

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the D.C. Health Occupations Revision Act of 1985, effective March 15, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of his intent to take final rulemaking action to adopt the following amendments of Chapter 46 of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. The purpose of this Proposed Rule is to establish a monitoring program of postgraduate physicians in training in the District.

Chapter 46 (Medicine) of Title 17 DCMR (Business, Occupations & Professions) (May 1990) is amended as follows:

Section 4611.5 is amended to read as follows:

- 4611.5 A postgraduate physician shall do the following:
- (a) Be enrolled with an institution sponsoring the clinical training program describing the terms and conditions of the postgraduate physician's employment, or participation in the program, which shall be kept on file at the sponsoring institution;
 - (b) Forward a completed Postgraduate Physician Enrollment Form and the required enrollment fee to the Board within (30) days after the execution of the agreement;
 - (c) Notify the Board in writing if for any reason the postgraduate physician leaves a clinical training program before the scheduled ending date of the program; and
 - (d) Shall grant the Board Access to all postgraduate education records.

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the D.C. Register. Comments should be sent to the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday excluding holidays.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health pursuant to the authority set forth under § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 ("Act"), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of his intent to take final rulemaking action to adopt the following amendments to Chapter 62 of Title 17 of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. The proposed amendments clarify educational requirements an applicant must meet prior to applying for licensure as a nursing home administrator and add new sections that will facilitate provisional licensure and licensure by reciprocity or endorsement.

Chapter 62 (Nursing Home Administration) of Title 17 DCMR (Business, Occupations & Professions) (May 1990) is amended to read as follows:

6200 EDUCATIONAL REQUIREMENTS

Sections 6202.1(b) and (c) are amended to read as follows:

6202.1 Except as otherwise provided in this chapter, an applicant shall furnish proof satisfactory to the Board, in accordance with § 504(f) of the District of Columbia Health Occupations Revision Act of 1985 ("Act"), effective March 25 1986 (D.C. Law 6-99; D.C. Official Code § 3-1205.04(f)) (2001), of the following:

(b) That an applicant has completed the following courses:

- (1) Accounting, three (3) credit hours;
- (2) Human resources or personnel management, three (3) credit hours;
- (3) Management, three (3) credit hours;
- (4) Gerontology, three (3) credit hours;
- (5) Health care law or health care ethics, three (3) credit hours;
and
- (6) Management of long term care institutions, three (3) credit hours; and

(c) That the applicant meets one of the following requirements:

- (1) Has successfully completed an Administrator In Training (A.I.T.) program;
- (2) Has worked for at least one (1) year during or after completion of the baccalaureate program in a nursing home licensed in the District under the general or immediate supervision of a nursing home administrator which work meets the requirements listed in § 6202.4, by submitting with the application a signed statement from each supervisor and preceptor, as required in § 6202.5; or
- (3) Has earned a master's degree in a program accredited by the Accrediting Commission on Education for Health Services Administration (ACEHSA) which meets one of the following requirements:
 - (A) The program included an experiential component for a period of not less than six (6) months in a licensed nursing home; or
 - (B) The program was supplemented by employment in a licensed nursing home for six (6) months during or after completion of the master's program, which employment was under the general or immediate supervision of a nursing home administrator, and which meets the requirements listed in § 6202.4(c), by submitting with the application a signed statement from each supervisor, as required in § 6202.5.

Section 6202.4 is amended to read as follows:

6202.4 The practical experience required by §§ 6202.1(c)(1) and 6202.1(c)(2) shall be as follows:

- (a) Be rated as at least satisfactory by each supervisor and the preceptor;
- (b) Include practice under general supervision averaging at least thirty-five (35) hours per week, two (2) hours per week of which shall be under immediate supervision; and
- (c) Encompass all aspects of the practice of nursing home administration, including the following:

- (1) Preparing and reviewing a budget encompassing all operations and contracting by the nursing home;
- (2) Preparing a cost analysis of specific operational categories within the nursing home;
- (3) Developing or reviewing Medicare and Medicaid cost reports;
- (4) Reviewing all federal and District of Columbia laws relating to nursing homes, including reporting and filing requirements, residents' care, residents' rights, and pharmacy services;
- (5) Participating in the daily operations of each operational unit within the nursing home, including the making of administrative rounds;
- (6) Reviewing procedures for handling medical emergencies and emergencies involving fires and cut-offs of water, gas, and electricity;
- (7) Bookkeeping and financial management;
- (8) Procurement, including purchasing and contracting procedures and decisions;
- (9) Personnel management, including the recruitment of employees and volunteers, review and revision of position descriptions, and development and application of performance standards;
- (10) Public relations;
- (11) Employees and volunteer training programs;
- (12) Residents' care, including participation in the care of residents involved in daily activities;
- (13) Therapeutic services, including physical, occupational, and speech therapy;
- (14) Out-patient services available in the community;
- (15) Reviewing transfer agreements;

