

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

[49 PA. CODE CH. 39]

Continuing Education

The State Board of Examiners of Nursing Home Administrators (Board) amends §§ 39.1, 39.11, 39.44, 39.51, 39.52 and 39.61, adds §§ 39.11a and 39.11b (relating to reactivation; and continued competence) and deletes § 39.71 (relating to licensure renewal) to read as set forth in Annex A.

Effective Date

The amendments will be effective upon publication of this final-form rulemaking in the *Pennsylvania Bulletin*. The changes to continuing education clock hours requirements will be applied for the first time beginning with continuing education completed during the July 1, 2022—June 30, 2024, biennial period.

Statutory Authority

Section 9(b) of the Nursing Home Administrators License Act (act) (63 P.S. § 1109(b)) requires licensees to complete not less than 24 hours of Board-approved continuing education courses and programs as a condition of biennial renewal. Section 9(e) of the act addresses reactivation of expired or inactive licenses. Section 4(a)(9) of the act (63 P.S. § 1104(a)(9)) provides the statutory authority for the proposed continued competency provision. Section 4(a)(9) of the act authorizes the Board to develop standards of professional practice and standards of professional conduct appropriate to establish and maintain a high level of integrity and performance in the practice of nursing home administration. Additionally, section 4(c) of the act authorizes the Board to promulgate regulations to effectuate the act.

Background and Purpose

On October 24, 2017, Governor Tom Wolf signed Executive Order 2017-03, published at 47 Pa.B. 6929 (November 11, 2017), requiring the Commissioner of Professional and Occupational Affairs (Commissioner) to comprehensively review and catalog the processes, fees, training requirements, criminal history policies, portability and continuing education requirements for occupational and professional licensure within the purview of the 29 licensing boards and commissions under the Commissioner's authority. The order further directed the Commissioner to benchmark that data against regional averages from 12 states with similar or equivalent licenses that comprise the Northeast geographic region—Ohio, West Virginia, Maryland, Delaware, New Jersey, New York, Massachusetts, Rhode Island, Connecticut, New Hampshire, Vermont and Maine—to identify requirements or functions that presented unnecessary burdens to licensure and occupational employment within the Commonwealth.

That report, issued on June 12, 2018, revealed that the Commonwealth carried one of the highest continuing education requirements in the regional comparison group for seven different occupational/professional licenses, including nursing home administrators (NHA). The Wolf Administration believes that public protection through

the function of continuing education must be balanced against the burden to the regulated community. Therefore, the Wolf Administration recommended that the Board consider reducing the biennial requirement for continuing education to the statutory minimum.

The Board initially considered reducing the required continuing education to at least 24 hours, as recommended. However, after discussion with stakeholders who opposed the reduction, the Board determined that a reduction by one-quarter to at least 36 hours per biennium would reduce the burden on the regulated community of NHAs, while at the same time ensure that licensees obtain sufficient continuing education given the complexities of nursing home regulation. Therefore, the Board published the proposal to reduce the required continuing education to a minimum of 36 clock hours, with a proportional adjustment to the number of clock hours awarded for various continuing education activities. The Board also proposed additional continued competence requirements for licensees whose licenses had expired or become inactive for 5 years or longer. To demonstrate continued competence to practice, these licensees would need to either pass the licensure examinations, take additional coursework or otherwise demonstrate that they are or have been actively engaged in the practice of nursing home administration in another state, have been employed by a nursing home in a supervisory or consultant capacity or have been teaching long-term care subject matter in an accredited college or university or in a Board-approved 120-hour training program.

The proposed rulemaking was published at 50 Pa.B. 668 (February 1, 2020) for 30 days of public comment during which time the Board received comments from LeadingAge PA, a trade association representing more than 370 not-for-profit providers of senior housing, health care and community services across this Commonwealth, and the Pennsylvania Coalition of Affiliated Healthcare and Living Communities (PACAH), an organization that represents a wide variety of entities in the long-term care field, including 70 skilled nursing facilities. Following the close of the public comment period, the Board received comments from the Independent Regulatory Review Commission (IRRC), as well as the House Professional Licensure Committee (HPLC). The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment.

