Title 20. Public Health and Welfare

Chapter X. Office of Long-Term Care, Division of Provider Services and Quality Assurance, Department of Human Services

Subchapter A. Generally

Part 402. Rules for Licensing of Nursing Home Administrators in Arkansas

Subpart 1. Generally

20 CAR § 402-101. Definitions.

The following terms are defined for the purpose of this part:

(1)(A) "Nursing home" means a skilled nursing facility or a nursing facility (NF) which meets the requirements of Section 1819 or Section 1919 of the Social Security Act or meets state licensure requirements for a long-term care facility.

(B) A nursing home usually provides skilled nursing care, medical services, rehabilitation services, or health-related services, or both rehabilitation and health-related services, to frail elderly, injured, disabled, or sick persons who require such services on an extended or continuous basis;

(2) "Nursing home administrator" means a person who administers, manages, supervises, or is in general administrative charge of a nursing home whether such individual has an ownership interest in such home and whether their function and duties are shared with one (1) or more individuals; and

(3) "License" means a nursing home administrator's license issued to a qualified individual.

Subpart 2. Applicant's Qualifications

20 CAR § 402-201. Character.

(a) An applicant for licensure as a nursing home administrator shall abide by the Code of Ethics adopted by the American College of Health Care Administrators.

(b) The Division of Provider Services and Quality Assurance may deny an applicant if they fail to comply with this part or for any of the reasons listed under 20 CAR § 402-

310, disciplinary proceedings.

20 CAR § 402-202. Age.

An applicant for licensure as a nursing home administrator shall be at least twenty-one (21) years of age.

20 CAR § 402-203. Health.

(a) An applicant shall be physically and mentally capable of performing the full-time duties of an administrator of a nursing home (Arkansas Code § 20-10-403).

(b) If there are factors that indicate that an individual may not be capable of performing such duties, a physician's certification of health would be required.

20 CAR § 402-204. Education.

(a) A qualified applicant for licensure as a nursing home administrator shall possess the following education and experience in order to be eligible for testing:

(1) For an applicant who holds a baccalaureate degree (bachelor of science or bachelor of arts) or higher in health care administration (HCA) or long-term care administration (LTCA) with an internship in a nursing home: no additional experience required;

(2) For an applicant who holds a baccalaureate degree (bachelor of arts or bachelor of science) in HCA or LTCA without internship: three (3) months internship or experience in a nursing home is required;

(3) For an applicant who holds a baccalaureate degree (bachelor of arts or bachelor of science) or higher in nursing or business which included basic core requirements noted under subsection (b) of this section: three (3) months internship or experience in a nursing home is required;

(4) For an applicant who holds a baccalaureate degree (bachelor of arts or bachelor of science) or higher in other field which included basic core requirements noted under subsection (b) of this section: three (3) months internship or experience in a nursing home is required;

(5) For an applicant who holds an associate's degree in HCA or LTCA or a registered nurse with an associate's degree or diploma which included basic core requirements noted under subsection (b) of this section: six (6) months internship or experience in a nursing home is required; and

(6) For an applicant who holds an associate's degree in other field which included basic core requirements noted under subsection (b) of this section: one (1) year internship or experience in a nursing home is required.

(b)(1) A minimum of fifteen (15) equivalent semester hours must be satisfied in these basic core requirement areas (three (3) hours per topic):

(A) Accounting;

(B) Management;

(C) Personnel;

(D) Writing; and

(E) Resident care.

(2) Experience and continuing education credits will be accepted in lieu of education as follows:

(A) College or vocational courses (per credit hour or equivalent);

(B) Work experience (six (6) weeks of work experience equals one (1) credit hour);

(C) Credit by examination (CLEP) (credit received);

(D) Continuing education credits (ten (10) contact hours equals one (1) credit hour); or

(E) Any combination of the above.

20 CAR § 402-205. Administrator-in-Training Program qualifications.

Applicants who do not meet the educational and experience requirements noted in 20 CAR § 402-204 must meet the qualifications for and complete the requirements of the Administrator-in-Training Program as administered by the Department of Human Services.

20 CAR § 402-206. Equivalent qualifications.

(a) An administrator who holds a current active license on the effective date of this part shall be deemed to have met qualifications equivalent to those required for new applicants for licensure.

(b) An administrator who holds an inactive license on the effective date of this part must either:

(1) Activate their license by July 2, 1998; or

(2)(A) Meet the qualifications required for new applicants for licensure at the time that active status is desired.

(B) Reexamination would not be required.

(c) Applicants who are approved for testing prior to the effective date of this part shall be deemed to have met qualifications equivalent to those for new applicants for licensure.

