



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 01-101

AN ORDER to amend NHA 1.02 (intro.) and (3), 2.02 (intro.), 3.02 (5), 3.03 (1) (c) Note, 4.01 (1) (d) and 4.03 (1) Note; and to create NHA 1.02 (2n) and (5m) and 5.02 (15), relating to examination, education, continuing education, reciprocity requirements and unprofessional conduct.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

09-04-01 RECEIVED BY LEGISLATIVE COUNCIL.

09-28-01 REPORT SENT TO AGENCY.

RS:RJC;jal;tlu

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached

YES

NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached

YES

NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached

YES

NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached

YES

NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached

YES

NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached

YES

NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached

YES

NO



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CLEARINGHOUSE RULE 01-101

Comments

[NOTE: All citations to “Manual” in the comments below are to the **Administrative Rules Procedures Manual**, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In the analysis to the rule, the paragraph which is numbered “2” uses a quotation mark in the first sentence. It appears that the quotation mark is unnecessary, or, if it is determined to be necessary, an end quotation mark should be inserted somewhere in the sentence.

b. In the analysis to the rule, in the paragraph which is numbered “3,” the word “change” should be “changed.”

c. In s. NHA 1.02 (5m) (c), it appears that the paragraph would be rendered less awkward if the phrase “that is not immediate jeopardy” were replaced by the phrase “, but which does not constitute immediate jeopardy,” or a similar phrase. This comment also applies to s. NHA 1.02 (5m) (d).

STATE OF WISCONSIN
NURSING HOME ADMINISTRATOR EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : NURSING HOME ADMINISTRATOR
NURSING HOME ADMINISTRATOR : EXAMINING BOARD
EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 01-)

PROPOSED ORDER

An order of the Nursing Home Administrator Examining Board to amend NHA 1.02 (intro.) and (3), 2.02 (intro.), 3.02 (5), the Note following NHA 3.03 (1) (c), 4.01 (1) (d), and the Note following NHA 4.03 (1); and to create NHA 1.02 (2n), (5m) and 5.02 (15), relating to examination, education, continuing education, reciprocity requirements and unprofessional conduct.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 456.02, Stats.

Statutes interpreted: ss. 456.05, 456.07 (2), 456.08 and 456.10 (1) (d), Stats.

In this proposed rule-making order the Nursing Home Administrator Examining Board amends several provisions contained in chs. NHA 1, 2, 3 and 4, relating to examination, education, continuing education and reciprocity requirements, and creates several provisions relating to unprofessional conduct.

First, the following minor and technical changes are made to the rules for purposes of clarity, grammar, form and style.

1. Name and address change. The definition of "NAB" found in s. NHA 1.02 (3), is being revised to reflect the organization's name change. In addition, the note following s. NHA 3.03 is being revised to reflect NAB's new address.

2. Application deadline. Section NHA 2.02 (intro.), requires an applicant to submit an application for examination "60 calendar days prior to the date of examination. This requirement is being eliminated because the board now offers computer-based examinations on a weekly basis.

3. Continuing education hours. In s. NHA 3.02 (5), "continuing education credits" is being change to "continuing education hours" to reflect the terminology used in chs. NHA 1 and 3.

4. Citation. The citation in s. NHA 4.01 (1) (d), to "s. NHA 2.02 (1) (a)," should read "s. NHA 2.02 (1)."

5. Address change. The note following s. NHA 4.03 (1) is being revised to reflect the American College of Health Care Administrators' new address.

Second, s. NHA 1.02 (2n) is being created to define the term "inspection" to mean any type of inspection conducted by the Wisconsin Department of Health and Family Services pursuant to s. 50.04, Stats., or 42 CFR Part 488. Section 1.02 (5m) is being created to define "pattern of serious violations of federal or state statutes, rules or regulations," as that phrase is used in s. 456.10 (1) (d), Stats.

Third, s. NHA 5.02 (15) is being created to state that it shall be unprofessional conduct for a nursing home administrator to intentionally provide false information to the board in connection with an application for a license or for renewal of a license.

TEXT OF RULE

SECTION 1. NHA 1.02 (intro.) is amended to read:

NHA 1.02 Definitions. (intro.) As used in ~~s. 456.04~~ ch. 456, Stats., and in chs. NHA 1 to 5:

SECTION 2. NHA 1.02 (2n) is created to read:

NHA 1.02 (2n). "Inspection" means any type of inspection conducted by the Wisconsin department of health and family services pursuant to s. 50.04, Stats., or 42 CFR Part 488.

SECTION 3. NHA 1.02 (3) is amended to read:

NHA 1.02 (3) "NAB" means the national association of boards of examiners ~~for nursing home~~ of long term care administrators.