After reviewing the comments received, which appeared to be generally opposed to the reduction in the number of required continuing education hours, the Board published an Advance Notice of Final Rulemaking (ANFR) to solicit additional comment with regard to a change the Board was considering. See 51 Pa.B. 1017 (February 27, 2021). In the ANFR, the Board proposed restoring the number of required clock hours to 48, but to require that 12 of the 48 clock hours be completed in the areas of emergency preparedness and infection control. During the course of developing this final-form rulemaking, the Board witnessed how the novel coronavirus (COVID-19) pandemic affected the industry and the importance of NHAs being prepared to handle and navigate these difficult circumstances to protect the residents in the facilities which they oversee. Additionally, the Board proposed revisions to the allocation of continuing education clock hours awarded for authoring various types of publications, and to restore the proportions of continuing education awarded for serving as an instructor or as a supervisor in

a Board-approved Administrator-in-Training (AIT) program. After publication of the ANFR, the Board received additional comments from LeadingAge PA.

The following represents a summary of the comments received relating to the proposed rulemaking and the ANFR and the Board's response, followed by a description of the amendments made to this final-form rulemaking.

Summary of Comments and the Board's Response

Pennsylvania Coalition of Affiliated Healthcare & Living Communities

PACAH commented that, while they appreciated the change from the original exposure draft of the proposal (which had proposed reducing the requirement to 24 hours), they remain opposed to any reduction in the continuing education requirement. PACAH noted that NHAs are required to ensure that residents receive necessary care, that services meet stringent quality and safety standards and that the nursing facility complies with a myriad of ever-changing and complicated Federal and State regulations. PACAH opines that to suggest a reduction in the continuing education requirement is counterintuitive, especially since there is an "obvious correlation" between quality of care and increased education. PACAH goes on to note that if the Board were to reduce the continuing education requirement to 36 hours biennially, it would have one of the lowest requirements in the country. In response to PACAH's comments, as well as comments discussed as follows, the Board has reconsidered the proposed reduction and has restored the minimum requirement to 48 hours per biennium in this final-form rulemaking.

LeadingAge PA

Initially, LeadingAge PA commented that it appreciated the additional flexibility provided by the Board's proposal to permit units of continuing education consisting of programs 30 minutes or longer and for those programs to be credited in 15-minute increments. LeadingAge PA also supported the Board's update to the methods of contacting licensees to include notice by means of e-mail. However, they indicated a preference that the Board utilize both the e-mail address and the licensee's address of record to notify them of the availability of the renewal process. In response, the Board notes that amendments to § 39.11(b) (relating to biennial renewal) allow the licensee to choose to be notified by both e-mail and regular mail. Currently, the Pennsylvania Licensure System (PALS) permits a licensee to choose whether to receive correspondence from the Board through e-mail or through the United States mail to the licensee's address on file with the Board. At present, the two options are mutually exclusive in PALS—that is, one can accept e-mail notifications or choose instead to request notification through the United States mail. This is the case for all 29 professional and occupational licensing boards within the Bureau of Professional and Occupational Affairs (Bureau). However, at the request of the Board, the Bureau intends to add the option to request notification by both e-mail and United States mail in PALS during the summer of 2022.

Next, LeadingAge PA indicated that they appreciate that the regulations will continue to recognize the educational value of mentoring, teaching and scholarly writing, but asked the Board to consider restoring the number of hours that can be attained through serving as an instructor, authoring an article or serving as a supervisor in a Board-approved AIT program. In response to LeadingAge PA's comment, the Board restores the prior levels of credit available for serving as an instructor and for serving as a

supervisor in a Board-approved AIT program. With regard to credit for authorship, the Board revised this final-form rulemaking to restore the prior maximums and also added additional types of professional writing for which credit would be granted, including authoring a book or a chapter in a book. In addition, rather than the Board determining on a case-by-case basis the appropriate number of clock hours to award, the Board determined that licensees would benefit from more certainty as to the number of credit hours that would be awarded for professional writing activities. Therefore, the Board determined that authoring a book relating to long-term care will earn 18 clock hours of continuing education credit, authoring a chapter in a book will earn 4 clock hours of credit, authoring an article published in a peer-reviewed journal will earn 3 hours of continuing education credit, and authoring an article in a non-peer-reviewed journal, magazine, newsletter or other publication will earn 2 hours of continuing education credit.

