



**TO:** Medical Care Advisory Committee  
**DATE:** February 11, 2021  
**FROM:** Diana Conces  
Director of Policy, Rules and Training

**SUBJECT:** Nursing Facility Administrators Licensing Program

**Agenda Item No.:** 7

**Amendments to:** Texas Administrative Code, Title 26, Part 1, Chapter 555, Subchapters A – D.

**BACKGROUND:**  Federal Requirement  Legislative Requirement  Other: Program Initiative.

This proposal will amend existing, add new, and repeal portions of the nursing facility administrators (NFA) licensure requirements to correspond with the Nursing Administrators Board (NAB) requirements, including reciprocity. This includes adopting the NAB Administrator-in-Training (AIT) manual and preceptor training, and becoming more flexible with reciprocity, such as license by endorsement, accepting internships or AIT completed in other states or a NAB accredited program.

NFAs will be able to take required training to become or maintain certification as a preceptor, at their convenience and via computer-based training (CBT), instead of having to travel to an in-person training location for training that is held only twice a year. On-demand CBT will allow Preceptors to complete the training at a time that works for them, without incurring travel costs. Allowing reciprocity for individuals credentialed as a Health Services Executive (HSE) will also streamline the process for obtaining credentialing as a NFA.

Due to the challenges presented by the COVID-19 pandemic and the need for greater awareness and emphasis on infection control and personal protective equipment, HHSC is also proposing that nursing facility providers increase infection control training in the balance of continuing education requirements for NFAs.

**ISSUES AND ALTERNATIVES:**

There are no known concerns, issues, or objections to the proposal. This program initiative is a response to licensure for NFAs and required infection control training in nursing homes. External stakeholders, such as Texas Health Care Association, requested that HHSC allow an applicant who does not meet the requirements for licensure within one year after HHSC receives their application be allowed to reapply for licensure. Because the applicant determines when the application is

submitted and has one year from submission to complete it, this requirement will stand. The exception for natural disasters would be included in any governor's waiver approved during the disaster.

**STAKEHOLDER INVOLVEMENT:**

The proposed amendments were posted on the HHS Rulemaking webpage for informal comment from August 18 - 25, 2020, and sent to external stakeholders for review. External stakeholders included representatives from Leading Age Texas, Home Health Admin Non-Cert, Texas Health Care Association, and Parkway Place – Buckner Retirement Services. Favorable comments and suggestions from stakeholders were received and reviewed by HHS staff and taken into consideration when drafting the proposal.

**FISCAL IMPACT:**

None

**RULE DEVELOPMENT SCHEDULE:**

February 11, 2021	Present to the Medical Care Advisory Committee
February 18, 2021	Present to HHSC Executive Council
March 2021	Publish proposed rules in Texas Register
May 2021	Publish adopted rules in <i>Texas Register</i>
May 2021	Effective date

**REQUESTED ACTION: (Check appropriate box)**

The MCAC recommends approval of the proposed rules for publication.

Information Only

TITLE 26                   HEALTH AND HUMAN SERVICES  
PART 1                     HEALTH AND HUMAN SERVICES COMMISSION  
CHAPTER 555             NURSING FACILITY ADMINISTRATORS

PROPOSED PREAMBLE

The Texas Health and Human Services Commission (HHSC) proposes the repeal of §§555.4 and 555.11 – 555.16; new §§555.11 – 555.18; and amendments to §§555.1 - 555.3; 555.31 - 555.42, and 555.51 - §555.57, in Title 26, Part 1, Chapter 555, concerning Nursing Facility Administrators.

BACKGROUND AND PURPOSE

This proposal will amend existing, add new, and repeal portions of the nursing facility administrators (NFA) licensure requirements to correspond with the Nursing Administrators Board (NAB) requirements, including reciprocity. This includes adopting the NAB Administrator-in-Training (AIT) manual and preceptor training, and becoming more flexible with reciprocity, such as license by endorsement and accepting internships or AIT completed in other states or a NAB accredited program.

This proposal will amend Subchapter C, Schedule of Fees, §555.3, to amend the administrative and licensure fees collected by HHSC and other administrative fees collected by the NAB designee or contractor.

The proposal will amend Subchapter C, Licenses, §§555.31, 555.32, 555.34, and 555.41, to implement House Bill 1342, which requires HHSC to eliminate certain grounds for disqualification for an occupational license based on prior criminal convictions that are unrelated to the duties and responsibilities of an occupational license. This includes requiring a licensing authority to provide an applicant an opportunity to submit relevant information in the event of a potential denial of a license based on prior criminal convictions.

The proposal will amend Subchapter C, Licenses, §555.42, to implement Senate Bill 1200, which allows for military spouses who have occupational licensing from other states to engage in that occupation without obtaining an additional license by following the notification and reciprocal licensing procedures laid out in the proposal.

NFAs will be able to take required training, to become or maintain certification as a preceptor, at their convenience and via computer-based training (CBT) instead of having to travel to an in-person training location. The in-person training is currently held twice a year. On-demand CBT will allow Preceptors to complete the training at a time that works for them and without incurring travel costs. Allowing reciprocity for an individual credentialed as a Health Services Executive (HSE) will also streamline the process for obtaining credentialing as an NFA.

Due to the challenges presented by the COVID-19 pandemic and the need for greater awareness and emphasis on infection control and personal protective equipment (PPE), HHSC is also proposing that nursing facility (NF) providers increase infection control training and continuing education requirements for NFAs.

## SECTION-BY-SECTION SUMMARY

The proposed amendment to §555.1 updates language for better readability and understanding.

The proposed amendment to §555.2 adds definitions for “abuse,” “good standing,” “health services executive,” “internship,” “Long-term Care Regulatory,” “management experience,” “misappropriation of resident property,” “neglect,” and “Texas Health and Safety Code,” and amends or removes definitions for “administrator,” “administrative law judge,” “application,” “DADS,” “deficiency,” “equivalent,” “informal review,” “NAB,” “opportunity to show compliance,” “Regulatory Services Division,” “State of Texas Administrator,” and “survey.”

Proposed new §555.3 adds the fee for the National Association of Long-Term Care Administrator Boards (NAB) examination.

The proposed repeal of §555.4 deletes the rule as no longer necessary, because the content of the rule has been updated and re-proposed in §555.3.

The proposed repeal of §§555.11 – 555.16 deletes the rules as no longer necessary, because the content of the rules has been updated and re-proposed in new §555.11 – 555.18.

Proposed new §555.11, details NFA licensure application requirements to facilitate the NF.

Proposed new §555.12 adds licensure requirements to obtain a license as an NFA.

Proposed new §555.13 adds a requirement for an AIT to complete an HHSC course in Infection Control and PPE before obtaining an NFA license, adopts the NAB AIT manual and preceptor training, and adds flexibility with reciprocity.

Proposed new §555.14 adds details on preceptor requirements for NF seeking to sponsor administrator-in-training.

Proposed new §555.15 gives details of when HHSC may issue a preceptor certification.

Proposed new §555.16 adds preceptor certification renewal details for licensee seeking to renew a preceptor certification.

Proposed new §555.17 adds reasons that HHSC may deny an application for preceptor certification or a preceptor certification renewal.

Proposed new §555.18 requires an applicant seeking license as an NFA from HHSC to pass required examinations for licensure.

The proposed amendment to §555.31 changes the agency responsible from DADS (Department of Aging and Disability Services) to HHSC as the issuer of a license certificate to an applicant and adds details regarding criminal history during initial license.

The proposed amendment to §555.32 replaces DADS with HHSC as the issuer of a provisional license to an applicant currently licensed or registered as a NFA.

The proposed amendment to §555.33 replaces DADS with HHSC as the agency to replace a duplicate license for licensee.

The proposed amendment to §555.34 changes the agency responsible from DADS to HHSC regarding notifying a licensee of the license expiration date and renewal requirements at least 31 days before the license expires.

The proposed amendment to §555.35 requires a licensee to complete HHSC Continuing Education Units that cover infection control license renewal.

The proposed amendment to §555.36 clarifies details for completing a late license renewal application.

The proposed amendment to §555.37 changes the agency responsible from DADS to HHSC updates details regarding denying an application for license renewal.

The proposed amendment to §555.38 clarifies details for how a licensee may place a license in a formal inactive status with HHSC for up to two renewal periods.

The proposed amendment to §555.39 changes the agency responsible from DADS to HHSC.

The proposed amendment to §555.40 changes the agency responsible from DADS to HHSC and adds details on obtaining a new license without taking the examination required by §555.18 of this chapter.

The proposed amendment to §555.41 denies an initial or renewal application for licensure for applicant or licensee convicted of a crime related to their duties.

The proposed amendment to §555.42 allows applicants to request additional time to complete license renewal requirements. An administrator must submit a written request for additional time to HHSC before the expiration date of the administrator's license and must include with the request documentation of the administrator's status as a military service member. Documentation as a military service member that is acceptable to HHSC includes a copy of a current military service order issued to the administrator by the armed forces of the United States,

the State of Texas, or another state. The proposed amendment also recognizes an out-of-state license for a military spouse.

The proposed amendment to §555.51 changes the agency responsible from DADS to HHSC and updates details for the procedure to receive and investigate referrals and complaints.

The proposed amendment to §555.52 changes the agency responsible from DADS to HHSC and adds details on informal reviews for HHSC to initiate proceedings.

The proposed amendment to §555.53 changes the agency responsible from DADS to HHSC and adds that HHSC may give a licensee a formal hearing notice and other related details.

The proposed amendment to §555.54 changes the agency responsible from DADS to HHSC and adds that HHSC may impose a sanction against a licensee on proof of any of the ground rule or statutory violations.

The proposed amendment to §555.55 changes the agency responsible from DADS to HHSC and adds that HHSC may impose a sanction against a licensee for violations of the NFA Standards of Conduct.

The proposed amendment to §555.56 changes the agency responsible from DADS to HHSC and adds that a person with expired license must return the license certificate to HHSC within ten (10) days of expiration.

The proposed amendment to §555.57 changes the agency responsible from DADS to HHSC and adds that HHSC may impose one or more sanctions against a licensee for a violation of this subchapter.

#### FISCAL NOTE

Trey Wood, Chief Financial Officer, has determined that for each year of the first five years that the rules will be in effect, enforcing or administering the rules does not have foreseeable implications relating to costs or revenues of state or local governments.

#### GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the rules will be in effect:

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not affect the number of HHSC employee positions;
- (3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;
- (4) the proposed rules will not affect fees paid to HHSC;
- (5) the proposed rules will create new rules;
- (6) the proposed rules will expand and repeal existing rules;

- (7) the proposed rules will not change the number of individuals subject to the rules; and
- (8) the proposed rules will not affect the state's economy.

#### SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. There are no requirements to alter current business practices. In addition, no rural communities contract with HHSC in any program or service affected by the proposed rule.

#### LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

#### COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules are necessary to protect the health, safety, and welfare of the residents of Texas and do not impose a cost on regulated persons.

#### PUBLIC BENEFIT AND COSTS

David Kostroun, Deputy Executive Commissioner for Regulatory Services, has determined that for each year of the first five years the rules are in effect, the public benefit will be more flexibility for nursing facilities to complete required infection control and PPE training online. As a result, nursing facilities will have more ability to meet required health and safety needs for staff and residents.

