



NOTICE OF TEXT [Authority G.S. 150B-21.2(c)]

OAH USE ONLY

VOLUME:

ISSUE:

CHECK APPROPRIATE BOX:

Notice with a scheduled hearing

Notice without a scheduled hearing

Republication of text. Complete the following cite for the volume and issue of previous publication, as well as blocks 1 - 4 and 7 - 13. If a hearing is scheduled, complete block 5.

Previous publication of text was published in Volume: Issue:

1. Rule-Making Agency: NC State Board of Examiners for Nursing Home Administrators

2. Link to agency website pursuant to G.S. 150B-19.1(c): www.ncbenha.org

3. Proposed Action -- Check the appropriate box(es) and list rule citation(s) beside proposed action:

ADOPTION:

READOPTION with substantive changes:

READOPTION without substantive changes: 21 NCAC 37D .0202; 21 NCAC 37D .0303; 21 NCAC 37D .0402;
21 NCAC 37D .0404; 21 NCAC 37D .0602; 21 NCAC 37D .0703;
21 NCAC 37E .0101; 21 NCAC 37E .0102; 21 NCAC 37F .0102;
21 NCAC 37G .0102; 21 NCAC 37G .0201; 21 NCAC 37G .0401;
21 NCAC 37 H .0102

AMENDMENT:

REPEAL:

4. Proposed effective date: August 1, 2015

5. Is a public hearing planned? Yes No

If yes: Public Hearing date: June 17, 2015

Public Hearing time: 10:30am

Public Hearing Location: 3733 National Drive, Suite 110, Raleigh NC 27612

6. If no public hearing is scheduled, provide instructions on how to demand a public hearing:

7. Explain Reason For Proposed Rule(s): We are readopting the Rules without any changes from the Periodic Review.

8. Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Rule(s) is automatically subject to legislative review. Cite statutory reference:

9. The person to whom written comments may be submitted on the proposed rule(s):

Name: Jane A. Baker

Address: 3733 National Drive, Suite 110
Raleigh NC 27612

Phone (optional): 919-571-4164

Fax (optional): 919-571-4166

E-Mail (optional): ncbenha@mindspring.com

10. Comment Period Ends: June 17, 2015

11. Fiscal impact (check all that apply).

If this form contains rules that have different fiscal impacts, list the rule citations beside the appropriate impact.

- State funds affected
- Environmental permitting of DOT affected
Analysis submitted to Board of Transportation
- Local funds affected
- Substantial economic impact (\geq \$1,000,000)
- Approved by OSBM
- No fiscal note required by G.S. 150B-21.4
- No fiscal note required by G.S. 150B-21.3A(d)(2)

12. Rule-making Coordinator: Martha N. Bell

Address: 3733 National Drive, Suite 110
Raleigh NC 27612

Phone: 919-571-4164

E-Mail: ncbenha@mindspring.com

Agency contact, if any: Martha N. Bell

Phone: 919-571-4164

E-mail: ncbenha@mindspring.com

13. The Agency formally proposed the text of this rule(s) on
Date: January 28, 2015

14. Signature of Agency Head* or Rule-making Coordinator:



*If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Martha N. Bell

Title: Associate Director

21 NCAC 37D .0202 INITIAL LICENSURE FEE

Prior to licensure, the applicant shall send an initial licensure non-refundable fee of five hundred dollars (\$500.00) when the applicant has successfully passed the examinations required by the Board under Sections .0600 and .0700 of this Subchapter.

History Note: Authority G.S. 90-280;
Eff. February 1, 1976;
Amended Eff. August 1, 1977;
Readopted Eff. October 1, 1981; December 15, 1977;
Amended Eff. December 30, 1981;
Temporary Amendment Eff. July 13, 1982 for a period of 120 days to expire on November 9, 1982;
Amended Eff. February 1, 1991; October 1, 1982;
Transferred and Recodified from 21 NCAC 37A .0302 Eff. April 1, 1996;
Amended Eff. August 1, 1996;
Temporary Amendment Eff. August 15, 1996;
Amended Eff. July 1, 1998;
Temporary Amendment Eff. August 15, 1999;
Amended Eff. July 1, 2014; September 1, 2004; July 1, 2000.