LeadingAge PA also commented that it appears that the Board is contemplating moving to a fully online license renewal system, which would appear to streamline the licensing process and is likely to be beneficial to most NHAs and their employers. However, because of the rural nature of many parts of this Commonwealth and the lack of Internet coverage in some areas of the State, LeadingAge PA suggests that the Board consider providing an alternative renewal process for NHAs residing or working in these areas. While this comment is beyond the scope of this final-form rulemaking, the Board notes that the Bureau has shifted to online renewals for all 29 professional and occupational licensing boards.

Next, LeadingAge PA commented on the proposed continued competency requirements for individuals seeking to reactivate a license that had been lapsed for 5 years or longer where the Board initially sought to require a personal interview with the applicant. LeadingAge PA suggested that, due to the potentially lengthy time between Board meetings and the lack of qualified NHAs, the Board consider a way for these applicants to work temporarily prior to appearing personally before the Board. Upon considering this comment, the Board decided instead to make the personal appearance optional, at the discretion of the Board.

LeadingAge PA further suggested that the Board reconsider the requirement for continuing education course providers to include the course provider number on the participant's certificate of attendance, noting that the National Association of State Boards of Nursing Home Administrators (NAB) does not include that field, and NAB has indicated an unwillingness to conform to any additional state guidelines. In response, the Board notes that all continuing education courses must be approved by either NAB or the Board. The Board assigns provider numbers to those course providers approved by the Board. It was not the Board's intention to regulate NAB, but rather only those course providers approved by the Board. Therefore, this final-form rulemaking is amended to clarify that the provider number is only required for those continuing education course providers approved by the Board.

Finally, after publication of the ANFR, LeadingAge PA submitted additional comments. First, they appreciated the Board's decision to restore the 48 hours of continuing education required, but oppose the proposal that 12 of the 48 hours be in the areas of emergency preparedness and infection control. LeadingAge PA noted that while these have been extremely important topics through 2020, the

field of nursing home administration is constantly changing and needs to respond to current issues rather than the past. In response, the Board notes that emergency preparedness does not only apply to pandemics, but many other occurrences that can, and do, affect nursing homes across the country, including fire, floods, hurricanes and other natural disasters, as well as extended power outages. Infection control is not limited to COVID-19. While the Board appreciates the need for NHAs to evaluate and determine the areas in which they personally need additional education, there are still 36 of the 48 hours that can be dedicated to other topics. In addition, the Board notes that nothing in this final-form rulemaking restricts an NHA from completing more than 48 hours of continuing education per biennium.

Additionally, LeadingAge PA suggested that due to the “significant changes” envisioned in this final-form rulemaking, that the Board should have released a second proposed rulemaking rather than an ANFR. Generally, the Board would be required to publish anew as proposed if the changes to this final-form rulemaking expand the scope beyond that proposed by the Board. The Board does not believe that the changes to this final-form rulemaking expand the scope of the regulation which pertains to continuing education and continued competence. However, because the Board recognized that the public did not have an opportunity to comment on the proposal to dedicate 12 hours of continuing education to these specific topic areas, the Board decided to publish the ANFR to solicit additional comment. The ANFR was published at 51 Pa.B. 1017 (February 27, 2021) and was shared with entities identified as having an interest in the rulemaking. In addition, these changes were discussed in public board meetings in 2020 and 2021. For these reasons, the Board has elected to proceed with this final-form rulemaking.

House Professional Licensure Committee

The HPLC submitted two comments for the Board’s consideration. First, the HPLC commented that the reduction in the required continuing education credits will make the Commonwealth’s requirement lower than the contiguous states of New Jersey, New York, Delaware, Maryland, Ohio and West Virginia, and asks whether the change would have any impact on the Commonwealth’s licensees seeking licensure in one of those contiguous states. The Board does not believe that the change would have had any impact on individuals seeking licensure in these states. However, based on the objections of the regulated community, the Board has restored the continuing education requirement to 48, so this should no longer be a concern.

