

ARKANSAS REGISTER

Transmittal Sheet

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Secretary of State
Mark Martin
500 Woodlane, Suite 026
Little Rock, Arkansas 72201-1094
(501) 682-5070
www.sos.arkansas.gov



For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Department of Human Services

Department Division of Provider Services and Quality Assurance

Contact Mac Golden E-mail Mac.E.Golden@dhs.arkansas.gov Phone 501.320.6383

Statutory Authority for Promulgating Rules Arkansas Code Annotated 20-76-201

Rule Title: Rules for Licensure of Nursing Home Administrators in Arkansas

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Date

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Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Thomas Herndon Thomas.Herndon@dhs.arkansas.gov 12/11/2019
Contact Person E-mail Address Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)



Signature
(501) 396.6174 Jerald.Sharum@dhs.arkansas.gov
Phone Number E-mail Address
Director of the Division of Provider Services and Quality Assurance
Title
12/11/2019
Date



Arkansas Department of Health and Human Services

Division of Medical Services Office of Long Term Care

Table of Contents

Authority i.

Preface..... i.

Section I — Definitions 1

Section II — Applicant’s Qualifications..... 1

 A. Character 2

 B. Age 2

 C. Health..... 2

 D. Education 2

 E. Administrator-in-Training Program Qualifications 3

 F. Equivalent Qualifications..... 4

Section III — Licensure..... 4

 A. Licensure Requirement..... 4

 B. Application for Licensure 4

 C. Examination for Licensure 5

 D. Continuing Education and Training 5

E. Licensure Renewal	6
F. Reciprocity	7
G. Inactive Administrators	8
H. Disciplinary Proceedings	8
I. Appeals	10
J. Penalties	10
Section IV — Severability	10

Attachment A — Code of Ethics

01/01/2020

Authority

The following Rules for the Licensure of Nursing Home Administrators are duly adopted and promulgated by the Arkansas Department of Health and Human Services, Office of Long Term Care, pursuant to the authority expressly conferred by Title 20-10-203 (b) of the Arkansas Code.

Preface

These rules have been prepared for the purpose of establishing nursing home administrator competency as well as criterion for the licensure of nursing home administrators. There exists a relationship between the quality of care and quality of life for residents in a nursing home and the knowledge, skills, and abilities of the nursing home's administrator. This relationship becomes

increasingly apparent as nursing home administrators attempt to implement new and often complex standards of resident care services so that the facilities can participate in the full continuum of care.

The rules are subject to periodic revisions as new knowledge becomes available that will more fully establish the level of competency necessary for effective nursing home administration.

Rules are limited in their ability to set forth all the attributes necessary for quality administration. Administrators of nursing homes have a responsibility beyond the minimum standards detailed here to continue to enhance their education, experience, and professional growth.

The end result of such enhancement will be the achievement of optimum nursing home resident care.

Section I — Definitions

The following terms are defined for the purpose of these rules:

A. BOARD

Shall mean the Long Term Care Facility Advisory Board.

B. NURSING HOME

Shall mean a skilled nursing facility (SNF) or a nursing facility (NF) which meets the requirements of 1819 or 1919 of the Social Security Act and/or meets State licensure requirements for a long term care facility.

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

C. NURSING HOME ADMINISTRATOR

Shall mean 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 his or her function and duties are shared with one or more individuals.

D. DEPARTMENT

Shall mean the Arkansas Department of Health and Human Services.

E. LICENSE

For the purposes of these rules, license shall mean a nursing home administrator's license issued to a qualified individual.

F. OFFICE

Shall mean the Office of Long Term Care.

Section II — Applicant's Qualifications

A. CHARACTER

Applicant for licensure as a nursing home administrator shall be of good moral character and shall abide by the Code of Ethics adopted by the American College of Health Care Administrators (Attachment A). The Office may deny an applicant for factors evidencing a lack of good moral character or for unethical conduct or for any of the reasons listed under Disciplinary Proceedings of these rules.

NOTE: The applicant must agree to and send payment for a criminal background investigation.

B. AGE

Applicant for licensure as a nursing home administrator shall be at least 21 years of age.

C. HEALTH

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). 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.

