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**DEPARTMENT OF LABOR, LICENSING AND REGULATION**

**SOUTH CAROLINA BOARD OF LONG TERM HEALTH CARE ADMINISTRATORS**

CHAPTER93

Statutory Authority: 1976 Code Sections 40‑1‑70, 40‑35‑40, 40‑35‑45, 40‑35‑50, and 40‑35‑60

93‑50. General Definitions.

93‑70. Additional combination of education and experience acceptable by the Board; Criminal Background Check; Completion of probation or parole.

93‑80. Administrator‑in‑Training Program Requirements.

93‑100. Fees [and Fee Schedule].

93‑110. Examination; Scheduling and Grading.

93‑120. Initial Licensees.

93‑130. Provisional Licenses.

93‑150. Inactive or Retired Status Licenses.

93‑160. Registration of Licenses.

93‑200. Continuing Education for Relicensure.

93‑210. Reinstatement of Lapsed License.

**Synopsis:**

 The South Carolina Board of Long Term Health Care Administrators proposes to amend Chapter 93, including but not limited to providing clarification and guidance regarding the operation of a facility, administrators in training, examinations, initial licenses, provisional licenses, retired and inactive licenses, continuing education, and reinstatement of licensees.

 A Notice of Drafting was published in the *State Register* on August 26, 2022.

**Instructions:**

 Print the regulation as shown below. All other items remain unchanged.

**Text:**

93‑50. General Definitions.

 Whenever used in these regulations, unless expressly stated otherwise, or unless the context or subject matter requires a different meaning, the following terms shall have the respective meanings hereinafter set forth or indicated:

 A. “Administrator‑in‑Training (AIT)” is a person participating in a Board‑approved training program within a nursing home or a community residential care facility under the supervision of a Board‑approved preceptor.

 B. “Applicant” means a person who submits all materials necessary for evaluation of credentials including an application form, references, college or university transcripts, fees, and if applicable, a request for a provisional license.

 C. “Continuing education credit” is defined as one contact hour of a planned program of teaching‑learning that has been approved by an organization empowered by the Board to award credit for continuing education.

 D. “Direct Resident Care Responsibilities” shall mean activities performed by a caregiver that are specific to a resident. Direct care activities are as follows:

 (1) “Hands‑on” care of physical assistance, including, but not limited to, assistance with activities of daily living (e.g. bathing, dressing, eating, range of motion, toileting, transferring and ambulation); assistance with medical treatments and/or medication administration;

 (2) Assistance with physical or psychosocial assessments; and

 (3) Documentation, if conducted for treatment or care purposes.

 E. “Dual licensee” means a person who holds a license as a nursing home administrator and a community residential care facility administrator.

 F. “Equitably distributed” means either:

 (1) Four (4) hours may be scheduled each day, Monday through Friday, or

 (2) Up to five (5) hours can be accumulated on Saturday and Sunday, and, if hours are accumulated on weekends, the hours worked Monday through Friday must be distributed over portions of at least three days.

 G. “Full‑time” means no fewer than thirty (30) hours per week.

 H. “Health Services Executive” (HSE) is an individual who has completed the qualification requirements through the National Association of Long Term Care Administrator Boards (NAB). It is not a license and does not grant the holder of this qualification any additional privilege under the statute.

 I. “Inactive license” means a license issued to an administrator who is not working as an administrator in a nursing home or as an administrator in a community residential care facility.

 J. “Licensee” means an approved applicant who has passed the examination, as prescribed by the Board, has paid all the fees, and has been issued a current license by the Board.

 K. “Normal Business Hours” means the hours between 0700 (7:00 a.m.) and 1900 (7:00 p.m.).

 L. “On site or available” means accessible directly or by electronic means and able to respond immediately.

 M. “Person” means an individual and does not include the following: a firm, a corporation, an association, a partnership, or any other group of individuals.

 N. “Practice of nursing home administration” means the managing, supervising or general administration of a nursing home.

 O. “Practice of community residential care facility administration” means the managing, supervising or general administration of a community residential care facility.

 P. “Preceptor” is a person who is a licensed nursing home administrator or a licensed community residential care facility administrator and meets the requirements of the Board to supervise an administrator‑in‑training during the training period as delineated in 93‑80.

