

LEGISLATIVE BILL 411

Approved by the Governor March 24, 1999

Introduced by Coordsen, 32

AN ACT relating to nursing home administration; to amend sections 71-6053, 71-6055, 71-6056, 71-6058, 71-6060, 71-6061, 71-6063, 71-6065, and 71-6067, Reissue Revised Statutes of Nebraska, and section 71-6054, Revised Statutes Supplement, 1998; to change provisions relating to licensing requirements, training programs, inactive license status, preceptors, and the board of examiners; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-6053, Reissue Revised Statutes of Nebraska, is amended to read:

71-6053. For the purpose of sections 71-6053 to 71-6068, unless the context otherwise requires:

(1) Accredited institution ~~shall mean~~ means a postsecondary educational institution approved by the board;

(2) Active license ~~shall mean~~ means a license issued by the board to an administrator who meets the continuing education requirements of section 71-6060 and who submits the fee required by section 71-6061;

(3) Administrator or nursing home administrator ~~shall mean~~ means any individual who meets the education and training requirements of section 71-6054 and is responsible for planning, organizing, directing, and controlling the operation of a home for the aged or infirm, ~~a or nursing home,~~ or an integrated system or who in fact performs such functions, whether or not such functions are shared by one or more other persons. Notwithstanding this subdivision or any other provision of law, the administrator of an intermediate care facility for the mentally retarded may be either a licensed nursing home administrator or a qualified mental retardation professional;

(4) Administrator-in-training ~~shall mean~~ means a person who is undergoing training to become a nursing home administrator and is directly supervised in a home for the aged or infirm or nursing home by a certified preceptor;

(5) Board ~~shall mean~~ means the Board of Examiners in Nursing Home Administration;

(6) Certified preceptor ~~shall mean~~ means a person who is currently licensed by the State of Nebraska as a nursing home administrator, has three years of experience as a nursing home administrator, ~~is currently practicing~~ has practiced within the last two years in a home for the aged or infirm or a nursing home, and is approved by the board to supervise an administrator-in-training or a person in a mentoring program;

(7) Core educational requirements means courses necessary for licensure as a nursing home administrator and includes courses in patient care and services, social services, financial management, administration, and rules, regulations, and standards relating to the operation of a health care facility;

(8) Degree or advanced degree means a baccalaureate, master's, or doctorate degree from an accredited institution and which includes studies in the core educational requirements;

(9) Degree or advanced degree in health care means a baccalaureate, master's, or doctorate degree from an accredited institution in health care, health care administration, or services;

~~(7)~~ (10) Department ~~shall mean~~ means the Department of Health and Human Services Regulation and Licensure;

~~(8)~~ (11) Home for the aged or infirm or nursing home ~~shall mean~~ means any institution or facility licensed as such by the department pursuant to sections 71-2017 to 71-2029, whether proprietary or nonprofit, including, but not limited to, homes for the aged or infirm owned or administered by the federal or state government or an agency or political subdivision thereof;

(12) Integrated system means a health and human services organization offering different levels of licensed care or treatment on the same premises;

~~(9)~~ (13) Internship ~~shall mean~~ means that aspect of the educational program of the associate degree in long-term care administration which allows for practical experience in a home for the aged or infirm or nursing home and occurs under the supervision of a certified preceptor; ~~and~~

~~(10)~~ (14) License ~~shall mean~~ means permission to engage in nursing home administration which would otherwise be unlawful in this state in the absence of such permission and which is granted to individuals who meet prerequisites and qualifications that allow them to perform nursing home administration tasks and use the title nursing home administrator;

(15) Nursing degree means a degree or diploma in nursing from an accredited program of professional nursing approved by the Board of Nursing;

(16) Previous work experience means at least two years working full time in a nursing home or home for the aged or infirm or previous work experience in health care administration; and

(17) Previous work experience in health care administration means at least two years working full time as an administrator or director of nursing of a hospital with a long-term care unit or assisted-living facility or director of nursing in a nursing home or home for the aged or infirm.

