

Section 96.1 Definitions. The following definitions shall apply to this Subchapter unless the context otherwise requires:

(a) Board means the Board of Examiners of Nursing Home Administrators as provided for in article 28-D of the Public Health Law.

(b) Department means the New York State Department of Health.

(c) Commissioner means the Commissioner of Health of the State of New York.

(d) Secretary means the officer or employee of the department designated by the commissioner to act as secretary to the board.

(e) Advisory council means the body broadly representative of the health professions and the public established by the commissioner pursuant to subdivision 8 of section 2896-a of the Public Health Law.

(f) Nursing home administrator means an individual who has fulfilled all of the requirements of and has been duly granted a license by the New York State Board of Examiners of Nursing Home Administrators.

(g) Nursing home means a facility issued an operating certificate as a nursing home pursuant to article 28 of the Public Health Law.

(h) License means certification of an applicant who has met the requirements of the law, rules and regulations entitling him to serve, act, practice and otherwise hold himself or herself out as a duly licensed nursing home administrator.

(i) Temporary license means a license issued by the Board, under such conditions and limitations as it shall determine, for a single period not to exceed six months to an applicant of good moral character and suitability, over twenty-one years of age, who meets such other standards as are established by the Board, who has paid the application fee as specified in Public Health Law Article 28-D and who is designated by the owner, operator or other governing authority to administer a facility during a

period when due to resignation, death or incapacity or for some other reason the position of nursing home administrator has been unexpectedly vacated. Such temporary licensee shall be subject to the supervision of a licensed and currently registered New York State nursing home administrator as determined by the Board. This provision may not be used in conjunction with or to extend the provisions of section 415.26(a) of this title permitting the facility to operate without a licensed and registered administrator for a period greater than six months.

(j) Practice of nursing home administration means planning, organizing, directing, managing the operation and implementing the policies of, a nursing home, including but not limited to making operating decisions, ensuring fiscal responsibility, providing general supervision, employing and discharging staff, programming and ongoing evaluation of the care and services provided in the nursing home to ensure the health and safety of the residents, visitors and staff and, where appropriate, integrating the services of the nursing home with the community's health resources.

(k) Course of study in nursing home administration means a course or courses of study, including completion of a Board approved Administrator-in-Training (AIT) program or Board approved alternative, in institutional administration approved by the Board.

(l) Registration means the biennial registration as required by all licensed nursing home administrators pursuant to the provisions of codes, rules and regulations established by the Board. Only licensed nursing home administrators with a current registration may practice nursing home administration.

(m) Unethical conduct, for the purpose of section 2897 of the Public Health Law, shall include, but not be limited to:

(1) violation of any of the provisions of law pertaining to the licensing and registration of nursing home administrators or the rules and regulations of the Board pertaining thereto;

(2) violation of any of the provisions of law or codes, rules or regulations of the

licensing authority or agency of the State having jurisdiction of the operation and licensing of nursing homes;

(3) conviction of a crime;

(4) practicing fraud, deceit or misrepresentation in securing or procuring a nursing home administrator license or registration;

(5) practicing fraud, deceit or misrepresentation in the capacity of a nursing home administrator;

(6) immoral conduct while engaged in the practice of nursing home administration; immoral behavior indicating an unfitness to practice nursing home administration; or immoral conduct permitted by a nursing home administrator in a nursing home under his/her supervision;

(7) willful falsification, destruction or theft of property or records related to the practice of nursing home administration;

(8) committing acts of misconduct in the operation of a nursing home;

(9) habitual drunkenness;

(10) addiction to the use of narcotic drugs;

(11) wrongfully transferring or surrendering possession, either temporarily or permanently, of a license or certificate as a nursing home administrator to any other person;

(12) being guilty of fraudulent, misleading or deceptive advertising;

(13) falsely impersonating another licensee of a like or different name;

(14) failure to exercise true regard for the safety, health and life of

patients/residents;

(15) unauthorized disclosure of information relating to a patient/resident or his or her records; and

(16) unlawful discrimination in respect to patients/residents, employees or staff.

