

*NAB ACKNOWLEDGES AND APPRECIATES THE FEDERATION OF ASSOCIATIONS OF  
REGULATORY BOARDS WHO PROVIDED THE ORIGINAL TEMPLATE FOR THIS MODEL  
PRACTICE ACT*

**NATIONAL ASSOCIATION  
OF LONG TERM CARE  
ADMINISTRATOR BOARDS  
MODEL PRACTICE ACT  
For**

***RESIDENTIAL CARE/ASSISTED  
LIVING ADMINISTRATION***

***DRAFT – June 11, 2009***

# **Article I. Title, Purpose, and Definitions**

An ACT concerning the regulation of the practice of RC/AL (RCAL) and related matters...

Be it enacted...

## **Section 101. Title of Act.**

This Act shall be known as the “(Name of State) Residential Care/Assisted Living Administrator Practice Act.”

## **Section 102. Legislative Declaration.**

The practice of Residential Care/Assisted Living (RC/AL) Administration, thereafter RC/AL, in the state of \_\_\_\_\_ is declared a professional practice affecting the public health, safety, and welfare and is subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the practice of RC/AL as defined in the Act, merit and receive the confidence of the public and that only qualified persons be permitted to engage in the practice of RC/AL in the state of \_\_\_\_\_. This Act shall be liberally construed to carry out these objectives and purposes.

## **Section 103. Statement of Purpose.**

It is the purpose of this Act to promote, preserve, and protect, with the opportunity for independence, choice and dignity while promoting individuality, the public health, safety, and welfare by and through the effective control and regulation of persons, in or out of the state that practice RC/AL within this state.

These core principles of assisted living should be reflected in the setting's mission statement, culture, policies, and procedures and are supported by the RC/AL Domains of Practice centered on a) client/resident care management b) human resources management c) leadership and governance d) physical environment management and e) financial management

- 1) To create a residential environment that actively supports and promotes each resident's quality of life, right to privacy, choice, dignity, and independence as defined by that resident.
- 2) To offer quality supportive services, individualized for each resident and developed collaboratively with the ALR.
- 3) To provide resident-centered services with an emphasis on the particular needs of the individual and his/her choice of lifestyle incorporating creativity, variety, and

innovation.

- 4) To support the resident's decision-making control to the maximum extent possible.
- 5) To foster a social climate that allows the resident to develop and maintain relationships within the ALR and in community-at-large.
- 6) To make full consumer disclosure, including what services will be offered and their associated costs, before move in and throughout the resident's stay.
- 7) To minimize the need to move.
- 8) To foster a culture that provides a quality environment for the residents, families, staff, volunteers, and community-at-large.

*Section 103 Notes suggest that we wanted to insert 'stated principles of assisted living' Where should this be added in.*

#### **Section 104. Practice of RC/AL.**

Assisted Living Administration is developed by the promotion of entry level education, continued competency and accountability of leadership that ultimately provides quality services and support in a home-like setting with a commitment to choice, dignity, independence, individuality, and privacy based on client/resident needs and preference.

*Section 104 Definition of Assisted Living The Practice of RC/AL  
ALFA has an existing definition – Do we want to add the ALFA definition?*

#### **Section 105. Exempt persons or activities.**

The practice of RC/AL shall not apply to the following:

1. Any officer serving in the United States armed forces or in the federal government performing RCAL services within the scope of official duties, provided such RC/AL services are limited to the period of such service;
2. Any person rendering gratuitous services in cases of emergency;
3. Any RC/AL who is licensed in another state or country and who is consulting with a RC/AL licensed in this state provided such service is limited to such consultation.
4. Any intern who practices RC/AL in any college in this state offering a program in RC/AL and who is a graduate of a school or of a recognized RC/AL program approved by the Board in any state or country, provided such practice is limited to such duties as intern or resident;

5. Any student enrolled and in good standing in a recognized program of RC/AL approved by the Board who engages in practice at a RC/AL or under the supervision of a licensed RC/AL under this article:
6. Any person who educates or teaches core clinical curriculum courses within a school or program of RC/AL.

**Section 106. Definitions.**

- (a) **ALF-AIT** defined:

ALF-AIT means an assisted living facility administrator-in-training.

- (b) **Approved Provider of Continuing Education** defined:

Any professional association, university or college, corporation or other entity that has met the requirements of the Board to provide educational courses that are designed to assure continued competence in the practice of RC/AL.

- (c) **Approved Program of Continuing Education** defined:

An educational program offered by an Approved Provider of Continuing Education.

- (d) **Approved RC/AL Administration Program** defined:

A school of Health Care Administration or a recognized RC/AL education program that has been approved by the Board.

- (e) **Board of RC/AL Administration** defined:

The Board of RC/AL is created exclusively for state mandated RC/AL credentials.

- (f) **Board of LTC Administration** defined:

The Board of LTC Administration combines the mutually distinct, but compatible, state mandated occupational licensing of Nursing Home Administrators and Assisted Living Administrators.

- (g) **Client/resident** defined:

An entity, person, group or corporation that has entered into an agreement with a RC/AL for the purposes of obtaining RC/AL services.

- (h) **Continuing Education** defined:  
Training which is designed to assure continued competence in the practice of RC/AL.
- (i) **Continuing Education Clock Hour** defined:  
An instructional session of 60 consecutive minutes, excluding breaks, registration, meals, and social activities.
- (j) **Conviction** defined:  
Conviction of a crime by a court of competent jurisdiction and shall include a finding or verdict of guilt, whether or not the adjudication of guilt is withheld or not entered on admission of guilt, a no consent plea, a plea of nolo contendere, or a guilty plea.
- (k) **Domains of Practice** defined:  
Domains of Practice means the tasks performed by RC/AL administrators and the knowledge, skills, and abilities identified as necessary to perform those tasks by NAB in its job analysis of RC/AL administrators. The current NAB domains of practice for RC/AL administrators is updated and subject to change every five years.
- (l) **Examination** defined:  
An examination approved by the Board.
- (m) **Felony** defined:  
A criminal act as defined by this state or any other state or by definition under federal law.
- (n) **Informed Consent or Disclosure** defined:  
The RC/AL has informed or **disclosed to** the client/resident or the client/resident's authorized representative, in a manner understood by the client/resident or representative, of the treatment options, risk assessment, and has provided the client/resident with an estimate of the charges for RC/AL services to be rendered and the client/resident has consented to the recommended treatment.
- (o) **NAB** defined:  
The National Association of Long Term Care Administrator Boards
- (p) **Licensee** defined:  
A person duly licensed under this Act.