Trey Wood, Chief Financial Officer, has also determined that for the first five years the rules are in effect, there are no anticipated economic costs to persons required to comply with the proposed rules because the proposal does not impose any new costs or fees on persons required to comply.

#### TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

#### PUBLIC COMMENT

Questions about the content of this proposal may be directed to Bridney Jones at (512) 438-4266 in HHSC Long-term Care Regulatory Services.

Written comments on the proposal may be submitted to Rules Coordination Office, P. O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or 4900 North Lamar

Boulevard, Austin, Texas 78751; or emailed to  
HHSRulesCoordinationOffice@hhs.texas.gov.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be: (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 18R057" in the subject line.

#### STATUTORY AUTHORITY

The amendments, new sections, and repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies; Texas Government Code §531.021, which provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program; Texas Human Resources Code §32.021, which provides that HHSC shall adopt necessary rules for the proper and efficient operation of the Medicaid program; and Texas Health and Safety Code §242.302, which grants HHSC the general authority to establish rules consistent with that subchapter, and directs HHSC to establish qualifications of applicants for licenses and renewal of licenses issued under that subchapter, as well as reasonable and necessary administration and implementation fees, and continuing education hours required to renew a license under that subchapter.

This agency hereby certifies that this proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

#### ADDITIONAL INFORMATION

For further information, please call: (512) 761-6041.



Legend:

Single Underline = Proposed new language

~~[Strikethrough and brackets]~~ = Current language proposed for deletion

Regular print = Current language

(No change.) = No changes are being considered for the designated subdivision

TITLE 26                   HEALTH AND HUMAN SERVICES  
PART 1                     HEALTH AND HUMAN SERVICES COMMISSION  
CHAPTER 555            NURSING FACILITY ADMINISTRATORS  
SUBCHAPTER A          GENERAL INFORMATION

§555.1. Purpose.

This chapter implements the provisions of the Texas Health and Safety Code, Chapter 242, Subchapter I, Nursing Facility Administration, which concern ~~[for the purpose of]~~ licensing nursing facility administrators in the state of Texas.

§555.2. Definitions.

The words and terms in this chapter have the following meanings, unless the context clearly indicates otherwise:

(1) ~~Abuse--Negligent or willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical or emotional harm or pain to a resident; or sexual abuse, including involuntary or nonconsensual sexual conduct that would constitute an offense under Texas Penal Code §21.08 (relating to Indecent Exposure) or Texas Penal Code Chapter 22 (relating to Assaultive Offenses), sexual harassment, sexual coercion, or sexual assault. [Any act, failure to act, or incitement to act done willfully, knowingly, or recklessly through words or physical action that causes or could cause mental or physical injury or harm or death to a nursing facility resident. Abuse includes verbal, sexual, mental, psychological, or physical abuse; corporal punishment; involuntary seclusion; or any other actions within this definition.]~~

(2) Active duty--Current full-time military service in the armed forces of the United States or as a member of the Texas military forces, as defined in Texas Government Code §437.001, or similar military service of another state.

~~[(3) Administrator--A licensed nursing facility administrator.]~~

(3) ~~[(5)]~~ Administrator-in-training (AIT)--~~[Administrator in training.]~~ A person undergoing an internship under a HHSC-approved ~~[DADS-approved]~~ certified preceptor.

(4) ~~[(4)]~~ Administrator of Record--The individual who is listed as the facility's licensed nursing facility administrator with the HHSC ~~[DADS]~~ Licensing and Credentialing Section.

~~[(6) ALJ--Administrative law judge. A State Office of Administrative Hearings (SOAH) attorney who conducts formal hearings for the Department of Aging and Disability Services.]~~

(5) ~~[(7)]~~ Applicant--A person applying for a Texas nursing facility administrator (NFA) license.

~~[(8) Application--The notarized DADS application for licensure as a nursing facility administrator, as well as all required forms, fees, and supporting documentation.]~~

(6) ~~[(9)]~~ Armed forces of the United States--The Army, Navy, Air Force, Coast Guard, or Marine Corps of the United States, including reserve units of those military branches.

(7) ~~[(10)]~~ Complaint--An allegation that an NFA ~~[a licensed nursing facility administrator]~~ violated one or more of the licensure rules or statutory requirements.

~~[(11) DADS--The Department of Aging and Disability Services.]~~

~~[(12) Deficiency--Violation of a federal participation requirement in a nursing facility.]~~

(8) ~~[(13)]~~ Domains of the National Association of Long Term Care Administrator Boards (NAB)--The five categories for education and continuing education of the ~~[National Association of Long Term Care Administrator Boards]~~ NAB, which are resident care and quality of life; human resources; finance; physical environment and atmosphere; and leadership and management.

~~[(14) Equivalent--A level of achievement that is equal in amount and quality to completion of an educational or training program.]~~

(9) ~~[(15)]~~ Formal hearing--A hearing held by the State Office of Administrative Hearings [SOAH] to adjudicate a sanction taken by HHSC [DADS] against an NFA ~~[licensed nursing facility administrator]~~.

(10) ~~[(16)]~~ Good standing--In Texas an NFA is in good standing if the NFA [The licensure status of a nursing facility administrator who] is in compliance with the rules in this chapter and, if applicable, the terms of any sanction imposed by HHSC [DADS]. An NFA licensed or registered in another state is in good standing if the NFA is in compliance with the NFA licensing or registration rules in the other state and, if applicable, the terms of any sanction imposed by the other state.

(11) Health services executive (HSE) --An individual who has entry-level competencies of a nursing facility, assisted living community, or home and community-based service provider in this jurisdiction or another jurisdiction. The HSE has met NAB's minimum standards for qualification as an HSE.

(12) HHSC--The Texas Health and Human Services Commission.

~~[(17) Informal review--The opportunity for a licensee to dispute the allegations made by DADS. The informal review includes the opportunity to show compliance.]~~

(13) ~~[(18)]~~ Internship--The ~~[1,000-hour]~~ training period in a nursing facility for

an AIT. When HHSC accepts internship hours completed in another state, the hours must be completed in a facility that qualifies as a nursing facility or nursing home under the laws of the other state.

(14) ~~{19}~~ License--An NFA [A nursing facility administrator] license or provisional license.

(15) ~~{20}~~ Licensee--A person licensed by HHSC [~~DADS~~] as an NFA [a nursing facility administrator].

(16) Long-term Care Regulatory--The department of HHSC responsible for long-term care regulation, including determining nursing facility compliance with licensure and certification requirements and the regulation of NFAs.

(17) Management experience--Full-time employment as a department head, assistant nursing facility administrator, or licensed professional supervising two or more employees in a nursing facility, including a nursing facility outside of Texas, or skilled nursing hospital unit.

(18) ~~{21}~~ Military service member--A person who is on active duty.

(19) ~~{22}~~ Military spouse--A person who is married to a military service member.

(20) ~~{23}~~ Military veteran--A person who has served on active duty and who was discharged or released from active duty.

(21) ~~{24}~~ Misappropriation of resident property--Taking, secretion, misapplication, deprivation, transfer, or attempted transfer to any person not entitled to receive any property, real or personal, or anything of value belonging to or under the legal control of a resident without the effective consent of the resident or other appropriate legal authority, or the taking of any action contrary to any duty imposed by federal or state law prescribing conduct relating to the custody or disposition of property of a resident [The deliberate misplacement, exploitation, or wrongful temporary or permanent use of a nursing facility resident's belongings or money without the resident's consent].

~~{25} NAB--The National Association of Long Term Care Administrator Boards, which is composed of state boards or agencies responsible for the licensure of nursing facility administrators.]~~

(22) ~~{26}~~ NAB examination--The national examination developed by NAB that applicants must pass in combination with the state licensure examination to be issued a license to practice nursing facility administration in Texas. The NAB examination consists of two modules: Core of Knowledge and Line of Service.

(23) National Association of Long Term Care Administrator Boards (NAB)--State boards or agencies responsible for the licensure of NFAs.

(24) ~~{27}~~ ~~[NCERS--The]~~ National Continuing Education Review Service (NCERS)--The [ , which is the] part of NAB that approves and monitors continuing

education activities for NFAs [~~nursing facility administrators~~].

(25) Neglect--Failure to provide goods or services, including medical services, that are necessary to avoid physical or emotional harm, pain, or mental illness.

~~[(28) NFAAC--Nursing Facility Administrators Advisory Committee. The advisory committee described in §89.6 of this title (relating to Nursing Facility Administrator Advisory Committee).]~~

~~[(29) Neglect--A deprivation of life's necessities of food, water, or shelter; or a failure of an individual to provide services, treatment, or care to a nursing facility resident that causes or could cause mental or physical injury, harm, or death to the nursing facility resident.]~~

(26) [(30)] Nursing facility--A [An institution or] facility licensed in accordance with THSC Chapter 242 [by DADS as a nursing home, nursing facility, or skilled nursing facility].

(27) Nursing Facility Administrator (NFA)--An individual licensed to engage in the practice of nursing facility administration, regardless of whether the individual has an ownership interest in the facility.

(28) Nursing Facility Administrators Advisory Committee (NFAAC)--The advisory committee established by THSC §242.303 (the text of Subchapter I is effective until federal determination of failure to comply with federal regulations).

~~[(31) Nursing facility administrator--A person who is licensed to engage in the practice of nursing facility administration, regardless of whether the person has ownership interest in the facility.]~~

~~[(32) Opportunity to show compliance--An informal meeting between DADS and a licensee that allows the licensee an opportunity to show compliance with the requirements of law for the retention of the license. The opportunity to show compliance is part of an informal review.]~~

(29) [(33)] Preceptor--An NFA [A licensed nursing facility administrator] certified by HHSC [~~DADS~~] to provide supervision to an AIT.

(30) [(34)] Professional examination services (PES) [PES]--[Professional examination services.] The testing agency that administers the NAB and state examinations to applicants seeking licensure as an NFA [~~nursing facility administrators~~].

(31) [(35)] Referral--A recommendation made by Long-term Care Regulatory [Services Division] staff to investigate an NFA's [~~administrator's~~] compliance with licensure requirements when deficiencies or substandard quality of care deficiencies are found in a nursing facility, as required by Title 42 Code of Federal Regulations §488.325.

