

**STATE OF WISCONSIN  
NURSING HOME ADMINISTRATOR EXAMINING BOARD**

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**IN THE MATTER OF RULEMAKING : REPORT TO THE LEGISLATURE  
PROCEEDINGS BEFORE THE : CR 23-033  
NURSING HOME ADMINISTRATOR :  
EXAMINING BOARD :**

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**I. THE PROPOSED RULE:**

The proposed rule, including the analysis and text, is attached.

**II. REFERENCE TO APPLICABLE FORMS:**

N/A

**III. FISCAL ESTIMATE AND EIA:**

The Fiscal Estimate and EIA is attached.

**IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:**

Chapter NHA 3 currently contains the requirements for the Nursing Home Administrator Board to approve educational programs leading to licensing. After review, the Board is adding a provision to approve all National Association of Long Term Care Administrator Boards (NAB) accredited programs for Nursing Home Administrator and Health Services Executive in order to ensure that the rules are consistent with current professional and academic standards, and to prevent confusion within academic institutions and with potential licensees.

**V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:**

The Nursing Home Administrator Examining Board held a public hearing on August 17, 2023. The Board did not receive any written or verbal comments.

**VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:**

All of the recommendations suggested in the Clearinghouse Report have been accepted in whole.

**VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:**

N/A

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<b>1. Type of Estimate and Analysis</b> <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	<b>2. Date</b> June 6, 2023
<b>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)</b> NHA 3	
<b>4. Subject</b> Board approval of education programs.	
<b>5. Fund Sources Affected</b> <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	<b>6. Chapter 20, Stats. Appropriations Affected</b> s.20.165(1)(g)
<b>7. Fiscal Effect of Implementing the Rule</b> <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
<b>8. The Rule Will Impact the Following (Check All That Apply)</b> <input type="checkbox"/> State's Economy <input checked="" type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses <b>(if checked, complete Attachment A)</b>	
<b>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1).</b> \$0	
<b>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>11. Policy Problem Addressed by the Rule</b> Chapter NHA 3 currently contains the requirements for the Nursing Home Administrator Board to approve educational programs leading to licensing. After review, the Board is adding a provision to pre-approve all National Association of Long Term Care Administrator Boards (NAB) accredited programs for Nursing Home Administrator and Health Services Executive in order to ensure that the rules are consistent with current professional and academic standards, and to prevent confusion within academic institutions and with potential licensees.	
<b>12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.</b> None	
<b>13. Identify the Local Governmental Units that Participated in the Development of this EIA.</b> None	
<b>14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)</b> DSPA estimates a total of \$2,800 in one-time costs for staffing and an indeterminate one-time IT impact to implement the rule. The estimated one-time staffing need for .1 limited term employees (LTEs) is for staff to undertake such tasks as sites and forms updates, training on new requirements, assisting with temporary increases in inquiries, and providing board guidance. The one-time estimated costs cannot be absorbed in the currently appropriated agency budget.	
<b>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule</b> Chapter NHA 3 currently contains the requirements for the Nursing Home Administrator Board to approve educational programs leading to licensing. The Board has identified the need to clarify this criterion to ensure that they are consistent with current professional and academic standards, and to prevent confusion within academic institutions and with potential licensees.	

## **ADMINISTRATIVE RULES**

### **Fiscal Estimate & Economic Impact Analysis**

The alternative to promulgating rules would be to not update the rules. This would result in stakeholders continuing to lack clarity as to the requirements to what constitutes acceptable educational programs.

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#### 16. Long Range Implications of Implementing the Rule

The long range implications of implementing the rule is to reduce delays in approval of education programs for NHA licensure.