- (16) Generating and maintaining medical records;
 - (17) Engineering and maintenance functions;
 - (18) Housekeeping, including cleaning schedules, trash removal arrangements, and laundering;
 - (19) Nursing, medical, dental, podiatric, pharmacy, and laboratory services procedures;
 - (20) Food and nutrition services;
 - (21) Counseling and social work services;
 - (22) Recreation programs;
 - (23) Interaction with residents' council;
 - (24) Safety and accident prevention procedures and devices;
 - (25) Participation in the admission, transfer, and discharge of residents;
 - (26) The role and functions of the governing body;
 - (27) Evaluating the quality of resident care services;
 - (28) Reviewing the quality of resident care services; and
 - (29) Acquiring a knowledge of the residents' rights program.
- (d) If the applicant demonstrates by education or professional experience that any portion or all of the practice experience required under § 6202.1(c) has been met, the Board, in its discretion, may approve up to 1000 hours of practical credits toward the Administrator In Training Program (A.I.T.).

Section 6202.5 is amended to read as follows:

- 6202.5 An applicant under § 6202.1(c)(1) or § 6202.1(c)(2) shall demonstrate the required experience by submitting with the application a signed statement from each supervisor and preceptor during the required period of experience, on a form approved by the Board, which sets forth the following:

- (a) The location at which and period of time during which the supervision took place;
- (b) The hours of general supervision of the applicant;
- (c) The hours of immediate supervision of the applicant;
- (d) The specific nature of and responsibilities included in the applicant's practice;
- (e) A rating of the applicant's performance; and
- (f) The preceptor's license number in the District of Columbia or other jurisdiction in which the supervision took place.
- (g) Proof satisfactory to the Board that the applicant has received the required degree from a foreign institution that was accredited, at the time the degree was conferred, by an accrediting body recognized by the national government of the country in which the institution is located; or
- (h) A certification from a private education evaluation service approved by the Board that the applicant's foreign education is substantially equivalent to the education required by this chapter.

6204 NATIONAL EXAMINATION**Section 6204.3 is amended to read as follows:**

- 6204.3 An applicant shall arrange for his or her examination results, which have been certified or validated by NABENHA, to be sent directly to the Board.

Section 6204.4 is amended to read as follows:

- 6204.4 The passing score on the national examination shall be one hundred thirteen (113).

6205 DISTRICT EXAMINATION**Section 6205.1 is amended to read as follows:**

- 6205.1 To qualify for licensure, an applicant shall receive a passing score of seventy-five percent (75%) on the written examination developed by the Board on laws and rules pertaining to the practice of nursing home

administration (the District examination) and shall sit for an interview with the Board.

Section 6205.2 is amended to read as follows:

6205.2 The Board shall administer the District examination and conduct interviews at least once every quarter.

Section 6205.4 is amended to read as follows:

6205.4 The District examination may include, but is not limited, to, questions on the following subjects:

- (a) Grounds for disciplinary action set forth in § 514 of the Act, (D.C. Official Code § 3-1205.14) (2001);
- (b) The Health-Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983 (D.C. Official Code § 44-501 et seq.) (2001); the District of Columbia Long Term Care Ombudsman Program Act of 1988 (D.C. Official Code § 7-701.01 et seq.) (2001); rules promulgated pursuant to the Act; rules governing nursing facilities care in the District of Columbia as set forth in 17 DCMR chapters 19, 23, 30, 31, and 62, and, 22 DCMR chapter 32; and the District of Columbia Health Occupations Revision Act of 1985 (D.C. Official Code § 3-1201.01 et seq.) (2001).

6206 CONTINUING EDUCATION REQUIREMENTS

Section 6206.1 is amended to read as follows:

6206.1 Subject to § 6206.2, this section shall apply to applicants for the renewal, reactivation, or reinstatement of a license for a term expiring June 30, 2004.

Section 6206.4 is amended to read as follows:

6206.4 An applicant for renewal of a license shall submit proof of having completed forty (40) hours of approved continuing education credit during the two (2) year period preceding the date the license expires.