(n) Administrator of Record (AOR) means the individual who is charged with and has responsibility for the general administration of a nursing home, whether or not such individual has an ownership interest in such home, and whether or not his or her function and duties are shared with one or more other individuals.

(1) Each nursing home must designate one New York State licensed and currently registered nursing home administrator as the facility AOR consistent with the requirements of 10 NYCRR Section 415.26(a).

(2) In the case of an acting administrator, appointed under the provisions of 10 NYCRR 415.26(a)(3), the AOR shall be the supervising administrator designated pursuant to such provisions.

(o) Qualifying field experience shall mean the verified full-time, minimum of 35 hours per week, service on the staff of a qualifying Article 28 in-patient health care facility as defined by the Board, in an administrative position within the five-year period preceding approval of the licensure application.

(1) Such experience must be obtained above the department head level but not above the AOR, requiring the candidate to actively participate in the day-to-day administration, direction, and operation of the facility at the facility level requiring the daily supervision of the department heads of multiple (2 or more) major departments or services areas.

(2) The position must include substantial supervisory responsibilities for patient care and facility staff and be compensated at a salary commensurate with the level of responsibility claimed.

(3) At least one major department or service area must directly impact on the provision of patient care or services. Major department and services areas with direct impact on the provision of patient care or services as defined by the Board for the purpose of licensure experience are:

(a) Dietary/food services,

(b) Nursing services,

(c) Rehabilitation services (including all of physical therapy, occupational therapy, speech and audio therapy and recreational therapy) and

(d) Social Services (including all of admissions, discharge planning and social service program).

(p) Active participation in the administration, direction and operation of a qualifying health care facility shall mean the daily participation in the management decisions that affect multiple (2 or more) major departments or service areas as defined in this Part, within the facility and directly impacts the provision of care and services to the patients in the facility.

(q) Code of Ethics for New York State Nursing Home Administrators shall mean the expectations of conduct for licensed nursing home administrators adopted by the Board. The Code of Ethics should not be construed as all-encompassing or as denial of the existence of other responsibilities or practices.

#### Section 96.2 - Board of examiners; general powers

96.2 Board of examiners; general powers. (a) The board by majority vote of the whole number shall adopt and amend rules and regulations, to be certified by the commissioner prior to filing with the Secretary of State, to effectuate the provisions and purposes of article 28-D of the Public Health Law.

(b) The board shall take such actions as may be necessary to enable the State to meet the requirements set forth in section 1908 of the Social Security Act, the Federal rules and regulations promulgated thereunder and other pertinent Federal authority.

#### Section 96.3 - Board of examiners; officers and duties

96.3 Board of examiners; officers and duties. (a) The term of office of the members of the Board shall be three years and shall expire on June 30 three years from the year of the appointment. No more than three (3) Board members may be appointed for a term that expires during the same year.

(b) The Board shall select from among its members a chair and vice-chair at least one of which shall be a licensed and currently registered New York State nursing home administrator.

(c) The chair shall preside at all meetings of the Board and shall sign all official documents of the Board.

(d) In addition to the duties imposed by law, the secretary shall attend all meetings of the board; keep a full and complete record of the minutes of said meetings; notify the members of the board of the time and place fixed for meetings of the board; maintain the records pertaining to licenses and this Part; countersign all licenses and certificates of registration and official certification of approval and certification issued by the board.

(e) The secretary shall conduct all correspondence for the board, shall issue all notices of meetings and hearings, shall have custody of all books, records and property of the board and shall perform all duties pertaining to the office of the secretary.

96.4 Licenses and registrations. (a) An applicant for a license as a nursing home administrator who has met the qualifications prescribed by article 28-D of the Public Health Law and this Part and who has passed the examination required by such article shall be issued a license by the Board certifying that such applicant has met

the requirements of the law and rules and regulations entitling him or her to serve, act, practice and otherwise hold himself or herself as a duly licensed nursing home administrator.