Subpart 3. Licensure

20 CAR § 402-301. Licensure requirement.

(a) No person shall administer, manage, supervise, or be in general administrative charge of a nursing home unless they are a licensed nursing home administrator in active status.

(b) No nursing home within the state shall operate except under the supervision of a licensed administrator.

(c) No administrator shall manage more than one (1) nursing home.

20 CAR § 402-302. Application for licensure.

(a)(1) Applicants for licensure shall:

(A) File applications under oath with the Department of Human Services, upon forms prescribed by the department; and

(B) Pay the required licensure fee, as outlined in Arkansas Code § 20-10-404.

(2) The application and fee shall be mailed to the department at the address provided by the department or through the means provided by the department.

(3)(A) The application must be accompanied by the applicant's criminal background check results.

(B) The applicant's criminal background check must be completed by the Division of Arkansas State Police.

(C) The applicant is responsible for all costs related to obtaining the criminal background check results.

(4) If the application is approved, the applicant has eighteen (18) months from the date of approval to become licensed.

(5) Half of the licensure fee shall be refunded to the applicant if the department denies licensure because:

(A) The application is not approved;

(B) The applicant does not pass the exams; or

(C) Any other reason deemed appropriate by the department.

(b) Pursuant to Arkansas Code § 17-5-104, individuals may be granted a licensing fee waiver if they:

(1) Have been receiving assistance through the:

(A) Arkansas Medicaid Program;

(B) Supplemental Nutrition Assistance Program;

(C) Special Supplemental Nutrition Program for Women, Infants, and Children;

(D) Temporary Assistance for Needy Families Program; or

(E) Lifeline Assistance Program;

(2) Were approved for unemployment within the last twelve (12) months; or

(3) Have an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.

(c) The waiver of the initial fee does not include fees for:

(1) A criminal background check;

(2) An examination or a test; or

(3) A medical or drug test.

(d) A signed consent form from the applicant may be required for verification of eligibility.

(e) Administrator applicants must submit proof of completing the Administrator-in-Training Program that is approved by the department with their application.

20 CAR § 402-303. Licensure for military personnel, veterans, and their spouses.

(a) Pursuant to Arkansas Code § 17-4-101 et seq., this section applies to licensure for uniformed service members, uniformed service veterans, and their spouses as defined below:

(1) A uniformed service member stationed in the State of Arkansas;

(2) A uniformed service veteran who resides in or establishes residency in the State of Arkansas; and

(3) The spouse of:

(A) A uniformed service member stationed in the State of Arkansas;

(B) A uniformed service veteran who resides in or establishes residency in the State of Arkansas;

(C) A uniformed service member who is assigned a tour of duty that excludes the uniformed service member's spouse from accompanying the uniformed service member, and the spouse relocates to this state; and

(D) A uniformed service member who is killed or succumbs to their injuries or illness in the line of duty if the spouse establishes residency in the state.

(b)(1)(A) Automatic nursing home administrator (NHA) licensure will be provided to current license holders to expedite their entry into the workforce of this state by means of reciprocity.

(B) Reciprocity may be granted without further training or testing.

(2) The process of reciprocity includes the following:

(A) Completion of an application prescribed by the Department of Human Services with all required forms;

(B) Submission of DD214/DD 214 separation document;

(C) Submission of DMS-7790, Application for Nursing Home Administrators;

(D) Submission of an image or copy of individual's Social Security card;

(E) Submission of an image or copy of valid United States Government-issued photo identification; and

(F) Proof of service education, training, experience, and service-issued credentials by means of a joint service transcript.

(c) Reciprocity is granted to those who meet the following criteria:

(1) Completion of a training and competency evaluation program to become registered as an NHA in another state, territory, or district of the United States that meets federal guidelines; and

(2) A holder in good standing with NHA licensure within a similar scope of practice by another state, territory, or district of the United States.

(d) **Temporary or provisional certified NHA licensure.**

(1) A temporary or provisional NHA license will be granted to a uniformed service member or uniformed service veteran or their spouse while expediting full licensure.

(2) The department will take into consideration the education, training, national certification, experience, and service-issued credentials of uniformed service members and uniformed service veterans or their spouse that are applying for initial NHA licensure.

20 CAR § 402-304. Extension of license expiration and continuing education requirements for military personnel and their spouses.

(a) The Department of Human Services will extend the expiration date and any continuing education requirements for nursing home administrator (NHA) licensure renewal for a deployed uniformed service member or their spouse as follows:

(1) An extension of the expiration date of an NHA license for one hundred eighty (180) days following the date of the uniformed service member's return from

deployment; or

(2) An extension from continuing education requirements for one hundred eighty (180) days following the date of the uniformed service member's return from deployment.

(b) The department may require evidence of completion of continuing education before granting a subsequent NHA licensure or authorizing the renewal of an NHA licensure to allow full or partial exemption from continuing education requirements.

