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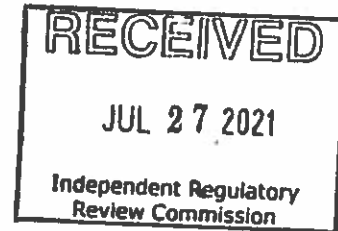


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Sent via e-mail to: RA-STRegulatoryCounsel@pa.gov

March 24, 2021

Alexandra Sacavage, Board Counsel
State Board of Examiners of Nursing Home Administrators
P.O. Box 69523
Harrisburg, PA 17106-9523



Dear Ms. Sacavage:

Thank you for the opportunity to offer comments on the State Board of Examiners of Nursing Home Administrators (Board) Continuing Education (CE) Advance Notice of Final Rulemaking (ANFR) published February 27, 2021 in the *Pennsylvania Bulletin*. LeadingAge PA is a trade association representing more than 370 not-for-profit providers of senior housing, health care and community services across the commonwealth. These providers serve more than 75,000 older Pennsylvanians and employ over 50,000 dedicated caregivers. Our members provide an array of services including nursing homes, which will be affected by the proposed changes to continuing education requirements for Nursing Home Administrators (NHAs).

We appreciate the courtesy of sharing the ANFR, however, we believe that the significant changes envisioned in this final rule make it incumbent on the Board to release the update as a proposed rule rather than as changes to the final rule. Previous commenters would have reviewed a proposed regulation that indicated 36 hours of CEs with no specific hourly requirements on the content, which is quite different from the 48 hours of CE now included in the final rule with 12 hours devoted to emergency preparedness and infection control topics. We therefore respectfully request that the NHA Board return to the process with a proposed rule.

As we stated in comments to the proposed rule, we recognize the significant leadership and the tremendous responsibility NHAs accept to provide the necessary care and services for each resident to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the comprehensive assessment and plan of care. While this is the most important duty, NHAs are also responsible for the wellbeing of their employees, the financial soundness of the facility, and compliance with the many state and federal requirements in addition to keeping up with the fast pace of change in this profession. Given these many responsibilities, LeadingAge PA appreciates and supports the Board's determination that 48 hours of CE is needed to keep up with changing requirements, scientific advances, human resources updates, technical and social innovations, business trends, and more.

We respectfully request, however, that the Board refrain from defining a specific number of CE hours per content area. We have considered and cannot support the proposal that 12 of the 48 hours be in the areas of Emergency Preparedness or Infection Control. While these have been extremely important topics in 2020,

the field of nursing home administration is constantly changing and needs to respond to current issues rather than the past. Further, since the coronavirus was novel, the procedures needed to control it and the guidances provided by government agencies continued to evolve throughout the pandemic as scientists learned more about the disease, its transmission, and prevention. NHAs needed to operationalize these changes at a moment's notice to protect their residents and staff, without regard to whether a CE could be earned for learning and implementing the updates. In this fluid environment, NHAs used all means available to learn how to combat the virus and will no doubt continue this mission whether or not CEs are required or given. While emergency preparedness and infection control and prevention will continue to be important content areas, it is likely that other topics will move to the forefront in upcoming years. For example, in the aftermath of the pandemic, NHAs may need to focus more on the entity's financial viability and the staff and residents' mental health as they recover from the pandemic.

In addition to the ever-changing environment in which they practice their profession, the varied backgrounds that NHAs bring to their roles make it important to allow each NHA to determine the areas in which he or she needs education. For example, a person with a strong financial background such as an accountant who becomes an NHA may need more health-related CE than an NHA who is an RN, while an NHA who is an RN may need additional CE on budgeting and financial issues. NHAs as professionals are responsible to identify the topics in which they need additional education. Finally, for some content areas, identifying experts to teach can be difficult. An overly prescriptive education plan may make it difficult if not impossible to attain high quality needed education in the required content areas and will reduce the NHA's options to attain the education they need. For all of these reasons, we urge the Board to resist the temptation to mandate a predetermined number of hours in specific content areas.

Finally, we request that the Board clarify whether it intends to retain the other changes indicated in the proposed rule not discussed in the ANFR. Further, we request that the Board clarify whether it intends that the allocation of CEs for authoring publications will remain the same as they are in current regulations as the description in the ANFR is not easy to understand. Please note in our comments on the proposed rule our support for increasing the proportion of CEs that can be received through authoring publications, serving as an instructor or as a supervisor in a Board approved Administrator In Training (AIT) program.

For sections of the proposed rule that the Board does not intend to change between proposed and final, please see our [comments](#) on the proposed rule.

Thank you again for the opportunity to comment on the Board's intended changes to Pennsylvania's NHA continuing education requirements. We look forward to continuing to work with you as this regulation continues through the regulatory process. If you have questions about our comments, please contact me.

