

## CHAPTER 2

### NURSING HOME ADMINISTRATORS LICENSING BOARD

#### §61. Requirement for license

A medical care facility other than a hospital may not operate except under the supervision of a licensed administrator and an individual may not be an administrator of a medical care facility other than a hospital unless that individual is the holder of a current administrator's license or a temporary permit issued pursuant to this chapter. [PL 1993, c. 600, Pt. A, §27 (AMD).]

#### SECTION HISTORY

PL 1969, c. 350 (NEW). PL 1969, c. 359 (NEW). PL 1969, c. 556, §1 (AMD). PL 1971, c. 162, §1 (AMD). PL 1971, c. 544, §108 (RP). PL 1985, c. 233, §3 (AMD). PL 1991, c. 341, §§1,2 (AMD). PL 1993, c. 600, §A27 (AMD).

#### §62. Definitions

**1. Administrator.** "Administrator" means an individual who is charged with and has responsibility for the general administration of a facility other than a hospital whether or not such individual has an ownership interest in such home and whether or not that individual's functions and duties are shared with one or more other individuals.

[PL 1991, c. 341, §2 (AMD).]

**1-A. Administrator-in-training.** "Administrator-in-training" means an individual who meets the qualifications set forth in rules by the board, is engaged in a training program defined in rules and approved by the board and is under the supervision of a preceptor also approved by the board.

[PL 1995, c. 502, Pt. H, §19 (NEW).]

**2. Board.** "Board" means the Nursing Home Administrators Licensing Board.

[PL 1985, c. 233, §4 (AMD).]

**2-A. Commissioner.** "Commissioner" means the Commissioner of Professional and Financial Regulation.

[PL 1987, c. 769, Pt. A, §118 (AMD).]

**2-B. Department.** "Department" means the Department of Professional and Financial Regulation.

[PL 1987, c. 769, Pt. A, §118 (AMD).]

**3. Medical care facility other than hospitals.** "Medical care facility other than hospitals" means any facility providing therein, in addition to lodging and board, medical care or nursing supervision to sick, invalid, infirm, disabled or convalescent persons.

[PL 1985, c. 233, §4 (AMD).]

**4. Preceptor.** "Preceptor" means an individual who is licensed by the board and who meets qualifications set forth in rules by the board to supervise the program of one or more administrators-in-training.

[PL 1995, c. 502, Pt. H, §20 (NEW).]

#### SECTION HISTORY

PL 1969, c. 350 (NEW). PL 1969, c. 359 (NEW). PL 1969, c. 590, §59 (AMD). PL 1971, c. 544, §108 (RP). PL 1985, c. 233, §4 (AMD). PL 1987, c. 769, §A118 (AMD). PL 1995, c. 502, §§H19,20 (AMD).

#### §63. Board; powers and duties

**(REPEALED)****SECTION HISTORY**

PL 1969, c. 350 (NEW). PL 1969, c. 359 (NEW). PL 1969, c. 556, §2 (AMD). PL 1969, c. 590, §§59-A (AMD). PL 1971, c. 162, §2 (AMD). PL 1971, c. 226 (AMD). PL 1971, c. 518, §§2,3 (AMD). PL 1971, c. 544, §108 (RP). PL 1971, c. 622, §115 (AMD). PL 1973, c. 399, §§1,2 (AMD). PL 1975, c. 293, §4 (AMD). PL 1975, c. 771, §331 (AMD). PL 1983, c. 744, §§1-3 (AMD). PL 1983, c. 812, §§188,189 (AMD). PL 1985, c. 233, §5 (RP).

**§63-A. Board established; membership and organization**

**1. Membership.** The Nursing Home Administrators Licensing Board, as established by Title 5, section 12004-A, subsection 23, consists of 7 members appointed by the Governor. The members must be residents of this State. One member must be a registered nurse with not less than 5 years of active practice in nursing homes in the State. Two members must be public members as defined in Title 5, section 12004-A. Three members must be administrators of nursing homes with not less than 5 years of active experience in the State. One member must be an administrator of an intermediate care facility for persons with intellectual disabilities with not less than 5 years of active practice in that capacity. [PL 2011, c. 542, Pt. A, §56 (AMD).]

**2. Terms.** Appointments are for 3-year terms. Appointments of members must comply with Title 10, section 8009. A member may be removed by the Governor for cause. [PL 2007, c. 402, Pt. E, §1 (AMD).]

