

## **CHAPTER 43-34 NURSING HOME ADMINISTRATORS**

### **43-34-01. Definitions.**

For the purposes of this chapter and as used herein:

1. "Board" means the North Dakota state board of examiners for nursing home administrators hereinafter created.
2. "Nursing home" means any institution or facility defined as such for licensing purposes under North Dakota state law or pursuant to the rules and regulations for nursing homes by the department of health and human services, whether proprietary or nonprofit, including nursing homes owned or administered by the state government or an agency or political subdivision thereof.
3. "Nursing home administrator" means a person who administers, manages, supervises, or is in general administrative charge of a North Dakota nursing home whether such individual has an ownership interest in such home and whether the individual's functions and duties are shared with one or more individuals.

### **43-34-02. Composition of the board.**

There is hereby created the state board of examiners for nursing home administrators which consists of nine members.

1. Two members of the board must be the state health officer and the commissioner of the department of health and human services or the members' designees.
2. One member of the board must be a physician appointed to the board for a three-year term by the governor.
3. One member of the board must be a hospital administrator appointed to the board for a three-year term by the governor.
4. Four members of the board must be licensed nursing home administrators appointed to the board for three-year terms by the governor.
5. One member of the board must be a nurse appointed to the board for a three-year term by the governor.
6. Any vacancies occurring in the appointments made by the governor must be filled by the governor.
7. Appointive members may be removed by the governor for cause after due notice and hearing.

### **43-34-03. Qualifications for licensure.**

The board may issue licenses to qualified individuals entitling the individuals to serve and practice nursing home administration or otherwise hold themselves out as duly licensed nursing home administrators, and shall establish qualification criteria for such individuals by rule. An applicant for a license must meet the conditions and requirements as may be prescribed by the board by rule.

#### **43-34-03.1. Conviction not bar to licensure - Exceptions.**

Conviction of an offense does not disqualify a person from licensure under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as a nursing home administrator, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

#### **43-34-03.2. Criminal history record checks.**

The board shall require an applicant for licensure under section 43-34-04, 43-34-11, or 43-34-12 to submit to a statewide and nationwide criminal history record check. The board may require any licensee to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided in section 12-60-24. All costs associated with obtaining a background check are the responsibility of the applicant or licensee.

#### **43-34-04. Licensing function.**

The board shall license nursing home administrators in accordance with rules and regulations issued, and from time to time revised by it. A nursing home administrator's license is not transferable and is valid until surrendered for cancellation or suspended or revoked for violation of this chapter or any other laws or regulations relating to the proper administration and management of a nursing home. Any denial of issuance or renewal, suspension, or revocation under any section of this chapter is subject to review upon the timely request of the licensee and pursuant to chapter 28-32.

#### **43-34-05. License fees.**

Each individual licensed as a nursing home administrator shall pay a license fee in an amount to be fixed by the board, which may not exceed two hundred fifty dollars per annum.

#### **43-34-06. Fund created.**

Repealed by S.L. 1971, ch. 510, § 15.

#### **43-34-07. Organization of board.**

The board shall elect from its membership a chairman, vice chairman, and secretary-treasurer, and shall adopt rules and regulations to govern its proceedings. Each member shall receive, as compensation for the member's services, an amount agreed upon by the board but not to exceed that of other state boards. All members must be allowed necessary travel expenses, as may be approved by the board, which are payable in the same manner as travel expense of other state officials. The board may employ and fix the compensation and duties of necessary personnel to assist it in the performance of its duties.

#### **43-34-08. Exclusive jurisdiction of board.**

The board shall have sole and exclusive authority to determine the qualifications, competence, and fitness of any person to serve as an administrator of a nursing home under the provisions of this chapter, and the holder of a license under the provisions of this chapter must be deemed qualified to serve as the administrator of a nursing home.

#### **43-34-09. Duties of the board.**

The board has the duty and responsibility to:

1. Develop, impose, and enforce standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards must be designed to ensure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators.
2. Develop and apply appropriate techniques, including examination and investigations, for determining whether an individual meets such standards.
3. Issue licenses to individuals determined, after application of such techniques, to meet such standards, and for cause, after due notice and hearing, to revoke or suspend licenses previously issued by the board if the individual holding such license is determined substantially to have failed to conform to the requirements of such standards.
4. Establish and carry out procedures designed to ensure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards.
5. Receive, investigate, and take appropriate action with respect to, and including the revocation of a license if necessary after due notice and hearing and for cause, any charge or complaint filed with the board to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of such standards.
6. Conduct a continuing study and investigation of nursing homes, and administrators of nursing homes within the state with a view to the improvement of the standards

imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such.

7. Conduct, or cause to be conducted, one or more courses of instruction and training sufficient to meet the requirements of this chapter, and make provisions for such courses and their accessibility to residents of this state unless it finds that there are and approves a sufficient number of courses which courses are conducted by others within this state. In lieu thereof the board may approve courses conducted within and without this state as sufficient to meet the education and training requirements of this chapter.

**43-34-10. Renewal of license.**

Every holder of a nursing home administrator's license shall renew it annually, by making application to the board. Such renewals must be granted as a matter of course, unless the board finds, after due notice and hearing, that the applicant has acted or failed to act in such manner or under such circumstances as would constitute grounds for suspension or revocation of a license.

**43-34-11. Emergency licenses.**

In the event of an unexpected vacancy in a nursing home administrator's position, the owner, the governing body, or other appropriate authority of the nursing home may designate an acting administrator to whom the board may issue an emergency license. This emergency license is in force for a period not to exceed ninety days but may be renewed for an additional ninety days by the board upon good cause shown.

**43-34-12. Licensure of individuals licensed in other jurisdictions.**

The board may issue a nursing home administrator's license, without examination, to any individual who holds a current license as a nursing home administrator from another jurisdiction, if the board finds that the standards for licensure in the other jurisdiction are at least the substantial equivalent of those prevailing in this state at the time of application and that the applicant is otherwise qualified.

**43-34-13. Offense - Penalty.**

It is a class A misdemeanor for any person to act or serve in the capacity as a nursing home administrator unless that person is the holder of a license as a nursing home administrator, issued in accordance with the provisions of this chapter.

**43-34-14. Laws in conflict repealed.**

All laws and parts of laws in conflict with any of the provisions of this chapter are hereby repealed.