(q) **Person** defined:

Any individual, firm, partnership, association, joint venture, cooperative, corporation, or any other group or combination acting in concert; and whether or not acting as a principal, trustee, fiduciary, receiver, or as any kind of legal or personal representative, or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, or any other representative of such person.

(r) **Supervision** related terms are defined as follows:

(i) Supervising means an RC/AL Administrator who assumes responsibility for the professional care given to a client/resident by a person working under his or her direction.

(ii) Delegating means an RC/AL Administrator who assigns responsibility or authority to an individual working under his or her direction.

(s) **RC/AL Community** defined:

The residential setting other than a personal home, where individuals reside and receive supportive services in a group setting and pay for those professional services.

## **Article II. Board of Long Term Care Administrators**

*Use Section 201A and 202A - for those states who choose to combine the NHA and RCAL Boards*

### **Section 201 A. Designation.**

*The responsibility for enforcement of the provisions of this act is hereby vested in the Board of Long Term Care Administrators (Board) with jurisdiction to credential both Licensed Nursing Home Administrators (NHA) and Residential Care Assisted Living Administrators (RCAL). The Board shall have all of the duties, powers, and authority specifically granted by or necessary for the enforcement of this Act, as well as such other duties, powers, and authority as it may be granted from time to time by applicable law.*

### **Section 202 A. Membership.**

*The Board shall consist of \_\_\_\_\_ members, (to be determined by individual state, recommendation of nine but not to exceed eleven) at least one of whom shall be a representative of the public, and the remainder] [each] of whom shall be licensed, who possess the qualifications specified in Section 203. At all times, at least fifty percent (50%) of the licensed members of the Board shall be actively engaged in the operations of a RC/AL in this state and 50% of the licensed members of the Board shall be actively engaged in the operation of skilled nursing facilities in this state.*

*Use Section 201 B and 202 B - for those states who choose to have an independent RCAL Board*

**Section 201 B. Designation.**

*The responsibility for enforcement of the provisions of this act is hereby vested in the Board of Long Term Care Administrators (Board) with jurisdiction to credential Residential Care Assisted Living Administrators (RCAL). The Board shall have all of the duties, powers, and authority specifically granted by or necessary for the enforcement of this Act, as well as such other duties, powers, and authority as it may be granted from time to time by applicable law.*

**Section 202 B. Membership.**

*The Board shall consist of \_\_\_\_\_ members, (to be determined by individual state, recommendation of nine but not to exceed eleven) at least one of whom shall be a representative of the public, and the remainder] [each] of whom shall be licensed, who possess the qualifications specified in Section 203. At all times, the licensed members of the Board shall be actively engaged in the operations of a RC/AL in this state.*

**Section 203. Qualifications.**

- (a) Board members shall at all times maintain eligibility to serve on the board by avoiding relationships which would interfere with the board mission of public protection. Board members must be especially cognizant of issues of conflict of interest, including but not limited to participation in the state and/or national professional associations.
- (b) Each licensed member of the Board shall at all times as a board member:
  - (1) Be a resident of this state for not less than six months;
  - (2.) Be currently licensed and in good standing to engage in the practice of long term care administration in this state; and
  - (3) Have had at least five (5) years of experience in the practice of long term care administration.
- (c) The public member(s) of the Board shall be a resident of this state who has attained twenty-one (21) years of age and shall not be, nor shall ever have been, a licensed RC/AL or the spouse of a licensed LNHA/RC/AL, or a person who has ever had any material financial interest in the provision of SNF or RC/AL services or who has engaged in any activity directly related to the practice of SNF or RC/AL.

**Section 204. Appointment.**

The Governor shall appoint the members of the Board in accordance with the provisions of this Article and the state constitution, statutes or rules.

**Section 205. Terms of Office.**

- (a) Except as provided in subsection (b), members of the Board shall be appointed for a term of four years, except that members of the Board who are appointed to fill vacancies which occur prior to the expiration of a former member's full term shall serve the un-expired portion of such term.
- (b) The terms of the members of the Board shall be staggered, so that the terms of no more than three (3) members shall expire in any year. Each member shall serve until a qualified successor is appointed.
  - (1) The present members of the Board shall serve the balance of their terms.
  - (2) Any present Board members appointed initially for a term of less than four years shall be eligible to serve for two (2) additional full terms.
- (c) No member of the Board shall serve more than two (2) consecutive full terms. The completion of the un-expired portion of a full term shall not constitute a full term for purposes of this section.

**Section 206. Vacancies.**

Any vacancy which occurs in the membership of the Board for any reason, including expiration of term, removal, resignation, death, disability, or disqualification, shall be filled within six (6) months as prescribed by Section 204.

**Section 207. Removal.**

- (a) A Board member may be removed pursuant to the procedures set forth in subsection (b) herein, upon one or more of the following grounds:
  - (1) The refusal or inability for any reason of a Board member to perform the duties as a member of the Board in an efficient, responsible, and professional manner;
  - (2) The misuse of office by a member of the Board to obtain financial or material gain or advantage personally or for another through such office;

- (3) A final adjudication by a recognized body including the courts that there has been a violation of the laws governing the practice of RC/AL; or
  - (4) For other just and reasonable causes as determined solely by the Board pursuant to applicable law.
- (b) Removal of a member of the Board shall be in accordance with the Administrative Procedures Act of this state, or other applicable laws.
  - (c) A NAB Board Member Code of Ethics document outlines nationally accepted board member standards and will be utilized by the board for orientation and professional standards and expectations.