Section 6206.5 is amended to read as follows:

6206.5 To qualify for a license, a person in inactive status within the meaning of § 511 of the Act (D.C. Official Code § 3-1205.11) (2001) who submits an application to reactivate a license shall submit proof of having completed

twenty (20) hours of approved continuing education credit for each year after June 30, 2003 that the applicant was not actively licensed, up to a maximum of one hundred (100) hours. At least twenty (20) hours of approved continuing education credit shall have been completed in the one (1) year period prior to the application date.

Section 6206.6 is amended to read as follows:

- 6206.6 To qualify for a license, an applicant for reinstatement of a license shall submit proof of having completed twenty (20) hours of approved continuing education credit for each year after June 30, 2003 that the applicant was licensed, up to a maximum of one hundred (100) hours. At least twenty (20) hours of approved continuing education credit shall have been completed in the one (1) year period prior to the application date.

Section 6206.7(e) is amended to read as follows:

- 6206.7 An applicant under this section shall prove completion of required continuing education credits by submitting with the application the following information with respect to each program:
- (e) Verification by the sponsor of completion, by signature or stamp, after which time continuing education credit will be granted.

6207 APPROVED CONTINUING EDUCATION PROGRAMS AND ACTIVITIES

Section 6207.3(c)(2) is amended to read as follows:

- 6207.3 To qualify for approval by the Board, a continuing education program shall do the following:
- (c) Meet one of the following requirements:
- (2) Be submitted by the program sponsors to the Board for review no less than thirty (30) days prior to the date of the presentation and be approved by the Board.

6208 CONTINUING EDUCATION CREDITS

Section 6208.1 is amended to read as follows:

- 6208.1 The Board may grant continuing education for approved educational activities with sixty (60) minutes constituting one (1) credit hour.

A new section 6209 is added to read as follows:

6209 LICENSURE BY RECIPROCITY

6209.1 The Board may issue a license to an applicant who:

- (a) Is currently licensed and in good standing under the laws of another state with standards which are substantially equivalent to the requirements of the District of Columbia laws and regulations;
- (b) Has at least three (3) years of current practice as a nursing home administrator;
- (c) Has passed the District examination;
- (d) Is licensed in a state which admits health professionals in a like manner to the District of Columbia;
- (e) Is licensed in a state that has an agreement between the state and the District's Board;
- (f) Pays the applicable fees established by the Mayor;
- (g) Has been interviewed by the Board regarding the applicant's past and present experience relating to the practice of nursing home administration; and
- (h) Has forwarded to the Board at least three (3) letters of recommendation by persons who can attest to the applicant's qualifications as they pertain to the practice of nursing home administration.

A new section 6210 is added to read as follows:

6210 LICENSURE BY ENDORSEMENT

6210.1 The Board may issue a license to an applicant who:

- (a) Is currently licensed and in good standing under the laws of another state with standards which are substantially equivalent to the requirements of the District of Columbia laws and regulations;
- (b) Has at least three (3) years of current practice as a nursing

home administrator;

- (c) Has passed the District examination; and
- (d) Has forwarded to the Board at least (3) letters of recommendation by persons who can attest to the applicant's qualifications as they pertain to the practice of nursing home administration.

6211 PRACTICE OF NURSING HOME ADMINISTRATION BY STUDENTS AND GRADUATES

Section 6211.2 is amended to read as follows:

6211.2 Only the following persons shall be authorized to practice under this section:

- (a) Students whose practice fulfills educational requirements under § 103(c) of the Act (D.C. Official Code § 3-1201.03) (2001) and § 6202 of this chapter;
- (c) Graduates fulfilling experience requirement under § 504(f)(1)(B) of the Act (D.C. Official Code § 3-1205.04(f)(1)(B)) (2001) and § 6202 of this chapter, or during the pendency of the graduate's initial application for a license under this chapter.

Section 6211.10 is amended to read as follows:

6211.10 A supervisor shall be fully responsible for all supervised practice by a student or graduate during the period of supervision and is subject to disciplinary action pursuant to § 514 of the Act (D.C. Official Code § 3-1205.14) (2001) for any violation of the Act or this chapter by the student or graduate.

A new section 6212 is added to read as follows:

6212 PROVISIONAL LICENSURE

6212.2 The Board may approve one (1) applicant per nursing home for licensure if the applicant meets the following conditions:

- (a) Is currently licensed and in good standing under the laws of another state with standards, which are substantially equivalent to the requirements of the District of Columbia laws and regulations;
- (b) Has at least three (3) years of current practice as a nursing home administrator;

- (c) Has passed the District examination;
- (d) Is licensed in a state which admits District of Columbia health professionals in a like manner;
- (e) Is licensed in a state that has an agreement between the state and the District's Board;
- (f) Pays the applicable fees established by the Mayor;
- (g) Has been interviewed by the Board regarding the applicant's past and present experience relating to the practice of nursing home administration;
- (h) Has forwarded to the Board at least three (3) letters of recommendation by persons who can attest to the applicant's qualifications as they pertain to the practice of nursing home administration; and
- (i) Has completed no less than four (4) of the courses listed in § 6202.1(b).