**3. Meetings; chair.** The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. [PL 2013, c. 246, Pt. B, §2 (AMD).]

**4. Compensation.**  
[PL 1995, c. 397, §17 (RP).]

**5. Employees.**  
[PL 1995, c. 397, §17 (RP).]

**6. Fees.**  
[PL 1995, c. 397, §18 (RP).]

**7. Reports; budget.**  
[PL 2007, c. 402, Pt. E, §1 (RP).]

**SECTION HISTORY**

PL 1971, c. 339 (NEW). PL 1971, c. 544, §109 (RP). PL 1985, c. 233, §6 (NEW). PL 1985, c. 785, §B129 (AMD). PL 1989, c. 503, §B119 (AMD). PL 1991, c. 341, §3 (AMD). PL 1993, c. 600, §A28 (AMD). PL 1993, c. 659, §A1 (AMD). PL 1995, c. 397, §§17-19 (AMD). PL 1999, c. 790, §A35 (AMD). PL 2007, c. 402, Pt. E, §1 (AMD). PL 2011, c. 542, Pt. A, §56 (AMD). PL 2013, c. 246, Pt. B, §2 (AMD).

**§63-B. Board powers and duties**

The board has the powers and duties set forth in this section. [PL 2007, c. 402, Pt. E, §2 (AMD).]

**1. Board to administer and enforce.** The board shall administer and enforce this chapter and shall evaluate the qualifications of and approve the examination to be taken by applicants for licensure under this chapter. [PL 2007, c. 402, Pt. E, §2 (AMD).]

**2. Rules.** The board may, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter 2, adopt rules commensurate with the authority vested in it by this chapter, including, but not limited to, standards for courses of study for administrators, requirements for the training, experience and qualifications for the licensure of administrators and administrators-in-training, continuing educational requirements, standards and procedures for examination for the licensure of administrators, standards and procedures for the issuance, revocation and suspension of licenses of administrators and for the investigation of written charges and complaints filed with the board. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2007, c. 402, Pt. E, §2 (AMD).]

**3. Temporary licenses.** The board may by rule determine conditions and procedures by which it may issue temporary licenses. Temporary licenses may be issued for periods of up to one year. The total length of multiple temporary licenses may not extend beyond one year.

[RR 1993, c. 2, §32 (COR).]

**4. Examinations.** Written examinations for licensure must be held one or more times each year, at such times and places as the board may determine.

[PL 2007, c. 402, Pt. E, §2 (AMD).]

**5. Application and license fees.** Fees for applications and initial licenses for nursing home administrators and administrators-in-training may be established as provided in section 67.

[PL 2007, c. 402, Pt. E, §2 (AMD).]

**6. Hearings.**

[PL 2007, c. 402, Pt. E, §2 (RP).]

**7. Contracts.**

[PL 1995, c. 397, §20 (RP).]

**8. Exception.** This chapter or the rules under this chapter may not be construed to require an applicant for a license as a nursing home administrator who is certified by a recognized church or religious denomination that teaches reliance on spiritual means alone for healing as having been approved to administer institutions certified by that church or denomination for the care and treatment of the sick in accordance with its teachings to demonstrate proficiency in medical techniques or to meet medical educational qualifications or medical standards not in accord with the remedial care and treatment provided in those institutions. An individual licensed under this exception may act as an administrator only in those institutions described in this subsection.

[PL 1993, c. 600, Pt. A, §31 (AMD).]

**9. Licensure by endorsement.** Notwithstanding any provision of this chapter to the contrary, the board, in accordance with Title 10, section 8003-H and any applicable rules adopted pursuant to that section, shall establish a process to issue a license by endorsement for each license authorized under this chapter that the board determines is appropriate for licensure by endorsement. An applicant may submit an application under the process established under this subsection or any other licensure process authorized in this chapter.

[PL 2021, c. 642, §5 (NEW).]

**SECTION HISTORY**

PL 1985, c. 233, §6 (NEW). PL 1991, c. 341, §4 (AMD). RR 1993, c. 2, §32 (COR). PL 1993, c. 600, §§A29-31 (AMD). PL 1995, c. 397, §20 (AMD). PL 1995, c. 502, §H21 (AMD). PL 2001, c. 323, §§11,12 (AMD). PL 2007, c. 402, Pt. E, §2 (AMD). PL 2021, c. 642, §5 (AMD).

**§64. Appeals**

**(REPEALED)**

**SECTION HISTORY**

PL 1969, c. 350 (NEW). PL 1969, c. 359 (NEW). PL 1971, c. 544, §108 (RP). PL 1973, c. 303, §3 (AMD). PL 1977, c. 694, §536 (RPR). PL 1983, c. 378, §1 (RP).

**§64-A. Disciplinary actions****(REPEALED)****SECTION HISTORY**

PL 1983, c. 378, §2 (NEW). PL 1991, c. 341, §5 (AMD). PL 1993, c. 600, §A32 (AMD). PL 1999, c. 547, §B57 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2007, c. 402, Pt. E, §3 (RP).

