



**Report
Of the Board of Nursing Home Administrators**

**Office of Licensing and Registration,
Department of Professional and Financial Regulation**

**To the Joint Standing Committee on Health and
Human Services**

On Section 5 of

Public Law 2003, Chapter 416

***“An Act to Implement Regulatory Reforms and To Address Staffing Issues
in Long-term Care Facilities”***

January 15, 2004

***John Elias Baldacci
Governor***

***Robert E. Murray, Jr.
Commissioner***

I. Introduction

L.D. 1607, “An Act to Implement Regulatory Reforms and To Address Staffing Issues in Long-term Care Facilities”, as originally drafted and presented contemplated comprehensive action of state regulations for nursing homes and long-term care facilities. The Joint Standing Committee on Health and Human Services held a public hearing on this bill on May 12, 2003. In its public testimony on the bill, the Board of Nursing Home Administrators (“the Board”) stated that it had not had the opportunity to consider a change and opposed the thrust of Section 5. **(Appendix 1)**

Specifically, Section 5 of the bill required the Board to amend its rules by January 1, 2004, to allow the substitution of 5 years experience as a Director of Nursing (“DON”) to satisfy the post-secondary educational requirements necessary to be considered eligible for licensure as a nursing home administrator.

Section 5 was subsequently amended by the Committee to require the Board to examine the current statutory post-secondary educational requirements and report its findings to the Committee. The Governor signed the amended emergency bill, Public Law 2003, Chapter 416, on June 4, 2003. **(Appendix 2)**

Currently, the State of Maine requires that nursing home administrators be licensed by the Board for the purpose of protecting its citizens. 32 M.R.S.A. §63-B gives the Board statutory authority to promulgate rules to set minimum licensure requirements. **(Appendix 3)** Further, Chapter 2, Section 1 of the Board’s rules outlines the qualifications for licensure as a nursing home administrator, including a four-year undergraduate degree program in health care or a related field, completion of an Administrator-In-Training program (“AIT”), as well as passing the national and state examinations. **(Appendix 4)**

II. Legislative Charge to the Board of Nursing Home Administrators

Public Law 2003, Chapter 416 requires the Board of Nursing Home Administrators to study and report its findings and conclusions to the Committee by January 15, 2004. Specifically, the Board was directed to study the appropriate levels of post-secondary education and experience, and to examine substituting relevant experience for a portion of the post-secondary educational requirements for licensure as a nursing home administrator. The Board would only determine whether an alternative pathway to licensure is warranted, and whether it can define relevant experience as it relates to DONs.

III. Review Process of the Board of Nursing Home Administrators

At its July 16, 2003 meeting, the Board reviewed and discussed its responsibilities under P.L. 416 and voted to invite a proponent of the legislation Maine Health Care Association (“MHCA”), to attend the Board’s July 23, 2003 meeting. Prior to the meeting, MHCA was asked to provide the Board with information that would assist in its effort to define “relevant experience” as it relates to DONs. (**Appendix 5**) The Board asked for information in the following categories:

- Identify the demographics of the potential applicants;
- Description of contributing economic factors that warrant a change in educational requirements;
- Information demonstrating existence of a shortage of nursing home administrators in Maine;
- Define “Directors of Nursing” and “Nursing Services”;
- Statistical Information on DONs in Maine;
- Percentage of Maine DONs with either a two-year or four-year degree; and
- Employment locations of Maine DONs.

On behalf of MHCA, Richard Erb submitted a written response to the Board and attended the Board’s September 17, 2003 meeting. (**Appendix 6**) At that meeting, the Board had the opportunity to discuss the information submitted with Mr. Erb. After extensive dialogue with MHCA, the Board agreed to form a working group to gather additional information for the Board’s review and analysis. The work group included: Stephen Garde, Board Member; Penny Vaillancourt, Board Administrator; Richard Erb, Executive Director, MHCA; and Jack Richards, Assistant Attorney General/Legal Counsel for the Board.

The work group met on October 2, 2003 to identify the best sources for current data that would be pertinent to the study. It was determined that the best sources of information available to the group were: Maine licensed nursing home administrators, CEOs of the major nursing home corporations, the National Association of Boards of Examiners of Long Term Care Administrators (“NAB”), and a review of other state licensure requirements – particularly those of New England and other rural states. Subsequently, a survey was developed and sent out by MHCA to administrators/CEOs asking for feedback on a proposed change to the licensure requirements.