Sincerely,



Beth Greenberg
Senior Director of Regulatory Affairs
bgreenberg@leadingagepa.org

RULES AND REGULATIONS

STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

Continuing Education; Advance Notice of Final Rulemaking

[51 Pa.B. 1017]

[Saturday, February 27, 2021]

The State Board of Examiners of Nursing Home Administrators (Board) is publishing an advance notice of final rulemaking (ANFR) seeking additional comment regarding the requirements for continuing education. The proposed rulemaking was published at 50 Pa.B. 668 (February 1, 2020).

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 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) also 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 Summary

On February 1, 2020, the Board published the proposed rulemaking seeking, among other things, to reduce the number of continuing education clock hours required as a condition of biennial renewal from 48 to 36. The Board made this proposal because a review of the continuing education requirements for nursing home administrators in the Northeast geographic region, including Ohio, West Virginia, Maryland, Delaware, New Jersey, New York, Massachusetts, Rhode Island, Connecticut, New Hampshire, Vermont and Maine, indicated that the Board's requirement of 48 hours was one of the highest continuing education requirements in the region.

The Board entertained public comment for 30 days during which time the Board received comments from Leading Age PA and the Pennsylvania Coalition of Affiliated Healthcare and Living Communities (PACAH). 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).

Leading Age Pa indicated that they do not support the reduction of continuing education clock hours. The group spoke to the tremendous value of education and noted that some educational topics are needed but are not eligible for continuing education credit. Further, the group stated that many educational activities, such as reading articles to keep up on new trends and requirements, do not earn continuing education units. Members noted that they would prefer if a larger proportion of the continuing education units could be attained through serving as an instructor, authoring an article, or serving as a supervisor in a Board-approved Administrator in Training (AIT) program. They urged the Board to leave in place the 12 clock hours previously allocated to these continuing

education units, rather than reducing them to 9 clock hours. They also suggest that the number of continuing education units available for published articles remain at 24 clock hours and that clock hours for supervising an AIT remain at 24 clock hours rather than being reduced to 18 clock hours.

The PACAH also opposed the proposed reduction on continuing education clock hours. Its comments cite to the reports released in 2016 from the Pennsylvania Auditor General and the Nursing Home Quality Improvement Task Force. Both reports indicate that Pennsylvania needs to focus on improving quality of care within facilities. In light of this, PACAH indicated that they do not support a reduction in the continuing education requirements for nursing home administrators. The association stated there is an obvious correlation between quality of care and increased education in any field, but especially healthcare. With an increasing aging population, increasing acuity levels and increasing regulatory requirements, there is no logical explanation for decreasing educational requirements, especially if there is a desire to enhance the quality of care. Additionally, PACAH members stated that they have no issue obtaining their 48 credit hours biennially. PACAH pointed out the continuing education requirements in other states. If Pennsylvania reduced its continuing education requirement from 48 to 36 continuing education units biennially, it would have one of the lowest continuing education requirements in the country.

The comments from the HPLC also concerned the proposed reduction in continuing education units and compared it to the requirements in other states. The Committee questioned whether the reduction would have any impact on Pennsylvania licensees seeking licensure in one of those contiguous states.

IRRC reiterated the opposition to reducing the continuing education requirements because it would result in Pennsylvania having a lower continuing education requirement than several contiguous states. IRRC expressed concern about the impact on Pennsylvania licensees who would seek licensure in any of those states. IRRC recommended the Board explain how lowering the continuing education requirement would adequately protect the public health safety and welfare as well as how it will affect the regulated community who seek licensure in other states.

The Board reviewed these comments, among others, 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 is now proposing to keep the current continuing education requirement at 48 clock hours biennially, 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 the final-form rulemaking, the Board witnessed how the novel coronavirus (COVID-19) pandemic affected the industry and the importance of nursing home administrators being prepared to handle and navigate these difficult circumstances in order to protect the residents in the facilities which they oversee. Additionally, the Board proposes to revise the proposed rulemaking's allocation of continuing education clock hours 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 AIT program.

To assure that the public has a full opportunity to comment on these proposed revisions to the final-form rulemaking, the Board voted to publish this ANFR seeking additional comments from the public.

Contact Person, Availability of Draft Final Regulations and Submission of Comments

The Board will accept written comments as well as comments transmitted by means of e-mail on the draft final-form rulemaking. Comments will not be accepted by facsimile, telephone or voice mail. Comments sent by means of e-mail must include the following in the subject heading of the transmission: "Comments on 16A-6219—Continuing Education ANFR." E-mail transmissions as well as written comments must include the commentator's name and address. Written comments must be received by the Board within 30 days of the publication of this notice in the *Pennsylvania*

Bulletin. To request a copy of the draft final-form rulemaking or to provide a comment, contact Alexandra Sacavage, Board Counsel, State Board of Examiners of Nursing Home Administrators, P.O. Box 65923, Harrisburg, PA 17106-9523, RA-STRegulatoryCounsel@pa.gov.

SHARON McDERMOND,
Chairperson

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[Top](#)

[Bottom](#)