**Section 208. Organization.**

- (a) The Board shall elect from its members a Chairperson and such other officers as it deems appropriate and necessary to the conduct of its business. The Chairperson shall preside at all meetings of the Board, shall be responsible for the performance of all of the duties and functions of the board and shall perform those duties customarily associated with the position and such other duties assigned from time to time by the Board.
- (b) Officers elected by the Board shall serve terms of one (1) year commencing with the day of their election and ending upon election of their successors and shall serve no more than three (3) consecutive full terms in each office to which they are elected.
- (c) The Board shall employ an Executive Director who shall be responsible for the performance of the administrative functions of the Board and such other duties as the Board may direct.

**Section 209. Compensation of Board Members.**

Each member of the Board shall receive as compensation the sum of \$\_\_\_\_\_ per day (to be determined by jurisdiction) for each day on which the member is engaged in performance of the official duties of the Board, and shall be reimbursed for all reasonable and necessary expenses incurred in connection with the discharge of such official duties.

**Section 210. Meetings.**

- (a) The Board shall meet at least once every three (3) month(s) to transact its business. The Board shall meet at such additional times as it may determine. Such additional meetings may be called by the Chairperson of the Board or by two-thirds (2/3) of the members of the Board.

- (b) The Board shall meet at such place as it may from time to time determine. The place for each meeting shall be determined prior to giving notice of such meeting and shall not be changed after such notice is given without adequate prior notice.
- (c) Notice of all meetings of the Board shall be given in the manner and pursuant to requirements prescribed by the Administrative Procedures Act.
- (d) A majority of the members of the Board shall constitute a quorum for the conduct of a Board meeting and, except where a greater number is required by this Act or by any rule of the Board, all actions of the Board shall be by a majority of a quorum.
- (e) All Board meetings and hearings shall be open to the public. The Board may, in its discretion and according to law, conduct any portion of its meeting in executive session, closed to the public.

### **Section 211. Employees.**

The Board may, in its discretion, employ persons in addition to the Executive Director in such other positions or capacities as it deems necessary to the proper conduct of Board business and to the fulfillment of the Board's responsibilities as defined by the Act.

### **Section 212. Rules.**

The Board shall make, adopt, amend, and repeal such rules as may be deemed necessary by the Board from time to time for the proper administration and enforcement of this Act. Such rules shall be promulgated in accordance with the procedures specified in the Administrative Procedures Act.

### **Section 213. Powers and Responsibilities.**

- (a) The Board shall be responsible for the control and regulation of the practice of RC/AL in this state including, but not limited to, the following:
  - (1) Licensure by examination, by licensure transfer, by temporary or provisional recognition, or the renewal of licenses of persons who are qualified to engage in the practice of under the provisions of this Act;
  - (2) Licensure and renewal of licensure of communities under provisions of this Act;
  - (3) The establishment and enforcement of standards or criteria of programs or other mechanisms to insure the continuing competence of RC/AL;

- (4) The establishment and enforcement of compliance with professional standards and rules of conduct for RC/AL engaged in the practice of RC/AL;
- (5) The determination and issuance of standards for recognition and approval of degree programs of schools and colleges of RC/AL whose graduates shall be eligible for licensure in this state;
- (6) The enforcement of those provisions of the Act relating to the conduct or competence of RC/AL practicing in this state, and the suspension, revocation, or restriction of licenses to engage in the practice of RC/AL;
- (7) For purposes of enforcement of all the provisions of this Act and any regulations duly promulgated hereunder, including the assessment and collection of fines, costs, and attorneys fees, the board shall maintain jurisdiction over individuals, irrespective of their licensure status, (i.e., active, inactive, expired, lapsed, surrendered or disciplined) relative to acts, omissions, complaints and investigations which occurred during the licensure period. Jurisdiction of the Board shall also extend to individuals engaging in the unauthorized practice of RC/AL, as defined. It is the intent of this subsection that licensees cannot divest the Board of jurisdiction by changing or relinquishing licensure status;
- (8) With probable cause that an applicant or licensee has engaged in conduct prohibited by this Act or a statute or rule enforced by the board, the board may issue an order directing the applicant or licensee to submit to a mental or physical examination or chemical dependency evaluation. For the purpose of this Section, every applicant or licensee is considered to have consented to undergo a mental or physical examination or chemical dependency evaluation when ordered to do so, in writing, by the board and to have waived all objections to the admissibility of the examiner's or evaluator's testimony or reports on the grounds that the testimony or reports constitute a privileged communication;
- (9) The licensure and regulation of the training, qualifications, and employment of RC/AL;
- (10) The collection of professional demographic data;
- (11) The establishment of minimum standards of practice and codes of conduct relative to the practice of RC/AL;
- (12) The investigation and/or inspection of any person or facility at all reasonable hours for the purpose of determining if any provisions of the laws governing the practice of RC/AL are being violated. The Board, its officers, inspectors, and representatives shall cooperate with all agencies charged with the

enforcement of the laws of the United States, of this state, and of all other states relating to the practice of RC/AL.