(b) Commencing January 1, 1972 and biennially thereafter, every licensee shall register with the board. Every licensee issued a license during a biennial registration period shall register with the board within 30 days following the issuing date of the license. The application for registration shall contain such information as may be specified by the board or commissioner, including name, address, age, practice status, employer, and continuing education training taken. The commissioner shall issue a certificate of registration to those persons possessing a valid license and who meet the requirements of article 28-D of the Public Health Law.

(c) The department shall issue a biennial registration card to each duly licensed nursing administrator upon the submission of a complete and accurate application for registration in a form and manner determined by the Board.

(d) Every person entitled to engage in the practice of nursing home administration in the State shall permanently display in his or her principal place of employment his or her license to practice nursing home administration and shall have his or her current biennial registration card readily available while engaged in the practice of nursing home administration.

(e) The current biennial registration card must be exhibited when requested by any of the following:

(1) An officer or employee of the department, county or city health department, or other governmental agency engaged in the administration or enforcement of the Public Health Law, the Sanitary Code, the New York City Health Code or other laws, and rules and regulations pertaining to nursing homes or,

(2) an employer in whose employ the licensee practices or intends to practice nursing home administration.

96.5 Admission to the examination. (a) An applicant shall be determined qualified and eligible to take the examination for licensing as a nursing home administrator when the applicant has successfully documented to the Board that he or she has met or exceeded the age, moral character and suitability, education including courses of study, and experience qualifications for licensure as established by the Board.

(b) An applicant for examination who does not qualify shall be given written notification by the Board of his or her lack of qualification and the reasons therefor. Within 30 days of the mailing of such notification, the applicant may petition the Board in writing for a review of his or her application.

(c) A candidate for licensure who does not receive a passing grade on his or her licensing examination within five years of notification by the Board of his/her eligibility to sit for the examination shall be required to reapply and requalify under the then current laws and rules and regulations. The candidate shall be permitted to take the licensing examination no more than three times during the five-year period of eligibility.

96.6 Grading of examination. (a) Every candidate for a nursing home administrator license shall be required to pass an examination, as determined by the Board, for such license with a minimum grade determined by the Board.

(b) The Board shall determine the method of grading and shall apply the method uniformly to all candidates taking that examination.

(c) The Board shall not disclose the percentage ratings of candidates by individual identity to any of its officers or employees responsible for determining the final grading of an examination until such determination has been made.

96.7 Petition for admission to examination. (a) Prior to submission of a petition under subdivision 2 of section 2896-c of Article 28-D of the Public Health Law, an applicant shall be required to have been denied admission to examination after formal application under section 2896-c.

(b) The Board may decline to entertain such petition on the basis of a finding that the applicant, either

(1) fails to meet the requirements of paragraphs (a) or (b) of subdivision 1 of section 2896-c of article 28-D of the Public Health Law; or

(2) has practiced in violation of or otherwise has violated any provision of article 28-D of the Public Health Law.

(c) The Board, in the review of a petition, shall consider among other factors:

(1) the length and quality of the petitioner's training and experience in his or her field;

(2) the extent of the petitioner's administrative and supervisory duties in his or her relevant employment;

(3) the extent to which the petitioner has taken refresher or advanced course-work or otherwise evidenced a continuous effort to maintain or improve his or her technical skill; and

(4) the professional reputation of the petitioner as evidenced by books and articles published, offices held in professional organizations, and professional honors received.

(d) The petitioner shall complete such forms, prepare such affidavits, and obtain such documents in support of his or her petition as the Board deems necessary. The Board may require the petitioner to appear personally before the board or a committee thereof.

(e) Immediately upon the granting of a petition for admission to examination and the payment of the prescribed fee, a petitioner shall be subject to all of the provisions pertaining to an applicant contained in article 28-D of the Public Health Law.