The work group met again on November 5, 2003 to review the compilation of information collected. This information included statutory requirements of other states, the NAB summer 2003 newsletter, NAB minutes, responses to the MHCA survey, and a discussion regarding the challenge of evaluating work experience offered in individual applications for licensure.

Issues of reciprocity were raised for both applicants coming into the state and those licensees leaving the state. The work group also discussed an alternative pathway to

licensure that included a two-year associate's degree program, additional coursework, and extending the AIT program. The November meeting also led to a discussion regarding the Board's ability to evaluate the varied experiences of DONs and whether an individual applicant's work experience would satisfy the current minimum licensure requirements.

The work group presented its information to the Board members for discussion at its November 18, 2003 meeting. (**Appendix 7**) The Board analyzed and discussed the data, and commented on each item as presented by the work group, and posed two seminal questions for discussion and resolution. First, is there evidence of a shortage of nursing home administrators in Maine; and second, if so, should minimum educational standards be altered to address the shortage?

IV. Analysis of the Information

A. The Current Pathways for Licensure as a Nursing Home Administrator

There are currently three pathways to licensure as a nursing home administrator. Applicants must provide evidence of having met the criteria of education, experience, and examination.

Pathway I:

Education: Completion of a four-year undergraduate degree program or higher degree program in administration, health care administration, or long-term care administration;

AIT Program: Completion of 1,040 hours in an AIT program; and

Examination: Passing scores on the national and state examinations.

Pathway II:

Education: Completion of a four-year undergraduate degree program in a health-related field, such as nursing or social work;

AIT Program: Completion of 1,040 hours in an AIT program; and

Examination: Passing scores on the national and state examinations.

Pathway III:

Education: Completion of a four-year undergraduate degree program or higher degree program in any field, plus proof of either a Certificate of Advanced Study in Long-Term Health Care Administration, or 12 semester credit hours with 6 credit hours in management and 6 credit hours in health care or long-term care;

AIT Program: Completion of 1,040 hours in an AIT program; and

Examination: Passing scores on the national and state examinations.

B. Demographics of Maine DONs

The MHCA provided information about Directors of Nursing in Maine facilities. 90% of DONs are female; the average salary is \$52,395 per year, and salaries correlate with the number of beds in a facility. The average salary of a nursing administrator, on the other hand, is \$60,694 per year. MHCA asserted that this information indicates that there is an economic incentive for DONs to continue to climb the career ladder by seeking nursing home administrator positions.

MHCA documented a total of 126 DONs working in long-term care facilities. The Board was unable to ascertain how many DONs received a two-year, three-year, or four-year nursing degree. Although the MHCA reported that out of the 36 facilities surveyed, less than one-half of the DONs had a four-year degree. MHCA recommended that the Board adopt a definition of a DON and a description of Nursing Services used by the Department of Human Services in DHS Chapters 9 and 13 “Regulations Governing the Licensing and Functioning of Skilled Nursing Facilities and Nursing Facilities.”

MHCA’s assertion in its responses is that a shortage of nursing home administrators is evident in Maine. The Board, however, did not view MHCA’s information as demonstrating a shortage of nursing home administrators, only that there is a need for “quality” nursing home administrators.

C. Defining “relevant experience”

The Board is not aware of the existence of a national standard, or a federal definition of a DON. Although the Board can describe the experience of DONs in Maine, it would not necessarily apply these same definitions to the experience of applicants in similar positions coming from other states or jurisdictions. Thus, the task of applying the relevant experience standard in the application review process would be problematic. The Board further concluded that DONs who hold a BA degree in Nursing would, in fact, meet current educational qualifications for licensure because a four-year degree in nursing is considered to be a “related” degree.

D. National Association of Boards of Examiners of Long Term Care Administrators (NAB)

The Board was presented with information from NAB regarding national standards, the national shortage of administrators, and models of alternative pathways to licensure. First, the Board reviewed a chart from NAB entitled, “NHA Licensure Requirements Summary” that reflects current licensing requirements in all 50 states. **(Appendix 8)** With the exception of six states, all states require a four-year undergraduate degree program or higher to meet minimum educational qualifications. All New England States require a four-year undergraduate degree or higher, and rural states such as North Dakota and Idaho have the same educational requirements. The Board commented that Maine’s minimum standard of a BA degree is shared by many other states and is considered an appropriate minimum requirement.