(c)(1) Uniformed service members, veterans, and their spouses who successfully meet the criteria and standards within this provision shall be placed on the NHA registry and issued a state certificate.

(2) Information regarding military member licensure can be found on the Department of Human Services – Division of Provider Services and Quality Assurance – Office of Long Term Care – Nursing Home Administrator – Occupational Licensing website.

20 CAR § 402-305. Automatic occupational licensure of out-of-state individuals.

(a) Pursuant to the Automatic Occupational Licensure for Out-of-State Licensure Act, Arkansas Code § 17-7-101 et seq., a nursing home administrator from another state may qualify as a nursing home administrator in Arkansas if they meet the following criteria and provide documentation that reflects:

(1) They do not have a disqualifying criminal offense under Arkansas Code § 17-3-102 or any additional state law relating to the occupational licensure;

(2) They do not have a complaint, allegation, or investigation pending for their occupational activity; and

(3) They are in good standing for one (1) year of an occupational licensure of similar scope of practice issued by another state, territory, or district of the United States, or they have worked:

(A) In another state, territory, or district of the United States that does not use an occupational licensure to regulate an occupation or profession but is

regulated by occupational licensure in this state; and

(B) At least three (3) years in the occupation.

(b) An individual who is granted automatic occupational licensure under this section shall meet all other occupational licensure requirements for a resident of this state and all renewal requirements of the occupational licensure, including without limitation a criminal background check and continuing education hours.

(c) The Department of Human Services may require an applicant to pass an examination.

(d) The department shall require an applicant to furnish a bond, financial statement, or proof of insurance coverage if required by state law.

20 CAR § 402-306. Examination for licensure.

(a) All initial applicants for nursing home administrator licensure must pass a two-part written examination which shall be so designed and administered as to prove competence in nursing home administration.

(b)(1) An applicant will be tested as to their knowledge of the current Domains of Practice as published by the National Association of Boards of Examiners of Long-Term Care Administrators through the use of a national examination approved by the Office of Long-Term Care.

(2) A scaled score of one hundred thirteen (113) will be required to pass the national examination.

(c)(1) An applicant will also be tested on their knowledge of Arkansas rules for the operation of nursing homes through the use of an examination developed by the office.

(2) A score of seventy (70) will be required to pass the state examination.

(d)(1) If an applicant is unsuccessful on either or both such examinations, they will be entitled to be reexamined one (1) additional time at their expense for such additional examination.

(2) After two (2) such successive failures, an applicant must:

(A) Complete an approved training course in an area proven by test scores to be deficient;

(B) Be suspended for six (6) months; and

(C) Reapply before reexamination.

20 CAR § 402-307. Continuing education and training.

(a)(1) During each licensure year, active licensed administrators must:

(A) Participate in twenty (20) clock hours of continuing education at approved workshops;

(B) Complete six (6) semester hours at an accredited college or university in courses covered by the National Association of Boards of Examiners Domains of Practice; or

(C) Complete an approved course in nursing home administration as a prerequisite for annual license renewal.

(2) Continuing education hours must be applied to the licensure year in which they were obtained and cannot be carried over to the following year.

(b) Workshops and seminars are approved by the Division of Provider Services and Quality Assurance based on criteria established by the National Continuing Education Review Service and the National Association of Boards of Examiners of Long-Term Care Administrators.

(c)(1) An administrator initially licensed after July 2 will not be required to complete continuing education hours to renew their license during the renewal period immediately following.

(2) Time spent preparing for the examinations will satisfy the education requirements.

20 CAR § 402-308. Licensure renewal.

(a)(1) All nursing home administrator licenses expire on July 1 and shall be renewable only by the submission of a renewal application and appropriate fees.

(2) Active licensees who seek to continue in active status shall pay the active license fee and submit verification of compliance with continuing education requirements.

(3) Active licensees who seek to change to inactive status shall pay the inactive license fee and submit verification of compliance with continuing education requirements.

(4) Inactive licensees who seek to remain in inactive status shall pay the inactive license fee (see 20 CAR § 402-309, inactive administrators).

(5) Inactive licensees who seek to change to active status must contact the Office of Long-Term Care individually for guidance (see 20 CAR § 402-309, inactive administrators).

(b)(1)(A) Applications for annual license renewal shall be postmarked no later than July 1.

(B) Should the renewal be postmarked July 2 or later, the licensee must pay a designated late charge.

(C) Any license not renewed on or before September 1 shall expire effective September 2.

(2) The forms are located at the Department of Human Services – Division of Provider Services and Quality Assurance – Office of Long Term Care – Nursing Home Administrator – Occupational Licensing website.