6299 DEFINITIONS

Section 6299.1 is amended to read as follows:

6299.1 As used in this chapter, the following terms have the meanings ascribed:

A.I.T. – a person enrolled in a board-approved Administrator In Training program in a licensed nursing facility under a licensed nursing home administrator preceptor.

Board – the Board of Nursing Home Administration, established by § 205 of the Act (D.C. Official Code § 3-1202.05) (2001).

NABENHA – the National Association of Boards of Examiners for Nursing Home Administrators.

Preceptor – A District of Columbia licensed nursing home administrator (LNHA) with a minimum of three (3) years experience in an administrator role and who has met board approval for preceptorship.

Provisional license – a license issued, for a period not to exceed six (6) months, to a nursing home administrator, who does not meet all of the licensing requirements under § 6201, in order to fill a position as a nursing home administrator that unexpectedly becomes vacant.

Supervisor – A licensed nursing home administrator (LNHA), person designated by the administrator, assistant nursing home administrator, or department head who has a defining role pursuant to § 6202.4 of this chapter.

6299.2 The definitions in § 4099 of chapter 40 of this title are incorporated by reference into and apply to this chapter.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty days after the date of publication of this notice in the D.C. Register. Comments should be sent to the Department of Health, Office of General Counsel, 825 North Capitol Street, N.E., 4th Floor, Washington, D.C. 20002. Copies of the proposed rule may be obtained from the Department at the same address during the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays.

DISTRICT OF COLUMBIA DEPARTMENT OF HEALTH

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the District of Columbia Department of Health gives notice of the adoption on an emergency basis of an amendment to Chapter 13 of Title 29 DCMR, "Public Welfare," by adding a new subsection 1302.1(e). The new subsection will ensure that all Medicaid providers participating in the District of Columbia's Medicaid Program refund overpayments in a timely manner and enable the Director to issue policy memoranda setting forth formal requirements for furnishing reports on Medicaid credit balances, incorrect payments, overpayments or such other information that is necessary to properly administer the Medicaid program.

This emergency action is necessary to ensure that the Director of the Department of Health has the ability and authority to request information from participating providers about payments made to them and to refund any monies incorrectly paid. Recently, the Office of the Inspector General (OIG) of the U.S. Department of Health and Human Services conducted a review of Medicaid providers that participate in the District of Columbia's Medicaid Program and concluded that Medicaid providers need to conduct timely reviews and provide refunds of Medicaid overpayments due to Medicaid. Thus, the addition to Chapter 13, authorizing unequivocal authority with respect to overpayments, needs to be adopted immediately.

Pursuant to the authority set forth in An Act to enable the District of Columbia to receive Federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code, § 1-307.2), Reorganization Plan No. 4 of 1996, and Mayor's Order 97-42, dated February 18, 1997, the Director of the Department of Health hereby gives notice of the adoption, on an emergency basis, of the following amendment to Chapter 13 of Title 29 DCMR "Public Welfare," pertaining to administrative actions the Department may take with respect to providers who participate in the District of Columbia Medicaid Program.

This emergency rule was adopted on March 3, 2004, and became effective immediately on that date. It will expire 120 days from the date of effectiveness or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever comes first.

The Director of the Department of Health hereby gives notice of intent to take final rulemaking action to adopt this proposed rule (which is identical to the emergency rule) in not less than 30 days from the date of publication of this notice in the *D.C. Register*.

Chapter 13 of Title 29 of the DCMR is amended as follows:

A new subsection 1302.1(e) is adopted and inserted to read as follows:

- 1302.1(e) Failed to furnish requested information that the Director has found necessary for a determination as to whether any monies were incorrectly paid or whether any overpayments are or were due under Medicaid and the amounts due;

The current subsection 1302.1(e) is re-numbered as subsection 1302.1(f) and all subsequent subsections of 1302.1 are re-numbered to conform to the proper alphabetic designation.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than 30 days after the date of publication of this notice in the D.C. Register. Comments should be filed with Wanda R. Tucker, Deputy Director, Medical Assistance Administration, 825 North Capitol Street, N.E., 5th Floor, Washington, DC 20002. Copies of this rule may be obtained at the address stated above.