

**PROPOSED REGULATION OF THE NEVADA STATE
BOARD OF EXAMINERS FOR ADMINISTRATORS
OF FACILITIES FOR LONG-TERM CARE**

LCB File No. R171-01

January 24, 2002

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§ 1 and 2, 654.150 and 654.170; §§ 3 and 4, NRS 654.110, 654.155 and 654.170; § 5, NRS 654.110 and 654.180; § 6, NRS 654.110 and 654.180; §§ 7-11, NRS 654.110.

Section 1. NAC 654.112 is hereby amended to read as follows:

654.112 1. A nursing facility administrator may renew his license by submitting to the board ~~an~~ :

(a) *An* application for the renewal of the license ~~[-, a]~~ ;

(b) *A* renewal fee of \$250 ~~and evidence~~ ;

(c) *Evidence* satisfactory to the board that during the ~~period~~ *2 years* immediately preceding the application for renewal, he has ~~attended a~~ *completed the requirements for* continuing education ~~program or course of study as provided~~ *set forth* in *subsection 2 of* NAC 654.130 ~~[-]~~ ; *and*

(d) *A complete set of fingerprints and written permission authorizing the board or its designee to forward the fingerprints to the central repository for Nevada records of criminal history for submission to the Federal Bureau of Investigation for its report, unless the licensee has submitted his fingerprints to the board during the 4 years immediately preceding his application for renewal.*

2. Only a person who has qualified as a licensed nursing facility administrator and who holds a license for the current licensing period may use the title “Nursing Facility Administrator,” and may use the abbreviation “N.F.A.” after his name. No other person may use or be designated by such a title or abbreviation or any other words, letters, sign, card or device tending to or intended to indicate that the person is a licensed nursing facility administrator.

Sec. 2. NAC 654.130 is hereby amended to read as follows:

654.130 1. A program of study to train and qualify applicants for a license as nursing facility administrators offered by any accredited university or college is acceptable and approved for such a purpose.

2. Except as otherwise provided in NAC 654.169, to renew his license, a licensee must have completed 30 hours in the 2 years immediately preceding the date for renewal of his license in a program of study for continuing education or 30 continuing education units in a program accredited pursuant to subsection ~~4,~~ 5, or a combination of both.

3. A program of study for continuing education must be approved by ~~the~~ *the board. A program of study is deemed approved by the board if the program is offered by:*

- (a) The board;
- (b) The American Hospital Association;
- (c) The Nevada Geriatric Education Center;
- (d) The University and Community College System of Nevada;
- (e) Any agency of the State of Nevada;
- (f) The American Nurses Association; or
- (g) The National Association of Boards of Examiners for ~~Long-Term~~ *Long Term* Care Administrators ~~.~~

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unless the board determines that the content of the program is not relevant to the administration, supervision and management of a nursing facility or that the program does not grant a number of educational credits that corresponds to the number of classroom hours that the program requires.

4. Subject to the approval of the board, not more than a total of 10 hours may be obtained by:

(a) Having an article published in a publication concerned with health care, with 10 hours allowed for each published article containing at least 1,500 words;

(b) Having an article published in a publication concerned with health care, with 1 hour allowed for each hour spent writing the article; or

(c) Presenting a paper at a meeting of an organization concerned with long-term care, with 1 hour allowed for each hour spent presenting the paper.

~~4.1~~ 5. The board will accredit programs for continuing education units to organizations, groups or persons sponsoring educational programs which meet certain criteria as the board may prescribe. Special forms for requesting approval must be used and are available from the office of the board. Topics for programs for continuing education units may include, without limitation:

(a) The administration of nursing facilities;

(b) The clinical management of nursing facilities;

(c) The human resource management of nursing facilities;

(d) The financial management of nursing facilities;

(e) Environmental services; and

(f) Psychosocial care.

Sec. 3. NAC 654.152 is hereby amended to read as follows:

654.152 1. The fee for an application for a license as an administrator of a residential facility for groups is \$150. The fee accompanying the application is not refundable upon the withdrawal of an application.