~~[(36) Regulatory Services Division--The division of DADS responsible for long-term care regulation, including determining nursing facility compliance with-~~

~~licensure and certification requirements and licensing nursing facility administrators.]~~

~~(32) [(37)] Sanctions-- An [Any] adverse licensure action [actions DADS imposes] against an NFA [a licensee, including letter of reprimand, suspension, revocation, denial of license, and monetary penalties]. In Texas, a sanction is one of the actions listed in §555.57 of this chapter (relating to Schedule of Sanctions).~~

~~(33) [(38)] Self-study course--A NAB-approved education course that an individual pursues independently to meet continuing education requirements for license renewal.~~

~~(34) [(39)] State examination--The state licensure examination that applicants must pass, in combination with the NAB examination, to be issued a license to practice nursing facility administration in Texas. [This examination covers the nursing facility requirements found in Chapter 19 of this title (relating to Nursing Facility Requirements for Licensure and Medicaid Certification).]~~

~~[(40) State of Texas Administrator In Training Internship Manual--The DADS program guide used by an AIT and preceptor during the AIT's internship for nursing facility administrator licensure.]~~

~~(35) [(41)] Substandard quality of care--For a Medicare- or Medicaid-certified facility, this term has the meaning given in Title 42 Code of Federal Regulations §488.301. For a licensed-only facility, this term has the meaning given in Texas Administrative Code, Title 40, Part 1, §19.101 [Any deficiency in Resident Behavior and Facility Practices, Quality of Life, or Quality of Care that is immediate jeopardy to nursing facility resident health or safety; or a pattern of widespread actual harm that is not immediate jeopardy; or a widespread potential for more than minimal harm that is not immediate jeopardy, with no actual harm].~~

~~(36) THSC--Texas Health and Safety Code.~~

~~[(42) Survey--A resident focused complaint/incident investigation or annual licensure or certification inspection of a nursing facility by DADS.]~~

~~(37) [(43)] Traditional business hours--Monday through Friday from 8:00 a.m. until 5:00 p.m.~~

### §555.3. Schedule of Fees.

(a) HHSC charges the following administrative and licensure fees:

(1) application--\$100;

(2) initial license--\$250;

(3) provisional license--\$250;

(4) renewal--\$250 every two years when the license is renewed on or before the date the license expires;

(5) late renewal fees for license renewals made after the license expires:

(A) \$375 for an expired license renewed during the first 90 days after the license expires; and

(B) \$500 for an expired license renewed between 91 and 365 days after the license expires;

(6) formal inactive status--\$250;

(7) reinstatement of licensure--\$500; and

(8) duplicate license--\$25.

(b) Other administrative fees collected by the National Association of Long Term Care Administrator Boards (NAB) designee or contractor:

(1) National Association of Long Term Care Administrator Boards (NAB) examination--\$425

(2) NAB reexamination, including both NAB Core of Knowledge examination and Line of Service examination, in nursing home administration--\$425;

(3) NAB Core of Knowledge examination only--\$300;

(4) Line of Service examination in nursing home administration only--\$175; and

(5) state examination--\$190.

(c) All application and licensure fees are nonrefundable, except as provided by Texas Government Code, Chapter 2005.

~~[\$555.4. Schedule of Fees.~~

~~DADS charges the following administrative and licensure fees:~~

~~(1) application fee--\$100;~~

~~(2) state examination fee--\$155;~~

~~(3) state reexamination fee--\$155;~~

~~(4) NAB examination fee--\$285;~~

~~(5) NAB reexamination fee--\$285;~~

~~(6) initial licensure fee--\$250;~~

~~(7) renewal fee--\$250 every two years when the license is renewed on or before the date the license expires;~~

~~(8) late renewal fees for license renewals made after the license expires:~~

~~(A) \$375 for an expired license renewed during the first 90 days after the~~

~~license expires; and~~

~~(B) \$500 for an expired license renewed between 91 and 365 days after the license expires;~~

~~(9) formal inactive status fee—\$250;~~

~~(10) reinstatement of licensure fee—\$500; and~~

~~(11) duplicate license fee—\$25.]~~

TITLE 26 HEALTH AND HUMAN SERVICES  
PART 1 HEALTH AND HUMAN SERVICES COMMISSION  
CHAPTER 555 NURSING FACILITY ADMINISTRATORS  
SUBCHAPTER B REQUIREMENTS FOR LICENSURE

~~§555.11. Academic Requirements.~~

~~(a) Applicants seeking licensure must meet the following academic requirements:~~

~~—(1) have a baccalaureate degree in any subject from a university or health-science center accredited by an association recognized by the Texas Higher Education Coordinating Board; and~~

~~—(2) complete a minimum of 15 semester credit hours in long term care administration, or its equivalent, that includes courses in the following domains of the NAB:~~

~~—(A) resident care and quality of life;~~

~~—(B) human resources;~~

~~—(C) finance;~~

~~—(D) physical environment and atmosphere; and~~

~~—(E) leadership and management.~~

~~(b) DADS accepts foreign university degrees and coursework that is counted as transfer credit by accredited universities recognized by the American Association of Collegiate Registrars and Admissions Officers.~~

~~§555.12. Internship Requirements.~~

~~An AIT must meet the following requirements:~~

~~—(1) Before starting the internship, the AIT must provide DADS written notice of:~~

~~—(A) the name and license number of the DADS-approved preceptor providing training; and~~

~~—(B) the name and address of the nursing facility where the internship will be completed, and the administrator's name if the individual is not the preceptor of record.~~

~~—(2) The internship must be in a nursing facility that has a minimum of 60 beds.~~

~~—(3) The internship must be a minimum of 1,000 hours of training.~~

~~—(4) A minimum of 500 of the 1,000 hours must be during traditional business hours.~~

~~—(5) The AIT can train no more than 40 hours a week.~~



~~—(6) Upon completing the internship, the AIT must submit to DADS:~~

~~——(A) one of the following:~~

~~————(i) a complete and notarized AIT Final Report and Preceptor Performance Report; or~~

~~————(ii) official transcript from a university accredited by an association recognized by the Texas Higher Education Coordinating Board that reflects completion of the internship; and~~

~~——(B) a signed statement from the administrator of record of the nursing facility in which the training occurred verifying the AIT trained at the nursing facility.~~

#### ~~§555.13. Alternate Education, Training, and Experience.~~

~~(a) Applicants not meeting the academic or internship requirements for licensure in §18.11 of this subchapter (relating to Academic Requirements) and §18.12 of this subchapter (relating to Internship Requirements), are eligible for licensure if they present evidence satisfactory to DADS of the following alternate education and experience:~~

~~—(1) a master's degree in health administration, health services administration, health care administration, or nursing, which includes coursework that encompasses the five domains of the NAB, with one year of management experience and completion of a 500-hour internship; or~~

~~—(2) a baccalaureate degree in health administration, health services administration, health care administration, or nursing, which includes coursework that encompasses the five domains of the NAB, with three years of management experience and completion of a 500-hour internship.~~

~~(b) A minimum of 250 hours of the 500-hour internship referred to in subsection (a) of this section must be done during traditional business hours.~~

~~(c) Management experience is defined as full-time employment as a department head or licensed professional supervising two or more employees in a nursing facility or skilled nursing hospital unit.~~

#### ~~§555.14. Preceptor Requirements.~~

~~(a) A licensee seeking to sponsor an AIT must:~~

~~—(1) be licensed or registered as a nursing facility administrator for a minimum of five years, with the two most recent years in Texas;~~

~~—(2) be in good standing;~~

~~—(3) have paid a \$25 training fee and completed DADS preceptor training to become a certified preceptor; and~~

~~—(4) meet the eligibility requirements in the State of Texas AIT Internship Manual.~~

~~(b) A preceptor must submit a complete and notarized AIT Performance Report to DADS at the end of the internship.~~

~~(c) A preceptor must obtain approval from DADS before sponsoring more than one AIT at the same time.~~

~~(d) DADS may consider any imposed sanction against a preceptor as grounds for refusing to allow the preceptor to sponsor an AIT.~~

~~(e) DADS may refuse to allow a preceptor to provide training to an AIT if the preceptor did not provide adequate training to previous AITs.~~

~~(f) DADS waives 20 of the 40 clock hours of continuing education required for license renewal for a preceptor who sponsors an AIT.~~

~~(g) A licensee is qualified to act as a preceptor for two years from the date the licensee completes DADS' preceptor training.~~

~~(h) A licensee must remain in good standing in order to act as a preceptor.~~

#### ~~§555.15. Application Requirements.~~

~~(a) Applicants seeking licensure must submit the following to DADS:~~

~~—(1) a complete and notarized Nursing Facility Administrator's Application for Licensure Form;~~

~~—(2) \$100 application fee;~~

~~—(3) a Texas Department of Public Safety (DPS) Texas criminal conviction report and fingerprint card;~~

~~—(4) an official transcript reflecting a baccalaureate degree from a university or health science center accredited by an association recognized by the Texas Higher Education Coordinating Board;~~

~~—(5) if not a part of the transcript reflecting a baccalaureate degree, another transcript reflecting 15 semester credit hours in long term care administration or its equivalent that include the five domains of the NAB as listed in §18.11 of this subchapter (relating to Academic Requirements), or alternate education, training and experience listed in §18.13 of this subchapter (relating to Alternate Education, Training, and Experience); and~~

~~—(6) proof of completing the minimum applicable internship that meets the internship requirements in §18.12 of this subchapter (relating to Internship Requirements).~~

~~(b) An application is valid for one year from the date the application fee is received.~~

~~(c) Applicants not meeting the requirements for licensure and examination within one year after DADS receives their application must resubmit the following to DADS:~~

- ~~—(1) a notarized Nursing Facility Administrator's Application for Licensure form;~~
- ~~—(2) \$100 application fee; and~~
- ~~—(3) a DPS Texas criminal conviction report and fingerprint card.~~

~~(d) DADS is not responsible for applications, forms, notices, and correspondence unless they are received by DADS.~~

~~(e) DADS is not responsible for mail it sends to a licensee or applicant if the licensee's or applicant's current address was not reported in writing to DADS.~~

#### ~~§555.16. Examinations.~~

~~(a) Applicants seeking licensure as nursing facility administrators from DADS must pass the following examinations:~~

- ~~—(1) state examination on the nursing facility requirements found in Chapter 19 of this title (relating to Nursing Facility Requirements for Licensure and Medicaid Certification); and~~
- ~~—(2) NAB examination.~~

~~(b) Applicants register for examination at a designated NAB website by:~~

- ~~—(1) submitting an application for approval to test; and~~
- ~~—(2) paying the \$155 state examination and \$285 NAB examination fees on li~~

~~(c) DADS sends e-mails notifying applicants of their eligibility to take the test.~~

~~(d) Applicants must not take any examination without DADS approval.~~

~~(e) An applicant with a disability, including an applicant with dyslexia as defined in Texas Education Code §51.970 (relating to Instructional Material for Blind and Visually Impaired Students and Students with Dyslexia), may request a reasonable accommodation for the examination under the Americans with Disabilities Act.~~

~~(f) Applicants complete the on-line state and NAB examinations at PES.~~

~~(g) DADS notifies applicants of test scores within two weeks after receiving examination results from the testing agency.~~

~~(h) An applicant who fails an examination and wants to retest must pay the appropriate state or NAB examination fee stated in subsection (b)(2) of this section.~~

~~(i) Applicants failing the state or NAB examination three consecutive times must complete another minimum 1,000-hour AIT internship before retesting.~~

~~(j) Applicants previously licensed as nursing facility administrators by passing the comprehensive examination and who have an expired license for 12 months or longer or voluntarily surrendered their license must pass the NAB and state examinations to obtain a new license.]~~

§555.11. Application Requirements.