Additionally, the HPLC asked if the Board will develop a process to offer its licensees a choice of which method they prefer for notices relating to biennial renewal (e-mail or United States mail). As noted previously, the PALS system offers all applicants and licensees the choice of accepting e-mail notifications or to be notified by United States mail.

Independent Regulatory Review Commission

IRRC asked the Board to explain how lowering the continuing education requirements for NHAs will adequately protect the public health, safety and welfare. IRRC additionally asked the Board to explain how reduced continuing education requirements will affect members of the regulated community who seek licensure in states with higher continuing education requirements. The Board considered this and other comments from stakeholders opposing the proposal and concluded that a

reduction of the continuing education units from 48 biennial to 36 would not be in the best interests of the licensees or the public. Instead, the Board will keep the current continuing education requirement at 48 hours biennially and require that 12 of the 48 hours be completed in emergency preparedness and infection control, as discussed previously. The Board accepts all continuing education courses approved by NAB. NAB’s approved CE Database includes a significant number of courses in emergency preparedness and infection control that can be completed in person or virtually. For this reason, the Board does not believe this change will be overly burdensome.

IRRC asked whether it is the Board’s intent not to renew a license of an NHA who fails to meet continuing education requirements. The Board will not renew a license of a nursing home administrator who is unable to certify on the renewal application that they have met their continuing education requirements. In follow-up, IRRC asked the Board to amend this final-form rulemaking to include clear notice that the Board will not renew a license if the licensee fails to complete the continuing education required by the act. The Board maintains that § 39.11(c) gives clear notice that completion of the required continuing education is a condition of biennial renewal. In addition, the Board has amended § 39.61 (relating to requirements) to reiterate that a licensee shall complete at least 48 hours of continuing education during the preceding biennial period as a condition of renewal.

IRRC also commented that the language of § 39.11b(4) was ambiguous where the proposed regulation requires “significant” and not “sporadic or occasional” involvement in a supervisory or consultant capacity to demonstrate continued competence. IRRC asked the Board to revise the language to establish a standard that is predictable for the regulated community and enforceable by the Board. In response, the Board has amended paragraph (4) to eliminate the ambiguous language so that a licensee seeking to reactivate a license that has been expired for 5 or more years needs to provide documentation demonstrating that the licensee has been employed in a nursing home in a supervisory or consultant capacity for at least 3 of the last 5 years, a standard which is predictable and enforceable.

Next, IRRC noted that in § 39.61(c)(3), the Board provides for continuing education credit for authoring an article on long-term care and that additional credit may be awarded based on the complexity of the subject matter. IRRC asked the Board to revise the language to establish a standard that is predictable for the regulated community and enforceable by the Board. In response, the Board has replaced subsection (c) in this final-form rulemaking with new subsection (c.1) that not only establishes predictability, but also will grant continuing education credits for other types of professional writing beyond simply “articles” to include a book, a chapter of a book, an article in a peer-reviewed journal and an article in a non-peer-reviewed journal, magazine, newsletter or other publication relating to long-term care.

Finally, IRRC also questioned whether the Board will develop a process to offer active licensees a choice of notification of the availability of the renewal process to the licensee’s address of record or current e-mail address on file with the Board. In response, the Board notes that the PALS system provides the opportunity for applicants and licensees to accept e-mail notifications or choose to receive notices by United States mail at the address on

file with the Board. As mentioned previously, the Board will explore with the Bureau the possibility of offering a third option—to receive notifications by both e-mail and United States mail.

Description of the Amendments to the Final-Form Rulemaking

The following describes all amendments made to this final-form rulemaking in response to comments from the public, the HPLC and IRRC.

Section 39.11 is amended to restore the minimum of 48 clock hours of continuing education required as a condition of renewal of an NHA's license.

