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Board of Examiners of Nursing Home Administrators
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**2020 SESSION
POSITION PAPER**

BILL NO: SB 444
COMMITTEE: Finance
POSITION: SUPPORT

TITLE: State Board of Examiners of Nursing Home Administrators – Board Membership and Provisional Licensing Requirements

BILL ANALYSIS: This bill will eliminate the requirement for professional associations or societies to provide recommendations for all licensed practitioners who apply for appointment to the State Board of Examiners of Nursing Home Administrators (BENHA), and will also change the existing automatic 90-day provisional license period to allow BENHA the discretion to issue a provisional license for a period of less than 90 days when it is warranted.

POSITION AND RATIONALE:

Board Membership

This change in requirements for appointment to BENHA will broaden the pool of eligible applicants to the Board. Currently, the MDH Office of Appointments and Executive Nominations requires that recommendation letters from professional associations or societies be included with licensed practitioners' appointment applications. If these letters are not included, the appointment applications are not deemed as complete or eligible to proceed through the vetting process. Additionally, the amendment strengthens the statute by setting forth a requirement that all licensed practitioners who apply to BENHA are actively practicing and have a minimum of 5 years of appropriate practice experience. The existing statute contains this requirement, but with specific respect to licensed nursing home administrators only.

Provisional Licenses

Protection of the public is the Board's mission and primary focus. Running a nursing home is a highly-stressful, senior management, complex role that should not be taken lightly. ***BENHA cannot overstate the gravity of the position and immense value of having each facility run by a licensed nursing home administrator (LNHA) at all possible times.*** There are a wide variety of

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potentially harmful scenarios that could take place under the leadership of a non-licensed individual who would be exceedingly ill-equipped to navigate or negotiate through. Compliance with the requirement that each nursing home facility is run by an LNHA provides the best possible protection of our citizens who are the vulnerable residents in our nursing homes. It is critical to note that all nursing homes do not present the same levels of challenge or risk and should not be viewed as if they do. For example, all nursing homes do not have the same level of resident care needs or census counts. Therefore, the Board needs the flexibility to review each provisional license application on a case-by-case basis and set a provisional license period **that exposes the nursing home residents to the shortest amount of time possible under a non-licensed nursing home administrator.**

An option that is not widely-discussed is the use of interim LNHAs. Many nursing homes will employ interim LNHAs, who are available through staffing agencies, such as Leaderstat. This is analogous to a nursing home hiring temporary nurses from an agency until permanent nurses are identified. It is critical to note that the requirement is **not** for the facility to have a **permanent** LNHA as the administrator of record at all possible times, but rather that an LNHA serve as the administrator at all possible times.

Several years ago, as a demonstration in recognition that hiring permanent LNHAs can be difficult, BENHA partnered with all facilities by offering to post open LNHA positions on the BENHA website for free. This support is still in place and is available to any facility that needs to post a job opening.

Provisional licenses are **only** for extreme, “unexpected cause” situations in which the LNHA suddenly passes away, walks off the job, or is terminated on the spot, for example: they **expressly** apply in instances for which the nursing home owners/senior leadership could not have possibly planned. They are not regularly requested because of the criteria set forth in the statute sharply limits applicability of the provisional license. The amendment to this bill **will not eliminate** the potential for applicants to receive a 90-day provisional license period. Rather, the amendment provides the Board flexibility, in the interest of its public protection mandate, to set a provisional period **inside of the current maximum** of 90 days (e.g., 30 days or 60 days). The Board may extend a provisional period for an additional 30 days, upon request and with good cause shown. The extension of 30 days would then be added to the initially-set provisional period.

Maryland currently has 227 licensed nursing homes and 530 active LNHAs. Since the provisional license law became effective on 10/1/2017, **the Board has issued a grand total of 6 provisional licenses.**

For these reasons, the Maryland State Board of Examiners of Nursing Home Administrators requests a favorable report on SB 444. If you have questions or need additional information, please contact Lillian Reese, Legislative and Regulations Coordinator, Health Occupations Boards and Commissions, at 410-764-5978 or at lillian.reese@maryland.gov.

The opinion of the Board expressed in this document does not necessarily reflect that of the Department of Health or the Administration.