D. EDUCATION

1. A qualified applicant for licensure as a nursing home administrator shall possess the following education and experience in order to be eligible for testing:
 - a. A Baccalaureate degree (BS or BA) or higher in Health Care Administration (HCA) or Long Term Care Administration (LTCA) with an internship in a nursing home: No additional experience required.
 - b. BA/BS in HCA/LTCA without internship: three months internship or experience in a nursing home required.

- c. BA/BS or higher in Nursing or Business which included basic core requirements noted under D.2: three months internship or experience in a nursing home required.
 - d. BA/BS or higher in other field which included basic core requirements noted under D.2: three months internship or experience in a nursing home required.
 - e. Associate degree in HCA/LTCA or an RN with associate degree or diploma which included basic core requirements noted under D.2: six months internship or experience in a nursing home required.
 - f. Associate degree in other field which included basic core requirements noted under D.2: one year internship or experience in a nursing home required.
2. A minimum of fifteen equivalent semester hours must be satisfied in these **basic core requirement areas (3 hours per topic)**: accounting, management, personnel, writing, and resident care. 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 (6 weeks of work experience = 1 credit hour)
 - c. Credit by examination (CLEP) (credit received)
 - d. Continuing education credits (10 contact hours = 1 credit hour)
 - e. Any combination of the above.

E. ADMINISTRATOR-IN-TRAINING PROGRAM QUALIFICATIONS

Applicants who do not meet the educational and experience requirements noted in D.1. and D.2. must meet the qualifications for and complete the requirements of the Administrator-In-Training (A.I.T.) Program as administered by the Office. A separate manual is available.

F. EQUIVALENT QUALIFICATIONS

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

An administrator who holds an inactive license on the effective date of these rules must either a) activate his or her license by July 2, 1998 OR b) meet the qualifications required for new applicants for licensure at the time active status is desired. Reexamination would not be required.

Applicants who are **approved for testing** prior to the effective date of these rules shall be deemed to have met qualifications equivalent to those for new applicants for licensure.

Section III — Licensure

A. LICENSURE REQUIREMENT

No person shall administer, manage, supervise, or be in general administrative charge of a nursing home unless he or she is a licensed nursing home administrator in active status. No nursing home within the State shall operate except under the supervision of a licensed administrator. No administrator shall manage more than one nursing home.

B. APPLICATION FOR LICENSURE

Applicants for license shall file applications under oath with the Office upon forms prescribed by the Office (Form DMS-7790) and shall pay the required license fee. If the application is approved, the applicant has eighteen months from the date of approval in which to become licensed. One-half of the application fee shall be refunded to the applicant if license is denied because (a) the application is not

approved, (b) the applicant does not pass the exams, or (c) any other reason deemed appropriate by the Office.

NOTE: The application and fee shall be sent by Certified Mail to the address provided by the Office.

C. EXAMINATION FOR LICENSURE

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.

An applicant will be tested as to his or her knowledge of the current Domains of Practice as published by the National Association of Boards of Examiners of Long Term Care Administrators (NAB) through the use of a national examination which will be approved by the Office. A scaled score of 113 will be required to pass the national examination.

An applicant will also be tested on his or her knowledge of Arkansas Rules for the operation of nursing homes through the use of an examination developed by the Office. A score of 70 will be required to pass the state examination.

If an applicant is unsuccessful on either or both such examinations, he or she will be entitled to be reexamined one additional time at his or her expense for such additional examination. After two 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 months, and (c) reapply before reexamination.

D. CONTINUING EDUCATION AND TRAINING

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 NAB Domains of Practice, or (c) complete an approved course in nursing home administration as a prerequisite for annual license renewal. Continuing education hours must be applied to the licensure year in which obtained and cannot be carried over to the following year.

Workshops and seminars are approved by the Office based on criteria established by the National Continuing Education Review Service and the National Association of Boards of Examiners of Long Term Care Administrators.

An administrator initially licensed after July 2nd will not be required to complete continuing education hours to renew his or her license during the renewal period immediately following. Time spent preparing for the examinations will satisfy the education requirements.