Sec. 2. Section 71-6054, Revised Statutes Supplement, 1998, is amended to read:

71-6054. (1)(a) The board shall issue a license to an applicant who submits (i) satisfactory evidence of completion of (A) an associate degree which includes the core educational requirements and ~~or its equivalent in long-term care administration, allied health, or human services, including completion of one two-credit-hour course in each of the following areas: General administration, social gerontology, health problems of the aged, patient services and care, health and social service delivery systems, and a seminar on contemporary developments in aging, including the federal Older Americans Act, as now or hereafter amended,~~ (ii) satisfactory evidence of completion of an administrator-in-training program under a certified preceptor, ~~(iii)~~ (B) a degree or an advanced degree and a mentoring program under a certified preceptor, (C) a nursing degree, previous work experience in health care administration, and a mentoring program under a certified preceptor, (D) a degree or an advanced degree in health care and previous work experience in health care administration, or (E) an associate degree which includes the core educational requirements, previous work experience, and a mentoring program under a certified preceptor, (ii) evidence of successful passage of the National Association of Boards of Examiners for Nursing Home Administration written examination and a state examination that covers applicable state statutes and rules and regulations adopted and promulgated by the department as approved by the board, and ~~(iv)~~ (iii) his or her social security number. ~~7~~ except that two years of successful experience as an administrator of an assisted-living facility of at least one hundred residents, immediately preceding application for licensure, may be considered equivalent to the requirements prescribed in subdivision (ii) of this subdivision. The board shall evaluate the experience of an applicant requesting the substitution of the requirements listed in subdivision (ii) of this subdivision with two years of experience and shall obtain the affidavit of at least two licensed nursing home administrators in Nebraska testifying that the applicant is of good moral character and in good standing as an administrator of an assisted-living facility. In no case shall the board accept such substitution if the assisted-living facility while under the direction and administration of the applicant had its license suspended, denied, or revoked. The board shall license administrators in accordance with sections 71-6053 to 71-6068 and standards, rules, and regulations adopted and promulgated by the board pursuant to such sections. The license shall not be transferable or assignable. Each ~~7~~ and each administrator shall be full time and responsible for the operation of only one licensed facility or one integrated system, except that an administrator may oversee the operations of more than one licensed facility if such facilities are located within ten miles of each other and the combined number of licensed beds in such facilities does not exceed sixty-five. Administrators overseeing the operations of an integrated system are subject to disciplinary action against their license for any regulatory violations within such integrated system.

(b) Notwithstanding the provisions of sections 71-6053 to 71-6068, the board shall issue a license as a nursing home administrator to an applicant who will function as the administrator of a facility caring primarily for persons with head injuries and associated disorders who submits satisfactory evidence that he or she (i) has at least two years of experience working with persons with head injuries or severe physical disabilities, at least one of which was spent in an administrative capacity, (ii) is (A) a psychologist with at least a master's degree in psychology from an accredited college or university and has specialized training or one year of experience working with persons with traumatic head injury or severe physical disability, (B) a physician licensed under the Uniform Licensing Law to practice medicine and surgery or psychiatry and has specialized training or one year of

experience working with persons with traumatic head injury or severe physical disability, (C) an educator with at least a master's degree in education from an accredited college or university and has specialized training or one year of experience working with persons with traumatic head injury or severe physical disability, or (D) a certified social worker, a certified master social worker, or a licensed mental health practitioner certified or licensed under the Uniform Licensing Law and has at least three years of social work or mental health practice experience and specialized training or one or more years of experience working with persons who have experienced traumatic head injury or are severely physically disabled, and (iii) is of good moral character. The applicant shall also provide his or her social security number.

A license issued pursuant to this subdivision shall be issued without examination and without the requirement of completion of an administrator-in-training or mentoring program. Such license may be renewed without the completion of any continuing education requirements.

(2) If an applicant for an initial license files an application for licensure within ninety days prior to the biennial renewal date of the license, the applicant may either:

(a) Request that the department delay the processing of the application and the issuance of the license until the biennial renewal date and pay only the fee for initial licensure; or

(b) Request that a license which will be valid until the next subsequent renewal date be issued immediately and pay the fee for initial licensure and an additional fee of one-fourth of the biennial fee.