(a) Except as provided in subsections (b) and (c) of this section, an applicant seeking licensure must submit to the Texas Health and Human Services Commission (HHSC):

- (1) a complete Nursing Facility Administrator's Application for Licensure form;
- (2) the application fee;
- (3) fingerprints for a Texas Department of Public Safety criminal background check;
- (4) an official transcript reflecting a baccalaureate degree from a college or university accredited by an agency recognized by the Texas Higher Education Coordinating Board;
- (5) if not a part of the transcript reflecting a baccalaureate degree, another transcript reflecting 15 semester credit hours in long-term care administration, or its equivalent, that include the five domains of the National Association of Long Term Care Administrator Boards; and
- (6) proof of completing the minimum applicable internship that meets the internship requirements in §555.13 of this subchapter (relating to Internship Requirements).

(b) If an applicant has a health services executive (HSE) qualification and is applying for a license under §555.12(a)(4) of this subchapter (relating to Licensure Requirements), the applicant must submit:

- (1) a complete Nursing Facility Administrator's Application for Licensure form;
- (2) the application fee;
- (3) proof of the HSE qualification;
- (4) fingerprints for a Texas Department of Public Safety criminal background check; and
- (5) proof that the applicant has not had a license revoked in any state.

(c) If an applicant has an NFA license issued by another state and is applying for a license under §555.12(a)(5) of this subchapter, the applicant must submit:

- (1) a complete Reciprocity Licensure Questionnaire;
- (2) the application fee;

(3) fingerprints for a Texas Department of Public Safety criminal background check; and

(4) proof of a license in good standing in another state.

(d) An application is valid for one year from the date the application fee is received.

(e) An applicant who does not meet the requirements for licensure within one year after HHSC receives the application must reapply for licensure as provided in this section.

(f) HHSC is not responsible for applications, forms, notices, and correspondence unless they are received by HHSC.

(g) HHSC is not responsible for mail it sends to a licensee or applicant if the licensee's or applicant's current address was not reported in writing to HHSC.

#### §555.12. Licensure Requirements.

(a) An applicant must meet one of the following groups of requirements to obtain a license as a nursing facility administrator (NFA).

(1) An applicant has a baccalaureate degree in any subject from a college or university accredited by an agency recognized by the Texas Higher Education Coordinating Board; and

(A) a minimum of 15 semester credit hours in long-term care administration, or its equivalent, that includes courses in the five domains of the National Association of Long Term Care Administrator Boards (NAB);

(B) completed a 1,000-hour internship that meets the requirements in §555.13 of this subchapter (relating to Internship Requirements); and

(C) passed the state and NAB examinations described in §555.18 of this subchapter (relating to Examinations and Requirements to Take the Examinations).

(2) An applicant has a baccalaureate degree in health administration, health services administration, health care administration, or nursing that includes coursework encompassing the five domains of the NAB; and

(A) three years of management experience;

(B) completed a 500-hour internship that meets the requirements in §555.13 of this subchapter; and

(C) passed the state and NAB examinations described in §555.18 of this subchapter.

(3) An applicant has a master's degree in health administration, health services administration, health care administration, or nursing that includes coursework encompassing the five domains of the NAB; and

(A) one year of management experience;

(B) completed a 500-hour internship that meets the requirements in §555.13; and

(C) passed the state and NAB examinations described in §555.18 of this subchapter.

(4) An applicant has a health services executive qualification and

(A) has not had a license revoked in any state; and

(B) passed the state examination described in §555.18 of this subchapter.

(5) An applicant has a license issued by a state other than Texas and meets the requirements for licensure in paragraphs (1), (2), or (3) of this subsection.

(b) HHSC accepts foreign university degrees and coursework that is counted as transfer credit by accredited universities recognized by the American Association of Collegiate Registrars and Admissions officers.

#### §555.13. Internship Requirements.

(a) Except as provided in subsection (b) or (c) of this section, an applicant must complete an internship that meets the following requirements.

(1) Before an applicant starts the internship, the applicant and the applicant's preceptor must complete a Texas Health and Human Services (HHSC) internship application.

(2) The internship must be in a nursing facility that has a minimum of 60 beds, unless HHSC grants an exception to the minimum bed requirement. HHSC may consider an exception to the 60-bed requirement on a case-by-case basis. To be considered, the facility with fewer than 60 beds must be located in a rural area and more than 50 miles away from a 60-bed facility. An applicant must submit to HHSC a written request to complete an internship in a facility with fewer than 60 beds. HHSC will notify the applicant of the status of the applicant's request.

(3) A minimum of half of the internship hours must be during traditional business hours.

(4) The administrator-in-training (AIT) can train no more than 40 hours a week.

(5) If the internship is completed with a nursing facility administrator (NFA) not associated with a university as the preceptor, the AIT must complete a preceptor performance report. Additionally, the preceptor must complete an AIT final report. An AIT must complete an HHSC course in Infection Control and Personal Protective Equipment.

(6) If the internship is completed with an NFA associated with a university accredited by an agency recognized by the Texas Higher Education Coordinating Board as the preceptor, the AIT must submit an official transcript to HHSC.

(b) HHSC may accept an internship completed in another state if:

(1) the internship is part of a National Association of Long Term Care Administrator Boards-accredited program; or

(2) the internship is approved by the other state and a minimum of 1,000 hours or a minimum of 500 hours if the requirements listed in §555.12(a)(2) or (3) of this subchapter (relating to Licensure Requirements) are met. An applicant who has completed fewer than 1,000 hours of internship in another state that does not qualify for a 500-hour internship may complete the remaining hours under a preceptor.

(c) As a substitute to meeting the internship requirements described in subsection (a) or (b) of this section, an applicant may submit to HHSC proof of a health services executive (HSE) qualification and certify that the applicant has not had a license or HSE qualification revoked in any state.

(d) The AIT must submit proof of completion of the internship. HHSC will review the proof of completion and notify the applicant of the status of the applicant's request.

#### §555.14. Preceptor Requirements.

(a) A licensee seeking to sponsor an administrator-in-training (AIT) must:

(1) have a preceptor certification as provided in §555.15 of this subchapter (relating to Preceptor Certification); and

(2) obtain approval from the Texas Health and Human Services Commission (HHSC) to sponsor an AIT.

(b) A preceptor must submit a complete AIT Performance Report to HHSC at the end of the internship, unless the preceptor is a nursing facility administrator associated with a university recognized by the Texas Higher Education Coordinating Board.

(c) A preceptor must obtain approval from HHSC before sponsoring more than one AIT at the same time.

(d) HHSC may consider any imposed sanction as specified, in §555.57 of this chapter (relating to Schedule of Sanctions), against a preceptor as grounds for refusing to allow the preceptor to sponsor an AIT.

(e) HHSC may refuse to allow a preceptor to sponsor an AIT if the preceptor did not provide adequate training to previous AITs.

(f) HHSC waives 20 of the 40 hours of continuing education required for license renewal for a preceptor who sponsors an AIT.

(g) A licensee is qualified to act as a preceptor for two years from the date HHSC certifies the preceptor.

(h) A licensee must remain in good standing to act as a preceptor.

(i) A preceptor may be allowed to provide direct supervision or guidance of a licensee with a probated sanction as specified in §555.57 of this chapter.

§555.15. Preceptor Certification.

HHSC may issue a preceptor certification to a nursing facility administrator (NFA) who submits:

(1) proof of license or registration in good standing as an NFA for a minimum of five years, with the two most recent years in Texas;

(2) proof of completed Texas Health and Human Services approved preceptor training; and

(3) a completed preceptor application.

§555.16. Preceptor Certification Renewal.

(a) To continue acting as a preceptor, a licensee must renew a preceptor certification every two years.

(b) A licensee seeking to renew a preceptor certification must submit to HHSC:

(1) proof of license or registration as a nursing facility administrator for a minimum of five years, with the two most recent years in Texas;

(2) proof of completed Texas Health and Human Services approved preceptor training; and

(3) a completed preceptor application.

§555.17. Preceptor Denial of Certification Renewal.

The Texas Health and Human Services may deny an application for a preceptor certification or a preceptor certification renewal for the following reasons:

(1) the preceptor committed a violation listed in §555.54 of this chapter (relating to Rule or Statutory Violations); or

(2) the preceptor was convicted of a crime listed in §555.41 of this chapter (relating to Licensure of Persons with Criminal Backgrounds).

§555.18. Examinations and Requirements to Take the Examinations.

(a) Except as provided in subsection (b), an applicant seeking a license as a nursing facility administrator (NFA) from the Texas Health and Human Services Commission (HHSC) must:

(1) pass the following examinations:

(A) the state examination on nursing facility requirements in Texas;

(B) the state and NAB examinations; and



(2) have a baccalaureate degree in health administration, health services administration, health care administration, or nursing that includes coursework encompassing the five domains of the National Association of Long Term Care Administrator Boards (NAB);

(3) have three years of management experience or one year of management experience as a full-time assistant administrator; and

(4) have completed a 500-hour internship that meets the requirements in §555.13 of this subchapter (relating to Internship Requirements).

(b) An applicant who meets the academic and internship requirements by presenting evidence of a health services executive (HSE) qualification and completing a 500-hour internship, must pass the state examination.

(c) An applicant registers for examination at the designated NAB website by:

(1) submitting an application for approval to take the examination; and

(2) paying the applicable state examination and NAB examination fees on-line.

(d) HHSC sends an e-mail notifying an applicant of the applicant's eligibility to take the examinations.

(e) An applicant must not take any examination without HHSC approval.

(f) An applicant with a disability, including an applicant with dyslexia as defined in Texas Education Code §51.970 (relating to Instructional Material for Blind and Visually Impaired Students and Students with Dyslexia), may request a reasonable accommodation for the examination under the Americans with Disabilities Act.

(g) An applicant completes the on-line state and NAB examinations at professional examination services.

(h) HHSC notifies an applicant of examination scores after receiving examination results.

(i) An applicant who fails an examination and wants to retake it must pay the appropriate state or NAB examination fee.

(j) An applicant who fails the state or NAB examination three consecutive times must complete an additional 1,000-hour administrator-in-training internship before retaking the examination.

(k) An applicant previously licensed as an NFA and whose license expired 365 or more days before the applicant reapplies for a license or who voluntarily surrendered the license must retake the state examination to obtain a new license.

(l) An applicant previously licensed as an NFA and whose license expired 365 or more days before the applicant reapplies for a license, or who voluntarily surrendered the license, must retake the NAB examination to obtain a new license if more than five years have passed since the applicant passed the NAB examination.

TITLE 26 HEALTH AND HUMAN SERVICES  
PART 1 HEALTH AND HUMAN SERVICES COMMISSION  
CHAPTER 555 NURSING FACILITY ADMINISTRATORS  
SUBCHAPTER C LICENSES

§555.31. Initial License.

(a) The Texas Health and Human Services Commission (HHSC) [~~DADS~~] issues a license certificate to an applicant [~~applicants~~] who:

(1) receives a [~~receive~~] passing score [~~scores~~] on the state and National Association of Long Term Care Administrator Boards [~~NAB~~] examinations;

(2) submits [~~submit~~] the [~~\$250~~] initial license fee to HHSC [~~DADS~~]; and

(3) does not have a criminal history that HHSC determines is a basis for denying the license under §555.41 [~~meet the requirements of §18.41~~] of this subchapter (relating to Licensure of Persons with Criminal Backgrounds).