- (b) The Board shall have such other duties, powers, and authority as may be necessary to the enforcement of this Act and to the enforcement of Board rules which shall include, but are not limited to, the following:
- (1) The Board may join such professional organizations and associations organized exclusively to promote the improvement of the standards of the practice of RC/AL for the protection of the health and welfare of the public and/or whose activities assist and facilitate the work of the Board.
  - (2) The Board may receive and expend funds, in addition to its [annual/biennial] appropriation, from parties other than the state, provided:
    - (i) Such funds are awarded for the pursuit of a specific objective which the Board is authorized to accomplish by this Act, or which the Board is qualified to accomplish by reason of its jurisdiction or professional expertise;
    - (ii) Such funds are expended for the pursuit of the objective for which they are awarded;
    - (iii) Activities connected with or occasioned by the expenditures of such funds do not interfere with the performance of the Board's duties and responsibilities and do not conflict with the exercise of the Board's powers as specified by this Act.
    - (iv) Such funds are kept in a separate account; and
    - (v) Periodic reports are made concerning the Board's receipt and expenditure of such funds.
  - (3) The Board may endorse an existing or draft a new Bill of Rights concerning the services a client may expect in regard to RC/AL services.
  - (4) Any investigation, inquiry, or hearing which the Board is empowered to hold or undertake in accordance with applicable law may be held or undertaken by or before any member or members of the Board and the finding or order of such member or members shall be deemed to be the order of said Board when approved and confirmed as noted in Section 210(d).
  - (5) It is the duty of the Attorney General [State's Attorney] to whom the Board reports any violation of this Act which also is deemed as violative of applicable criminal statutes to cause appropriate proceedings to be

instituted in the proper court without delay and to be prosecuted in the manner required by law. Nothing in this paragraph shall be construed to require the Board to report violations whenever the Board believes that public's interest will be adequately served in the circumstances by a suitable written notice or warning.

- (6) The Board shall have the power to subpoena persons and documents for purposes of depositions and testimony, or both, in the same manner as prescribed in civil cases in the courts of this State. Any member of the Board, hearing officer, or administrative law judge shall have power to administer oaths to witnesses at any hearing which the Board is authorized to conduct, and any other oaths authorized in any Act administered by the Board.
- (7) In addition to the fees specifically provided for herein, the Board may assess additional reasonable fees for services rendered to carry out its duties and responsibilities as required or authorized by this Act or rules duly adopted hereunder. Such services rendered shall include but not be limited to the following:
  - (i) Issuance of duplicate certificates or identification cards;
  - (ii) Mailing lists, or reports of data maintained by the Board;
  - (iii) Copies of any documents;
  - (iv) Certification of documents;
  - (v) Notices of meetings;
  - (vi) Licensure transfer;
  - (vii) Examination administration to a licensure applicant; and
  - (viii) Examination materials.
- (8) Cost Recovery.
  - (i) In any order issued in resolution of a disciplinary proceeding before the Board, the Board may request the Administrative Law Judge/Hearing Officer (ALJ/HO) to direct any person or facility found guilty of a charge involving a violation of any laws or rules, to pay to the Board a sum not to exceed the reasonable costs, including attorneys' fees, of the investigation and prosecution of the case.

- (ii) In the case of a person or RC/AL facility, the order permissible under (i) above may be made as to the corporate owner, if any, and as to any RC/AL officer, owner, or partner of the practice or facility who is found to have had knowledge of or have knowingly participated in one or more of the violations set forth in this section.
  - (iii) The costs to be assessed shall be fixed by the ALJ/HO and shall not be increased by the Board; where the Board does not adopt a proposed decision and remands the case to a(n) ALJ/HO, the ALJ/HO shall not increase any assessed costs.
  - (iv) Where an order for recovery of costs is made and timely payment is not made as directed in the Board's decision, the Board may enforce the order for payment in the County Court in the county where the administrative hearing was held. This right of enforcement shall be in addition to any other rights the Board may have as to any person directed to pay costs.
  - (v) In any action for recovery of costs, the Board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.
- (9) Except as otherwise provided to the contrary, the Board shall exercise its duties, powers, and authority in accordance with the Administrative Procedures Act.

## **Article III. Licensing**

### **Section 301. Unlawful Practice.**

- (a) Except as otherwise provided in this Act, it shall be unlawful for any person to engage in the practice of RC/AL unless duly licensed as a RC/AL under the applicable provisions of this Act.
- (b) No person shall use the designation of Licensed RC/AL Administrator or any other designation indicating licensure status, including abbreviations, or hold themselves out as a RC/AL Administrator unless duly licensed as such.

### **Comment to Section 301(b).**

- (c) The provision of RC/AL services to a client or resident in this state, through telephonic, electronic or other means, regardless of the location of the RC/AL Administrator, shall constitute the practice of RC/AL and shall require licensure within this state.

- (d) Any person who, after hearing, shall be found by the Board to have unlawfully engaged in the practice of RC/AL shall be subject to a fine to be imposed by the Board, not to exceed \$ \_\_\_\_\_ for each offense, and cost recovery as set forth in this Act. Each such violation of this Act or the rules promulgated hereunder pertaining to unlawfully engaging in the practice of RC/AL shall also constitute a (misdemeanor/felony) punishable upon conviction as provided in the criminal code of this state.
- (e) Nothing in this Act shall be construed to prevent members of other professions from performing functions for which they are duly licensed. However, such other professionals must not hold themselves out or refer to themselves by any title or description stating or implying that they are engaged in the practice of RC/AL or that they are licensed to engage in the practice of RC/AL.

**Section 302. Qualifications for Licensure by Examination.**

**RECOMMENDATION #1**

(A) To obtain a license to engage in the practice of RC/AL, an applicant for licensure by examination shall bear the burden of substantiating to the Board that the following criteria have been met:

- (1) Attainment of twenty one (21) years of age;
- (2) Submission of a written application in the form determined by the board
- (3) Possession of good moral character and commitment to the Code of Ethics;

When grounded in public protection, issues involving moral character may lead to concerns about the potential for this qualification to be misused by boards. Although there are many legal ways to ensure that the good moral character issue is not misapplied, including state and federal civil rights legislation, when making character judgments boards need to be extremely sensitive. Practice act provisions that bear a reasonable relationship to the purpose of protecting the public welfare will generally be regarded as constitutionally acceptable by most courts, so long as the enforcement by boards is reasonably related to the protection of the public.

