



December 9, 2022

Katherine Ceroalo  
NYS Department of Health  
Bureau of Program Counsel  
Reg. Affairs Unit  
Corning Tower, Room 2438  
Empire State Plaza  
Albany, NY 12237

Re: Licensure and Practice of Nursing Home Administration, I.D. No. HLT-41-22-00016-P

Dear Ms. Ceroalo:

I am writing on behalf of the members of LeadingAge New York -- non-profit and public providers of long-term/post-acute care and aging services -- to offer comments on the above-referenced proposed regulation.

We appreciate the efforts of the Department and the Board of Nursing Home Administrators to streamline the licensure process, align it with other states, and bring more people into the field while preserving a high level of competency and integrity to qualify for the license. Our members are experiencing significant challenges recruiting nursing home administrators. They find that the Department's regulations and guidance in some respects pose unnecessary barriers to licensure. In particular, they present obstacles to serving as administrator-in-training preceptors and meeting the prerequisites for taking the licensing examination. Certain requirements, as outlined below, are unnecessarily rigid and exclude worthy candidates with comparable training and experience.

For these reasons, we believe that the regulations could go further in facilitating the licensing of new administrators without compromising the quality of the licensees. Our comments below include both our views on the proposed regulations and specific recommendations for additional amendments:

### **Internships for Administrators in Training (AIT)**

- **Training Sites:** We support the elimination of the requirement that a training site have at least 80 beds. We agree that allowing smaller nursing homes and those that are also providers with multiple levels of care to qualify as training sites will increase the pool of potential sites and training experiences. We note that the COVID pandemic has focused attention on the benefits of smaller and more homelike nursing home models and anticipate growth in these models, if Medicaid reimbursement will allow it.
- **Preceptors:** Current [Department guidelines](#) require the preceptor to be an administrator of record of the training site, hold an administrator license for at least 2 years, have at least 3 years of full-time services as the AOR of a facility during the last 5 years, including at least 1 year in a New York nursing home eligible for approval as a training site or hold a current administrator certification from ACHCA. Some facilities are willing and qualified to serve as a training site,

but their AOR does not meet these requirements. If a facility is otherwise qualified to serve as a training site, but does not have an AOR that meets all of the above requirements and has another senior executive with a Nursing Home Administrator license and substantial experience (e.g., 3 years as an AOR within the last 5 years or 5 years as a licensed Nursing Home Administrator with executive level experience in a nursing home), the regulations should allow either:

- that executive to serve as the preceptor; or
  - the AOR to serve as a preceptor with the support of the qualified executive.
- **Substituting Education and Experience for Internship Hours:** DOH guidance allows candidates to substitute work experience for AIT internship or field experience time if the candidate has at least 3 years of qualifying experience as a Director of Nursing (6 month or 12 month reduction) or has 2 years as an out-of-state AOR (full satisfaction). Candidates may also reduce the duration of their internship by 6 months if they have Master's Degree and have completed the five courses required to satisfy the educational prerequisites (see below). The Board and the Department should consider reducing AIT time based on work experience other than Director of Nursing in a nursing home, such as CFO, general counsel, medical director, or Director of Social Work. In addition, the duration should be reduced based on attainment of other degrees, such as a juris doctor degree.

### **Educational Prerequisites**

Under current DOH guidance, in order to qualify for a Nursing Home Administrator license, a candidate must hold a Bachelor's degree or higher that includes or is supplemented by 15 credit hours of course work in 5 areas:

- [Nursing Home Administration](#)
- [Health Care Financial Management](#)
- [Legal Issues in Health Care](#)
- [Gerontology](#)
- [Personnel Management](#)

As a result, for example, a candidate who holds a Master's degree in gerontology or business administration, accounting degree, law degree, or nursing degree and has served as a nursing home executive for 15 years would *not* be eligible to take the examination, without taking new courses. Their existing course work would be considered outdated, and their years of work experience would not be counted. Further, a candidate with this level of experience would not typically be willing or able to take time off from his or her job to take 15 credit hours of classes on topics that he or she has been practicing for 15 years. Moreover, candidates with extensive experience are likely more capable of serving as a nursing home administrator than a recent college graduate who has taken the necessary coursework, yet these experienced candidates are excluded from the examination. These requirements should be relaxed for candidates who can demonstrate advanced levels of education and/or work experience in the above areas.

### **Examination**

- **Examination Trial Period:** We support the proposal to enable candidates to attempt the Nursing Home Administrator examination up to 4 times in 12 months, instead of 3 attempts in a 5-year period.
- **Determination of Qualifying Experience:** We question whether the experience necessary to take the exam for licensing should be determined exclusively by the Department, rather than established by the Board. The Board provides in-the-field expertise to the Department and is well-positioned to inform those determinations.

### **Reciprocity**

- New York does not provide reciprocity for nursing home administrators licensed in other states, it only waives the examination requirement. Other states, including Connecticut, New Jersey, Massachusetts, Pennsylvania and Vermont, allow for licensure by endorsement or reciprocity for candidates who are licensed in other states. New York should consider making it easier for administrators licensed in other states to be licensed in New York.

### **Unethical Conduct**

- We, of course, support the Board's authority to discipline a nursing home administrator based on their engagement in unlawful discrimination, as well as other forms of misconduct. However, the elimination of the word "unlawful" before "discrimination" renders the ground for discipline vague. If there have been cases in which the Board experienced difficulty disciplining an administrator for unethical discrimination that was not unlawful, we are unaware of them. The word "discrimination" alone in various dictionaries can mean simply "the quality or power of finely distinguishing" or "the act of making or perceiving a difference." Thus, the proposed regulation could be interpreted to authorize disciplinary sanctions for making decisions based on differences other than race, ethnicity, religion, national origin, sex, disability, or LGBTQ status. For example, a decision based on different levels of experience or competencies among staff members, or different medical conditions among residents, could theoretically trigger professional discipline. We do not believe this is the intent of the Department or the Board. We recommend retaining the word "unlawful" or inserting a different word that better describes the types of discrimination that should serve as the basis for professional discipline.

Thank you very much for your consideration of these issues.

Sincerely yours,



Karen Lipson  
Executive Vice President

Cc: Adam Herbst  
Valerie Deetz  
Carolyn Cazer  
Rachel Ainspan