(b) HHSC [~~DADS~~] may determine that a criminal conviction or a sanction taken against an applicant in Texas or another state is a basis for pending or denying an initial license.

(c) A license expires two years from the date issued.

(d) A licensee [~~Licensees~~] must keep HHSC [~~DADS~~] informed of the licensee's [~~their~~] current home address and employment address. If employed by a nursing facility, a licensee must submit a Data Change Request form to HHSC [~~DADS~~] within 30 days after a change of employment.

(e) A licensee [~~Licensees~~] who does [~~do~~] not notify HHSC [~~DADS~~] of a change in address or employment within the required 30 days may be subject to an administrative penalty as provided [~~listed~~] in §555.57 [~~§18.57~~] of this chapter (relating to Schedule of Sanctions).

§555.32. Provisional License.

(a) The Texas Health and Human Services Commission (HHSC) [~~DADS~~] issues a provisional license to an applicant [~~applicants~~] currently licensed or registered as a nursing facility administrator (NFA) [~~nursing facility administrators~~] in another state who submits [~~submit~~] the following to HHSC [~~DADS~~]:

(1) complete and notarized Provisional Licensure Questionnaire and Nursing Facility Administrator License Application forms;

(2) the [~~\$100~~] application fee; [~~and~~]

(3) the provisional license fee; and

(4) [~~(3)~~] proof of the following:

(A) a license and good standing status in another state with licensing

requirements substantially equivalent to the Texas licensure requirements;

(B) employment for at least two years as an administrator of record of a nursing facility in applicant's state;

(C) a passing score on the National Association of Long Term Care Administrator Boards [~~NAB~~] examination and the state examination; and

(D) sponsorship by an NFA [~~administrator~~] licensed by HHSC [~~DADS~~] and who is in good standing, unless HHSC [~~DADS~~] waives sponsorship based on a demonstrated hardship.

(b) A provisional license expires 180 days from the date of issue.

(c) HHSC [~~DADS~~] issues an initial [~~a~~] license certificate to a provisional license holder who satisfies the requirements for a license in §555.12 of this chapter (relating to Licensure Requirements) and §555.31 of this subchapter (relating to Initial license). [~~;~~]

~~[(1) passes the state examination;]~~

~~[(2) pays DADS the \$250 initial licensure fee; and~~

~~[(3) has not had a license revoked in Texas or any other state.]~~

(d) HHSC [~~DADS~~] may determine that a criminal conviction or sanction taken in another state is a basis for pending or denying a provisional license.

§555.33. Duplicate License.

The Texas Health and Human Services Commission (HHSC) [~~DADS~~] replaces lost, damaged, or destroyed license certificates for a licensee [~~to licensees~~] who submits [~~submit~~] a notarized Data Change/Duplicate License Request form and [~~\$25~~] duplicate license fee to HHSC [~~DADS~~].

§555.34. License Renewal.

(a) The Texas Health and Human Services Commission (HHSC) [~~DADS~~] notifies a licensee [~~licensees~~] of the [~~their~~] license expiration date and renewal requirements at least 31 days before the license expires.

(b) A licensee who does not receive a renewal notice must renew the license before the license expires.

(c) A licensee [~~Licensees~~] seeking renewal must submit the following to HHSC, [~~DADS~~] on or before the date the license expires:

(1) a complete License Renewal form;

(2) the [~~\$250~~] renewal fee;

(3) proof of completion of 40 [~~eløk~~] hours of continuing education, as required by §555.35 of this subchapter (relating to Continuing Education Requirements for

License Renewal); and

(4) fingerprints for a Texas Department of Public Safety [~~a DPS Texas~~] criminal conviction report and fingerprint card.

(d) HHSC [~~DADS~~] uses the [~~postmark~~] date the completed renewal application is submitted online to determine if a renewal application is on time. [~~If there is no postmark or the postmark is not legible, DADS uses the date that the Nursing Facility Administrator Licensing Program records the renewal application as received.~~]

(e) HHSC [~~DADS~~] issues a two-year license renewal card to eligible licensees who meet the requirements in subsection (c) of this section.

(f) HHSC [~~DADS~~] may deny a license renewal according to §555.37 [~~§18.37~~] of this subchapter (relating to Denial of License Renewal).

§555.35. Continuing Education Requirements for License Renewal.

(a) The 40 [~~clock~~] hours of continuing education required for license renewal must:

(1) be completed during the previous two-year licensure period;

(2) include one or more of the five domains of the National Association of Long Term Care Administrator Boards (NAB) [~~NAB listed in §18.11 of this chapter (relating to Academic Requirements)~~];

(3) include a Texas Health and Human Services Commission (HHSC) course in Infection Control and personal protective equipment;

(4) include at least six [~~clock~~] hours in ethics; and

(5) [~~(4)~~] be:

(A) approved by the National Continuing Education Review Service;

(B) a HHSC-sponsored [~~DADS-sponsored~~] event; or

(C) an upper-division semester credit course taken or taught at a post-secondary institution of higher education accredited by an agency [~~association~~] recognized by the Texas Higher Education Coordinating Board.

(b) HHSC [~~DADS~~] accepts NAB-approved self-study courses toward the required 40 [~~clock~~] hours of continuing education.

(c) HHSC [~~DADS~~] waives, at a maximum, 20 of the 40 [~~clock~~] hours of continuing education required of [~~to~~] a licensee who completes one three-semester hour upper-division course taken at a post-secondary institution of higher education.

(d) HHSC [~~DADS~~] approves continuing education credit hours [~~once per licensure-renewal period~~] for the same course, seminar, workshop, or program only once per license renewal period.

~~[(e) DADS waives 20 of the required 40 clock hours of continuing education for preceptors who sponsor an AIT.]~~

(e) ~~[(f)]~~ HHSC ~~[DADS]~~ may perform an audit of continuing education courses, seminars, or workshops that the licensee has reported by requesting certificates of attendance.

#### §555.36. Late Renewals.

(a) A former licensee ~~[person]~~ has up to one year after the expiration date of a license to renew the license by:

(1) completing a license renewal application;

(2) ~~[(1)]~~ completing 40 ~~[clock]~~ hours of continuing education as provided ~~[listed]~~ in §555.35 ~~[\$18.35]~~ of this subchapter (relating to Continuing Education Requirements for License Renewal); and

(3) ~~[(2)]~~ submitting the following fee to the Texas Health and Human Services Commission (HHSC) ~~[DADS]~~:

(A) a \$375 late renewal fee for a license that has been expired for 90 days or less; or

(B) a \$500 late renewal fee for a license that has been expired for 91 days to 365 days.

(b) A former licensee ~~[person]~~ whose license has been expired for more than 365 days must meet the licensure and examination requirements for an initial license.

(c) A former licensee ~~[person]~~ must retake the National Association of Long Term Care Administrator Boards (NAB) examination ~~[exam]~~ if the former licensee ~~[person]~~ last took and passed the NAB examination ~~[exam]~~ more than five years before the completed application date.

~~[(d) A person who does not renew a license on or before the date the license expires must return the license to DADS.]~~

~~[(e)]~~ A person who fails to renew a license before the expiration date must not practice in the field of nursing facility administration until the license is renewed.

~~[(f)]~~ HHSC ~~[DADS]~~ imposes one or more sanctions listed in §555.57 ~~[\$18.57]~~ of this chapter (relating to Schedule of Sanctions) against a person who practices with an expired license.

#### §555.37. Denial of License Renewal.

(a) The Texas Health and Human Services Commission (HHSC) ~~[DADS]~~ may deny an application for license renewal based on either of the following:

(1) the licensee committed a violation listed in §555.54 of this chapter (relating to Rule or Statutory Violations) ~~[a sanction taken against a licensee];~~ or

(2) the licensee has a criminal history that HHSC determines is a basis for denying the license renewal under §555.41 of this subchapter (relating to Licensure of Persons with Criminal Backgrounds) [a conviction for a crime listed in §18.41 of this subchapter].

~~[(b) DADS does not renew a license if:~~

~~(1) a person's license was revoked in another jurisdiction;~~

~~(2) the licensee defaulted on a guaranteed student loan as addressed in the Education Code, §57.491; or~~

~~(3) the licensee did not comply with the terms of a sanction or settlement agreement with DADS.]~~

§555.38. Inactive Status.

(a) A licensee may place a license in a formal inactive status with the Texas health and Human Services Commission (HHSC) ~~[DADS]~~ for up to two renewal periods.

(b) To place a license in a formal inactive status, the licensee submits the following to HHSC ~~[DADS]~~ on or before the date the license expires:

(1) a completed Inactive Status Application form; and

(2) the formal ~~[\$250]~~ inactive status fee.

(c) A licensee may ~~[Licensees must]~~ renew a license in formal inactive status ~~[the inactive]~~ on or before the date that the inactive status expires by submitting to HHSC ~~[DADS]~~:

(1) the ~~[\$250]~~ renewal fee; and

(2) proof of completing 40 ~~[clock]~~ hours of continuing education, as provided ~~[listed]~~ in §555.35 ~~[§18.35]~~ of this chapter (relating to Continuing Education Requirements for License Renewal).

(d) If a license in formal ~~[licensee's]~~ inactive status expires ~~[has expired]~~, the licensee must meet the licensure application and examination requirements as listed in §555.11 ~~[§18.15]~~ of this subchapter ~~[chapter]~~ (relating to Application Requirements) and §555.18 ~~[§18.16]~~ of this chapter (relating to Examinations) to obtain a new license.

(e) If it has been less than five years since the individual passed the National Association of Long Term Care Administrator Boards (NAB) ~~[NAB]~~ examination, the individual is not required to take the NAB examination ~~[referenced in §18.16(a)(2) of this chapter,]~~ but must take the state examination ~~[exam]~~.

(f) A former licensee ~~[person]~~ whose license expires while on formal inactive status ~~[license has expired]~~ may not renew the license by paying ~~[pay]~~ a late renewal fee.

§555.39. Voluntary Surrender of a License.

(a) A licensee may voluntarily surrender a license by returning the license certificate to the Texas Health and Human Services Commission (HHSC) [~~DADS~~].

(b) A licensee who voluntarily surrenders a license while under investigation for a violation of licensure requirements may still receive:

- (1) a written reprimand; or
- (2) an administrative penalty.

(c) A licensee who voluntarily surrenders a license in lieu of a proposed sanction, other than license revocation, may not reapply for licensure until two years after the surrender date.

(d) A licensee who voluntarily surrenders a license in lieu of a proposed license revocation is permanently disqualified from licensure in Texas.

#### §555.40. Reinstatement.

An applicant [~~Applicants~~] who previously was [~~were~~] licensed and in good standing in Texas may obtain a new license without taking the examination required by §555.18 of this chapter (relating to Examinations and Requirements to Take the Examinations) [~~reexamination~~] if the applicant [~~they~~]:

- (1) is [~~are~~] licensed in good standing in another state;
- (2) practiced in that state for at least the preceding two years before the date of the [~~their~~] current licensure application; and
- (3) pays the Texas Health and Human Services [~~pay DADS~~] a [~~\$500~~] reactivation fee.

