



# Oregon

Theodore R. Kulongoski, Governor

Board of Examiners Nursing Home Administrators

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## May 7, 2008, Rules Advisory Committee Meeting

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### MEETING NOTES

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A Rules Advisory Committee Meeting for the Board of Examiners of Nursing Home Administrators was held in room 445 at the Portland State Office Building on May 7, 2008, with the following items considered and actions taken.

#### Convened

The meeting convened at 10:15 a.m.

#### Attendance Roster

BENHA Members

Kathleen Elias, RN, NHA, Vice Chair

Margaret Clark, Public Member

George Gerding, R.Ph

Licensee Members

Darren Buckner, NHA

Stan Smith, NHA

Professional Association Members

Lauren Rhoades, OHCA

Others Present

Janet Bartel, Executive Director

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The Rules Advisory Committee met to consider a proposed fee increase schedule related to license, renewal, and miscellaneous fees and the addition of language related to records requests, refunds, and application abandonment. The Committee also considered the fiscal impact of the proposed rules on small business and government agencies.

Committee members utilized the following supporting documentation:

- January 1, 2009, Proposed Fee Increase Rule Amendments
- Fee Increase Options spreadsheet
- Fiscal Impact Considerations (Small Business and Agency)
- List of Government owned/operated nursing homes
- Chapter 853 Oregon Administrative Rules, Division 10

Kathleen Elias called the meeting to order and reported the Board is considering fee increases to address a continuing revenue shortfall. The Board has realized a decline in licensees over the past few biennia due in part to Oregon's focus on community based care and the limited number of nursing home administrator opportunities available.

Bartel recalled the Board last increased fees in 2002. She added that when you consider where the Board is today financially and where it will be in future biennia, the proposed increase will only sustain essential operations into the 2011-13 biennium.

A member questioned whether the Board could structure an automatic annual increase that would eliminate the need for future fee increase requests. Another member believed this to be a promising consideration and cited the Board of Nursing's (BON) CNA certification. She recalled that they may have inserted statutory language to accommodate a regular fee increase when they last increased CNA fees.

A member advised that a number of states have or are in the process of establishing licensure requirements for AL/RCF administrators. He identified Virginia as a state that recently established an AL/RCF administrator licensure requirement. He suggested the Board would not want to be perceived as pursuing the licensure requirement for financial reasons, adding that it should be considered for the right reasons and the benefits it would provide. He recommended the Board act quickly if they sense a move toward licensure for these administrators. Bartel reported the Board has considered the concept and invited agencies and stakeholders to share their perspective on licensing requirements for these administrators during the January 9, 2008, meeting. She emphasized the Board must get stabilized financially before it can approach this concept with any level of momentum.

When questioned on the drop-off rate for administrators with expired licenses, Bartel responded that a few of these administrators are relicensed during the five-year reinstatement window. She remarked there are administrators who acquire a license and never actually work as a nursing home administrator and believed they retain the license due to their difficulty in obtaining it or when they are employed within the field. Bartel did not know the number of licensees who relinquished their license due to the 2002 fee increases and explained that the Board generally loses about 60-80 licensees during renewal and historically these numbers have been restored during the ensuing biennium via endorsement and AIT candidates. In the past two biennia, however, the Board has not realized the number of new licensees required to replace the ones lost. Given this, there are approximately 10-15 fewer licensees at the beginning of each renewal.

When questioned on whether the proposed reinstatement fee would be a disincentive for returning administrators, Bartel responded that she did not believe this would be an issue. She explained that the reinstatement fee increase is necessary to align it with the initial license and active renewal fees. She reminded the Board is proposing a pro-ration schedule for the initial license fee that should be an incentive for license candidates to acquire the license when they qualify rather than waiting until the new license period. The Board is also proposing a pro-ration schedule for the activation fee and thus would not realize a significant increase in revenue in these areas due to the pro-ration consideration. The sole incentive is that it is simply the right thing to do for initial and activating licensees.

A member suggested the Board should be mindful the license fees in adjacent states as some administrators who are licensed in several states may let the more expensive license go and retain the cheaper one. Discussion ensued on the adjacent states and perceived level of difficulty for licensees seeking to acquire and retain their license in these states. Bartel advised that Oregon rates high in consumer surveys for consumer licensing and responsiveness.

When questioned, Bartel clarified the NAB examination fee is paid directly to the national organization. A member questioned whether the Board had considered an increase to the state examination fee. Bartel did not believe this would result in significant revenue based on the low number of exams administered. She explained that the exam fee is included in the endorsement application fee, so an increase would only impact AIT applicants and re-examination candidates.

A member suggested that increases to the other fees would provide some additional revenue and overall consistency in the proposed fee schedule. He recommended the Board consider creating a continuing education (CE) approval fee and explained that he pays \$100 annually as an approved CE provider and is provided a certificate with an approval number. Bartel communicated that she is not aware of another Oregon health-licensing board that charges for CE approvals but acknowledged that it does cost the Board to process these requests. Bartel suggested the Board could charge a small fee for processing individual CE approval requests.

The Committee discussed increases to the Board's other fees and agreed to recommend increases to all fees except the AIT application fee. Members concurred an increase in the AIT application fee may prove a disincentive to incoming training candidates. Bartel communicated that she would need to get the Board's budget analyst's approval for any additional fees proposed today as these were not included in the Board's proposal during the last session.