Section 39.11b is amended to make the personal appearance of the applicant discretionary, rather than mandatory, thus permitting the Board to require a personal appearance if there are questions relating to the documentation submitted by the applicant to demonstrate their continued competence. Paragraph (4), pertaining to licensees seeking to establish continued competence who have been employed in a nursing home in a supervisory or consultant capacity, is amended to eliminate ambiguous language and make the standard more certain and enforceable as suggested by IRRC.

The Board amends § 39.44 (relating to provider responsibilities) to clarify that only those continuing education providers approved by the Board must include their provider number on certificates of attendance issued to each licensee who completed the course, in recognition of the fact that NAB does not include a provider number on their certificates.

Section 39.61 is amended to restore the minimum of 48 clock hours of continuing education and to reiterate the fact that completion of the required continuing education is a condition of renewal. Subsection (a) is also amended to provide that beginning with the continuing education completed during the July 1, 2022—June 30, 2024, biennial renewal period, at least 12 of the 48 hours shall be completed in the subject areas of emergency preparedness and infection control. The Board will enforce this provision for the 2024 renewal and thereafter. Subsection (c) is amended to restore the previous proportion of continuing education that can be completed as an instructor (maximum of 12 clock hours), serving as a supervisor in a Board-approved AIT program (up to 24 clock hours), and attending programs which have not been preapproved (maximum of 12 clock hours). The Board has also revised the number of clock hours provided for professional writing activities to make it more certain for licensees, to address other professional writing beyond articles, including authoring a book or a chapter in a book, and to distinguish between articles published in a peer-reviewed journal from those published in a non-peer-reviewed journal, magazine, newsletter or other publication relating to long-term care.

Fiscal Impact and Paperwork Requirements

Because the Board is not changing the total number of continuing education clock hours required as a condition of renewal, the revised continuing education requirements will not result in any fiscal impact or additional paperwork requirements on the Board or the regulated community.

Licensees who wish to reactivate licenses that have expired or been inactive for more than 5 years may have an increased fiscal impact depending upon the continued competence activity selected. Those who select completion of the 120-hour course in § 39.11b(2) will experience the

highest costs as the average cost for the 120-hour course is currently \$2,650. Individuals who chose to complete the licensure examinations would be required to pay the fee for the State and National portions of the examination, which is currently \$785. For either of these activities there will be no additional paperwork requirements, as § 39.11(e) currently requires application, a fee and documentation.

The continued competence activities in § 39.11b(3), (4) and (5) will have no increased costs but will have some additional paperwork requirements. Each of these activities involve work experience, requiring the licensee to document that the licensee practiced as an NHA in another jurisdiction for at least 2 of the last 5 years prior to application for reactivation, has been employed in a nursing home in a supervisory or consultant capacity for at least 3 of the last 5 years, or has been teaching long-term care subject matter for at least 3 of the last 5 years. That involvement may include, for example, serving as an assistant NHA or department head or teaching a nursing home administration course within the 120-hour program or bachelor's degree program. There may also be costs involved if the Board requests a personal appearance by the applicant, however, consideration will be given to permitting such personal appearances by video conference.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)) on January 16, 2020, the Board submitted a copy of the notice of proposed rulemaking, published at 50 Pa.B. 668, to IRRC and to the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received on the regulation, as well as other documents when requested. In preparing this final-form rulemaking, the Board has considered all comments received from the public, the HPLC and IRRC. The Board received no comments from the SCP/PLC.

Under section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)), on January 12, 2022, the Board delivered this final-form rulemaking to IRRC, the HPLC and the SCP/PLC. Under section 5.1(j.2) of the Regulation Review Act, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC on March 9, 2022. Under section 5.1(e) of the Regulatory Review Act, IRRC met on March 10, 2022, and approved the final-form rulemaking.

Additional Information

Additional information may be obtained by writing to Christina Stuckey, Board Administrator, State Board of Examiners of Nursing Home Administrators, P.O. Box 2649, Harrisburg, PA 17105-2649, ST-NHA@pa.gov.

Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), referred to as the Commonwealth Documents Law and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided as required by law, and all comments received were considered in drafting this final-form rulemaking.

(3) The amendments to this final-form rulemaking do not enlarge the original purpose of the proposed rulemaking published at 50 Pa.B. 668.