#### §555.41. Licensure of Persons with Criminal Backgrounds.

(a) Subject to subsection (f) of this section, the Texas Health and Human Services Commission (HHSC) may disqualify an applicant or licensee from taking an examination required by §555.18 of this chapter (relating to Examinations and Requirements to Take the Examinations), may deny an initial or renewal application for licensure, or impose:

~~[(a) DADS considers an applicant's or a licensee's conviction of a crime related to the duties, responsibilities and job performance of an administrator as a potential basis for:]~~

~~[(1) denying an initial or renewal application for licensure; and]~~

(1) [~~(2) imposing~~] a sanction listed in §555.57 [~~§18.57~~] of this chapter (relating to Schedule of Sanctions) if the applicant or licensee has been convicted of;

(A) an offense that directly relates to the duties and responsibilities of a nursing facility administrator (NFA);

(B) an offense listed in Article 42A.054, Code of Criminal Procedure; or

(C) a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure.

(b) HHSC [DADS] considers the following when determining if a criminal conviction directly relates to the duties, [and] responsibilities, and job performance of an NFA [a nursing facility administrator]:

(1) the nature and seriousness of the crime;

(2) the extent to which a license may offer an individual an opportunity to engage in the same type of criminal activity; and

(3) the relationship of the crime to the ability or fitness required to perform the duties of an NFA [a nursing facility administrator].

(c) HHSC [DADS] has determined that a conviction of the following crimes relates to nursing facility administration and reflects an inability to perform or tendency to inadequately perform as an NFA [administrator]. Accordingly, HHSC proposes to deny [denies] an application for licensure from an applicant who has been convicted of any of the following crimes:

(1) intentionally acting as an NFA [a nursing facility administrator] without a license;

(2) attempting or conspiring to commit or committing any offense under the following chapters of the Texas Penal Code:

(A) Title 5 (offenses against persons), including homicide, kidnapping, unlawful restraint, and sexual and assault offenses;

(B) Title 7 (offenses against property), including arson, criminal mischief, robbery, burglary, criminal trespass, theft, fraud, computer crimes, telecommunications crimes, money laundering, and insurance fraud;

(C) Title 9 (offenses against public order and decency), including disorderly conduct and public indecency; or

(D) Title 10 (offenses against public health, safety, and morals), including weapons, gambling, conduct affecting public health, intoxication, and alcoholic beverage offenses; [or]

(3) committing an offense listed in Texas Health and Safety Code (THSC) §250.006(a) or (c); or

(4) committing an offense listed in THSC §250.006(b) within the last five years.

(d) If HHSC determines an applicant or licensee has a criminal conviction that directly relates to the duties and responsibilities of an NFA, HHSC considers the following in determining whether to take an action authorized by subsection (a) of this section:



~~[(d) DADS may consider other crimes and pertinent information as a potential basis for denying an initial or renewal application.]~~

(1) the extent and nature of the person's past criminal activity;

(2) the age of the person when the crime was committed;

(3) the amount of time that has elapsed since the person's last criminal activity;

(4) the conduct and work activity of the person before and after the criminal activity;

(5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release;

(6) evidence of the person's compliance with any conditions of community supervision, parole or mandatory supervision; and

(7) other evidence of the person's fitness, including letters of recommendation.

(e) HHSC may consider other crimes and pertinent information as a potential basis for denying an initial or renewal application.

(f) ~~(e)~~ Convictions under federal law or the laws of another state or nation for offenses containing elements similar to offenses listed in subsection (c) of this section may be a basis for HHSC denying an initial application or [DADS] imposing sanctions.

(g) A notice required under subsection (a) of this section must contain, as applicable:

(1) a statement that the applicant or licensee is disqualified from receiving the license or being examined for the license because of the applicant's or licensee's prior conviction of an offense specified in the notice, as provided in subsection (a)(2) and (a)(3) of this section; or

(2) a statement that:

(A) the final decision of the licensing authority to deny the applicant or licensee a license, or the opportunity to be examined for the license, will be based on the factors listed in subsection (d) of this section, as provided in subsection (a)(1) of this section; and

(B) the applicant or licensee has the responsibility to obtain and provide to HHSC evidence regarding the factors listed in subsection (d) of this section.

(h) If HHSC suspends or revokes a license, or denies an applicant or licensee a license or the opportunity to be examined for a license because of the applicant's or licensee's prior conviction of an offense, HHSC shall notify the person in writing of:

(1) the reason for the suspension, revocation, denial, or disqualification including any factor considered under subsection (b) and (d) of this section that

served as the basis for suspension, revocation, denial, or disqualification.

(2) the procedure for judicial review; and

(3) the earliest date the applicant or licensee may appeal HHSC's action.

§555.42. Alternate Licensing Requirements for Military Service Personnel.

(a) Fee waiver based on military experience.

(1) The Texas Health and Human Services Commission (HHSC) [DADS] waives the application fee described in §555.11(a)(2) [§18.15(a)(2)] of this chapter (relating to Application Requirements) and the initial license fee described in §555.31(a)(2) [§18.31(a)(2)] of this chapter (relating to Initial License) for an applicant if HHSC [DADS] receives and approves a request for a waiver of fees from the applicant in accordance with this subsection.

(2) To request a waiver of fees under this subsection, an applicant must submit a written request for a waiver with the applicant's initial license application submitted to HHSC [DADS] in accordance with §555.11 [§18.31] of this chapter. The applicant must include with the request:

(A) documentation of the applicant's status as a military service member or military veteran that is acceptable to HHSC [DADS]; and

(B) documentation of the type and dates of the service, training, and education the applicant received, and an explanation as to why the applicant's military service, training, or education substantially meets all of the requirements for licensure under this chapter.

(3) Documentation of military status that is acceptable to HHSC [DADS] includes:

(A) for status as a military service member, a copy of a current military service order issued to the applicant by the armed forces of the United States, the State of Texas, or another state; and

(B) for status as a military veteran, a copy of a military service discharge order issued to the applicant by the armed forces of the United States, the State of Texas, or another state.

(4) If HHSC [DADS] requests additional documentation, the applicant must submit the requested documentation.

(5) HHSC [DADS] approves a request for a waiver of fees submitted in accordance with this subsection if HHSC [DADS] determines that the applicant is a military service member or a military veteran and the applicant's military service, training, or education substantially meets all of the requirements for licensure under this chapter.

(b) Fee waiver based on license issued by another jurisdiction.

(1) HHSC [~~DADS~~] waives the application fee described in §555.11(a)(2) [~~18.15(a)(2)~~] of this chapter and the provisional initial license fee described in §555.32(a)(3) [~~§18.32(c)(2)~~] of this chapter (relating to Provisional License) for an applicant if HHSC [~~DADS~~] receives and approves a request for a waiver of fees in accordance with this subsection.

(2) To request a waiver of fees under this subsection, an applicant must include a written request for a waiver of fees with the applicant's provisional license application that is submitted to HHSC [~~DADS~~] in accordance with §555.32 [~~§18.32~~] of this chapter. The applicant must include with the request documentation of the applicant's status as a military service member, military veteran, or military spouse that is acceptable to HHSC [~~DADS~~].

(3) Documentation of military status that is acceptable to HHSC [~~DADS~~] includes:

(A) for status as a military service member, a copy of a current military service order issued to the applicant by the armed forces of the United States, the State of Texas, or another state;

(B) for status as a military veteran, a copy of a military service discharge order issued to the applicant by the armed forces of the United States, the State of Texas, or another state; and

(C) for status as a military spouse:

(i) a copy of a marriage certificate issued to the applicant by a state of the United States or a foreign government; and

(ii) a copy of a current military service order issued to the applicant's spouse by the armed forces of the United States, the State of Texas, or another state.

(4) If HHSC [~~DADS~~] requests additional documentation, the applicant must submit the requested documentation.

(5) HHSC [~~DADS~~] approves a request for a waiver of fees submitted in accordance with this subsection if HHSC [~~DADS~~] determines that:

(A) the applicant holds a license in good standing in another jurisdiction with licensing requirements substantially equivalent to the requirements for a license under this chapter; and

(B) the applicant is a military service member, a military veteran, or a military spouse.

(c) Additional time for license renewal.

(1) HHSC [~~DADS~~] gives a nursing facility administrator (NFA) [~~an administrator~~] an additional two years to complete the license renewal requirements described in §555.43 [~~§18.34~~] of this subchapter (relating to License Renewal) and §555.35

~~§18.35~~ of this subchapter (relating to Continuing Education Requirements for License Renewal), if HHSC ~~[DADS]~~ receives and approves a request for additional time to complete the licensing renewal requirements from an NFA ~~[administrator]~~ in accordance with this subsection.

~~[(2) To request additional time to complete license renewal requirements, an administrator must submit a written request for additional time to DADS before the expiration date of the administrator's license. The administrator must include with the request documentation of the administrator's status as a military service member that is acceptable to DADS. Documentation as a military service member that is acceptable to DADS includes a copy of a current military service order issued to the administrator by the armed forces of the United States, the State of Texas, or another state.]~~

(2) To request additional time to complete license renewal requirements, an NFA must:

(A) submit a written request for additional time to HHSC before the expiration date of the NFA's license; and

(B) include with the request, documentation of the NFA's status as a military service member that is acceptable to HHSC, which includes a copy of a current military service order issued to the NFA by the armed forces of the United States, the State of Texas, or another state.

(3) If HHSC ~~[DADS]~~ requests additional documentation, the NFA ~~[administrator]~~ must submit the requested documentation.

(4) HHSC ~~[DADS]~~ approves a request for two additional years to complete license renewal requirements submitted in accordance with this subsection if HHSC ~~[DADS]~~ determines that the NFA ~~[administrator]~~ is a military service member, except HHSC ~~[DADS]~~ does not approve a request if HHSC ~~[DADS]~~ granted the NFA ~~[administrator]~~ a previous extension and the NFA ~~[administrator]~~ has not completed the license renewal requirements during the two-year extension period.

(5) If an NFA ~~[administrator]~~ does not submit the written request described by paragraph (2) of this subsection before the expiration date of the NFA's ~~[administrator's]~~ license, HHSC ~~[DADS]~~ will consider a request after the expiration date of the license if the NFA ~~[administrator]~~ establishes to the satisfaction of HHSC ~~[DADS]~~ that the request was not submitted before the expiration date of the NFA's ~~[administrator's]~~ license because the NFA ~~[administrator]~~ was serving as a military service member at the time the request was due.

(d) Credit toward internship requirements.

(1) HHSC ~~[DADS]~~ gives an applicant credit toward the internship requirements for an administrator-in-training (AIT) described in §555.13 ~~§18.12~~ of this chapter (relating to Internship Requirements) based on the applicant's military service, training, or education if HHSC ~~[DADS]~~ receives and approves a request for credit from an applicant in accordance with this subsection.

(2) To request credit for military service, training, or education, the applicant must submit a written request for credit to HHSC [~~DADS~~] with the applicant's initial license application. The applicant must include, with the request, documentation of the type and dates of the service, training, and education the applicant received and an explanation as to how the applicant's military service, training, or education is substantially similar to the training or education requirements described in §555.13 [~~§18.12~~] of this chapter.

(3) If HHSC [~~DADS~~] requests additional documentation, the applicant must submit the requested documentation.