(3) Licenses may be denied, suspended, limited, refused renewal, or revoked by the department for due cause which shall include: (a) Fraud in procuring a license; (b) immoral, unprofessional, or dishonorable conduct; (c) habitual intoxication or addiction to the use of drugs; (d) distribution of intoxicating liquors or drugs for other than lawful purposes; (e) conviction of a felony; (f) physical or mental incapacity to perform professional duties; (g) violation of any provision of sections 71-6053 to 71-6068 or standards, rules, and regulations adopted and promulgated thereunder or of any law or standards, rules, and regulations adopted and promulgated by the department relating to the proper administration and management of a home for the aged or infirm or nursing home; (h) commission of any of the acts or offenses set forth in sections 71-147 and 71-148; and (i) failure to pay the required fees. Except in cases of failure to pay the required fees, no license shall be denied, suspended, limited, refused renewal, or revoked except after due notice and opportunity for a hearing. Disciplinary actions and proceedings shall be conducted as specified in the Uniform Licensing Law. Any denial, suspension, limitation, refusal of renewal, or revocation of such license may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. A person whose license has been revoked, suspended, or limited may petition the board for reinstatement in the manner provided by sections 71-161.04 to 71-161.06.

Sec. 3. Section 71-6055, Reissue Revised Statutes of Nebraska, is amended to read:

71-6055. (1) Except as provided in ~~subdivision~~ subdivisions (1)(a)(i)(D) and (1)(b) of section 71-6054, in order for a person to become licensed as a nursing home administrator, he or she shall complete an administrator-in-training program. Such training or a mentoring program. The administrator-in-training program shall occur in a home for the aged or infirm or nursing home under the direct supervision of a certified preceptor, and it may be gained as an internship which is part of an approved associate degree. A mentoring program shall occur in a home for the aged or infirm or nursing home under the supervision of a certified preceptor. The certified preceptor in a mentoring program need not be at such facility during the period of such supervision but shall be available to assist with questions or problems as needed. A mentoring program may be gained as an internship which is part of a degree or advanced degree or part of a degree or advanced degree in health care. A person in a mentoring program may apply for a provisional license as provided in section 71-6063. in long-term care administration or, until January 1, 1992, after receipt of the associate degree in long-term care administration.

(2) An applicant may begin his or her administrator-in-training or mentoring program upon application to the board with the required fee provided for in section 71-6061, evidence that he or she has completed at least ~~seventy~~ fifty percent of the core educational hours identified in subdivision (1)(a)(i) of section 71-6054 requirements, and evidence of an agreement between the certified preceptor and the applicant for at least six hundred forty hours of training and experience, to be gained in not less than four

months. Such training shall occur in a Nebraska-licensed home for the aged or infirm or nursing home under the direct supervision of a certified preceptor.

(3) ~~Upon approval by the board to begin the administrator-in-training program, the~~ The certified preceptor shall submit a report to the department by the fifth day of each month for the duration of the administrator-in-training or mentoring program, describing the nature and extent of training completed to date. At the conclusion of the program, the certified preceptor shall report to the department whether the applicant has successfully completed the board's approved course for such program. With the concurrence of the certified preceptor, the applicant may remain in such program until successfully completed or may reapply to enter another administrator-in-training or mentoring program. and the administrator-in-training shall submit to the department a progress report describing the nature and extent of the training completed to date by the fifth day of each month of the duration of the training.

(4)(a) The administrator-in-training or mentoring program shall occur under the supervision of a certified preceptor. ~~In order~~ An applicant to become a certified preceptor ~~an applicant~~ shall (i) be currently licensed ~~and practicing~~ as a nursing home administrator in the State of Nebraska, (ii) have three years of experience as a nursing home administrator in the five years immediately preceding certification, and (iii) complete a preceptor training course approved by the board.