 Q. “Provisional license” means a temporary license that is issued when substantiated by need when an applicant who meets licensure qualifications has not passed the required examinations. A provisional license may only be issued to qualified applicants when a licensed facility is unexpectedly without a licensed administrator in charge.

93‑70. Additional combination of education and experience acceptable by the Board; Criminal Background Check; Completion of probation or parole.

 A. In addition to the requirements in South Carolina Code Ann. Section 40‑35‑40, the following combination of education and experience shall be acceptable for consideration:

 (1) For a nursing home administrator, validation by the NAB as meeting the minimum education and experience requirements to be a qualified HSE.

 (2) For a community residential care facility administrator:

 (a) a South Carolina licensed nursing home administrator that has been a practicing nursing home administrator for two or more years shall not be required to have on‑site work experience at a community residential care facility under the supervision of a licensed community residential care facility administrator; or

 (b) validation by NAB as meeting the minimum education and experience requirements to be a qualified HSE.

 B. A person applying to become an administrator of a facility licensed under this article including, but not limited to, nursing homes and community residential care facilities shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine state criminal history and a federal fingerprint review to be conducted by the Federal Bureau of Investigation to determine other criminal history. If a fee is charged by the Federal Bureau of Investigation for the fingerprint review, it must be paid by the person applying for administrator. Where facility licensees are governmental agencies, the criminal background check must be obtained on the individual who is the administrator of the governmental facility. The Board may deny an application for licensure where the results of the check meet the misconduct provisions of these regulations.

 C. Any applicant who has been declared ineligible to take the examination shall be given written notification by the Board of the disqualification, the reasons for the disqualification, and written notification of the right to a hearing.

 D. If an applicant has been convicted of a felony or misdemeanor involving moral turpitude by any state or federal court of competent jurisdiction thereof, the applicant may not be permitted to take the examination for licensure. If the applicant submits to the Board a copy of the certificate of pardon granted by the board of parole that indicates, among other things, that the applicant has completed all sentences including all periods of probation or parole, the Board may consider this document in its review of prior criminal convictions. In the case of a conviction in any jurisdiction wherein the laws do not provide for a certificate of pardon, an equivalent written statement or document may be submitted.

93‑80. Administrator‑in‑Training Program Requirements.

 A. A person shall be permitted to participate in the AIT program who submits sound evidence satisfactory to the board that the candidate meets the following criteria:

 (1) Nursing home administrator AIT candidates must have earned a Baccalaureate degree or higher from an accredited college or university or must be enrolled in a course of study that will award such a degree on completion.

 (a) For nursing home administrator AIT candidates with a Baccalaureate degree or higher in health care administration or a related health care degree, the duration of an AIT internship shall be six months.

 (b) For nursing home administrator AIT candidates with a Baccalaureate degree other than a health care administration degree, the duration of an AIT internship shall be nine months.

 (2) Community residential care facility administrator AIT candidates must have earned at least an Associate’s degree from an accredited college or university or must be enrolled in a course of study that will award such a degree upon completion.

 (a) For community residential care facility administrator AIT candidates with a Baccalaureate degree or higher, the duration of the AIT internship shall be three months.

 (b) For community residential care facility administrator AIT candidates with a health‑related Associate’s degree, the duration of the AIT internship shall be six months.

 (c) For community residential care facility administrator AIT candidates with a non‑health‑related Associate’s degree or who are licensed practical nurses, the duration of the AIT internship shall be nine months.

 B. An AIT candidate must register with the Board by completing a Board‑approved form and submitting the registration fee. After approval the Board shall issue an AIT training permit to the applicant valid for up to one year. If the preceptor or AIT terminates the program, the Board will invalidate the permit immediately.

 C. It shall be the responsibility of the candidate to contact a board‑approved preceptor to determine if the preceptor will accept the AIT. Once a preceptor accepts an AIT, this must be reported to the Board. The preceptor shall not train an employer or supervisor.