21 NCAC 37D .0303 REQUIRED COURSE

The course prescribed by the Board pursuant to G.S. 90-278(1)c shall be comprised of in-class, field and correspondence components substantially equivalent to the 2003 description of the Basic Nursing Home Administrator Course provided by the School of Public Health at UNC-Chapel Hill. An applicant with a health care administration degree may request in writing that the Board approve college courses as substantially equivalent to portions of the required course, provided the applicant tests out of portions of the required course with a passing score of at least 70 percent.

History Note: Authority G.S. 90-278(1)c;
Eff. April 1, 1996.
Amended Eff. July 1, 2004; July 1, 2000.

21 NCAC 37D .0402 APPLICATION TO BECOME ADMINISTRATOR-IN-TRAINING (AIT)

- (a) The applicant shall submit to the Board an application containing:
- (1) name;

- (2) education;
- (3) employment history;
- (4) questions pertaining to moral character;
- (5) criminal history; and
- (6) an affidavit stating that the applicant if granted a license, shall obey the laws of the state and the rules of the Board, and shall maintain the honor and dignity of the profession.

(b) The applicant shall submit a resume.

(c) The applicant shall submit three reference forms (one employer and two character) as set forth in Rule .0203 of this Subchapter:

- (1) the Employer Reference Form shall include the address of employment and duties assigned; and
- (2) the Character Reference Form shall include how this individual knows the applicant and whether the applicant is capable to supervise the care of residents of a skilled facility. No character reference shall be from a relative of the applicant.

(d) The applicant shall submit an official transcript issued by the institution indicating the courses completed and hours earned, specifying whether semester or quarter hours. The applicant shall supply documentation of his or her supervisory experience in a nursing home if the applicant is utilizing the experience substitute for the education requirement as allowed by G.S. 90-278(1)b.

(e) The applicant and the preceptor shall appear before the Board for a personal interview.

(f) The preceptor shall submit to the Board three weeks prior to the personal interview:

- (1) a Facility Survey Form stating the facility license number, address and the number of beds;
- (2) a letter accepting individual as an AIT;
- (3) a Preceptor Disclosure Form stating number of years the individual has served as an administrator and number of AITs precepted;
- (4) a curriculum outline for the AIT program that provides the AIT with job experience in each department. A curriculum outline shall include each department in the facility and the information that will be covered, including the recommended number of weeks in the program as outlined on the AIT Curriculum Request and Rationale Form;
- (5) an AIT Curriculum Request and Rationale Form shall be based on education and experience of the AIT applicant. The preceptor shall be responsible for providing a rationale for all subject areas with the recommended number of weeks for the AIT; and
- (6) the directions to the facility.

(g) The owner or governing board of the facility shall submit to the Board three weeks prior to the personal interview a letter of approval for the AIT applicant to train in the facility.

(h) A non-refundable processing fee of two hundred fifty dollars (\$250.00) shall be submitted with the application.

(i) An AIT applicant shall maintain at all times a current residential mailing address with the Board office.

(j) The applicant may obtain an application and forms from the Board's website or from the Board office.

History Note: Authority G.S. 90-278; 90-280; 90-285; 90-288.01;
Eff. February 1, 1976;
Amended Eff. August 1, 1977; April 8, 1977;
Readopted Eff. December 15, 1977;
Amended Eff. February 1, 1980;
Readopted Eff. October 1, 1981;
Amended Eff. August 1, 1995; August 2, 1993; February 1, 1991; May 1, 1989;
Transferred and Recodified from 21 NCAC 37A .0502 Eff. April 1, 1996;
Amended Eff. July 1, 2014; July 1, 2004; April 1, 1996.