The Board also reviewed a copy of NAB’s Summer 2003 newsletter, which included an article on the shortage of administrators, entitled “NAB Hosts 3rd Summit on Decline in Recruitment and Retention of Long Term Care Administrators.” **(Appendix 9)** This article reported on NABs continued efforts to help leaders in the industry recruit and retain administrators nationwide. As reported by NAB, there has been a 40% decline in applicants taking the national exam. Although the article addressed a national trend, it did not provide information to indicate that Maine was included in that decline. The Board did not receive any evidence to suggest that there is a shortage or a crisis in recruiting nursing home administrators in Maine.

Finally, the Board reviewed information from NAB that suggested the State of California may be viewed as a model for addressing state shortages of nursing home administrators. California has identified two categories of work experience for post-secondary education. The first category included either 10 years of full-time work experience within the immediately preceding 15 years as a registered nurse in a nursing home; and the second included 10 years of full time work experience within the immediately preceding 15 years in any department of a nursing home, plus 2 years of college courses. **(Appendix 10)**

The Board discussed and rejected California’s model of alternative experience for three reasons. First, the Board concluded that Maine does not face a shortage that requires a change in its licensure requirements. Second, the Board concluded that an attempt to define relevant experience would vary from state to state and from facility to facility. Third, the Board concluded that to accept a 2 year degree in lieu of a 4 year degree represents lowering of the four-year undergraduate degree standard that was set by NAB and Maine Legislature in the early 1990s.

E. MHCA Survey Responses directed to the Board: (Appendix 11)

In Favor of Statutory Change:

- Phil Cyr, E-mail dated October 24, 2003
- Anne Ambler-Cote, RN, letter dated November 3, 2003.
- Judith Young, Maine Veterans Home Bangor, E-mail dated November 3, 2003.
- Vicki N. White, RN, Administrator, letter dated November 4, 2003.

In Opposition to Statutory Change:

- Joseph Pirrotta, Executive Director, Augusta Rehab Center, E-mail dated October 24, 2003. – Opponent of Statutory Change
- Karen Fatz, E-mail dated October 30, 2003.
- Darby I. Northway, Division on Aging, College of Osteopathic Medicine, University of New England, letter dated November 3, 2003.
- John R. Pratt – Director, Long-Term Care Management Institute, Saint Joseph’s College of Maine, letter dated November 17, 2003.

II. Conclusion

After a thorough analysis and active discussion of data collected, the Board voted at its November 18, 2003 meeting to report to the Joint Standing Committee of Health and Human Services its conclusion that there is not a shortage of nursing home administrators in Maine and that the current licensure requirements are appropriate and should not be altered. Further, the Board does not recommend adding to the law an alternative pathway to licensure that includes anything less than a four-year undergraduate degree program.

The Board discussed information relating to the high burn-out rate and the difficulty in recruiting quality administrators in Maine. However, the Board felt strongly that altering Maine’s licensure requirements would not address the recruitment/retention challenge. The Board concluded that the opportunity to discuss and make effective changes in the recruitment and retention of quality administrators rested with the educational institutions, professional organizations, private companies, and health care industry.

The Board cannot identify members of the public that are negatively impacted under the current requirements. To deviate from the minimum four year degree requirement would lower the licensure standards to ensure minimum standards, in the Board’s view. To lower current licensing standards without clear justification for doing so would not be in the best interest of the public.

List of Appendices

- Appendix 1: NHA Testimony in Opposition to L.D. 1607 dated May , 2003
- Appendix 2: P.L. 416
- Appendix 3: 32 MRSA §63-B
- Appendix 4: Board of Nursing Home Administrator Rules, Chapter 2, Section 1
“Qualifications for Licensure”
- Appendix 5: July 23, 2003 Letter from Board to MHCA
- Appendix 6: September 17, 2003 MHCA Response
- Appendix 7: Draft November 18, 2003 minutes – Subject to Approval by the Board
- Appendix 8: NAB’s “NHA Licensure Requirements Summary”
- Appendix 9: NAB Summer 2003 Newsletter
- Appendix 10: Copy of California’s Requirements
- Appendix 11: Copy of Responses of MHCA Survey to the Board