 D. The preceptor shall meet the following criteria:

 (1) Currently licensed in this state;

 (2) Have no disciplinary sanctions against the license;

 (3)(a) The Nursing Home Administrator preceptor shall be licensed for three years preceding the date of application as a preceptor, be a licensed nursing home administrator and be employed by the facility licensed pursuant to the regulations promulgated by the Department of Health and Environmental Control.

 (b) The Community Residential Care Facility Administrator preceptor shall be licensed for two years preceding the date of application as a preceptor, be a licensed community residential care administrator and be employed by a facility, with at least 24 beds, licensed pursuant to the regulations promulgated by the Department of Health and Environmental Control.

 E. The preceptor must register on an approved form with the Board. The Board may, for good cause, refuse to approve or renew a preceptor.

 F. A preceptor shall supervise up to two AIT candidates concurrently.

 G. The preceptor will evaluate the background and experience of the AIT to determine specific areas of concentration. The preceptor and AIT will then design a course of study and present it to the Board for approval. The curriculum shall follow the guidelines set forth in a standards manual approved by the Board.

 H. The preceptor shall maintain a current checklist in the facility tracking progress of the AIT. This checklist may be requested and reviewed at any time by the Board. On completion of the program, the checklist shall be submitted with the final report and evaluation.

 I. At the end of the AIT program, the preceptor will submit a final report and evaluation of the AIT on Board approved forms stating whether the AIT has satisfactorily completed all requirements. The final report and evaluation will become part of the AIT’s permanent record with the Board.

 J. Any change in preceptor requires notice to and approval by the Board. An AIT program which has been discontinued by a period of military service shall be allowed to be completed within a year after the service. The Board must receive notice in the event of discontinuance of training for any other reason and the AIT must comply with section (B) upon recommencement of the program.

 K. During the AIT program, the preceptor shall provide ongoing performance reviews to the AIT. If the performance is not acceptable, the preceptor will inform the AIT, and the AIT will be given the opportunity to correct the deficiencies.

 L. Following the completion of the AIT program:

 (1) the nursing home administrator AIT may apply for licensure as a nursing home administrator as delineated in Regulation 93‑70 but is not required to complete any of the qualifying work experience set forth in Regulation 93‑70(A)(1).

 (2) the community residential care facility administrator AIT may apply for licensure as a community residential care facility administrator as delineated in Regulation 93‑70 but is not required to complete any of the qualifying work experience set forth in Regulation 93‑70(A)(2).

93‑100. Fees [and Fee Schedule].

 A. The Board shall set fees in amounts to be sufficient to provide for administering the Act.

 B. The Board may charge fees as shown in South Carolina Code of Regulations Chapter 10‑21 and on the South Carolina Board of Long Term Health Care Administrators website.

93‑110. Examination; Scheduling and Grading.

 A. The Board shall administer the examinations by a Board‑approved testing provider.

 (1) Nursing home administrator applicants will sit for an examination. The national portion is prepared by the National Association of the Boards of Examiners for Long Term Care Administrators (NAB). The South Carolina portion is prepared by the South Carolina Board and examines applicants on regulations promulgated by the Department of Health and Environmental Control as they relate to Nursing Homes.

 (2) Community Residential Care Facility Administrator applicants will sit for an examination. The national portion is prepared by the National Association of the Boards of Examiners for Long Term Care Administrators (NAB). The South Carolina portion is prepared by the South Carolina Board relating to regulations promulgated by the Department of Health and Environmental Control as they relate to Community Residential Care Facilities.

 B. Every nursing home applicant for licensure shall be required to pass the NAB examinations. In addition, each applicant must pass a State examination approved by the board at a raw score of seventy‑five (75%) percent.

 C. Every community residential care facility applicant shall be required to pass the NAB examination and must pass a State examination approved by the board with a raw score of seventy‑five (75%) percent.

 D. The Board shall not disclose the grade levels achieved by an applicant to anyone outside the Board except upon written authorization of the applicant.

 E. A nursing home applicant who is sitting for the first time for both the national and South Carolina portions of the examination and who receives a passing score in either portion shall be entitled to receive credit for the portion passed and to be re‑examined during the next scheduled examination only on the portion not passed. Credit for passing either portion of the examination may be extended upon the approval of the Board.