## 96.8 Courses of study; standards for approval.

(a) The applicant shall provide official documentation acceptable to the Board of successful completion of a Baccalaureate or higher level degree from an accredited educational institution acceptable to the Board including, or supplemented by, a Board approved Administrator-In-Training (AIT) Program of at least 12 months full-time experience based upon the standard definition of full-time utilized in the facility but not less than 1820 clock hours duration and at least 15 credit hours of required course work acceptable to the Board, completed at an accredited post-secondary educational institution in the following five areas:

(1) Nursing home facility administration (at least three (3) semester credit-hours) at the course level equivalent to 300 or higher, and

(2) Health care financial management (at least three (3) semester credit-hours) at the course level equivalent to 300 or higher, and

(3) Legal issues in health care (at least three (3) semester credit-hours), and

(4) Gerontology (at least three (3) semester credit-hours), and

(5) Personnel management (at least three (3) semester credit-hours).

(b) The applicant also shall provide official documentation acceptable to the Board of the successful completion of a structured internship conducted in a qualifying nursing home that meets the following requirements:

(1) The internship program is Board approved and is completed in a training site that has a valid operating certificate issued by the New York State Department of Health and shall be under the full-time supervision of a New York State licensed and currently registered nursing home administrator.

(i) The training site shall have at least 80 beds that are certified to participate in the Title XVIII (Medicare) and Title XIX (Medicaid) programs and meet the definition of a nursing home under Public Health Law Article 28;

(ii) The nursing home shall have an acceptable surveillance history for the previous two years and have no formal enforcement action pending or in progress against it.

(iii) The applicant shall have no financial interest in the training site or be related to any person that has a financial interest in the training site.

(iv) The applicant may complete his or her internship at a facility where the applicant is employed. In such case, payment of salary or wages by the facility to the employed applicant is not prohibited.

(2) The internship is conducted under the direct supervision of a preceptor who is the AOR of the nursing home;

(i) The preceptor shall have held a New York State nursing home administrator license for at least two years and shall hold a current registration certificate.

(ii) The preceptor shall have had at least three years of full-time experience as the AOR of a nursing home during the last five years, including at least one year in a New York State nursing home eligible for approval as a training site.

(iii) The preceptor shall not have had his or her nursing home administrator license annulled, suspended, revoked, surrendered or forfeited, nor shall the preceptor have otherwise been disciplined by the Board or have any formal disciplinary action pending or in progress against him or her.

(iv) The preceptor shall not be related to the applicant.

(3) The approval of the internship shall be withdrawn if the preceptor relinquishes his or her AOR responsibilities at the training site.

(4) The internship must have been completed within the previous ten (10) years prior to the applicant's eligibility to take the licensure examination; and

(5) The applicant can not accept an appointment as Acting Administrator of any nursing home (residential health care facility) pursuant to 10 NYCRR 415.26(a)(3) during the period inclusively falling within the dates of the internship. The acceptance of such an appointment will result in the disqualification of the internship; and

(6) The internship meets or exceeds the requirements and guidelines for the Administrator in Training (AIT) Program established and adopted by the Board.

(i) The preceptor shall submit the internship to the Board for review and approval in the manner and format specified by the Board.

(ii) The internship must be approved by the Board prior to commencement unless the internship was completed as part of a degree program where the applicant was awarded such degree. In such case, it is the responsibility of the applicant to provide the Board with all required documentation and information pertaining to the completed internship necessary to conduct the review of the degree program internship.

(7) The applicant may, at the discretion of the Board, substitute the internship with two (2) years of verified full-time qualifying field experience in a licensed nursing home.

#### 96.9 Approved courses of study; registration.

(a) The Board shall establish an acceptable course content outline for each of the five required courses specified in Section 96.8 of this part identifying the minimum subject areas and topics required to provide the applicant with the knowledge and skills necessary to serve as a nursing home administrator.