(4) This final-form rulemaking is necessary and appropriate for the administration of the act (63 P.S. §§ 1101—1114.2).

Order

The Board, therefore, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 39 are amended by amending §§ 39.1, 39.11, 39.44, 39.51, 39.52 and 39.61, adding §§ 39.11a and 39.11b, and deleting § 39.71.

(b) The Board shall submit this final-form rulemaking to the Office of Attorney General and the Office of General Counsel for approval as required by law.

(c) The Board shall submit this final-form rulemaking to IRRC, the HPLC and the SCP/PLC as required by law.

(d) The Board shall certify this final-form rulemaking and deposit it with the Legislative Reference Bureau as required by law.

(e) This final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

SHARON McDERMOND,
Chairperson

(Editor's Note: See 52 Pa.B. 1845 (March 26, 2022) for IRRC's approval order.)

Fiscal Note: Fiscal Note 16A-6219 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 39. STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

GENERAL

§ 39.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Clock hour—A unit of education consisting of 60 minutes of instruction. Programs longer than 30 minutes will be credited in 15-minute increments.

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§ 39.11. Biennial renewal.

(a) Licenses are renewable each biennium, in the even-numbered years.

(b) Notice of the availability of the renewal process will be forwarded to each active licensee at the licensee's address of record or current e-mail address on file with the Board, or both, prior to the expiration of the current biennial period.

(c) As a condition of biennial renewal, licensees shall complete a minimum of 48 clock hours of continuing education during the preceding biennial period as required in § 39.61 (relating to requirements).

(d) Renewal applications shall be completed in a format and manner required by the Board and accompanied by the required renewal fee in § 39.72 (relating to fees). Upon Board acceptance of the biennial renewal application, the license will be renewed and the applicant will receive a certificate of registration for the current renewal period.

(e) (Reserved).

§ 39.11a. Reactivation.

(a) A nursing home administrator who desires to reactivate a license that has been expired or inactive shall file an application for reactivation in a format and manner required by the Board and shall provide all of the following:

(1) A late fee as required by section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P.S. § 1401-225) or a verification of nonpractice, as applicable.

(2) The renewal fee in § 39.72 (relating to fees).

(3) Documentation evidencing the satisfactory completion of the continuing education requirement for the preceding biennial period.

(b) In addition to complying with the requirements in subsection (a), a nursing home administrator whose license has been expired or inactive for 5 years or longer shall demonstrate continued competence under § 39.11b (relating to continued competence).

§ 39.11b. Continued competence.

A nursing home administrator applying to reactivate a license that has been expired or inactive for 5 years or longer shall demonstrate continued competence by doing one of the following:

(1) Passing the licensure examinations approved by the Board.

(2) Successfully reCompleting 120 clock hours in a program of study approved by the Board as prescribed in § 39.14 (relating to approval of programs of study).

(3) Providing written documentation to the Board evidencing that the licensee has practiced nursing home administration in another jurisdiction for at least 2 years within the last 5 years under a current license in that jurisdiction. The licensee may be required to appear personally before the Board to demonstrate that practice.

(4) Providing written documentation to the Board that the licensee has been employed in a nursing home in a supervisory or consultant capacity for at least 3 years within the last 5 years. The licensee may be required to appear personally before the Board to demonstrate that practice.

(5) Providing written documentation to the Board that the licensee has been teaching long-term care subject matter for a continuing educational provider approved by the Board to offer the 120-hour program or an accredited college or university for at least 3 years within the last 5 years. The licensee may be required to appear personally before the Board to discuss the scope of the education provided during the time the license has been expired or inactive.

APPROVAL PROCESS—PROVIDERS

§ 39.44. Provider responsibilities.

For each program, providers shall:

* * * * *

(7) Issue continuing education records to each licensee who completed the course, which must include:

- (i) The name of the licensee.
- (ii) The title of the course or program.
- (iii) The date of the course or program.
- (iv) The number of continuing education clock hours provided.
- (v) The name of the course provider and, if approved by the Board, the provider number.
- (vi) A statement that the course or program was approved by the Board or NAB, which must include the program approval number.