 F. A community residential care facility applicant who is sitting for the first time for the national and the state examinations and who receives a passing score in any of the examinations shall be entitled to receive credit for the examination(s) passed and to be re‑examined during the next scheduled examination only on the examination(s) not passed. Credit for passing any of the examination(s) may be extended upon the approval of the Board.

 G. Applicants who fail to pass the examination three times must petition the Board if they desire to pursue licensure.

93‑120. Initial Licenses.

 A. An applicant who has successfully complied with the requirements of the licensing law and the standards provided for herein, passed the examination provided for herein, and paid the fees for the initial licensure period shall be issued a license as a Nursing Home Administrator or as a Community Residential Care Administrator or as a Dual licensee. Issuance of the license shall entitle the person to serve, act, practice or otherwise present themselves as a licensed Nursing Home Administrator, licensed Community Residential Care Facility Administrator, or Dual‑license administrator.

 B. A license cannot be transferred to another individual.

93‑130. Provisional Licenses.

 A. In the event of an unexpected vacancy caused by the death of an administrator, departure of an administrator, or similar event, the Board may issue a provisional license to an applicant who has met the requirements in South Carolina Code Ann. Section 40‑35‑40 and as provided in regulation and has paid the initial application fee, but who has not passed the examination.

 B. An applicant for a provisional license shall submit a complete application. The application shall also include a letter from the owner of the facility or from an officer of the facility’s board of directors, which states all of the following:

 (1) Justification of the need for provisional licensure or explanation for the unexpected vacancy;

 (2) The name of the desired appointed administrator;

 (3) The facility name, physical address and anticipated date of administrator appointment;

 C. An applicant shall remit the provisional license fee after receiving notice that the application has been approved. A letter of provisional licensure shall be issued after receipt of the fee.

 D. The Department of Health and Environmental Control shall be notified of the issuance of each provisional license.

 E. A provisional license will expire 90 days from issue or upon the issue of an initial license, whichever occurs first. A request for extension must be made in writing prior to the expiration date. Requests for extensions must be from the owner of the facility or from an officer of the facility’s board of directors and state the following:

 (1) Justification of the facility’s continued absence of a non‑provisional licensed administrator;

 (2) Justification as to why the provisional licensed administrator has not taken the appropriate examinations or attested to additional study if the provisional licensed administrator has failed the examination; and

 (3) Name and license number of the consultant administrator contracted by the facility.

 F. In the event an extension is granted, the facility shall engage the services of a consultant administrator for a minimum of sixteen (16) hours per month. The consultant administrator must have a minimum of two years of experience operating a facility.

 G. If the provisional licensee fails at the same required examination twice, the provisional license will be terminated at the end of the provisional license period.

 H. A provisional license cannot be transferred to another individual. Once granted a provisional license, the licensee may not reapply for a provisional license for the same facility. Individual licensees are limited to two provisional license requests per licensure type. If an applicant has attained two provisional licenses for either Nursing Home Administrator or Community Residential Care Facility Administrator, they are not eligible to apply for a provisional Dual Administrator license.

 I. If an applicant for provisional licensure has previously failed either the national or state examinations, the facility must engage the services of a consultant administrator for a minimum of sixteen (16) hours per month beginning the date of issuance of the provisional license.

93‑150. Inactive or Retired Status Licenses.

 A. The board may consider a request from a licensee to have his or her license placed in inactive or retired status.

 B. To qualify for inactive or retired license status, the licensee must affirm that he or she is not employed as the administrator in a nursing home or a community residential care facility in the State.

 C. An application for inactive or retired status shall be submitted to the board with the fee for inactive or retired status renewal on or before the expiration date of the license.

 D. In order to qualify for retired status the applicant must have attained the age of sixty‑five (65) years or at least twenty (20) years of licensure and must affirm that he or she is not employed as the administrator in a nursing home or a community residential care facility in the State.

 E. In order to reactivate an inactive license, an applicant must submit an application on a form approved by the board, along with the required fee, and proof of the annual continuing educational requirements for each year that the license was inactive. In order to reactivate a retired license, an applicant for reactivation must submit an application on a form approved by the board, along with the required fee, and proof of six (6) hours of continuing education during the previous twelve (12) months. The applicant must provide proof of an additional fourteen (14) hours of continuing education within 90 days of the license being reactivated or the license will automatically be replaced in the retired status and the licensee must immediately cease and desist any work in a nursing home or community residential care facility in the State.