(4) HHSC [~~DADS~~] approves a request for credit submitted in accordance with this subsection if HHSC [~~DADS~~] determines that the military service, training, or education that the applicant received is substantially similar to the training or education requirements described in §555.12 [~~§18.12~~] of this chapter (relating to Licensure Requirements).

(e) Renewal of expired license.

(1) HHSC [~~DADS~~] renews an expired license if HHSC [~~DADS~~] receives and approves a request for renewal from a former NFA [~~administrator~~] in accordance with this subsection.

(2) To request renewal of an expired license, a former NFA [~~administrator~~] must submit a written request with a license renewal application within five years after the former NFA's [~~administrator's~~] license expired. The former NFA [~~administrator~~] must include with the request documentation of the former administrator's status as a military service member, military veteran, or military spouse that is acceptable to HHSC [~~DADS~~].

(3) Documentation of military status that is acceptable to HHSC [~~DADS~~] includes:

(A) for status as a military service member, a copy of a current military service order issued to the former NFA [~~administrator~~] by the armed forces of the United States, the State of Texas, or another state;

(B) for status as a military veteran, a copy of a military service discharge order issued to the former NFA [~~administrator~~] by the armed forces of the United States, the State of Texas, or another state; and

(C) for status as a military spouse:

(i) a copy of a marriage certificate issued to the former NFA [~~administrator~~] by a state of the United States or a foreign government; and

(ii) a copy of a current military service order issued to the former NFA's [~~administrator's~~] spouse by the armed forces of the United States, the State of Texas, or another state.

(4) If HHSC [~~DADS~~] requests additional documentation, the former NFA

[~~administrator~~] must submit the requested documentation.

(5) HHSC [~~DADS~~] approves a request for renewal of an expired license submitted in accordance with this subsection if HHSC [~~DADS~~] determines that:

(A) the former NFA [~~administrator~~] is a military service member, military veteran, or military spouse;

(B) the former NFA [~~administrator~~] has not committed an offense listed in Texas Health and Safety Code (THSC) §250.006(a) and has not committed an offense listed in THSC §250.006(b) during the five years before the date the former NFA [~~administrator~~] submitted the initial license application; and

(C) the former NFA [~~administrator~~] is not listed on the employee misconduct registry described in THSC Chapter 253.

(f) Recognition of Out-of-State License of Military Spouse.

(1) A military spouse may engage in the practice of nursing facility administration in Texas without obtaining a license, as required by §555.31 of this subchapter (relating to Initial License) or §555.32 of this subchapter (relating to Provisional License), if the spouse:

(A) is currently licensed in good standing by another jurisdiction that has licensing requirements substantially equivalent to the requirements for a license in Texas;

(B) notifies HHSC in writing of the spouse's intent to practice in Texas;

(C) submits to HHSC proof of the spouse's residence in this state and a copy of the spouse's military identification; and

(D) receives from HHSC:

(i) confirmation that HHSC has verified the spouse's license in the other jurisdiction; and

(ii) a license to practice nursing facility administration in Texas.

(2) HHSC will review and evaluate the following criteria when determining whether another state's licensing requirements are substantially equivalent to the requirement for a license under the statutes and regulations of this state:

(A) whether the other state requires an applicant to pass an examination that demonstrates competence in the field to obtain the license;

(B) whether the other state requires an applicant to meet any experience qualifications to obtain the license;

(C) whether the other state requires an applicant to meet education qualifications to obtain the license;

\_\_\_\_\_ (D) whether the other state denies an application for licensure from an applicant who has been convicted of an offense containing elements similar to offenses listed in §555.41(c) of this subchapter; and

\_\_\_\_\_ (E) the other state’s license requirements, including the scope of work authorized to be performed under the license issued by the other state.

\_\_\_\_\_ (3) The military spouse must submit:

\_\_\_\_\_ (A) a written request to HHSC for recognition of the spouse’s license issued by the other state;

\_\_\_\_\_ (B) any form and additional information regarding the license issued by the other state required by the rules of the specific program or division within HHSC that licenses the business or occupation;

\_\_\_\_\_ (C) proof of residence in this state;

\_\_\_\_\_ (D) a copy of the military spouse’s identification card;

\_\_\_\_\_ (E) proof the military service member is stationed at a military installation in Texas; and

\_\_\_\_\_ (F) fingerprints for a Texas Department of Public Safety criminal background check to enable HHSC to confirm that the military spouse is in compliance with other laws and regulations applicable to nursing facility administration in Texas.

\_\_\_\_\_ (4) Upon verification from the licensing jurisdiction of the military spouse’s license and if the license is substantially equivalent to a Texas license, HHSC shall issue a confirmation that HHSC has verified the spouse’s license in the other jurisdiction and a license to practice nursing facility administration in Texas.

\_\_\_\_\_ (5) The license issued under paragraph (4) of this subchapter will expire three years from date of issuance or when the military service member is no longer stationed at a military installation in Texas, whichever comes first. The license issued under paragraph (4) of this subchapter may not be renewed.

\_\_\_\_\_ (6) HHSC replaces a lost, damaged or destroyed license certificate for a military spouse as provided in §555.33 of this subchapter (relating to Duplicate License), but the military spouse does not pay the duplicate license fee.

\_\_\_\_\_ (7) The military spouse shall comply with all applicable laws, rules and standards of this state, including applicable Texas Health and Safety Code and all relevant Texas Administration Code provision.

(8) HHSC may withdraw or modify the verification letter for reasons including the following:

\_\_\_\_\_ (A) the military spouse fails to comply with subsection (i) of this section; or

\_\_\_\_\_ (B) the military spouse’s licensure required under subsection(c)(1) of this section expires or is suspended or revoked in another jurisdiction.

TITLE 26 HEALTH AND HUMAN SERVICES  
PART 1 HEALTH AND HUMAN SERVICES COMMISSION  
CHAPTER 555 NURSING FACILITY ADMINISTRATORS  
SUBCHAPTER D REFERRALS, COMPLAINT PROCEDURES, AND SANCTIONS

§555.51. Referral and Complaint Procedures.

(a) The Texas Health and Human Services Commission (HHSC) [DADS' Professional Credentialing Enforcement Unit] receives and investigates referrals and complaints.~~[÷]~~

~~[(1) referrals from Regulatory Services Division regional staff to determine an administrator's compliance with licensure requirements when survey findings cite deficiencies or substandard quality of care; and]~~

~~[(2) complaints alleging an administrator violated one or more of the licensure rules].~~

(b) Persons wanting to file a complaint against a licensee may contact HHSC by ~~[the Professional Credentialing Enforcement Unit]:~~

(1) [by] calling HHSC Complaint and Incident Intake or Professional Credentialing Enforcement at the telephone numbers on the HHSC website; ~~[(512)-438-5495; or]~~

(2) emailing the complaint to HHSC Complaint and Incident Intake using the email address on the HHSC website; ~~[by writing the Department of Aging and Disability Services, Professional Credentialing Enforcement Unit, Mail Code E-302, ATTN: NFA Complaint Investigations, P.O. Box 149030, Austin, TX 78714-9030.]~~

(3) faxing the complaint to HHSC Complaint and Incident Intake using the fax number on the HHSC website; ~~or~~

(4) mailing the complaint to HHSC Complaint and Incident Intake or Professional Credentialing Enforcement at the mailing address on the HHSC website.

(c) HHSC [DADS] sends a Nursing Facility Administrator Complaint form to persons wanting to file a complaint. The complainant must complete, sign, and return the form to HHSC [DADS].

(d) If a referral or complaint is received, the Professional Credentialing Enforcement Unit notifies the licensee and, if applicable, the person filing the complaint of the:

- (1) alleged rule violation;
- (2) assigned case number; and
- (3) investigator contact information.

(e) HHSC [DADS] investigates referrals and complaints by first determining if a complaint is within Professional Credentialing Enforcement Unit authority to investigate, then by engaging in one or more of the following investigative



activities:

- (1) reviewing pertinent documentation maintained by the facility, including financial and resident medical records;
- (2) gathering additional evidence, including licensee and witness statements;
- (3) determining licensee culpability for survey or investigative findings; and
- (4) utilizing the services of a private investigator when special circumstances exist.

(f) HHSC [~~DADS~~] keeps records confidential in accordance with state and federal law.

(g) HHSC [~~DADS~~] prioritizes complaints as follows:

(1) Priority one complaints allege physical abuse, sexual abuse, neglect, serious injury, death, or immediate jeopardy to resident health or safety. Investigations are initiated within 24 hours of receipt or by the next working day.

(2) Priority two complaints allege all other types of misconduct by the licensee. Investigations are initiated within 30 days of receipt.

(h) After the investigation is complete, a final report with supporting documentation is given to the Nursing Facility Administrators Advisory Committee (NFAAC) for review and a recommendation [~~consideration~~] on the appropriate action.

(i) After evaluating the NFAAC's recommendation, HHSC decides [~~DADS makes a decision~~] to:

- (1) impose a sanction;
- (2) collect additional information; or
- (3) dismiss the case.

(j) HHSC [~~DADS~~] notifies the licensee and, if applicable, the person filing a complaint of the status and final outcome of a complaint or referral.

§555.52. Informal Reviews.

(a) Before the Texas Health and Human Services Commission (HHSC) [~~DADS~~] initiates proceedings to revoke a license, suspend a license, or deny a license renewal, HHSC [~~DADS~~] gives a licensee:

(1) a description of the alleged rule violation warranting the proposed sanction; and

(2) the option to:

(A) request an informal review to demonstrate that the licensee did not violate nursing facility administrator (NFA) licensure rules or commit the alleged

violation; or

(B) request a formal hearing; or

(C) [~~(B)~~] accept the sanction.

(b) A licensee's request for an informal review must:

(1) be received by HHSC [~~DADS~~] within 10 calendar days after the licensee receives the notice letter from HHSC [~~DADS~~]; and

(2) contain documentation that refutes the allegations.

(c) HHSC [~~DADS~~] conducts the informal review:

(1) by telephone;

(2) in person; or

(3) by reviewing the licensee's written response and supporting evidence.

(d) HHSC [~~DADS~~] provides the licensee with official notice of the outcome of the informal review.

§555.53. Formal Hearings.

(a) The Texas Health and Human Services Commission (HHSC)[~~DADS~~] gives a licensee a formal hearing notice if:

(1) HHSC [~~DADS~~] proposes a sanction; or

(2) HHSC [~~DADS~~] upholds or modifies a proposed sanction after an informal review, in accordance with §555.52 [~~§18.52~~] of this subchapter (relating to Informal Reviews).

(b) The formal hearing notice to the licensee includes:

(1) a description of the alleged rule violations warranting the proposed sanction;

(2) HHSC [~~DADS~~] decision to uphold or modify the sanction if the notice is issued after an informal review; and

(3) the option for the licensee to:

(A) accept the sanction; or

(B) request a formal hearing no later than 20 days after receiving the formal hearing notice from HHSC [~~DADS~~].

(c) If the licensee does not accept a modified sanction resulting from an informal review, the hearing notice may be for the original sanction HHSC proposed before the informal review.