SECTION 4. NHA 1.02 (5m) is created to read:

NHA 1.02 (5m) "Pattern of serious violations of federal or state statutes, rules or regulations" means the occurrence of any of the following:

(a) One or more class A violations, as defined in s. 50.04 (4) (b) 1., Stats., in each of at least 2 inspections within any consecutive 36-month period.

(b) One or more deficiencies related to participation requirements under 42 CFR ss. 483.13, 483.15 or 483.25, which constitute immediate jeopardy to a resident's health or safety, in each of at least 2 inspections within any consecutive 36-month period.

(c) One or more deficiencies related to participation requirements under 42 CFR ss. 483.13, 483.15 or 483.25, which constitute a pattern of actual harm that is not immediate jeopardy to a resident's health or safety, in each of at least 2 inspections within any consecutive 36-month period.

which does not constitute result in
3

(d) One or more deficiencies related to participation requirements under 42 CFR ss. 483.13, 483.15 or 483.25, which constitute widespread actual harm that is not immediate jeopardy to a resident's health or safety, in each of at least 2 inspections within any consecutive 36-month period.

does not
3

(e) One class A violation, as defined in s. 50.04 (4) (b) 1., Stats., and one deficiency of any type specified in par. (b), (c) or (d) of this subsection, within 36 months of each other, but resulting from different inspections.

(f) At least 2 or more deficiencies in any combination of single deficiencies of the types specified in par. (b), (c) or (d) of this subsection, within 36 months of each other, but resulting from different inspections.

SECTION 5. NHA 2.02 (intro.) is amended to read:

NHA 2.02 Application for examination. (intro.) An applicant for examination for a license as a nursing home administrator shall apply on a form provided by the board at least 60 calendar days prior to the date of the examination. An applicant shall also submit to the board:

SECTION 6. NHA 3.02 (5) is amended to read:

NHA 3.02 (5) Every nursing home administrator shall maintain records of continuing education credits hours for at least 5 years for auditing purposes.

SECTION 7. The Note following NHA 3.03 (1) (c) is amended to read:

Note: To obtain an application for approval of a continuing education program, contact NAB at 808 17th Street, N.W., #200, Washington, D.C. 20006 1444 I Street, N.W., #700, Washington, D.C., 20006-2210.

SECTION 8. NHA 4.01 (1) (d) is amended to read:

NHA 4.01 (1) (d) Satisfy the educational requirements specified in s. NHA 2.02 (1) (a).

SECTION 9. The Note following NHA 4.03 (1) is amended to read:

Note: The American College of Health Care Administrators may be contacted at 325 South Patrick Street 1800 Diagonal Road, Suite 355, Alexandria, VA 22314.

Def not approved to edit

SECTION 10. NHA 5.02 (15) is created to read:

NHA 5.02 (15) Intentionally providing false information to the board in connection with an application for a license or for renewal of a license.

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated _____

Agency _____

Chairperson
Nursing Home Administrator Examining Board

FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

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9/4/01

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**STATE OF WISCONSIN
NURSING HOME ADMINISTRATOR EXAMINING BOARD**

**IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : NURSING HOME ADMINISTRATOR
NURSING HOME ADMINISTRATOR : EXAMINING BOARD
EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 01-101)**

TO: Senator Judy Robson, Senate Co-Chairperson
Joint Committee for the Review of Administrative Rules
Room 15 South, State Capitol
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the NURSING HOME ADMINISTRATOR EXAMINING BOARD is submitting in final draft form rules relating to examination, education, continuing education, reciprocity requirements and unprofessional conduct.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.

**STATE OF WISCONSIN
NURSING HOME ADMINISTRATOR EXAMINING BOARD**

**IN THE MATTER OF RULE-MAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
NURSING HOME ADMINISTRATOR : ON CLEARINGHOUSE RULE 01-101
EXAMINING BOARD : (s. 227.19 (3), Stats.)**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

No new or revised forms are required by these rules.

III. FISCAL ESTIMATES:

These rules will have no significant impact upon state or local units of government.

IV. STATEMENT EXPLAINING NEED:

In this proposed rule-making order the Nursing Home Administrator Examining Board amends several provisions contained in chs. NHA 1, 2, 3 and 4, relating to examination, education, continuing education and reciprocity requirements, and creates several provisions relating to unprofessional conduct.

The definition of "NAB" found in s. NHA 1.02 (3), is being revised to reflect the organization's name change. In addition, the note following s. NHA 3.03 is being revised to reflect NAB's new address.