E. LICENSE RENEWAL

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

- Active licensees who want to continue in **active** status shall pay the active license fee and submit verification of compliance with continuing education requirements.
- Active licensees who want to change to **inactive** status shall pay the inactive license fee and submit verification of compliance with continuing education requirements.
- Inactive licensees who want to remain in **inactive** status shall pay the inactive license fee. (See Section G.)
- Inactive licensees who want to change to **active** status must contact the Office individually for guidance. (See Section G.)

Applications for annual license renewal shall be post-marked no later than July 1st. Should the renewal be postmarked July 2nd or later, the licensee must pay a designated late charge. Any license not renewed on or before September 1 shall expire effective September 2.

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.

A licensee must notify the Office immediately of changes in address, in employment, or in any other pertinent information to insure that renewal forms and other correspondence will reach the licensee in a timely manner. Non-receipt of renewal forms by the licensee, regardless of the reason, may result in non-renewal of an administrator's license. Responsibility for renewal rests with the licensee and the Office assumes no liability. An applicant who has not received renewal forms by June 1 of each year should contact the Office.

F. RECIPROCITY

Applicants who are currently licensed in another state and wish to be licensed in Arkansas may be eligible for reciprocity. Reciprocal licensure eliminates the need to retake and pass the NAB/national examination. To qualify for reciprocity, the applicant must meet the same licensure standards required for new applicants. Additionally, the applicant must:

1. Be in good standing in other states where licensed; and
2. Must pass the Arkansas licensure examination.

Certification by the American College of Health Care Administrators will also be considered as a method of qualifying for reciprocity.

A temporary license may be requested by applicants licensed in other states who desire immediate employment in Arkansas but who need time to prepare for the Arkansas licensure examination. Applicants who satisfy F.1. above may

request in writing this temporary, nonrenewable license for a period not to exceed 120 days. There is a fee for temporary licensure.

G. INACTIVE ADMINISTRATORS

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

Effective July 1, 1998, an inactive license will be granted for no more than two consecutive licensure years during which time continuing education hours will not be required. During the third inactive licensure year, the administrator must either complete twenty 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 his or her renewal form. The license will automatically expire after three years of inactive status unless such training is completed.

If an inactive administrator chooses to reactivate his or her license, he or she must notify the Office. An administrator who holds an inactive license on the effective date of these rules must either a) activate his or her license by July 2, 1998 OR b) meet the qualifications required for new applicants for licensure at the time active status is desired. Reexamination would not be required. The required number of continuing education hours must be obtained prior to reactivation. Failure to notify the Office or to obtain the required continuing education could result in disciplinary action.

H. DISCIPLINARY PROCEEDINGS

The Office 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 his or her duties adequately. Inadequate performance which may lead to the imposition of disciplinary actions include, but are not limited to, the following areas:

1. During the time that the administrator was employed by the facility, the facility was subjected to:
 - a. Involuntary closure and transfer of residents;
 - b. Appointment of a temporary manager or receiver;
 - c. A determination of immediate jeopardy to the health and safety of any resident;
 - d. Civil Money Penalties based on annual or complaint surveys;
 - e. Termination from the Medicare or Medicaid programs;
 - f. An extended or partial extended survey resulting in a determination of substandard quality of care; or
 - g. Denial of payments for new admissions or denial of all payments.

2. Conviction or finding against the administrator of the below listed. 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:
 - a. Fraud in the operation of any facility;
 - b. Misappropriation or embezzlement of funds from any facility or resident;
 - c. Abuse or neglect of any resident;
 - d. Purposeful failure to report abuse or neglect of any resident or misappropriation of any resident's property;
 - e. Any criminal offense conviction related to the abuse of endangered adults or children;
 - f. Failure to protect any resident's rights.

3. Failure to meet licensure renewal requirements or to participate in required continuing education.

Disciplinary action may include but is not limited to:

1. Letter of concern/reprimand

2. Directed inservice training/plan of correction
3. Probation
4. Suspension of license
5. Revocation of license

I. APPEALS

Disciplinary actions by the Office which result in suspension or revocation of an administrator's license may be appealed for hearing before the Board. Rules for appeals before the Board are available from the Office.

J. PENALTIES

It shall be unlawful for any person to act or serve in the capacity of nursing home administrator in this State unless such person has been licensed to do so. Any person who violates this requirement shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1000.00) or imprisonment for not less than ten (10) days nor more than ninety (90) days or both such fine and imprisonment.