- (4) Graduated from a high school or secondary school approved and recognized by the educational authorities of the state in which such school is located or a political subdivision thereof, or has submitted a certificate indicating that he/she has obtained high school, GED, or secondary school equivalency, such certificate being duly certified by a state educational authority or a political subdivision thereof; and hold one the following qualifications:
- (5) Successful completion of the RC/AL – NAB national examination or examinations determined by the Board within the five (5) years preceding application; and
- (6) Payment of all applicable fees specified by the Board relative to the licensure process and one of the following paths to licensure:

**1. Administrator-in-training program.**

- a. Complete at least 30 semester hours in an accredited college or university in any subject and 640 hours in an ALF AIT program; or
- b. Complete an educational program as a licensed practical nurse and hold a current, unrestricted license or multi-state licensure privilege and 640 hours in an ALF AIT program; or
- c. Complete an educational program as a registered nurse and hold a current, unrestricted license or multi-state licensure privilege and 480 hours in an ALF AIT program; or
- d. Complete at least 30 semester hours in an accredited college or university with courses in the content areas of (i) Client/resident care; (ii) Human resources management; (iii) Financial management; (iv) Physical environment; and (v) Leadership and governance; and 320 hours in an ALF AIT; or
- e. Hold a master's or a baccalaureate degree in health care related field or a comparable field that meets the requirements of subsection (e) of this section, with no internship or practicum and 320 hours in an ALF AIT program; or
- f. Hold a master's or baccalaureate degree in an unrelated field and 480 hours in an ALF AIT program.

**2. Certificate program.**

Hold a baccalaureate or higher degree in a field unrelated to health care from an accredited college or university and successfully complete a certificate program with a minimum of 21 semester hours study in a health care related field that meets course content requirements of subsection (e) of this section from an accredited college or university and successfully complete not less than a 320-hour internship or practicum that addresses the NAB –RCAL domains of practice in a licensed assisted living facility as part of the certificate program under the supervision of a preceptor; or

**3. Degree and practical experience.**

Hold a baccalaureate or higher degree in a health care related field that meets the course content requirements of subsection (e) of this section from an accredited college or university and have completed not less than a 320-hour internship or practicum that addresses the NAB-RCAL Domains of Practice in a licensed assisted living facility as part of the degree program under the supervision of a preceptor.

- (7) To meet the educational requirements for a degree in a health care related field, an applicant must provide a transcript from an accredited college or university that documents successful completion of a minimum of 21 semester hours of coursework concentrated on the administration and management of health care services to include a minimum of six semester hours in the content area set out in subdivision 1 of this subsection, three semester hours in each of the content areas in subdivisions 2 through 5 of this subsection, and three semester hours for an internship or practicum.

- 1. Resident/client services management;

2. Human resource management;
3. Financial management;
4. Physical environment management;
5. Leadership and governance.

## **RECOMMENDATION #2**

To obtain a license to engage in the practice of RC/AL Administration, an applicant for licensure by examination shall bear the burden of substantiating to the Board that the following criteria have been met:

- (a) Attainment of twenty one (21) years of age;
- (b) Submission of a written application in the form determined by the board.
- (c) Possession of good moral character and commitment to the Code of Ethics;
- (d) Graduated from a high school or secondary school approved and recognized by the educational authorities of the state in which such school is located or a political subdivision thereof, or has submitted a certificate indicating that he/she has obtained high school, GED, or secondary school equivalency, such certificate being duly certified by a state educational authority or a political subdivision thereof; and
  - (e) Completion of a board recognized course in RC/AL administration of a minimum 40 -80-120 hours of classroom duration and
    1. Holds an associate degree, or equivalent identified exclusively as a LPN/LVN from an accredited college or university; and
 

Has worked in a supervisory capacity (supervisory capacity means a department head or licensed professional supervising one or more individuals) at a assisted living facility for a minimum of four years (two years of work experience equals one year of college); and

Has fulfilled the requirements of an approved 1,000-hour assisted living practicum/administrator-in-training program prescribed by the Board; or
    2. Holds a baccalaureate degree from an accredited college or university; and
 

Has fulfilled the requirements of an approved 500-hour assisted living practicum/ administrator-in-training program prescribed by the board; or
    3. Holds a baccalaureate degree from an accredited college or university and majored in health care administration; and
 

Has fulfilled the requirements of a university affiliated or college-affiliated internship in health care administration including assisted living or community based services or of an approved 240-hour assisted living practicum/administrator-in-training program prescribed by the Board; or

4. Holds a masters degree from an accredited college or university and majored in healthcare administration or course of study approved by the board ; and

Has fulfilled the requirements of a university affiliated or college-affiliated internship in health care administration or of an approved 80-hour assisted living practicum/administrator-in-training program prescribed by the Board; or

1. Has completed a National Association of Boards of Examiners of Long Term Care Administrators Academic University Approved Program and

Has fulfilled the requirements of a university affiliated or college-affiliated internship in health care administration, and including a minimum of an 80 hour practicum/administrator in training experience within the NAB approved program curriculum.