(8) Retain attendance records, written outlines and a summary of evaluations for a 5-year period.

APPROVAL PROCESS—PROGRAMS

§ 39.51. Standards for continuing education programs.

(a) A program shall consist of the subjects listed in § 39.41(a)(2) (relating to approval of programs of study).

(b) The Board does not deem the following programs acceptable:

- (1) Inservice programs which are not open to licensees.
- (2) Programs limited to the organization and operation of the employer.
- (3) Programs consisting of less than 30 minutes of instruction.

§ 39.52. Program registration.

(a) All programs require preapproval, except as in § 39.61(c)(2)—(5) (relating to requirements).

* * * * *

CONTINUING EDUCATION

§ 39.61. Requirements.

(a) A licensee shall complete at least 48 clock hours of continuing education during the preceding biennial period as a condition of renewal. Beginning with the continuing education completed during the July 1, 2022, through June 30, 2024, biennial renewal period, at least 12 of the required 48 clock hours shall be completed in the subject areas of emergency preparedness and infection control.

(b) All continuing education clock hours shall be completed in courses preapproved by NAB or the Board, except as provided in subsection (c)(2)—(5).

(c) Of the 48 clock hours required, the following apply:

(1) Up to 48 clock hours may be taken in lecture, college or university, computer interactive, distance learning or correspondence courses preapproved by NAB or the Board.

(2) A maximum of 12 clock hours may be earned by serving as an instructor of a NAB or Board-approved continuing education program or as an instructor of a college or university course approved by NAB or the Board. Instructors may earn 1 clock hour for each hour of instruction up to 12 clock hours.

(3) (Reserved).

(3.1) Clock hours may be earned by professional writing on the topic of long-term care as follows:

(i) Authoring a book relating to long-term care will earn 18 clock hours per published book per biennium.

(ii) Authoring a chapter in a book relating to long-term care will earn 4 clock hours per chapter up to a maximum of 12 clock hours per biennium.

(iii) Authoring an article relating to long-term care that is published in a peer-reviewed journal will earn 3 clock hours per article up to a maximum of 9 clock hours per biennium.

(iv) Authoring an article that is published in a non-peer-reviewed journal, magazine, newsletter or other publication relating to long-term care will earn 2 clock hours per article, up to a maximum of 6 clock hours per biennium.

(v) A licensee seeking continuing education credit for professional writing as set forth in this paragraph shall submit a copy of the book, chapter, article, newsletter or other publication to the Board within 60 days of publication.

(4) Up to 24 clock hours may be obtained by serving as a supervisor in a Board-approved AIT program, when the AIT successfully completes the AIT program.

(5) A maximum of 12 clock hours may be awarded retroactively for attending programs, to include lectures, and college or university courses, which have not been preapproved. The attendee shall submit a written request for approval within 60 days of attending the program and document attendance. The attendee shall demonstrate to the Board's satisfaction that the programs meet the requirements in §§ 39.14(a)(2) and 39.51 (relating to approval of programs of study; and standards for continuing education programs).

(d) A licensee is not required to meet the continuing education requirement on the first renewal immediately following licensure.

(e) A licensee suspended for disciplinary reasons is not exempt from the continuing education requirements in subsection (a).

(f) A licensee who cannot meet the overall continuing education clock hour requirement in subsection (a) or (d) due to illness, emergency or hardship may apply to the Board in writing prior to the end of the renewal period for an extension of time to complete the clock hours. A licensee who cannot meet any other requirement in this section due to illness, emergency or hardship may apply to the Board in writing prior to the end of the renewal period for a waiver of the requirement. An extension or waiver request must explain why compliance is impossible, and include appropriate documentation. An extension or waiver request will be evaluated by the Board on a case-by-case basis.

(g) A licensee will not be credited for repeating a program in the same renewal period unless the subject matter has substantially changed during that period.

(h) A licensee will not be credited for any continuing education program less than 30 minutes of instruction in duration.

FEES

§ 39.71. (Reserved).

[Pa.B. Doc. No. 22-735. Filed for public inspection May 20, 2022, 9:00 a.m.]