21 NCAC 37D .0404 ADMINISTRATOR-IN-TRAINING SELECTION OF PRECEPTOR

- (a) From an approved list of preceptors, the AIT applicant shall select a preceptor prior to submitting application to the Board.
- (b) It shall be the responsibility of the AIT applicant to contact a preceptor to ensure that the preceptor accepts the AIT applicant.
- (c) The AIT must notify the Board of any change in preceptor. Any change in preceptor shall be from the approved list.

History Note: Authority G.S. 90-278; 90-285;
Eff. February 1, 1976;
Amended Eff. April 8, 1977;
Readopted Eff. October 1, 1981; December 15, 1977;
Amended Eff. August 2, 1993; February 1, 1991; May 1, 1989;
Transferred and Recodified from 21 NCAC 37A .0505 Eff. April 1, 1996;
Amended Eff. July 1, 2004; April 1, 1996.

21 NCAC 37D .0602 NATIONAL EXAM APPLICATION

To sit for the National Exam, a person shall submit an exam application electronically to the NAB. In order to release the results of the NAB exam score, the applicant shall pay to the Board a processing fee of fifty dollars (\$50.00).

History Note: Authority G.S. 90-285;
Eff. April 1, 1996;
Amended Eff. September 1, 2004.

21 NCAC 37D .0703 STATE EXAMINATION ADMINISTRATION

- (a) The State Examination shall be administered on dates to be determined and published by the Board on the State Examination Application form located on the Board's website. It may also be offered to reciprocity applicants and to AIT applicants who passed the National Examination but previously failed the State Examination on different dates if the applicants show good cause, such as unavailability due to illness, inclement weather, employment, or survey.
- (b) An applicant shall pay a non-refundable processing fee of one hundred fifty dollars (\$150.00) each time the applicant takes the State Examination.
- (c) To sit for the State Examination, the applicant shall submit a Test Confidentiality and Attestation Form, which is a release form stating the applicant will keep test questions confidential. This form is provided by the Board on the website and in the information package.
- (d) An applicant shall pass the State Exam within one year of the date of completion of the AIT program.

*History Note: Authority G.S. 90-280; 90-285;
Eff. April 1, 1996;
Amended Eff. July 1, 2014; July 1, 2004.*

21 NCAC 37E .0101 APPLICATION PROCESS

- (a) The Board may issue a license to a nursing home administrator who holds a nursing home administrator license issued by the proper authorities of any other state, upon payment of the current licensing fee, successful completion of the state examination, and submission of evidence satisfactory to the Board as to the following:
- (1) such applicant for licensure shall have personal qualifications, education, training and experience at least substantially equivalent to those required in this state;
 - (2) such applicant shall be licensed in another state that gives similar recognition and reciprocity/endorsement to nursing home administrator licenses of this state;
 - (3) such applicant for license by reciprocity/endorsement holds a valid active license as a nursing home administrator in the state from which he is transferring; and
 - (4) such applicant shall appear before the Board for a personal interview.
- (b) If the applicant for reciprocity does not submit evidence satisfactory to the Board as required by Subparagraph (a)(1) or (a)(2) of this Rule, the Board may issue a temporary reciprocal license for six months upon the following conditions:
- (1) Within one month of expiration of the temporary reciprocal license, submission of a statement that the temporary licensee has administered the nursing home in a manner satisfactory to the nursing home owner or representative of the owner; or
 - (2) Completion of Continuing Education course(s) that the Board may require as a condition of issuance of a temporary reciprocal license.

If the applicant for temporary reciprocal license does not submit evidence satisfactory to the Board as required by Subparagraph (a)(1) or (a)(2) of this Rule and at the time of the interview with the Board would qualify for condition Subparagraph (b)(1) of this Rule and the Board determines from the application that the applicant does not possess

education substantially equivalent to the qualifications required by this state, the Board may also require completion of Continuing Education course(s) as a condition of issuance of a temporary reciprocal license.