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#### 17. Compare With Approaches Being Used by Federal Government

42 USC § 1396a provides requirements state medical assistance plans must meet to be eligible for federal grants, including a requirement that states have a program for licensing nursing home administrators. Under 42 USC § 1396g (c) (1) to (6), a state agency or board that licenses nursing home administrators is required to:

- “Develop, impose, and enforce standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to ensure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators.”
- “Develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards.”
- “Issue licenses to individuals determined, after the application of such techniques, to meet such standards, and revoke or suspend licenses previously issued by the board in any case where the individual holding any such license is determined substantially to have failed to conform to the requirements of such standards.”
- “Establish and carry out procedures designed to ensure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards.”
- “Receive, investigate, and take appropriate action with respect to, any charge or complaint filed with the board to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of such standards.”
- “Conduct a continuing study and investigation of nursing homes and administrators of nursing homes within the State with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such.”

The proposed rules will ensure the provisions for licensure, examinations, and approval of educational programs under ch. NHA 3 comply with the above requirements.

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#### 18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Rules of the Illinois Department of Financial and Professional Regulation establish education requirements for licensure, which includes any of the following:

- Graduation from an accredited college or university with the minimum of a Baccalaureate Degree.
- Satisfactory completion of an approved course of instruction in nursing home administration.
- Graduation from a three year diploma nurse program and two years of qualifying experience.
- An associate degree or a minimum of 60 semester or 90 quarter hours of credit earned from an accredited college or university and qualifying experience.

The rules also include approved nursing home administration courses from an accredited college or university (68 Ill. Adm. Code 1310.40) and the details of the qualifying experience that applicants can utilize in lieu of education (68 Ill. Adm. Code 1310.50).

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## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

Iowa: The rules of the Iowa Board of Nursing Home Administrators include provisions for licensure requirements (645 IAC 141.2) and educational qualifications (645 IAC 141.4), which includes specific provisions depending on the type of education received by the applicant. The three group of provisions are divided into:

- Applicants with degrees in health care administration, health services administration, health care management, health services management, nursing home administration or long-term care administration.
- Applicants with degrees in other disciplines.
- Foreign-trained applicants.

Michigan: The rules of the Michigan Department of Licensing and Regulatory Affairs include adoption of the procedures and criteria for recognizing accrediting organizations of the Council of Higher Education Accreditation (CHEA) and the procedures and criteria for recognizing accrediting agencies of the United States Department of Education (MI Admin. Code, R 339.14005). They also include approval of courses of instruction and training (MI Admin Code, R 339.14007). The Michigan Compiled Laws establish that if the department and board find that there are not a sufficient number of courses of instruction and training sufficient to meet the requirements of this part conducted within this state, the department may conduct 1 or more of those courses or training sessions, or both. Additionally, department and board may approve a course of instruction, or a training session conducted within or without this state if the department determines that it is sufficient to meet the education and training requirements for licensure (MCL 333.17311).

Minnesota: The Minnesota Board of Executives for Long Term Services and Support licenses for Nursing Home Administrators and Health Services Executives. The rules specify that an applicant for licensure must have a bachelor's degree and have completed courses in areas related to the administration of nursing homes (MN Admin. Rules 6400.6000 and MN Admin. Rules 6400.6550). An applicant can also apply for a waiver of course requirement under MN Admin. Rules 6400.6560.

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19. Contact Name Sofia Anderson	20. Contact Phone Number 608-261-4463
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This document can be made available in alternate formats to individuals with disabilities upon request.

**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

**ATTACHMENT A**

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
  - Less Stringent Schedules or Deadlines for Compliance or Reporting
  - Consolidation or Simplification of Reporting Requirements
  - Establishment of performance standards in lieu of Design or Operational Standards
  - Exemption of Small Businesses from some or all requirements
  - Other, describe:
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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

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5. Describe the Rule's Enforcement Provisions

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes     No
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STATE OF WISCONSIN  
NURSING HOME ADMINISTRATOR EXAMINING BOARD

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IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	NURSING HOME
NURSING HOME ADMINISTRATOR	:	ADMINISTRATOR
EXAMINING BOARD	:	EXAMINING BOARD
	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 23-033)

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PROPOSED ORDER

An order of the Nursing Home Administrator Examining Board to **amend** NHA 3.01 and to **create** NHA 3.01 (1m); relating to board approval of education programs.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:**

Sections 456.02 (1) and 456.03 (4).