### **RECOMMENDATION #3**

To obtain a license to engage in the practice of RC/AL Administration, an applicant for licensure by examination shall bear the burden of substantiating to the Board that the following criteria have been met:

- (a) Attainment of twenty one (21) years of age;
- (b) Submission of a written application in the form determined by the board.
- (c) possession of good moral character and commitment to the Code of Ethics;
- (d) graduated from a high school or secondary school approved and recognized by the educational authorities of the state in which such school is located or a political subdivision thereof, or has submitted a certificate indicating that he/she has obtained high school, GED, or secondary school equivalency, such certificate being duly certified by a state educational authority or a political subdivision thereof; and hold one the following qualifications:
  - 1. Administrator-in-training program.
    - a. Complete at least 30 semester hours in an accredited college or university in any subject and 640 hours in an ALF AIT program.
    - b. Complete an educational program as a licensed practical nurse and hold a current, unrestricted license or multi-state licensure privilege and 640 hours in an ALF AIT program;
    - c. Complete an educational program as a registered nurse and hold a current, unrestricted license or multi-state licensure privilege and 480 hours in an ALF AIT program;
    - d. Complete at least 30 semester hours in an accredited college or university with courses in the content areas of (i) Client/resident care; (ii) Human resources management; (iii) Financial management; (iv) Physical environment; and (v) Leadership and governance; and 320 hours in an ALF AIT;

- e. Hold a master's or a baccalaureate degree in health care related field or a comparable field that meets the requirements of subsection (e) of this section, with no internship or practicum and 320 hours in an ALF AIT program; or
  - f. Hold a master's or baccalaureate degree in an unrelated field and 480 hours in an ALF AIT program; or
2. Certificate program.
- Hold a baccalaureate or higher degree in a field unrelated to health care from an accredited college or university and successfully complete a certificate program with a minimum of 21 semester hours study in a health care related field that meets course content requirements of subsection (e) of this section from an accredited college or university and successfully complete not less than a 320-hour internship or practicum that addresses the NAB –RCAL domains of practice in a licensed assisted living facility as part of the certificate program under the supervision of a preceptor; or
3. Degree and practical experience.
- Hold a baccalaureate or higher degree in a health care related field that meets the course content requirements of subsection (e) of this section from an accredited college or university and have completed not less than a 320-hour internship or practicum that addresses the NAB-RCAL Domains of Practice in a licensed assisted living facility as part of the degree program under the supervision of a preceptor.

(e) To meet the educational requirements for a degree in a health care related field, an applicant must provide a transcript from an accredited college or university that documents successful completion of a minimum of 21 semester hours of coursework concentrated on the administration and management of health care services to include a minimum of six semester hours in the content area set out in subdivision 1 of this subsection, three semester hours in each of the content areas in subdivisions 2 through 5 of this subsection, and three semester hours for an internship or practicum.

- 1. Resident/client services management;
- 2. Human resource management;
- 3. Financial management;
- 4. Physical environment management;
- 5. Leadership and governance.

**Section 303: Administrator in Training/Practicum Duration Reductions for Work Experience:**

Successful completion of the criteria set forth herein and by the Board under this section shall establish educational equivalence as one of the criteria for licensure set forth in this Act. Candidates under this Section must also meet all other statutory criteria for licensure prior to the issuance of any such license.

The board may further reduce the field experience requirement of the applicant if the candidate shows evidence of previous assisted living experience according to the following schedule:

1. If employed in a supervisory capacity (supervisory capacity means a department head or licensed professional supervising one or more individuals) at an assisted living facility for more than two years, the AIT/practicum requirement may be reduced by the schedule of two years of continuous employment reduces the practicum requirement by 50% of the stated requirement. (i.e. 240 hour practicum becomes 120 hours)
2. The board shall create and establish practicum/administrator in training guidelines to assure individual education plans for the applicant through board approved programs or board approved preceptors.

#### **Section 304. Examinations.**

- (a) Candidates must be knowledgeable of and accountable for compliance with applicable state laws and the regulations relating to assisted living communities. The requirements are any one or more combination of the following:
  - (1) By examination - Any state examination for licensure required under this Act, shall be given by the Board at least two (2) times during each year. The Board shall approve the content and subject matter of each examination, the place, time, and dates of administration of the examination. The examination shall be prepared to measure the knowledge of the applicant of state regulations to practice as the RC/AL in an assisted living community. The Board may employ, cooperate, and contract with any organization or consultant in the preparation, administration and grading of an examination, but shall retain the sole discretion and responsibility for determining which applicants have successfully passed such an examination; and/or,
  - (2) An attestation that the applicant has read, comprehends, will remain current and comply with the applicable state laws and the regulations relating to assisted living communities; and/or,
  - (3) Has successfully completed a board approved course on applicable state laws and the regulations relating to assisted living communities. Applicant attests that he/she comprehends, will remain current with and comply with all applicable state laws and regulations relating to assisted living communities.
- (b) The NAB (RC/AL) national examination is the exam to be utilized for endorsement purposes and requires presentment to the Board/Agency of proof of active NAB RCAL exam scores.

**Section 305. Qualifications for a Provisional License or Temporary Practice.**

- (a) The Board may issue a provisional license to practice RC/AL only under the direct supervision of a licensed RC/AL Administrator to a non-licensed person who meets all statutory criteria for licensure under this Act with the exception of a state law examination. The provisional license shall be issued under procedures set forth by the Board but under no circumstances shall such provisional license be granted for a period exceeding one (1) year from date of issuance. Such a provisional license may also contain restrictions as to time, place, or supervision, which the Board deems appropriate and may be summarily revoked by a majority vote of the Board without a hearing.
- (b) Any person licensed to practice RC/AL in another jurisdiction may, upon prior written application to the Board, practice RC/AL in this jurisdiction within the scope of practice designated by such license for no more than 30 days per year without applying for a license. Practice privileges under this paragraph shall apply only if the requirements for licensure in such other jurisdiction are substantially similar to the requirements for licensure in this jurisdiction. The 30-day period shall commence on the date of receipt by the Board of the written application. The practitioner who provides services under this paragraph shall be deemed to have submitted to the jurisdiction of the applicable board and be bound by the laws of this state.
- (c) Any person licensed to practice RC/AL in another jurisdiction who is providing services within the scope of practice designated by such license and in response to a disaster declared by the appropriate authority or governor of the state may, upon prior written notice to the board, provide such services in this jurisdiction for a period of time not to exceed 180 consecutive days per year without applying for a license. The practitioner who provides services under this paragraph shall be deemed to have submitted to the jurisdiction of the applicable board and be bound by the laws of this state.