(c) If a temporary reciprocal license is issued pursuant to Paragraph (b) of this Rule and the applicant notifies the Board prior to the expiration of the six-month term that the circumstances have changed such that the condition(s) imposed is no longer applicable, the Board may extend the temporary reciprocal license for an additional period not to exceed six months and require the applicant to fulfill the other condition from Paragraph (b) of this Rule not originally imposed, upon consideration of the following:

- (1) the period of extension requested;
- (2) the extent of control the applicant had over the situation causing the request for extension;
- (3) the applicant's good faith effort at compliance with the original term imposed;
- (4) if condition Subparagraph (b)(1) of this Rule was imposed, any issues arising during the term of the applicant at the facility identified during a survey conducted by the Division of Health Service Regulation or a Federal Surveying agency.

(d) If a temporary reciprocal license is issued pursuant to Paragraph (b) of this Rule and the applicant notifies the Board prior to the expiration of the six-month term that the applicant was unable to fulfill the condition within the six-month time period, the Board may extend the temporary reciprocal license for an additional period not to exceed six months upon consideration of the following:

- (1) the period of extension requested;
- (2) the extent of control the applicant had over the situation causing the request for extension;
- (3) the applicant's good faith effort at compliance with the original term imposed;
- (4) if condition Subparagraph (b)(1) of this Rule was imposed, any issues arising during the term of the applicant at the facility identified during a survey conducted by the Division of Health Service Regulation or a Federal Surveying agency.

*History Note: Authority G.S. 90-278; 90-280; 90-285; 90-287;
Eff. February 1, 1976;
Readopted Eff. December 15, 1977;
Amended Eff. February 1, 1980;
Readopted Eff. October 1, 1981;
Amended Eff. August 1, 1995; August 2, 1993; February 1, 1991; May 1, 1989;
Transferred and Recodified from 21 NCAC 37A .0912(a) Eff. April 1, 1996;
Amended Eff. July 1, 2004; July 1, 2000; April 1, 1996.*

21 NCAC 37E .0102 APPLICATION CONTENTS

An applicant for reciprocity/endorsement shall submit the following items that shall be received by the Board three weeks prior to the next scheduled Board Meeting posted on the Board's website:

- (1) a completed application;
- (2) a resume;
- (3) certified college transcript(s);
- (4) three reference forms (one employer and two character) located on the Board's website as set forth in Rule 21 NCAC 37D .0203:
 - (a) the Employer Reference Form shall include the address of employment and duties assigned; and
 - (b) the Character Reference Form shall include how the individual knows the applicant and whether the applicant is capable of supervising the care of residents of a skilled facility.
No character reference shall be from a relative of the applicant.
- (5) a licensing questionnaire(s) from every state where the applicant held a license. The questionnaire is available on the Board's website;
- (6) a non-refundable processing fee of two hundred fifty dollars (\$250.00); and
- (7) a fingerprint card, necessary forms, and required fee for criminal background check. Information regarding the forms and fees for the criminal background check is available in the Board office.

History Note: Authority G.S. 90-280; 90-285; 90-287; 90-288.01;
Eff. February 1, 1976;
Readopted Eff. December 15, 1977;
Amended Eff. February 1, 1980;
Readopted Eff. October 1, 1981;
Amended Eff. August 1, 1995; August 2, 1993; February 1, 1991; May 1, 1989;
Transferred and Recodified from 21 NCAC 37A .0912(b) Eff. April 1, 1996;
Amended Eff. April 1, 1996;
Temporary Amendment Eff. August 15, 1999;
Amended Eff. July 1, 2014; July 1, 2004; July 1, 2000.