Bartel emphasized that the Board's revenue issues are not just about fees but also the Board's existing rules that create problems with revenue. She cited the generous renewal grace period for inactive licensees and the biennial license renewal, which falls on June 30 of odd number years--the last day of the budget period. She stressed that a biennial renewal on the cusp of the biennium is problematic in that it creates cash flow issues and presents a challenge in determining revenue projections.

The Committee discussed moving the biennial renewal date to even number years or to a birth date renewal as a solution to the Board's revenue projection and cash flow issues. Bartel questioned whether the transition to a birthdate renewal would impact the Board's interest revenue receipts. She suggested the increased workload for birth date renewals could be offset somewhat by an online based renewal with licensees completing their own entries for address changes, etc. Bartel advised there is a push in state government toward online licensing and renewals via credit card transactions; however, agencies are required to bear the burden of costs associated with these transactions, which would impact revenue. She emphasized that the Board should explore carefully the financial impact of any renewal transition and plan to build it into the budget.

The Committee discussed moving the biennial renewal to an annual renewal and the perceived benefit to providers and licensees. When questioned, Bartel did not believe that she could easily absorb the workload of an annual renewal where all licenses expire at the same time and suggested that an annual renewal based on birthdate would be the better solution. She added that if it proved too much of a burden, the Board could transition back to a biennial renewal.

The Committee discussed CE requirements for an annual renewal and agreed the Board could require half the hours currently required for the two-year license period. Bartel suggested an annual renewal may prove advantageous in keeping licensees on track with their CE requirements.

**Committee Recommendations**

1. Include the additional proposed fee increases (refer to *Table A* below).
2. Consider a continuing education provider fee and approval fee for individual CE requests. **Note:** The Board could waive this fee for activities that are provided free (e.g., monthly SPIN activities).
3. Consider the feasibility of a transition to an annual birthdate renewal. Explore the database configuration costs and increased workload involved.
4. Consider the Board's costs for credit card renewals and the time savings benefit prior to offering this convenience to licensees. Credit card payments for miscellaneous fees would not be as cost prohibitive a consideration.
5. Reduce the one-year grace period for inactive licensees to 30 days. **Note:** The Board's statutes prevent this, however, a rule clarification and penalty fee for late renewal may provide licensees the incentive to renew timely.
6. Reduce the activation requirement for administrators working under an inactive license from six-months to sixty days.

*Table A*

<b>Recommended Additional Fee Increases</b>			
<b>FEE TYPE</b>	<b>CURRENT AMT</b>	<b>INCREASE</b>	<b>PROPOSED FEE</b>
Duplicate License	\$25	\$25	\$50
Penalty Fee for Late CE	\$10 per hour	\$90	\$100 flat fee
State Examination	\$125	\$25	\$150
State Examination Retake	\$125	\$25	\$150
Verification of License	\$25	\$25	\$50

*Table B*

<b>New Fee Considerations</b>			
<b>FEE TYPE</b>	<b>CURRENT AMT</b>	<b>INCREASE</b>	<b>PROPOSED FEE</b>
Late Renewal Fee	New Fee		\$(amount ?)
Continuing Education Approval	New Fee		\$20 (per activity?)
Continuing Education Provider Approval	New Fee		\$100 (annually?)

The Committee briefly reviewed the prepared Fiscal Impact Consideration and reminded Bartel to make the needed adjustments to financial projections if the additional fee increases are approved during the July 9, 2008, quarterly meeting.

Bartel advised the Committee she would forward a draft of today's discussion to members with any related information.

**Adjournment**

No further business being introduced, the meeting adjourned at 12:12 p.m.

Respectfully Submitted:

Janet Bartel, Executive Director

## APPLICABLE STATUTES

### **678.760 License; application; renewal; provisional licenses.**

- (1) Upon compliance with the requirements of ORS 678.730 and the payment of a fee as determined by the Board of Examiners of Nursing Home Administrators of the State of Oregon under ORS 678.775, an individual shall upon application be granted a nursing home administrator's original license. All original licenses shall expire on June 30 of the next odd-numbered year **or on such date as may be specified by board rule.**
- (2) **Upon application within one year following expiration of an original or a renewal license, and the payment of a fee as determined by the board under ORS 678.775, the board shall issue a renewal license,** provided the continuing education requirements and all other requirements set by the board have been met. All renewal licenses shall expire on June 30 of the next odd-numbered year or on such date as may be specified by board rule.
- (3) The fee for a provisional license shall be determined by the board under ORS 678.775.

### **678.775 Fees; prior approval required; limits; report.**

The fees and charges determined by the Board of Examiners of Nursing Home Administrators of the State of Oregon under ORS 678.740, 678.760 and 678.770 are subject to the prior approval of the Oregon Department of Administrative Services and, if their adoption occurs between regular sessions of the Legislative Assembly, a report to the Emergency Board. The fees and charges shall not exceed the cost of administering the regulatory program of the board pertaining to the purpose for which the fee or charge is established, as authorized by the Legislative Assembly within the board's budget, as that budget may be modified by the Emergency Board.

[1993 c.572 §4]

**Note:** 678.775 was added to and made a part of 678.710 to 678.840 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.