(b)(i) All preceptor certificates shall ~~expire three years after issuance on December 31 of every fourth year beginning December 31, 2000.~~ The procedures for renewal shall be in the same manner as section 71-6061. Each certified preceptor shall, in the period since his or her certificate was issued or last renewed, complete at least twelve hours of preceptor training approved by the board. Each certified preceptor shall submit evidence, on forms provided by the department, that he or she has satisfied the requirements of this subsection before his or her certificate is renewed. Such evidence shall be submitted at the time application for renewal of a certificate is made. Before acting on the application for renewal the board shall review the performance of the applicant. Such review may include consideration of survey and complaint information, student evaluations, and any other related information deemed relevant by the board. The board may deny the application for renewal upon a finding that the applicant's performance has been unsatisfactory based on such review.

(ii) When any certificate holder fails, within thirty days of the expiration of a certificate, to submit the twelve hours of preceptor training, the department shall revoke such certificate after notice and opportunity for hearing. In order for a preceptor certification to be reinstated, the applicant must meet the requirements of this subsection.

Sec. 4. Section 71-6056, Reissue Revised Statutes of Nebraska, is amended to read:

71-6056. The board may issue a license to any person who passes the state examination specified in subdivision (1)(a)(~~iii~~) (ii) of section 71-6054 and who holds a current nursing home administrator license from another jurisdiction.

Sec. 5. Section 71-6058, Reissue Revised Statutes of Nebraska, is amended to read:

71-6058. Any person desiring to take the examination for a license shall ~~make application~~ apply to the board at least thirty days prior to examination on a form provided by the department and sworn to by the applicant. Such application shall be accompanied by the examination fee and such documents and affidavits as are necessary to show the eligibility of the candidates to take such examination. An applicant may request to take the next regularly scheduled examination any time after receiving notification of registration as an administrator-in-training or a person in a mentoring program, but the license shall not be issued until the board receives documentation of completion of the administrator-in-training or mentoring program and completion of all licensure requirements.

Sec. 6. Section 71-6060, Reissue Revised Statutes of Nebraska, is amended to read:

71-6060. (1) Each administrator holding an active license shall be required on or before December 31 of each even-numbered year, commencing in 1986, to attend at least fifty hours biennially of approved schools, clinics, forums, lectures, or educational seminars relating to health care administration as may be announced and approved by the board within the State of Nebraska or by the governing board, agency, or department in some other state or territory or the District of Columbia as prerequisite for the Nebraska licensee's next subsequent biennial license renewal. Each licensee shall certify on an affidavit form provided by the department that he or she

has complied with the requirements set forth in this section during the preceding two-year period. The sworn affidavit shall contain a listing of continuing education activities which he or she participated in or attended, the amount of credit received for each activity, and the date, location, and name of the approved provider which sponsored the activity on a separate form or portion of the license renewal application as may be designated by the department. Each licensee shall be responsible for maintaining in his or her personal files such certificates of records of credit from continuing education activities received from approved providers. Licensees who have not complied with such requirements shall not be issued a renewal license unless exempt for any of the following reasons:

(a) The licensee served in the regular armed forces of the United States during any part of the twenty-four months immediately preceding the Nebraska license renewal date;

(b) The licensee submits proof that he or she was suffering from a serious or disabling illness or physical disability which prevented his or her attendance at any approved school, clinic, forum, lecture, or educational seminar within the State of Nebraska or any other state or territory or the District of Columbia during the twenty-four months immediately preceding the Nebraska license renewal date;

(c) The licensee was first licensed within the twenty-four months immediately preceding the Nebraska license renewal date; or

(d) The licensee did not reside in Nebraska during the twenty-four months immediately preceding the Nebraska license renewal date.

(2) An individual licensed pursuant to sections 71-6053 to 71-6068 may request to have his or her license placed on inactive status upon its expiration. The request shall be submitted to the department in writing, along with payment of a fee of thirty-five dollars. The department shall notify the licensee in writing of the acceptance or denial of such request. If placed on inactive status, the license may remain in such status for an indefinite period of time. An inactive license may be placed on active status upon completion by the licensee of all continuing education requirements in effect at the time of such request and payment of the license renewal fee then due.

(3) Providers of continuing education or licensees may submit courses for review and approval by the board. Each provider or licensee ~~making application~~ applying for approval of continuing education courses shall pay an application fee of thirty-five dollars for each program, seminar, or course submitted for review. Such fee shall be retained by the board and disposed of in the manner specified in section 71-6061.

