

PRELIMINARY DETERMINATION NOTICE OF INTENDED REGULATORY ACTION

DEPARTMENT OF HEALTH PROFESSIONS BOARD OF NURSING HOME ADMINISTRATORS 18 VAC 95-20-10 et seq.

ITEM 1: SPECIFIC REASON FOR PROPOSED REGULATION

At the 1998 Session of the General Assembly, legislation (SB 516) was introduced at the request of the Department of Health Professions to authorize all health regulatory boards to issue inactive licenses. The Board of Nursing Home Administrators requests permission to publish a Notice of Intended Regulatory Action to make inactive licensure available to its licensees in order to relieve retirees from the burden of taking continuing education courses in order to maintain licensure in the Commonwealth.

ITEM 2: LEGAL AUTHORITY THE REGULATION

18 VAC 95-20-10 et seq.: Regulations for the Board of Nursing Home Administrators was promulgated under the general authority of Title 54.1, Chapter 24 of the Code of Virginia.

Chapter 24 establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations in accordance with the Administrative Process Act which are reasonable and necessary to effectively administer the regulatory system and the authority to issue inactive licenses.

§ 54.1-2400. General powers and duties of health regulatory boards.--The general powers and duties of health regulatory boards shall be:

- 1. To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
- 2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
- 3. To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- 4. To establish schedules for renewals of registration, certification and licensure.*
- 5. To levy and collect fees for application processing, examination, registration, certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*
- 6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title.*
- 7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate or license which such board has authority to issue for causes enumerated in applicable law and regulations.*

8. To appoint designees from their membership or immediate staff to coordinate with the Intervention Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.) of this title. Each health regulatory board shall appoint one such designee.
9. To take appropriate disciplinary action for violations of applicable law and regulations.
10. To appoint a special conference committee, composed of not less than two members of a health regulatory board, to act in accordance with § 9-6.14:11 upon receipt of information that a practitioner of the appropriate board may be subject to disciplinary action. The special conference committee may (i) exonerate the practitioner; (ii) reinstate the practitioner; (iii) place the practitioner on probation with such terms as it may deem appropriate; (iv) reprimand the practitioner; (v) modify a previous order; and (vi) impose a monetary penalty pursuant to § 54.1-2401. The order of the special conference committee shall become final thirty days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the thirty-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 9-6.14:12, and the action of the committee shall be vacated. This subdivision shall not be construed to affect the authority or procedures of the Boards of Medicine and Nursing pursuant to §§ 54.1-2919 and 54.1-3010.
11. To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 9-6.14:12, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 9-6.14:11 shall serve on a panel conducting formal proceedings pursuant to § 9-6.14:12 to consider the same matter.
12. To issue inactive licenses or certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of such licenses or certificates.

ITEM 3: REASONING FOR THE CONTEMPLATED REGULATION

The regulations of the Board of Nursing Home Administrators require completion of 20 classroom hours of approved **continuing education** for each renewal year. In its recent review and promulgation of amended regulations, the Board has eased the burden of obtaining continuing education hours by allowing the practitioner to carry over up to excess 10 hours of continuing education to the next renewal year and by allowing a newly licensed person to be exempt from CE requirements for his first renewal.

The Board also amended the current regulation which requires each course to have Board approval. In the amended regulation, the Board has pre-approved through regulation any course related to health care administration and approved by the National Association of Boards of Examiners of Nursing Home Administrators or by an accredited institution. That will make it easier for practitioners to know in advance whether a CE course will be approved and will eliminate the need for providers to submit to the Board voluminous information on each course.

For some practitioners who are now retired or are practicing out of state but who wish to retain their Virginia license, the necessity of acquiring CE results in an unnecessary burden and expense. The Department sought legislation which was included in the Governor's legislative package for the 1998 General Assembly to authorize the establishment of an inactive license. Now that the Board has statutory authority to issue such a license, it would like to allow licensees to have that option.

ITEM 4: ALTERNATIVES CONSIDERED

In the development of proposed regulations, the Board will consider any comments received on the Notice of Intended Regulatory Action and requirements of other boards which currently have continuing education requirements and inactive licensure. It is the intention of the Board to set reasonable standards for remediation to enable the inactive licensee to return to practice in the Commonwealth but to ensure that he is also qualified to begin practice again.

Such standards may include continuing practice as a nursing home administrator in another state, hours of continuing education, or a period of re-education as an administrator-in-training under the supervision of a licensed nursing home administrator.

The Board will also consider the amount to be charged for renewal of an inactive license. Since there is no disciplinary or regulatory action required for persons who are not in active practice, that amount will be less than the annual renewal fee, which is currently \$125.

ITEM 5: EFFECT ON FAMILY FORMATION, STABILITY, AND AUTONOMY

The Board is unable to determine any effect of its intended regulatory action on family formation, stability, and autonomy.