Section NHA 2.02 (intro.), requires an applicant to submit an application for examination "60 calendar days prior to the date of examination." This requirement is being eliminated because the board now offers computer-based examinations on a weekly basis.

In s. NHA 3.02 (5), "continuing education credits" is being changed to "continuing education hours" to reflect the terminology used in chs. NHA 1 and 3.

The citation in s. NHA 4.01 (1) (d), to "s. NHA 2.02 (1) (a)," should read "s. NHA 2.02 (1)."

The note following s. NHA 4.03 (1) is being revised to reflect the American College of Health Care Administrators' new address.

Section NHA 1.02 (2n) is being created to define the term "inspection" to mean any type of inspection conducted by the Wisconsin Department of Health and Family Services pursuant to s. 50.04, Stats., or 42 CFR Part 488. Section 1.02 (5m) is being created to define "pattern of serious violations of federal or state statutes, rules or regulations," as that phrase is used in s. 456.10 (1) (d), Stats. Section NHA 5.02 (15) is being created to state that it shall be unprofessional conduct for a nursing home administrator to intentionally provide false information to the board in connection with an application for a license or for renewal of a license.

V. NOTICE OF PUBLIC HEARING:

A public hearing was held on October 18, 2001. There were no appearances at the public hearing nor were any written comments received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

The recommendations suggested in the Clearinghouse Report were accepted in whole.

VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:

The proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

STATE OF WISCONSIN
NURSING HOME ADMINISTRATOR EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : NURSING HOME ADMINISTRATOR
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Third, s. NHA 5.02 (15) is being created to state that it shall be unprofessional conduct for a nursing home administrator to intentionally provide false information to the board in connection with an application for a license or for renewal of a license.

TEXT OF RULE

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NHA 1.02 Definitions. (intro.) As used in ~~s. 456.04~~ ch. 456, Stats., and in chs. NHA 1 to 5:

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SECTION 3. NHA 1.02 (3) is amended to read:

NHA 1.02 (3) "NAB" means the national association of boards of examiners ~~for nursing home~~ of long term care administrators.

SECTION 4. NHA 1.02 (5m) is created to read:

NHA 1.02 (5m) "Pattern of serious violations of federal or state statutes, rules or regulations" means the occurrence of any of the following:

(a) One or more class A violations, as defined in s. 50.04 (4) (b) 1., Stats., in each of at least 2 inspections within any consecutive 36-month period.

(b) One or more deficiencies related to participation requirements under 42 CFR ss. 483.13, 483.15 or 483.25, which constitute immediate jeopardy to a resident's health or safety, in each of at least 2 inspections within any consecutive 36-month period.

(c) One or more deficiencies related to participation requirements under 42 CFR ss. 483.13, 483.15 or 483.25, which constitute a pattern of actual harm, but which does not constitute immediate jeopardy to a resident's health or safety, in each of at least 2 inspections within any consecutive 36-month period.

(d) One or more deficiencies related to participation requirements under 42 CFR ss. 483.13, 483.15 or 483.25, which constitute widespread actual harm, but which does not constitute immediate jeopardy to a resident's health or safety, in each of at least 2 inspections within any consecutive 36-month period.

(e) One class A violation, as defined in s. 50.04 (4) (b) 1., Stats., and one deficiency of any type specified in par. (b), (c) or (d) of this subsection, within 36 months of each other, but resulting from different inspections.

(f) At least 2 or more deficiencies in any combination of single deficiencies of the types specified in par. (b), (c) or (d) of this subsection, within 36 months of each other, but resulting from different inspections.

SECTION 5. NHA 2.02 (intro.) is amended to read:

NHA 2.02 Application for examination. (intro.) An applicant for examination for a license as a nursing home administrator shall apply on a form provided by the board ~~at least 60 calendar days prior to the date of the examination.~~ An applicant shall also submit to the board:

SECTION 6. NHA 3.02 (5) is amended to read:

NHA 3.02 (5) Every nursing home administrator shall maintain records of continuing education ~~credits~~ hours for at least 5 years for auditing purposes.

SECTION 7. The Note following NHA 3.03 (1) (c) is amended to read:

Note: To obtain an application for approval of a continuing education program, contact NAB at ~~808 17th Street, N.W., #200, Washington, D.C. 20006~~ 1444 I Street, N.W., #700, Washington, D.C., 20006-2210.

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SECTION 10. NHA 5.02 (15) is created to read:

NHA 5.02 (15) Intentionally providing false information to the board in connection with an application for a license or for renewal of a license.

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated _____ Agency _____
Chairperson
Nursing Home Administrator Examining Board

FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

FINAL REGULATORY FLEXIBILITY ANALYSIS

These rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

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