn. Stat.s 144A.27. The new Statute states:

144A.27 ACTING ADMINISTRATORS: If a licensed nursing home administrator is removed from the position by death or other unexpected cause, the controlling persons of the nursing home suffering the removal may designate an acting nursing home administrator who shall secure an acting administrators license within thirty days of appointment as the acting administrator.

Pursuant to the new Statutory Authority granted to it by the Legislature, the Board has divised the proposed standards based on the standard for original licensure.

The proposed rule is reasonable in that it specifies exactly what requirements an applicant must possess in order to secure an acting administrator's license. These requirements are necessary in order to assure that individuals serving as acting administrators possess, as a minimum, qualifications deemed adequate to assure that quality patient care is provided and that overall administrative knowledge and competency exists for functionally sound administration.

In the past there were no criteria for acting administrators because the law previously stated the acting administrator could serve without a license for 90 days. The law now requires that such a license be obtained within 30 days of the appointment of an acting administrator. A facility may not be able to obtain a fully licensed administrator in that short period of time, accordingly, it is appropriate than an individual who is merely acting as an administrator for a short period of time not be required to meet the full criteria for licensure. However, it is also reasonable that an acting administrator meet certain minimal qualifications. The Board, therefore, has proposed those minimum qualifications under the new 6400.1300.

Qualifications for an acting administrator include some of the qualifications for full licensure, such as being at least 18 years of age and suitably qualified. These are statutory requirements set forth under Minn. Stat. s144A.20. The Board proposes evidence of suitable qualification reflect some of the same characteristics or knowledge required of a fully licensed administrator, but without the coursework required of a licensed administrator. Further, the Board qualifies the knowledge necessary for the "temporary" administration of a nursing home because acting administrators are considered to be temporary positions while the facility finds a full-time licensed administrator.

Subpart D(5) requires passage of the state license examination with a passing score of at least 75%. This is reasonable because the state portion of the licensure examination is available to be taken at any time and thus could be taken within the

30 days specified in Minn. Stat s 144A.27 during which an acting administrator can secure a license. The federal portion of the licensure examination is only given four times a year so it would not be reasonable to require an acting administrator to have passed that portion of the examination.

Successful passage of the state portion of the examination is consistent with the statutory requirement found in Minn. Stat s 144A.20, subd. 1(c) and necessary to ensure that the acting administrator has a working knowledge of state health and safety regulations which are designed to protect residents of nursing homes.

In 6400.1400 only small or technical changes are proposed which will make the rules conform to present codification standards and in no way alters the existing rule. Also certain fees are raised, which statement of need was explained earlier in 6400.0600-E.

In 6400.1700 certain terms or words are substituted for existing words or terms in order to bring this section into conformity with codification standards. The remaining portion of the proposed Rule Subp 1; 1-a and Subp. 3 are existing rules presently found in Board rule 6400.2100 and 6400.2300 but now re-stated in this section. This relocation change is made so that all information regarding license renewal is centralized in one section specific to license renewal.

A change is proposed in Subpart 1, changing from July 31 to June 30 for the time when a license shall be considered to be lapsed. This change is needed to provide for uniformity of Board Rules regarding lapsed licenses and to comply with Minn. Stat. 2 214.07 which requires the filing of a report to the legislature regarding licensure data and statistics as of June 30 each year.

The portion of 6400.1800-B, dealing with credit hours from academic institutions is being deleted due to obsolescence. When the continuing education requirement was initially started there were limited amount of non-academic educational offerings available to meet this requirement. With many more non-academic educational offerings available and also, the major increase in required academic courses for original licensure, it is no longer felt needed to continue to require academic courses for relicensure. This requirement frequently resulted in duplication of course material taken.