(3) **Note.** Should either due date fall on a Saturday, Sunday, State of Arkansas holiday, or federal holiday, the due date shall be the following business day.

(c)(1) A licensee must notify the Division of Provider Services and Quality Assurance immediately of changes in address, in employment, or in any other pertinent information to ensure that renewal forms and other correspondence will reach the licensee in a timely manner.

(2) Nonreceipt of renewal forms by the licensee, regardless of the reason, may result in nonrenewal of an administrator's license.

(3) Responsibility for renewal rests with the licensee and the division assumes no liability.

(4) An applicant who has not received renewal notification by June 1 of each year should contact the division at NHA.Licensure@dhs.arkansas.gov.

20 CAR § 402-309. Inactive administrators.

(a) A licensed administrator who is not administering or managing a nursing home and who does not wish to maintain an active license may keep their administrator's license current by completing the renewal application section entitled "Inactive Administrators" and by submission of the required inactive license fee.

(b)(1) Effective July 1, 1998, an inactive license will be granted for no more than two (2) consecutive licensure years during which time continuing education hours will not be required.

(2) During the third inactive licensure year, the administrator must either complete twenty (20) hours of continuing education or complete an approved course of study on current federal regulations governing the operation of nursing homes and submit documentation with their renewal form.

(3) The license will automatically expire after three (3) years of inactive status unless such training is completed.

(c)(1) If an inactive administrator chooses to reactivate their license, they must notify the Division of Provider Services and Quality Assurance.

(2) An administrator who holds an inactive license on the effective date of this part must either:

(A) Activate their license by July 2, 1998; or

(B) Meet the qualifications required for new applicants for licensure at the time that the active status is desired.

(3) Reexamination would not be required.

(4) The required number of continuing education hours must be obtained prior to reactivation.

(5) Failure to notify the division or to obtain the required continuing education could result in disciplinary action.

20 CAR § 402-310. Disciplinary proceedings.

(a)(1) The Division of Provider Services and Quality Assurance may refuse to issue or renew an administrator's license or may take other disciplinary action against a

nursing home administrator who fails to perform their duties adequately.

(2) Inadequate performance which may lead to the imposition of disciplinary actions include, but are not limited to, the following areas:

(A) During the time that the administrator was employed by the facility, the facility was subjected to:

(i) Involuntary closure and transfer of residents;

(ii) Appointment of a temporary manager or receiver;

(iii) A determination of immediate jeopardy to the health and safety of any resident;

(iv) Civil money penalties based on annual or complaint surveys;

(v) Termination from the Medicare or Medicaid programs;

(vi) An extended or partial extended survey resulting in a determination of substandard quality of care; or

(vii) Denial of payments for new admissions or denial of all payments;

(B) Conviction or finding against the administrator of the misconduct listed below. For purposes of this subsection, a conviction or finding against the administrator concerning any facility or resident, past or current, can form the basis of disciplinary action:

(i) Fraud in the operation of any facility;

(ii) Misappropriation or embezzlement of funds from any facility or resident;

(iii) Abuse or neglect of any resident;

(iv) Purposeful failure to report abuse or neglect of any resident or misappropriation of any resident's property;

(v) Any criminal offense conviction related to the abuse of endangered adults or children;

(vi) Failure to protect any resident's rights; or

(vii) Any criminal offense under Arkansas Code § 17-3-102 or any additional state law relating to the occupational licensure; and

(C) Failure to meet licensure renewal requirements or to participate in

required continuing education.

(b) Disciplinary action may include but is not limited to:

(1) Letter of concern or reprimand;

(2) Directed in-service training or plan of correction;

(3) Probation;

(4) Suspension of license; or

(5) Revocation of license.

20 CAR § 402-311. Appeals.

(a) Disciplinary actions by the Division of Provider Services and Quality Assurance which result in suspension or revocation of an administrator's license may be appealed for hearing before the Department of Human Services.

(b) Rules for appeals before the Long-Term Care Facility Advisory Board [abolished] are available from the following entity:

Office of Appeals and Hearings
P.O. Box 1437 – Slot S101
Little Rock, AR 72203-1437
Phone: 501-682-8622
Fax: 501-682-6605
Visit: Department of Human Services

20 CAR § 402-312. Penalties.

(a) It shall be unlawful for any person to act or serve in the capacity of a nursing home administrator in this state unless such person has been licensed to do so.

(b) Any person who violates this requirement shall be guilty of a Class A misdemeanor and upon conviction thereof shall be subject to:

(1) A fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000);

(2) Imprisonment for not less than ten (10) days nor more than ninety (90)

days; or

(3) Both fine and imprisonment.

Appendix A. Code of Ethics

Link:

https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/291/20CARpt.402AttachmentA.pdf