**Section 306. Qualifications for License Transfer.**

- (a) In order for a RC/AL Administrator currently licensed in another jurisdiction to obtain a license as a RC/AL Administrator by license transfer in this state, an applicant shall bear the burden of substantiating to the Board that the following criteria have been met:
  - (1) Submission of a written application in the form prescribed by the Board.
  - (2) Possession of good moral character.

- (3) Possession at the time of initial licensure as a RC/AL Administrator of all qualifications necessary to have been eligible for licensure at that time in this state.
- (4) Presentment to the Board/Agency of evidence of active engagement in the practice of RC/AL full time for the past two consecutive years. Applicants from a jurisdiction regulated by a licensing authority must present evidence of licensure in good standing as the RC/AL of record fulltime for the past two consecutive years.
- (5) Presentment to the Board/Agency of proof of initial licensure, including active NAB RCAL exam scores and proof that such license is in good standing.
- (6) Presentment to the Board of proof that any other RC/AL license granted to the applicant by any other state has not been suspended, revoked, or otherwise restricted for any reason (except non-renewal or for the failure to obtain the required continuing education credits in any state where the applicant is currently licensed but not engaged in the practice of RC/AL), nor subject to any discipline, however the Board shall have the discretion to assess the magnitude of any such disciplinary action and determine the licensure eligibility of such applicant.
- (7) Successful completion of the state examination (if applicable).
- (8) Payment of the fees specified by the Board.

### **Section 307. Continuing Competence.**

The Board shall, by rule, establish requirements for continuing education in RC/AL, including the determination of acceptable program content. The Board shall adopt rules necessary to carry out the stated objectives and purposes and to enforce the provisions of this Section and the continuing competence of RC/AL.

### **Section 308. Licensure Renewal Requirements.**

- (a) Licensees shall be required to renew their license at the time and in the manner established by the board. Under no circumstances, however, shall the renewal period exceed two years;
- (b) As a requirement for licensure renewal, each licensee shall provide evidence satisfactory to the board that such licensee has completed at least 20 continuing education clock hours of an Approved Program of Continuing Education applicable to the field during the annual renewal period; and

### **Section 309. Requirements for Reinstatement of an Expired License.**

- (a) An RC/AL Administrator who allows a license to expire or lapse due to non-renewal for failure to submit the required continuing education hours or pay the applicable renewal fees shall be treated as having an expired license and shall be ineligible to practice. An expired license may be reinstated, at the discretion of the Board, as follows:
- (1) Reinstatement petitions submitted within 120 days of the expiration date may be reinstated upon substantiation by the applicant of all renewal requirements set forth within this Act, along with the payment of any applicable fees, including a late fee to be determined by the Board;
  - (2) Reinstatement petitions submitted after 120 days after the expiration date but within two (2) years of such expiration date may be reinstated upon substantiation by the applicant of all renewal requirements set forth within this Act, including completion of all continuing education credits required to have been completed during the inactive status period, along with a renewal fee to be determined by the Board;
  - (3) Reinstatement petitions submitted two years or more after the expiration date may be reinstated upon substantiation by the applicant of all eligibility requirements set forth in either Article III Section 302 or Section 306;
  - (4) Under any circumstances, the Board may impose additional reasonable requirements deemed necessary to fulfill its public protection mission;
  - (5) Furthermore, the Board may also consider extenuating circumstances of petitioners who can demonstrate hardship, so long as the Board maintains its public protection mission in considering such petitions.

## **Article IV. Standards of Practice**

### **Section 401. Grounds, Penalties, and Reinstatement.**

- (a) The Board may refuse to issue or renew, or may suspend, revoke, censure, reprimand, restrict or limit the license of or fine any person or facility, whether or not licensed, pursuant to the Administrative Procedures Act or the procedures set forth in Section 402 herein below, upon one or more of the following grounds as determined by the Board:
- (1) Unprofessional conduct as determined by the Board;
  - (2) Practicing outside the scope of practice authorized by this Act;

- (3) Conduct violative of any of the provisions of this Act or rules adopted pursuant to this Act, including the failure to cooperate with the Board in the inspection or investigative process within a reasonable time period;
- (4) Incapacity or impairment, for whatever reason, that prevents a licensee from engaging in the practice of RC/AL with reasonable skill, competence, and safety to the public;
- (5) Conviction of a felony (as defined under state or federal law);
- (6) Any act involving moral turpitude or immorality;
- (7) Violations of the laws, rules and regulations of this state, any other state, or the federal government, pertaining to any aspect of the practice of RC/AL;
- (8) Misrepresentation of a fact by an applicant or licensee;
  - (i) In securing or attempting to secure the issuance or renewal of a license;
  - (ii) In statements regarding the administrator's skills or value of any treatment provided or to be provided or using any false, fraudulent, or deceptive statement connected with the practice of RC/AL including, but not limited to, false or misleading advertising;
- (10) Fraud by a licensee in connection with the practice of RC/AL including engaging in improper or fraudulent billing practices;
- (11) Engaging in, or aiding and abetting any person engaging in the practice of RC/AL without a license, or falsely using the title of RC/AL Administrator or a derivative thereof;
- (13) Failing to conform to accepted minimum standards of practice or failing to maintain an RC/AL facility at accepted minimum standards for facilities;
- (14) Failing to pay the costs assessed in a disciplinary matter or failing to comply with any stipulation or agreement involving probation or settlement of any disciplinary matter with the Board or with any order entered by the Board;
- (14) (i) Conduct which violates the security of any examination materials, including, but not limited to:
  - (a) removing from the examination room any examination materials without authorization;