**Statutory authority:**

Sections 15.08 (5) (b), 227.11 (2) (a), and 456.03 (4), Stats.

**Explanation of agency authority:**

Section 15.08 (5) (b), Stats., provides an examining board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains. . .”

Section 227.11 (2) (a), Stats., “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute...”

Section 456.03 (4), Stats., provides that an applicant for a license as a nursing home administrator shall complete “a regular course of study or equivalent specialized courses or a program of study which the examining board considers adequate academic preparation for nursing home administration.”

**Related statute or rule:**

None.

**Plain language analysis:**

Chapter NHA 3 currently contains the requirements for the Nursing Home Administrator Board to approve educational programs leading to licensing. After review, the Board is adding a provision to approve all National Association of Long Term Care Administrator Boards (NAB) accredited programs for Nursing Home Administrator and Health Services Executive in order to ensure that the rules are consistent with current professional and

academic standards, and to prevent confusion within academic institutions and with potential licensees.

**Summary of, and comparison with, existing or proposed federal regulation:**

42 USC § 1396a provides requirements state medical assistance plans must meet to be eligible for federal grants, including a requirement that states have a program for licensing nursing home administrators. Under 42 USC § 1396g (c) (1) to (6), a state agency or board that licenses nursing home administrators is required to:

- “Develop, impose, and enforce standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to ensure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators.”
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- “Conduct a continuing study and investigation of nursing homes and administrators of nursing homes within the State with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such.”

The proposed rules will ensure the provisions for licensure, examinations, and approval of educational programs under ch. NHA 3 comply with the above requirements.

**Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule:**

N/A.

**Comparison with rules in adjacent states:**

**Illinois:** Rules of the Illinois Department of Financial and Professional Regulation establish education requirements for licensure, which includes any of the following:

- Graduation from an accredited college or university with the minimum of a Baccalaureate Degree.
- Satisfactory completion of an approved course of instruction in nursing home administration.
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The Michigan Compiled Laws establish that if the department and board find that there are not a sufficient number of courses of instruction and training sufficient to meet the requirements of this part conducted within this state, the department may conduct 1 or more of those courses or training sessions, or both. Additionally, department and board may approve a course of instruction, or a training session conducted within or without this state if the department determines that it is sufficient to meet the education and training requirements for licensure (MCL 333.17311).

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**Summary of factual data and analytical methodologies:**

The proposed rules were developed by reviewing the provisions of ch. NHA 3 to ensure the rules are consistent with current professional, academic, and licensing practices and standards and applicable Wisconsin statutes.

**Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:**

The proposed rule was posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

**Fiscal Estimate and Economic Impact Analysis:**

The Fiscal Estimate and Economic Impact Analysis is attached.

**Effect on small business:**

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at [Jennifer.Garrett@wisconsin.gov](mailto:Jennifer.Garrett@wisconsin.gov), or by calling (608) 266-2112.

**Agency contact person:**

Sofia Anderson, Administrative Rule Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; email at [DSPSAdminRules@wisconsin.gov](mailto:DSPSAdminRules@wisconsin.gov).

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TEXT OF RULE

SECTION 1. NHA 3.01 is amended to read:

**NHA 3.01 Board approval.** (1) Except as provided in sub. (1m), all regular courses of study, programs of study, and specialized courses shall be approved by the board.

SECTION 2. NHA 3.01 (1m) is created to read:

(1m) Regular courses of study and programs of study accredited by NAB for Nursing Home Administrators and Health Services Executives shall be considered approved by the board. Approval will remain valid unless explicitly revoked by the board or its designated authority.

SECTION 3. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

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(END OF TEXT OF RULE)  
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