2. Except as otherwise provided in NAC 654.169, a licensee may renew his license ~~if he pays a~~ *by submitting to the board:*

(a) An application for the renewal of his license;

(b) A renewal fee of \$250 ~~and submits evidence~~;

(c) A complete set of fingerprints and written permission authorizing the board or its designee to forward the fingerprints to the central repository for Nevada records of criminal history for submission to the Federal Bureau of Investigation for its report, unless the licensee has submitted his fingerprints to the board during the 4 years immediately preceding his application for renewal; and

(d) Evidence satisfactory to the board that he has completed 16 hours of continuing education or has completed 16 continuing education units in a program accredited pursuant to subsection ~~[3,]~~ *4*, or a combination of both, in the ~~preceding~~ 2 years ~~;~~ *immediately preceding his application for renewal.*

3. A *program of study for* continuing education ~~program~~ must be approved by ~~;~~ *the board. Such a program of study is deemed approved by the board if the program is offered by:*

(a) The board;

(b) The American Hospital Association;

(c) The Nevada Geriatric Education Center;

(d) The University and Community College System of Nevada;

- (e) Any agency of the State of Nevada;
- (f) The American Nurses Association; or
- (g) The National Association of Boards of Examiners for ~~[Long-Term]~~ *Long Term* Care

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unless the board determines that the content of the program is not relevant to the administration, supervision and management of a residential facility for groups or that the program does not grant a number of educational credits that corresponds to the number of classroom hours that the program requires.

4. The board will accredit programs for continuing education units for organizations, groups or persons sponsoring educational programs which meet certain criteria as the board may prescribe. Special forms for requesting approval must be used and are available from the office of the board. Topics for programs for continuing education units may include, without limitation:

- (a) The administration of residential facilities for groups;
- (b) The clinical management of residential facilities for groups;
- (c) The human resource management of residential facilities for groups;
- (d) The financial management of residential facilities for groups;
- (e) Environmental services; and
- (f) Psychosocial care.

~~[4.]~~ 5. A person who wishes to receive credit for continuing education received in a program which has not been approved pursuant to subsection ~~[2]~~ 3 or accredited pursuant to subsection ~~[3]~~ 4 must submit a request for accreditation of continuing education units to the

board before the board will award credit for the continuing education. A request made pursuant to this subsection must be submitted on a special form available from the office of the board.

Sec. 4. NAC 654.155 is hereby amended to read as follows:

654.155 In addition to the requirements of NRS 654.155 and 654.180, an applicant for a license as an administrator of a residential facility for groups must:

1. Possess a high school diploma, general equivalency diploma or degree from an accredited institution of higher learning;
2. Pass a written examination concerning the statutes and regulations relating to residential group care and any other standards of care which apply to operators of residential facilities;
3. Provide a statement to the board indicating that to the best of his knowledge he is of good health and free from contagious disease;
4. Indicate whether he suffers from any mental impairment that would affect his ability to perform the duties of an administrator of a residential facility for groups;
5. Provide proof that he is able to communicate adequately in the English language both verbally and in writing;
6. Indicate whether he has been investigated for misconduct or had a license or certificate revoked, modified, limited or suspended, or whether any other disciplinary action or proceeding has been instituted against him by any authority in any state;
7. Provide a statement to the board indicating whether he has ever been convicted of a felony or any offense involving moral turpitude; and
8. Have:

(a) At least 2 years of experience in residential caregiving or as an administrator of a residential facility for groups within the 6-year period immediately preceding the date he submits his application; or

(b) Completed 40 hours of study or training approved by the board that includes at least one of the topics set forth in subsection ~~{3}~~ 4 of NAC 654.152.

Sec. 5. NAC 654.157 is hereby amended to read as follows:

654.157 **1.** An applicant who wishes to obtain a license as an administrator of a residential facility for groups without taking the examination required by NRS 654.155 must submit evidence satisfactory to the board that:

~~{1}~~ (a) He is licensed as an administrator of a residential facility for groups in a state that requires a person to pass ~~{an}~~ *the national* examination *administered by the National Association of Boards of Examiners of Long Term Care Administrators* to obtain such a license;

~~{2}~~ (b) His license in that state is in good standing; and

~~{3}~~ (c) He has complied with all other requirements for licensure as an administrator of a residential facility for groups set forth in this chapter and chapter 654 of NRS.

2. *An applicant who wishes to be licensed pursuant to this section will be denied licensure if he has a record of any disciplinary action taken against him for activities that the board finds to be contrary to the qualifications for a licensee that is listed on a federal, state or private registry or databank, including, without limitation, the Healthcare Integrity and Protection Data Bank maintained by the Health Resources and Services Administration of the United States Department of Health and Human Services.*

Sec. 6. NAC 654.168 is hereby amended to read as follows:

654.168 1. An application for a license as a nursing facility administrator or an administrator of a residential facility for groups must be complete with all required documentation not less than 30 days before the date of the examination for licensure. The board will notify the applicant of the time and place of the examination at least 10 days before the examination.

2. The board may issue a provisional license to an applicant *for good cause shown and* if the applicant has submitted to take the examination. Except as otherwise provided in subsection 3, the provisional license expires 90 days after the date it is issued and is renewable at the discretion of the board.