Sec. 7. Section 71-6061, Reissue Revised Statutes of Nebraska, is amended to read:

71-6061. (1) Every administrator shall be licensed by the board. All licenses, except provisional and inactive licenses, shall be renewed in each even-numbered year beginning in 1988 upon the payment of the renewal fee. Procedures for renewal and for assessment of additional fees for late renewal shall be in accordance with section 71-110. All fees collected under this section shall be payable to the department and shall then be paid monthly by the department to the State Treasurer who shall keep the same in a special fund to be known as the Board of Examiners in Nursing Home Administration Fund, which fund shall be used and expended by the department to pay the compensation and travel expenses of members and employees of the board and other expenses necessary for the board to administer and carry out sections 71-6053 to 71-6068.

(2) The fees to be paid by the applicants and licensees shall be as follows:

- (a) Fee for initial licensure examination (nonrefundable) \$100.00
- (b) Fee for initial license \$250.00
- (c) Fee for examination by reciprocity (nonrefundable) \$ 50.00
- (d) Fee for reciprocity license \$250.00
- (e) Application for provisional license valid for a period of only one hundred eighty calendar days (nonrefundable) \$100.00
- (f) Preceptor certification fee \$ 25.00
- (g) Administrator-in-training certificate fee \$ 50.00
- (h) Fee for renewal of an active license \$350.00
- (i) License reinstatement fee \$ 10.00
- (j) Application fee for approval of a continuing education course \$ 35.00
- (k) Fee for certification of a statement

that a licensee is licensed in this state	\$ 5.00
(1) Fee for a duplicate original license	\$ 5.00
(m) Mentoring certificate fee	\$ 50.00

Sec. 8. Section 71-6063, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-6063. In the event that a~~ (1) If there is a vacancy in the position of licensed administrator of a home for the aged or infirm or nursing home, is removed from his or her position, the owner, governing body, or other appropriate authority of the home for the aged or infirm ~~suffering such removal may designate an acting administrator of a home for the aged or infirm who may serve only if he or she has been issued a provisional license by the board and then such person may serve for no more than one hundred eighty calendar days. The board may issue a provisional license to engage in nursing home administration to an individual not otherwise qualified in order to enable him or her to maintain operations of the facility. Such provisional license shall be valid for no more than one hundred eighty calendar days or nursing home may select a person to apply for a provisional license in nursing home administration to serve as the administrator of such facility. Such license, if issued, shall be valid for no more than one hundred eighty calendar days and may be issued to an individual not otherwise qualified for licensure as a nursing home administrator in order to maintain the daily operations of the facility and may not be renewed. The board may grant an extension not to exceed ninety days if the person seeking the provisional license is in a mentoring program.~~

(2) The board may issue a provisional license to an individual who has applied for a mentoring program. Such provisional license will allow the applicant to serve as administrator in the specified facility for one hundred eighty calendar days and may not be renewed. The board may grant an extension not to exceed ninety days if the person seeking the provisional license is in a mentoring program.

(3) An applicant for a provisional license under this section shall:
 (a) Be at least twenty-one years of age; (b) be employed on a full-time basis of not less than forty hours per week to perform the duties of the nursing home administrator; and (c) have no history of unprofessional conduct or denial or disciplinary action against a nursing home administrator license or a license to practice any other profession by any lawful licensing authority for reasons outlined in subsection (3) of section 71-6054.