Section IV — Severability

If any provisions of these Rules, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of these Rules which can be given effect without the invalid provisions or applications, and to this end the provisions hereof are declared to be severable.

Attachment A
Code of Ethics

PREAMBLE: *The preservation of the highest standards of integrity and ethical principals vital to the successful discharge of the professional responsibilities of all long-term health care administrators. This Code of Ethics has been promulgated by the American College of Health Care Administrators (ACHCA) in an effort to stress the fundamental rules considered essential to this basic purpose. It shall be the obligation of members to seek to avoid not only conduct.*

clear its expectation of the membership specifically proscribed by the code, but also conduct that is inconsistent with its spirit is and purpose. Failure to specify any particular responsibility or practice in this Code of Ethics should not be construed as denial of the existence of other responsibilities or practices. Recognizing that the ultimate responsibility for applying standards and ethics falls upon the individual, the ACHCA establishes the following Code of Ethics to make

EXPECTATION I

Individuals shall hold paramount the welfare of persons for whom care is provided. *PRESCRIPTIONS: The Health Care Administrator shall:*

- Strive to provide to all those entrusted to his or her care the highest quality of appropriate services possible in light of resources or other constraints.
- Operate the facility consistent with laws, rules, and standards of practice recognized in the field of health care administration.
- Consistent with law and professional standards, protect the confidentiality of information regarding individual recipients of care.
- Perform administrative duties with the personal integrity that will earn the confidence, trust, and respect of the general public.
- Take appropriate steps to avoid discrimination on a basis of race, color, sex, religion, age, national origin, handicap, marital status, ancestry, or any

EXPECTATION II

other factor that is illegally discriminatory or not related to bona fide requirements of quality care. *PROSCRIPTION: The Health Care Administrator shall not:*

- Disclose professional or personal information regarding recipients of service to unauthorized personnel unless required by law or to protect the public welfare.

Individuals shall maintain high standards of professional competence. *PRESCRIPTIONS: The Health Care Administrator shall:*

- Possess and maintain the competencies necessary to effectively perform his or her responsibilities.
- Practice administration in accordance with capabilities and proficiencies and, when

EXPECTATION III

appropriate, seek counsel from qualified others.

- Actively strive to enhance knowledge of and expertise in long-term care administration through continuing education and professional development. *PROSCRIPTIONS: The Health care Administrator shall not:*
- Misrepresent qualifications, education, experience, or affiliations.
- Provide services other than those for which he or she is prepared and qualified to perform.



American College of Health Care Administrators

Individuals shall strive, in all matters relating to their professional functions, to maintain

a professional posture that places paramount the interests of the facility and its residents. *PRESCRIPTIONS: The Health Care Administrator shall:*

- Avoid partisanship and provide a forum for the fair resolution of any disputes which may arise in service delivery or facility management.
- Disclose to the governing body or other authority as may be appropriate, any actual or potential circumstance concerning him or her that might reasonably be thought to create a conflict of interest or have a substantial adverse impact on the facility or its residents. *PROSCRIPTION: The Health care Administrator shall not:*
- Participate in activities that reasonably may be thought to create a conflict of interest or have the potential to have a substantial adverse impact on the facility or its residents.

American College of Health Care Administrators

325 South Patrick St.
Alexandria, Virginia
22314

Phone: (888)88-
ACHCA

inquiries into matters of professional conduct related to this Code of Ethics. PROSCRIPTION: The Health care Administrator shall **not:**

- Defend, support, or ignore unethical conduct perpetrated by colleagues, peers or students.

Individuals shall honor their responsibilities to the public, their profession, and their relationships with colleagues and members of related professions.

PRESCRIPTIONS: The Health Care Administrator shall:

- Foster increased knowledge within the profession of health care administration and support research efforts toward this end.
- Participate with others in the community to plan for and provide a full range of health care services.
- Share areas of expertise with colleagues, students, and the general public to increase awareness and promote understanding of health care in general and the profession in particular.
- Inform the ACHCA Standards and Ethics Committee of actual or potential violations of this code of Ethics, and fully cooperate with ACHCA's sanctioned