3. If the applicant fails the examination or does not submit a complete application within 90 days:

(a) The provisional license automatically expires; and

(b) The applicant must reapply for a license and pay the required fee for licensure again to obtain a permanent license.

4. Upon the written request of a nursing facility administrator or an administrator of a residential facility for groups who is in good standing, the board will transfer the status of his license to inactive for a time not to exceed 2 years. A licensee whose license is on inactive status shall pay a fee of \$50 per year. Upon written request and approval by the board, a licensee whose license is on inactive status may transfer his license to active status if the licensee meets the requirements of continuing education and pays the fees for an active license.

Sec. 7. NAC 654.190 is hereby amended to read as follows:

654.190 Each person licensed as a nursing facility administrator or an administrator of a residential facility for groups shall display his *original* license and certificate of registration in a conspicuous place in his office or place of business or employment.

Sec. 8. NAC 654.210 is hereby amended to read as follows:

654.210 In addition to the reasons set forth in NRS 654.190, *the board may bring disciplinary action against a licensee or deny the issuance of or refuse to renew a license as* a nursing facility administrator or an administrator of a residential facility for groups ~~is subject to disciplinary action~~ if, after notice and hearing, the board finds that the ~~administrator:~~ *applicant or licensee:*

1. Is guilty of fraud or deceit in procuring or attempting to procure a license pursuant to this chapter.
2. Is guilty of unprofessional conduct, including, ~~but not limited to:~~ *without limitation:*
 - (a) Providing services to a patient or resident which the *applicant or* licensee is not capable of providing with reasonable skill and safety because of his use of alcohol or drugs, or because of lack of adequate training, skill or knowledge;
 - (b) Gross or repeated negligence in providing services;
 - (c) Willful noncompliance with any order of the board or any other enforcement authority;
 - (d) Conviction for violation of any federal or state law or regulation governing the prescription, possession, distribution or use of a controlled substance;
 - (e) Failure to notify the board of the loss of a license issued by the bureau of licensure and certification of the health division of the department of human resources;
 - (f) Paying or giving, or causing to be paid or given, a commission or other valuable consideration for the solicitation or procurement of a patient or resident if the source and amount

of the commission was not fully disclosed, both verbally and in writing, to the patient or resident, his family or his agent;

(g) Referring a patient or resident to a facility in which the *applicant or* licensee is employed or otherwise has an interest if the employment or interest was not disclosed, both verbally and in writing, to the patient or resident, his family or his agent by the *applicant or* licensee or his representative;

(h) Engaging in fraudulent, misleading or deceptive advertising;

(i) Receiving a conviction [X] in any jurisdiction [X] for a felony or *for any* other offense involving moral turpitude, ~~[any]~~ *including, without limitation:*

(1) Murder, voluntary manslaughter or mayhem;

(2) Assault with intent to kill or to commit sexual assault or mayhem;

(3) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(4) Abuse or neglect of a child or contributory delinquency;

(5) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS, within the past 7 years;

(6) A violation of any provision of NRS 200.50955 or 200.5099;

(7) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property, within the immediately preceding 7 years;

(8) Any other felony involving the use of a firearm or other deadly weapon, within the immediately preceding 7 years;

(9) *Any* offense which is substantially related to the practice of an administrator ; or ~~any~~

(10) *Any* offense for driving under the influence of intoxicating liquor or a controlled substance;

(j) Failing to protect the privacy of a resident or patient;

(k) Violating the confidentiality of a resident or patient;

(l) Failing to maintain records as required by law;

(m) Falsifying or altering the records of a resident or patient;

(n) Failing to protect ~~the~~ a resident or patient from the incompetent, abusive or illegal practice of any person;

(o) Engaging in sexual contact with a resident or patient;

(p) Engaging in conduct which endangers the safety of the general public, patients, residents, clients or employees by making actual or implied threats of violence or carrying out such threats;

(q) Abusing ~~or~~, *exploiting, isolating or* neglecting a resident or patient ~~;~~ *as defined in NRS 200.5092;* or

(r) Willfully or repeatedly violating the provisions of this chapter.

3. Engaged in activities reported to the Healthcare Integrity and Protection Data Bank maintained by the Health Resources and Services Administration of the United States Department of Health and Human Services that the board determines are contrary to the qualifications of an applicant or licensee.

Sec. 9. NAC 654.220 is hereby amended to read as follows:

654.220 1. Any person who becomes aware that a person licensed pursuant to the provisions of chapter 654 of NRS is engaged in conduct which constitutes grounds for

disciplinary action may file a complaint with the board. The complaint must be in writing and signed by the complainant.

2. The board will permit the licensee to provide proof satisfactory to the board that he was not engaged in conduct which is grounds for disciplinary action.