(d) [~~(e)~~] HHSC [~~DADS~~] imposes a sanction against a licensee if:

(1) the licensee accepts the decision from HHSC [~~DADS~~] to impose the sanction;

(2) the administrative law judge upholds the proposed sanction from HHSC [~~DADS~~] after the formal hearing; or

(3) the licensee does not request a hearing within 20 days after receiving the formal hearing notice from HHSC [~~DADS~~].

(e) [~~(d)~~] A hearing is governed by Texas Administrative Code, Title 1, Chapter 357, Subchapter I (relating to Hearings Under the Administrative Procedure Act) and Title 40, Chapter 91 (relating to Hearings, Under the Administrative Procedure Act) [~~1 TAC Chapter 357, Subchapter I (relating to Hearings Under the Administrative Procedure Act) and Chapter 91 of this title (relating to Hearings Under the Administrative Procedure Act)~~].

#### §555.54. Rule or Statutory Violations.

The Texas Health and Human Services Commission (HHSC) [~~DADS~~] may impose a sanction [~~sanctions~~] listed in §555.57 [~~§18.57~~] of this subchapter (relating to Schedule of Sanctions) against a licensee on proof of any of [~~for~~] the following grounds [~~violations~~]:

(1) the licensee willfully or repeatedly violated a provision of Texas Health and Safety Code, Chapter 242, or a rule in this chapter;

(2) the licensee willfully or repeatedly acted in a manner inconsistent with the health and safety of the residents of a nursing facility of which the licensee is a nursing facility administrator (NFA) [~~an administrator~~];

(3) the licensee obtained or attempted to obtain a license through misrepresentation or deceit or by making a material misstatement of fact on a license application;

(4) the licensee's use of alcohol or drugs creates a hazard to the residents of a facility;

(5) a judgment of a court of competent jurisdiction finds that the licensee lacks capacity under the laws of Texas [~~is mentally incapacitated~~];

(6) the licensee has been convicted in a court of competent jurisdiction of a misdemeanor or felony involving moral turpitude;

(7) the licensee has been convicted in a court of competent jurisdiction of an offense listed in §555.41(c) [~~§18.41(e)~~] of this chapter (relating to Licensure of Persons with Criminal Backgrounds); [~~including an offense listed in Texas Health and Safety Code, §250.006; or~~]

(8) the licensee has been negligent or incompetent in the licensee's duties as a NFA [~~a nursing facility administrator~~];

(9) the licensee had an NFA license revoked in another jurisdiction; or

(10) the licensee did not comply with the terms of a sanction or settlement agreement with HHSC.

§555.55. Violations of Standards of Conduct.

(a) The Texas Health and Human Services Commission (HHSC) [~~DADS~~] may impose a sanction listed in §555.57 [~~§18.57~~] of this subchapter (relating to Schedule of Sanctions) against a licensee for violations of the following nursing facility administrator (NFA) Standards of Conduct:

(1) A licensee must employ sufficient staff to adequately meet the needs of nursing facility residents as determined by care outcomes.

(2) A licensee must ensure that sufficient resources are present to provide adequate nutrition, medications, and treatments to nursing facility residents in accordance with physician orders as determined by care outcomes.

(3) A licensee must promote and protect the rights of nursing facility residents and ensure that employees, contractors, and others respect the rights of residents.

(4) A licensee must ensure that nursing facility residents remain free of chemical and physical restraints unless required by a physician's order to protect a nursing facility resident's health and safety.

(5) A licensee must report and direct nursing facility staff to report to the appropriate government agency any suspected case of abuse, neglect, or misappropriation of resident property as defined in §555.2 [~~§18.2~~] of this chapter (relating to Definitions).

(6) A licensee must ensure that the nursing facility is physically maintained in a manner that protects the health and safety of the residents and the public.

(7) A licensee must notify and direct employees to notify an appropriate government agency of any suspected cases of criminal activity as defined by state and federal laws.

(8) A licensee must post in the nursing facility where the licensee is employed the notice provided by HHSC [~~DADS~~] that gives the address and telephone number for reporting complaints against an NFA [~~administrator~~]. The notice must be posted in a conspicuous place and in clearly legible type.

(9) A licensee must not knowingly or through negligence commit, direct, or allow actions that result or could result in inadequate care, harm, or injury to a nursing facility resident.

(10) A licensee must not knowingly or through negligence allow a nursing facility employee [~~employees~~] to harm a nursing facility resident [~~residents~~] by coercion, threat, intimidation, solicitation, harassment, theft of personal property, or cruelty.

(11) A licensee must not knowingly or through negligence allow or direct an employee [~~employees~~] to contradict or alter in any manner the orders of a

physician regarding a nursing facility resident's medical or therapeutic care.

(12) A licensee must not knowingly commit or through negligence allow another individual to commit an act of abuse, neglect, or misappropriation of resident property as defined in §555.2 [~~§18.2~~] of this chapter.

(13) A licensee must not permit another individual to use his or her license or allow a nursing facility to falsely post his or her license.

(14) A licensee must not advertise or knowingly participate in the advertisement of nursing facility services in a manner that is fraudulent, false, deceptive, or misleading in form or content.

(15) A licensee must not knowingly allow, aid, or abet a violation by another NFA [~~licensed nursing facility administrator~~] of the Texas Health and Safety Code, Chapter 242, Subchapter I (text of Subchapter I effective until federal determination of failure to comply with federal regulations), or the agency's rules adopted under that subchapter and must report such violations to HHSC [~~DADS~~].

(16) A licensee must not make or allow an employee, contractor, or volunteer [~~employees, contractors, or volunteers~~] to make misrepresentations or fraudulent statements about the operation of a nursing facility.

(17) A licensee must not allow an employee's, a contractor's, or another person's action or inaction to result in harassment or intimidation of any person for purposes of coercing that person to use the services or equipment of a particular health agency or facility.

(18) A licensee must not falsely bill for goods or services or allow another person to bill for goods or services other than those that have actually been delivered [~~rendered~~].

(19) A licensee must not make or file a false report [~~reports~~] or allow an employee, contractor, or volunteer to make or file a report that the licensee knows to be false.

(20) A licensee must not intentionally fail to file a report or record required by state or federal law, impede or obstruct such filings, or induce another person to impede or obstruct such filings.

(21) A licensee must not use or knowingly allow employees or others to use alcohol, narcotics, or other drugs in a manner that interferes with the performance of the licensee's [~~administrator's~~] or other person's duties.

(22) A licensee must not knowingly or through negligence violate any confidentiality provisions [~~as~~] prescribed by state or federal law concerning a nursing facility resident.

(23) A licensee must not interfere with or impede an investigation by withholding or misrepresenting facts [~~fact~~] to HHSC [~~DADS~~] representatives, or by using threats or harassment against any person involved or participating in the

investigation.

(24) A licensee must not display a license issued by HHSC [~~DADS~~] that is reproduced, altered, expired, suspended, or revoked.

(25) A licensee must not, knowingly or through negligence, allow an employee [~~employees~~] or other individual [~~individuals~~] to mismanage a resident's personal funds deposited with the nursing facility.

(26) A licensee must not harass or intimidate an employee or other representative [~~employees~~] of HHSC [~~DADS~~], other government agencies, or their representatives concerning the administration of the nursing facility.

(27) A licensee must not offer or give any gift, loan, or other benefit to a person working for HHSC [~~DADS~~] unless the benefit is offered or given on account of kinship or a personal relationship independent of the official status of the person working for HHSC [~~DADS~~].

(b) Negligence, as referenced in the Standards of Conduct in subsection (a) of this section, means the failure of a licensee to use such care as a reasonably prudent and careful licensee would use in similar circumstances, or failure to act as a reasonably prudent licensee would in similar circumstances.

#### §555.56. Violations by Unlicensed Persons.

(a) A person [~~Persons~~] with an expired license must not engage in activities that require a license.

(b) A person practicing as a licensed nursing facility administrator after license expiration:

- (1) commits an offense punishable as a Class B misdemeanor;
- (2) is subject to local criminal prosecution; and

(3) may be referred to the Office of Attorney General for civil penalties not to exceed \$1,000 per violation per day for each day the violation continues.

(c) A licensee whose license expires before an investigation is complete, may still receive:

- (1) a written reprimand; or
- (2) an administrative penalty.

(d) A licensee allowing a license to expire instead of accepting a proposed license revocation is permanently disqualified from licensure in Texas.

(e) A person with an expired license must return the license certificate to the Texas Health and Human Services Commission [~~DADS~~] within ten (10) days of expiration.

#### §555.57. Schedule of Sanctions.

(a) The Texas Health and Human Services Commission (HHSC) [~~DADS~~] may impose one or more of the following sanctions against a licensee for a violation [~~violations~~] listed in §555.54 [~~§18.54~~] of this subchapter (relating to Rule or Statutory Violations) or §555.55 [~~and §18.55~~] of this subchapter (relating to Violations of Standards of Conduct):

- (1) [~~revocation of~~] license revocation;
- (2) license suspension;
- (3) denial of application for license renewal;
- (4) assessment of an administrative penalty;
- (5) written letter of reprimand;
- (6) participation [~~requiring a licensee to participate~~] in continuing education; [~~or~~]
- (7) probation; [~~or~~]
- (8) denial of preceptor's initial or renewal application; or
- (9) revocation of preceptor status.

(b) If a sanction is probated, HHSC [~~DADS~~] may require the licensee to:

(1) report regularly to HHSC [~~DADS~~] on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by HHSC [~~DADS~~];

(3) practice under the direct supervision or guidance of a HHSC certified [~~DADS-certified~~] preceptor, as specified in §555.14 of this chapter (relating to Preceptor Requirements); or

(4) complete prescribed continuing education until the licensee attains a degree of skill satisfactory to HHSC [~~DADS~~] in those areas that are the basis of the probation.

(c) Civil penalties may result from a referral to the Office of Attorney General not to exceed \$1,000 per violation per day for each day the violation continues.

(d) Administrative penalties may not exceed \$1,000 per violation per day for each day the violation continues.

(e) The amount of the administrative penalty is assessed is based on:

(1) the seriousness of the violation, including:

(A) the nature, circumstances, extent, and gravity of prohibited acts; and

(B) the hazard or potential hazard created to the health, safety, or economic

welfare of the public;

- (2) economic harm to property or environment;
- (3) history of previous violations;
- (4) amount necessary to deter future violations;
- (5) efforts to correct the violations;
- (6) the severity level of the violation:

(A) Level I--\$500 to \$1,000 for violations that have or had an adverse impact on nursing facility resident health or safety that includes serious harm, permanent injury, or death to a nursing facility resident;

(B) Level II--\$250 to \$500 for violations that have or had a potential or adverse impact on the health or safety of a nursing facility resident, but less impact than Level I; or

(C) Level III--\$250 or less for violations having minimal or no significant impact on nursing facility resident health or safety; and

- (7) any other matter that justice may require.

(f) HHSC may deny, suspend, or revoke a license to practice in Texas if the licensee fails to meet and comply with all terms of an HHSC order or settlement agreement, or fails to complete any final sanction imposed against the licensee's license, including, satisfactory and timely completion of any continuing education requirements, suspension, probated suspension under a certified preceptor, or timely payment in full of administrative penalties.