 F. If the applicant has been retired for five (5) years or more, the board may require the applicant to pass an examination approved by the board in lieu of or in addition to completing the required continuing education.

93‑160. Registration of Licenses.

 A. Only a person who is licensed as a nursing home administrator or a community residential care facility administrator pursuant to the provisions of these regulations for the current licensure period shall have the right and privilege of using the title of “Nursing Home Administrator” or “Community Residential Care Facility Administrator.” No other person shall use or shall be designated by title or by abbreviation or any other words, letters, sign, card, or device tending to or intended to indicate that the person is a licensed Nursing Home Administrator or a Community Residential Care Facility Administrator.

 B. All licensees must notify the Board in writing within fifteen (15) days of any change of address and employment in a nursing home or community residential care facility.

93‑200. Continuing Education for Relicensure.

 A. Each applicant for renewal of a license shall present evidence of having earned the required number of hours of continuing education as defined in 93‑50(G).

 B. Evidence of continued learning appropriate to facility administration shall consist of one (1) or more of the following:

 (1) records of continuing education hours awarded by an accredited college or university or approved association or professional society; or

 (2) official transcripts and course descriptions of courses taken at an accredited educational institution; or

 (3) certificate of attendance received for attending other continuing education programs that have been registered with the board and approved by the board for credit.

 C. The board shall establish methods, procedures, and criteria for approving programs of continuing education.

 D. A nursing home administrator must have twenty (20) hours of continuing education for relicensure with five (5) hours in patient care. A Community Residential Care Facility Administrator must have eighteen (18) hours of continuing education. When an administrator serves both types of facilities, twenty‑nine (29) hours of continuing education is required; five (5) hours of the twenty‑nine (29) must be devoted to community residential care.

 E. Carry‑over: Continuing Education Hours for any board‑approved program may be carried forward, in their entirety, if they are in excess of that required for any licensure period. Such carry‑over hours must represent the total earned during the continuing education program and must be used during the following licensure period.

 F. Program Delivery Methods.

 (1) Live Instruction is a program in which participants engage simultaneously through interaction of a real‑time instructor or discussion leader.

 (a) On‑site Live Instruction Program consists of Live Instruction at a specific location.

 (b) Online Live Instruction Program consists of Live Instruction using technology and/or remote access offered at a scheduled date and time.

 (c) A minimum of fifty (50%) percent of required continuing education hours must be obtained via Live Instruction.

 (2) Online Pre‑recorded Instruction: A program designed to permit a participant to have control over time, place and/or pace of learning a given subject through the use of electronic media (including technology applications and processes and computer‑based or web‑based technology) without interaction with a real‑time instructor.

 G. Hardship Waiver. A licensee experiencing extraordinary hardship or extenuating circumstances, disability or illness, may submit a written request to the Board to waive, modify or extend the continuing education requirements. A licensee must demonstrate that they are unable to participate in a sufficient number of regular continuing educational programs required for licensure/registration.

93‑210. Reinstatement of Lapsed License.

 A. An administrator previously licensed in this State whose license shall not have been revoked or suspended but whose license has lapsed for failure to renew on or before the expiration date of the license may seek to reinstate the license within a one‑year period after the expiration date by submitting an application with the annual renewal fee and a penalty fee, proof of meeting the continuing education requirements, and a statement of practice since the license’s expiration.

 B. If the lapsed license period is more than one year, the individual shall submit an initial application showing proof of meeting the current licensure requirements, submit a statement of practice since licensure expiration, and either submit the required continuing education hours for each year since the license expired or retake the national and state examinations.

**Fiscal Impact Statement:**

 There will be no cost incurred by the State or any of its political subdivisions for these regulations.

**Statement of Rationale:**

 The South Carolina Board of Long Term Health Care Administrators proposes to amend Chapter 93, including but not limited to providing clarification and guidance regarding the operation of a facility, administrators in training, examinations, initial licenses, provisional licenses, retired and inactive licenses, continuing education, and reinstatement of licensees.