**§64-B. Denial or refusal to renew license; disciplinary action**

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for: [PL 2007, c. 402, Pt. E, §4 (NEW).]

**1. Habitual substance use.** Habitual substance use that has resulted or is foreseeably likely to result in the licensee performing assigned services in a manner that endangers the health or safety of patients;

[PL 2017, c. 407, Pt. A, §122 (AMD).]

**2. Mental or physical condition.** A professional diagnosis of a mental or physical condition that has resulted or may result in the licensee performing assigned services in a manner that endangers the health or safety of patients; or

[PL 2007, c. 402, Pt. E, §4 (NEW).]

**3. False advertising.** Engaging in false, misleading or deceptive advertising.

[PL 2007, c. 402, Pt. E, §4 (NEW).]

**SECTION HISTORY**

PL 2007, c. 402, Pt. E, §4 (NEW). PL 2011, c. 286, Pt. D, §1 (AMD). PL 2017, c. 407, Pt. A, §122 (AMD).

**§65. License renewal**

All licenses issued under this chapter, except temporary licenses, expire annually on a date established by the commissioner and become invalid if not renewed. Every individual licensed under this chapter shall pay, on or before the expiration date, the license renewal fee as set under section 67. Renewals are contingent upon evidence of participation in continuing professional education. A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee in addition to the renewal fee. An individual who submits an application for renewal more than 90 days after the license expiration date is subject to all requirements governing new applicants under this chapter, except that the board may, in its discretion and giving due consideration to the protection of the public, waive examination if that renewal application is received, together with the late fee and renewal fee, within 2 years from the date of the expiration. [PL 2007, c. 402, Pt. E, §5 (AMD).]

**SECTION HISTORY**

PL 1971, c. 184 (NEW). PL 1971, c. 544, §111 (RP). PL 1985, c. 233, §6 (NEW). PL 1993, c. 600, §A33 (AMD). PL 2001, c. 323, §13 (AMD). PL 2007, c. 402, Pt. E, §5 (AMD).

**§66. Enforcement****(REPEALED)****SECTION HISTORY**

PL 1985, c. 233, §6 (NEW). PL 1991, c. 341, §6 (RPR). PL 1993, c. 600, §A34 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2007, c. 402, Pt. E, §6 (RP).

### §67. Fees

The Director of the Office of Professional and Occupational Regulation within the Department of Professional and Financial Regulation may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$200 annually. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A. [PL 2001, c. 323, §14 (NEW); PL 2011, c. 286, Pt. B, §5 (REV).]

#### SECTION HISTORY

PL 2001, c. 323, §14 (NEW). PL 2011, c. 286, Pt. B, §5 (REV).

### §68. Unlicensed practice

An individual who violates section 61 is subject to the provisions of Title 10, section 8003-C. [PL 2007, c. 402, Pt. E, §7 (NEW).]

#### SECTION HISTORY

PL 2007, c. 402, Pt. E, §7 (NEW).

### §69. Telehealth services

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Asynchronous encounter" means an interaction between an individual and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the individual and the person licensed under this chapter. [PL 2021, c. 291, Pt. B, §1 (NEW).]

B. "Store and forward transfer" means the transmission of an individual's records through a secure electronic system to a person licensed under this chapter. [PL 2021, c. 291, Pt. B, §1 (NEW).]

C. "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between an individual and a person licensed under this chapter or between a person licensed under this chapter and another health care provider. [PL 2021, c. 291, Pt. B, §1 (NEW).]

D. "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring. [PL 2021, c. 291, Pt. B, §1 (NEW).]

E. "Telemonitoring" means the use of information technology to remotely monitor an individual's health status via electronic means, allowing the person licensed under this chapter to track the individual's health data over time. Telemonitoring may be synchronous or asynchronous. [PL 2021, c. 291, Pt. B, §1 (NEW).]

[PL 2021, c. 291, Pt. B, §1 (NEW).]

**2. Telehealth services permitted.** A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this section and in accordance with standards of practice.

[PL 2021, c. 291, Pt. B, §1 (NEW).]

**3. Confidentiality.** When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

[PL 2021, c. 291, Pt. B, §1 (NEW).]

**4. Professional responsibility.** All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

[PL 2021, c. 291, Pt. B, §1 (NEW).]

**5. Rulemaking.** The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions for the various types and forms of telehealth services. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

[PL 2021, c. 291, Pt. B, §1 (NEW).]

#### SECTION HISTORY

PL 2021, c. 291, Pt. B, §1 (NEW).

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