(b) The content outlines shall be made available to accredited academic institutions

seeking prior approval by the Board of their course(s) for the purpose of licensure.

(c) Academic institutions seeking prior approval of their course(s) shall follow the requirements set forth in Section 96.10 of this Part.

(d) The Board shall maintain a listing, available upon request, of approved courses offered by accredited academic institutions in each of the five subject areas, as such courses are approved by the Board.

(e) Applicants may submit course materials for review by the Board if the course does not have such prior approval. Courses approved in this manner shall be added to the listing of approved courses.

96.10 Training agencies; administration, organization and faculty. (a) An accredited academic institution applying for approval of the course of study, degree program or course work in nursing home administration shall apply all data necessary for a complete evaluation of the administration, organization, faculty, physical facilities, student policies, curriculum and instruction and such other information and records as the Board may require which pertain to the course of study, degree program or course work.

(b) The Board shall be notified promptly of any proposed substantial changes in the approved degree program, course work or course of study, including on-line or correspondence courses, to obtain continued approval by the board.

(c) A site inspection of an academic institution or training agency or its affiliate may be made by an officer of the Board or a representative acceptable to the Board.

96.11 Continuation on education requirements.

(a) In order to qualify for registration for each biennial registration period beginning on or after January 1, 2008, a licensed nursing home administrator shall attain 48 clock hours of continuation or continuing education credit acceptable to the Board,

which shall be attained during the two-year period immediately preceding the registration period or, attained during the preceding two-year period prior to the registration effective date, if registration is requested during an ongoing registration period.

(b) The licensed nursing home administrator is responsible for participating in continuation education programs acceptable to the Board and maintaining records of programs attended for at least two-years past the end of the subsequent registration period.

(c) The licensed nursing home administrator shall provide documentation, in the form and manner established by the Board, of the acceptable continuation education attended during each biennial registration period during the two-year period immediately preceding the registration period or the effective registration date, if registration is requested during an ongoing registration period.

#### 96.12 Applicants holding an out-of-state nursing home administrators license.

(a) An individual holding a valid and current nursing home administrator license from another state seeking a New York State nursing home administrator license must submit a complete licensure application and pay all applicable fees.

(b) The applicant must disclose all nursing home administrator and other professional licenses or comparable authorization granted or issued by any and all states, territories, possessions or foreign governments regardless of the status of such license(s).

(c) To obtain a New York State nursing home administrator license the applicant must demonstrate to the Board that the applicant:

(i) is 21 years old or older;

(ii) is of good moral character and suitability;

(iii) is in receipt of a Baccalaureate or higher level degree from an accredited educational institution. The accrediting body must be recognized by the NYS Department of Education and acceptable to the Board. Official sealed school transcripts must be received by the Board directly from the educational institution;

(iv) has performed successfully on the national nursing home administrator examination by passing this examination within three (3) attempts in any five (5) year period.

(v) has submitted satisfactory documentation that any and all other nursing home administrator licenses or comparable authorization granted to the applicant by other states, territories, possessions or foreign governments have not been suspended, revoked or otherwise restricted for any reason. Such documentation must be received by the Board directly from the licensing or authorizing agency. The Board retains the right and authority to review and assess the magnitude of any such discipline and solely determine the eligibility of the applicant for licensure; and

(vi) has submitted satisfactory verification from the applicant's employer(s) that the applicant has full-time (at least 35 hours per week) experience of at least two (2) years in the preceding five (5) years prior to submission of application, as the AOR in an out-of-state nursing home operated in full compliance with applicable state and federal Title 18 and 19 laws, rules and regulations.

(d) The Board retains the right and authority to review and assess the submitted application and documentation including the magnitude of any such discipline and solely determine the applicant's eligibility for licensure.

#### 96.13 Notification of change of address or employment.

A duly licensed and currently registered nursing home administrator shall notify the Board of any change of his or her title, place of employment, home address or home telephone number within 10 days of such change.