Sec. 9. Section 71-6065, Reissue Revised Statutes of Nebraska, is amended to read:

~~71-6065. (1) There is hereby created, under the supervision of the department,~~ The Board of Examiners in Nursing Home Administration which is created. The board shall be under the supervision of the department and shall consist of the Director of Regulation and Licensure or his or her designated representative, the Director of Health and Human Services or his or her designated representative, the Director of Finance and Support or his or her a designated representative, of the Policy Cabinet described in section 81-3009 and the following members appointed by the State Board of Health: (a) Two members who hold active licenses and are currently employed in the management, operation, or ownership of proprietary homes for the aged or infirm or nursing homes that serve the aged or infirm in Nebraska; (b) two members who hold active licenses and are currently employed in the management or operation of a nonprofit home for the aged or infirm or nursing home or hospital caring for chronically ill or infirm, aged patients; (c) one member who is a member of the faculty of a college or university located in the state who is actively engaged in a teaching program relating to business administration, social work, gerontology, or some other aspect of the administration of health care facilities; (d) one member who is a licensed physician and surgeon with a demonstrated interest in long-term care; (e) one member who is a licensed registered professional nurse; and (f) two members who are laypersons, at least the age of majority, residents of this state for at least five years preceding appointment, and representative of consumer viewpoints. The members of the board shall serve as members of such board until the expiration of their respective terms or until their successors have been appointed and qualified. Each appointed member who is an administrator shall be licensed pursuant to sections 71-6053 to 71-6068.

(2) The appointed members shall be appointed for terms of three years, and the terms shall be staggered so that the terms of three appointed members of the board expire each year. The term of each member shall commence on the first day of December following the expiration of the term of the member whom such person succeeds. A vacancy in any appointive position on the board shall be filled for the unexpired portion of the term by appointment by the State Board of Health in the same manner as original appointments are

made. Appointed members shall serve until their successors are appointed and qualified.

(3) The State Board of Health shall have power to remove from office at any time any member of the board after a public hearing pursuant to the Administrative Procedure Act for physical or mental incapacity to carry out the duties of a board member, for continued neglect of duty, for incompetency, for acting beyond the individual member's scope of authority, for malfeasance in office, for any cause for which a license may be suspended or revoked, or for a lack of licensure.

(4) The department shall adopt and promulgate rules and regulations which establish definitions of conflicts of interest for members of the board and which establish procedures in the case such a conflict arises.

Sec. 10. Section 71-6067, Reissue Revised Statutes of Nebraska, is amended to read:

71-6067. ~~It shall be the duty of the board to~~ The board shall:

(1) Develop, impose, and enforce standards which shall be met by individuals in order to receive a license, which standards shall be designed to insure that such administrators will be individuals who are of good character and are otherwise suitable and who, by training or experience in the field of institutional administration, are qualified to serve as administrators;

(2) Develop and apply appropriate techniques, including examinations, for determining whether an individual meets such standards;

(3) Issue licenses to individuals determined, after the application of such techniques, to meet such standards and recommend to revoke or suspend licenses previously issued by the board in any case in which the individual holding any such license failed to conform to such standards;

(4) Establish and carry out procedures designed to insure that individuals licensed as administrators will, during any period that they serve as such, comply with the requirements of such standards;

(5) Adopt and promulgate rules and regulations governing continuing education and renewal and reinstatement procedures for licensure;

(6) Adopt and promulgate rules and regulations governing administrator-in-training and mentoring programs, including, but not limited to, matters such as (a) qualifications for administrators-in-training and persons in mentoring programs, (b) qualifications and evaluation standards for certified preceptors, (c) methods of instruction and supervision, (d) methods of documentation, and (e) reporting requirements;

(7) Conduct a continuing study and investigation of homes for the aged or infirm and nursing homes and administrators of such facilities within the state with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards; and

(8) Conduct or cause to be conducted by making use of the resources available one or more courses of instruction and training sufficient to meet the requirements of sections 71-6053 to 71-6068 and make provisions for such courses and their accessibility to residents of this state unless it finds that there are a sufficient number of approved courses which are taught by others ~~within~~ in this state. In lieu thereof, the board may approve courses taught ~~within and without~~ in and outside this state as sufficient to meet the education and training requirements of such sections. For purposes of this subdivision, the board shall have the authority to receive and disburse federal funds received pursuant to section 1908(e)(1) of the federal Social Security Act, as amended.

Sec. 11. Original sections 71-6053, 71-6055, 71-6056, 71-6058, 71-6060, 71-6061, 71-6063, 71-6065, and 71-6067, Reissue Revised Statutes of Nebraska, and section 71-6054, Revised Statutes Supplement, 1998, are repealed.