21 NCAC 37F .0102 ISSUANCE OF TEMPORARY LICENSE

- (a) An applicant for a temporary license shall submit the following items:
 - (1) a completed application;
 - (2) a resume;
 - (3) three reference forms (one employer and two character) located on the Board's website as set forth in Rule 21 NCAC 37D .0203:
 - (A) the Employer Reference Form shall include the address of employment and duties assigned; and

- (B) the Character Reference Form shall include how the individual knows the applicant and whether the applicant is capable of supervising the care of residents of a skilled facility. No character reference shall be from a relative of the applicant;
- (4) a letter from the owner or regional manager requesting the issuance of a Temporary License for the facility stating the circumstances necessitating the issuance of the license; and
- (5) the processing fee of three hundred dollars (\$300.00).
- (b) After an applicant is issued a temporary license he or she shall submit a fingerprint card, necessary forms, and the required fee for a criminal background check, and successfully pass the state examination administered by the Board at the next exam date to retain the temporary license. Information regarding the forms and fees for the criminal background check is available in the Board office.
- (c) A temporary license may be extended at the discretion of the Board in accordance with the requirements of Rule .0101(d) of this Section.
- (d) A temporary license shall be issued to the applicant to permit him or her to practice only in the nursing home to which the applicant is assigned on the date of issuance.
- (e) If the Board extends the temporary license, no further fee shall be required.

History Note: Authority G.S. 90-278; 90-280; 90-285; 90-288.01;
Eff. February 1, 1980;
Amended Eff. April 15, 1980;
Readopted Eff. October 1, 1981;
Amended Eff. May 1, 1989; December 1, 1983; October 1, 1982;
Transferred and Recodified from 21 NCAC 37A .1003 Eff. April 1, 1996;
Amended Eff. April 1, 1996;
Temporary Amendment Eff. August 15, 1999;
Amended Eff. July 1, 2014; July 1, 2000.

21 NCAC 37G .0102 RENEWAL FEE

Upon making application for renewal, a licensee shall pay a biennial licensure fee of five hundred dollars (\$500.00).

History Note: Authority G.S. 90-280; 90-285; 90-286;
Eff. February 1, 1976;
Amended Eff. August 1, 1977; April 8, 1977;
Readopted Eff. December 15, 1977;
Readopted w/change Eff. October 1, 1981;
Temporary Amendment Eff. July 13, 1982 for a period of 120 days to expire on November 9, 1982;
Amended Eff. February 1, 1991; May 1, 1989; December 1, 1983; October 1, 1982;
Transferred and Recodified from 21 NCAC 37A .0904 Eff. April 1, 1996;

Amended Eff. August 1, 1996;
Temporary Amendment Eff. August 15, 1996;
Amended Eff. July 1, 1998;
Temporary Amendment Eff. August 15, 1999;
Amended Eff. July 1, 2014; September 1, 2004; July 1, 2000.

21 NCAC 37G .0201 INACTIVE REQUIREMENTS

- (a) An administrator who desires to be placed on the inactive list shall make a written request on the biennial renewal form provided by the Board and submit a non-refundable inactive fee of one hundred dollars (\$100.00) per year fee to the Board.
- (b) A request to be placed on the inactive list shall be submitted to the Board no later than 30 days after expiration of the license under Rule .0101(a) of this Subchapter. Failure to submit the request and payment of the fee within 30 days after expiration shall result in automatic expiration of the license retroactive to the expiration date.
- (c) If an administrator makes a request to be placed on the inactive list pursuant to Paragraph (b) of this Rule, an administrator may remain on the inactive list for a period not to exceed four years provided the licensee pays an inactive fee of one hundred dollars (\$100.00) for each additional year prior to expiration of the inactive period.

History Note: Authority G.S. 90-280; 90-285;
Eff. February 1, 1976;
Amended Eff. April 8, 1977;
Readopted Eff. December 15, 1977;
Readopted with Change Eff. October 1, 1981;
Amended Eff. February 1, 1991;
Transferred and Recodified from 21 NCAC 37A .0906 Eff. April 1, 1996;
Amended Eff. April 1, 1999;
Temporary Amendment Eff. August 15, 1999;
Amended Eff. July 1, 2014; July 1, 2000.