3. A member of the board, or a committee appointed by the board to review cases, will review each complaint and conduct an investigation to determine whether there is a reasonable basis for the complaint. A member of the board who participated in the investigation may not participate in the decision whether to take further action on the complaint following the investigation and may not participate in any subsequent hearing or action by the board relating to the complaint.

4. If a member of the board, or a committee appointed by the board to review cases, decides to proceed with disciplinary action, ~~it will bring~~ *the board will:*

(a) *Bring* charges against the licensee ~~and set~~ ;

(b) *Set* a time and place for a formal hearing ~~[-The hearing must be conducted]~~ ;

(c) *Serve a copy of the complaint upon the licensee by personal service not less than 5 business days before the hearing or by certified mail not less than 21 business days before the hearing; and*

(d) *Conduct the hearing* in compliance with the provisions of chapter 233B of NRS.

5. If the board determines *by a preponderance of the evidence* that the licensee was engaged in conduct which is grounds for disciplinary action, it may order that the licensee:

(a) Be placed on probation for a specified time with conditions that the board considers appropriate.

(b) ~~Receive a private reprimand.~~

~~—(e)~~ Receive a public reprimand.

~~[(d)]~~ (c) Have restrictions placed on his practice, including, without limitation, prohibiting the licensee from transporting patients or residents by motor vehicle if the licensee has been convicted for any offense for driving under the influence of intoxicating liquor or a controlled substance.

~~[(e)]~~ (d) Receive a suspension for a specified time or until further order of the board.

~~[(f)]~~ (e) Have his license revoked.

~~[(g)]~~ (f) Participate in a substance abuse program.

~~[(h)]~~ (g) Pay an administrative fine of not more than \$2,500.

6. If the board determines that the licensee was not engaged in conduct which is grounds for disciplinary action, the board will dismiss the charges in writing and notify the licensee that the charges have been dismissed.

7. If discipline is imposed against a licensee pursuant to this section, the board will report the disciplinary action to the Healthcare Integrity and Protection Data Bank maintained by the Health Resources and Services Administration of the United States Department of Health and Human Services or its successor.

Sec. 10. NAC 654.230 is hereby amended to read as follows:

654.230 1. A nursing facility administrator or an administrator of a residential facility for groups whose license has been revoked may apply to the board for reinstatement of his license.

The board may reinstate his license if he ~~[(submits)]~~ *has:*

(a) *Submitted* evidence, satisfactory to the board, that he has removed the deficiency which led to the revocation of his license ~~[(H)]~~;

(b) *Applied for a license;*

(c) Successfully passed the examination for licensure; and

(d) Meets all the other requirements for licensure as a nursing facility administrator or an administrator of a residential facility for groups set forth in this chapter and chapter 654 of NRS.

2. After receipt of an application for reinstatement, the board ~~[may grant the applicant]~~ *will schedule* a formal hearing after *providing* notice ~~[-~~

~~—2.]~~ *to the applicant in accordance with the provisions of chapter 233B of NRS.*

3. If the conviction for which a licensee's license was revoked is reversed on appeal and the licensee is acquitted or discharged, his license becomes effective from the date of the acquittal or discharge.

Sec. 11. NAC 654.250 is hereby amended to read as follows:

654.250 1. Except as otherwise provided in subsection 6, a person licensed as a nursing facility administrator may not be the administrator of record of more than one nursing facility .
~~[at the same time for more than 90 days in a calendar year.]~~

2. Except as otherwise provided in subsections 3 and 6, a person licensed as an administrator of a residential facility for groups may be an administrator of record for not more than 150 beds located in not more than five residential facilities for groups.

3. Effective June 1, 1998, if a person licensed as an administrator of a residential facility for groups operates more than one residential facility for groups, the administrator must:

(a) Immediately notify the board that he is operating more than one residential facility for groups; and

(b) Obtain a secondary administrator's license for each additional residential facility for groups that he is operating by paying a fee of \$25 for each license.

4. The board will label each secondary administrator's license issued pursuant to subsection 3 as an "A," "B," "C" or "D" license.

5. An administrator of a residential facility for groups who obtains a secondary administrator's license pursuant to subsection 3 shall surrender and return each secondary administrator's license to the board upon:

(a) Relinquishing his responsibilities at the residential facility for groups for which the license was obtained; or

(b) The closure of the residential facility for groups for which the license was obtained.

6. Upon application to the board, a nursing facility administrator or an administrator of a residential facility for groups may, at the discretion of the board, receive a waiver for a specified period of time from the limitations imposed by this section.

7. As used in this section, "administrator of record" means the person named as the administrator of a nursing facility or a residential facility for groups on the license issued for the facility by the health division of the department of human resources.