The Board is proposing in Board Rule 6400.1900 Subp. 1-a, certain changes to standardize continuing education requirements and the availability of seminars to all interested parties. This proposed rule is needed so that a specific common standard will exist for all potential sponsors of in-house educational courses and that such sponsors will know exactly the requirements which must be met in order for an educational offering to be eligible for approval. This requirement is necessary to assure the availability of seminars to any and all parties interested in attending an educational offering approved by this Board and not to be restricted for the unique needs of the staff of a sponsoring agency. It is also reasonable in that it still recognizes that in-house training programs can be beneficial and should be given credit if they are of general interest. It is hoped that by requiring a portion of the course to be taught by instructors not employed by the sponsoring facility, the in-house training sessions will have general applicability to a variety of nursing home settings.

The Board is proposing in Board Rule 6400.2000-A-2 the addition of certain words for clarification of Board intent. The intent is that seminars, in order to secure full Board approval, should be designed specifically for administrators in the improvement of their skills in the long term health care sector. The rule change is reasonable in that seminars designed, specifically for administrators of long term health care facilities are readily available throughout the state as well as many nationally sponsored educational seminars by long term health care organizations.

The present wording of 6400.2200-Subp. 1-B is being deleted as it is non-specific and thus difficult to understand and interpret. New phraseology is proposed which specifies exactly the basis for disciplinary action. The new language is reasonable in that it correlates with the Minn. Stat. and 144A.11 Subd. 2 (2) which requires that the Commissioner of Health revoke or suspend the nursing home license of any facility which has four or more uncorrected violations. This rule will allow the Board to deal with administrators who are not performing as expected for the protection of the public and it will also compliment Dept. of Health Statutes.

In 6400.2200 Subp. 1-D the proposed rules are basically the same as now existing in 6400.2200 Subp. 1 and 2, except that certain words are changed to correct any possible reference to sexual bias.

The Board is proposing in 6400.2200 Subp. 1-D-12 an addition which will emphasize the importance of reporting any maltreatment of vulnerable adults who may be under the jurisdiction of administrators of nursing homes. Minn. Stat. s626.557 specifically authorizes the Board to take disciplinary action for violations of the Vulnerable Adult Act and thus it is appropriate to include violations of that law as a basis for disciplinary action. By specifying this behavior as a basis for discipline in its rules the Board gives notice to the licensees of its concern with behavior which is a violation of the Vulnerable Adult Act.

In 6400.2500 the Board is proposing the deletion of the present wording and replacing it with language which is more specific. This change is needed to inform potential applicants specifically of their responsibility in reporting required information to the Board. It is a reasonable change as only the applicant has access to such data.



**MINNESOTA BOARD OF EXAMINERS
FOR NURSING HOME ADMINISTRATORS**

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June 30, 1988

TO: Bruce J. Reddemann, Director
Budget Operation & Support Division
Department of Finance

FROM: Phillip C. Newberg
Executive Director

Phone: 642-0595

SUBJECT: Approval of Revised Fee Amounts

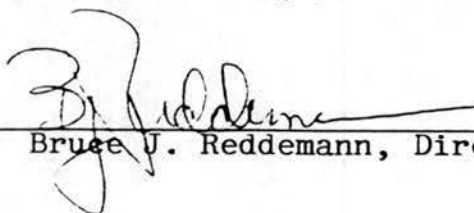
The Board of Examiners for Nursing Home Administrators has found it necessary to propose increases in fees in order to balance receipts and expenditures over the biennium. In accordance with Minnesota Statutes section 214.06 the following changes are proposed:

	FEE	FROM	TO	DATE
1. Application		\$ 75	\$ 90	9/1/88
2. State examination		50	75	9/1/88
3. National examination		75	100	9/1/88
4. License		115	120	9/1/88
5. Continuing Education App'l.		20	25	9/1/88

A fee review form and other documentation is attached.

We request approval of the fee changes proposed above.

If you have any questions, please do not hesitate to call me.

Approved:  7-12-88
Bruce J. Reddemann, Director Date

PCN:dn

cc: Rob Super
Executive Finance Officer

Enclosures