21 NCAC 37G .0401 DUPLICATE LICENSE REQUIREMENTS

- (a) Upon receipt of satisfactory evidence that a license or certificate of registration has been lost, mutilated, or destroyed, the Board may issue a duplicate license or certificate of registration upon payment of a fee of twenty five dollars (\$25.00).
- (b) If a licensee's name has legally changed from the name under which the individual was originally licensed by the Board, the licensee shall furnish copies of the documents legally authorizing the name change, along with the twenty-five dollar (\$25.00) fee, when requesting a duplicate certificate.

History Note: Authority G.S. 90-280(d);

Eff. February 1, 1976;

Readopted Eff. October 1, 1981; December 15, 1977;

Amended Eff. May 1, 1989;

Transferred and Recodified from 21 NCAC 37A .0914 Eff. April 1, 1996;

Amended Eff. April 1, 1996.

21 NCAC 37H .0102 CONTINUING EDUCATION PROGRAMS OF STUDY

(a) The Board shall certify and administer courses in continuing education for the professional development of nursing home administrators and to enable persons to meet the requirements of the Rules in this Chapter. The licensee shall keep a record of his or her continuing education hours. Certified courses, including those sponsored by the Board, an accredited university, college or community college, associations, professional societies, or organizations shall:

- (1) contain a minimum of one classroom hour of academic work and not more than eight classroom hours within a 24-hour period; and
- (2) include instruction in one or more of the following general subject areas or their equivalents:
 - (A) Resident Care and Quality of Life;
 - (B) Human Resources;
 - (C) Finance;
 - (D) Physical Environment and Atmosphere; or
 - (E) Leadership and Management.

(b) In lieu of certifying each course offered by a provider, the Board may certify the course provider for an annual fee not to exceed four thousand dollars (\$4,000.00). The Board Office shall conduct a review annually of the number of courses each provider presented in the prior year. The annual fee shall be set at one hundred dollars (\$100.00) for every course offered in the prior year. The course provider shall submit a list of courses offered for credit and agree to comply with the requirements of Paragraph (a) of this Rule.

(c) Certified courses not administered by the Board shall be:

- (1) submitted to the Board for approval 30 days prior to the presentation of the program; and
- (2) accompanied with a processing fee to cover the cost of reviewing and maintaining records associated by the continuing education program. The fee schedule is as follows:
 - (A) any course submitted for review, up to and including six hours, shall be accompanied by a non-refundable fee of one hundred dollars (\$100.00); and
 - (B) the sponsor shall pay ten dollars (\$10.00) for each additional hour for any course submitted for review that is greater than six hours.

(d) Courses shall be approved for a period of one year from the date of initial presentation.

(e) In order to receive Board approval for distance learning programs that are via printed material, cd, dvd, videotape, or web-based, the course shall have tests before and after the session. For every credit hour claimed, the course shall include five questions on each test administered before and after the course. These questions may be the same.

(f) Continuing education credit for licensees may include up to 10 hours for participation in distance learning courses only if:

- (1) the distance learning course is approved by the Board or the National Association of Boards of Examiners of Long Term Care Administrators (NAB). The NAB is a certifying association of continuing education across the nation; and
- (2) the approved course sponsor sends to the Board a verification of the individual's completion of the distance learning course.

(g) The Board shall charge a fee covering the cost of continuing education courses it sponsors, not to exceed five hundred dollars (\$500.00).

*History Note: Authority G.S. 12-3.1(c)(3); 90-278; 90-280; 90-285; 90-286;
Eff. February 1, 1976;
Amended Eff. April 8, 1977;
Readopted Eff. December 15, 1977;
Readopted w/change Eff. October 1, 1981;
Amended Eff. August 2, 1993; February 1, 1991; May 1, 1989; February 1, 1986;
Transferred and Recodified from 21 NCAC 37A .0404 Eff. April 1, 1996;
Temporary Amendment Eff. August 15, 1999;
Amended Eff. July 1, 2014; September 1, 2004; July 1, 2000.*