- (b) the unauthorized reproduction by any means of any portion of the actual examination;
  - (c) aiding by any means the unauthorized reproduction of any portion of the actual examination;
  - (d) paying or using professional or paid examination-takers for the purpose of reconstructing any portion of the examination;
  - (e) obtaining examination questions or other examination material, except by specific authorization either before, during or after an examination;
  - (f) using or purporting to use any examination questions or materials which were improperly removed or taken from any examination; or
  - (g) selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered examination;
- (ii) Communicating with any other examinee during the administration of an examination;
  - (iii) Copying answers from another examinee or permitting one's answers to be copied by another examinee;
  - (iv) Having in one's possession during the administration of the examination any books, equipment, notes, written or printed materials, or data of any kind, other than the examination materials distributed, or otherwise authorized to be in one's possession during the examination; or
  - (v) Impersonating any examinee or having an impersonator take the examination on one's behalf;
- (15) Failure of a licensee or applicant to report to the Board any information as required under Article VI of this Act; and
  - (16) Being the subject of the revocation, suspension, surrender or other disciplinary sanction of a RC/AL Administrator or related license or of other adverse action related to a RC/AL Administrator or related license in another jurisdiction or country including the failure to report such adverse action to the Board.
- (b) The Board may defer action with regard to an impaired licensee who voluntarily signs an agreement, in a form satisfactory to the Board, agreeing not to practice RC/AL and to enter an approved treatment and monitoring program in accordance with rules duly promulgated by the Board, provided that this Section shall not apply to a licensee who has been convicted of, pleads guilty to, or enters a plea of

nolo contendere to a felony or a conviction relating to a controlled substance in a court of law of the United States or any other state, territory, or country or a conviction related to sexual misconduct.

- (c) Subject to an order duly entered by the Board, any person whose license to practice RC/AL in this state has been suspended or restricted pursuant to this Act, whether voluntarily or by action of the Board, shall have the right, at reasonable intervals, to petition the Board for reinstatement of such license. Such petition shall be made in writing and in the form prescribed by the Board. Upon investigation and hearing, the Board may, in its discretion, grant or deny such petition, or it may modify its original finding to reflect any circumstances which have changed sufficiently to warrant such modifications. The Board, also in its discretion, may require such person to pass an examination(s), complete Board imposed Continuing Education requirements, or any other sanctions deemed appropriate by the Board for reentry into the practice of RC/AL.
- (d) The Board may issue a cease and desist order to stop any person from engaging in unauthorized practice or violating or threatening to violate a statute, rule, or order which the Board has issued or is empowered to enforce. The cease and desist order must state the reason for its issuance and give notice of the person's right to request a hearing under applicable procedures as set forth in the Administrative Procedures Act. Nothing herein shall be construed as barring criminal prosecutions for violations of this Act.
- (e) All final decisions by the Board shall be subject to judicial review pursuant to the Administrative Procedures Act.
- (f) Any RC/AL Administrator whose license to practice RC/AL is revoked, suspended, or not renewed shall return such license to the offices of the Board within 10 days after notice of such action.

#### **Section 402. Summary Suspension.**

Notwithstanding any provisions of the state Administrative Procedures Act, the Board may, without a hearing, temporarily suspend a license for not more than 60 days if the Board finds that a RC/AL Administrator has violated a law or rule that the Board is empowered to enforce, and if continued practice by the RC/AL Administrator would create an imminent risk of harm to the public. The suspension shall take effect upon written notice to the RC/AL Administrator specifying the statute or rule violated. At the time it issues the suspension notice, the Board shall schedule a disciplinary hearing to be held under the Administrative Procedures Act within \_\_\_ days thereafter. The RC/AL Administrator shall be provided with at least \_\_\_ days notice effective with the date of issuance of any hearing held under this subsection.

## Article V. Confidentiality

### Section 501. Confidential Communications and Exceptions.

- (a) No RC/AL Administrator shall disclose any information acquired from persons consulting the RC/AL Administrator in a professional capacity, except that which may be voluntarily disclosed under the following circumstances:
- (1) In the course of formally reporting, conferring or consulting with colleagues or consultants who share professional responsibility, in which instance all recipients of such information are similarly bound to regard the communication as privileged;
  - (2) With the consent of the client;
  - (3) In case of death or disability of the client, with the consent of a personal representative or other authorized person;
  - (4) When a communication reveals the commission of, or intended commission of, a crime or harmful act and such disclosure is judged necessary by the RC/AL Administrator to protect any person from a clear, imminent risk of serious mental or physical harm or injury, or to forestall a serious threat to the public safety;
  - (5) When the person waives the privilege by bringing any public charges against the licensee;
  - (6) When, in the RC/AL Administrator's professional judgment, there is reasonable cause to suspect that a person has been or is being abused; or
  - (7) When the person is a minor under the laws of this State and the information acquired by the RC/AL Administrator provides a reason to suspect or indicates that such minor was the victim or subject of a crime, the RC/AL Administrator may be required to testify in any judicial proceedings in which the commission of that crime is the subject of inquiry and when, after an in camera review of the information that the RC/AL Administrator acquired, the court determines that the interests of the minor in having the information held privileged are outweighed by the requirements of justice, the need to protect the public safety or the need to protect the minor.

- (b) Any person having access to records or anyone who participates in providing services or who is supervised by a RC/AL Administrator is similarly bound to regard all information and communications as confidential in accord with the section.

## **Article VI. Mandatory Reporting**

### **Section 601. Permission to Report.**

A person who has knowledge of any conduct by an applicant or a licensee which may constitute grounds for disciplinary action under this Act or the rules of the Board or of any unlicensed practice under this Act, shall report the violation to the Board.

### **Section 602. Professional Societies or Associations.**

A national, state or local professional society or association for licensees shall forward to the Board any complaint received concerning the ethics or conduct of the practice which the Board regulates. The society or association shall forward a complaint to the Board upon receipt of the complaint. The society or association shall also report to the Board any disciplinary action taken against a member.

### **Section 603. Licensees and Applicants.**

- (a) Licensees and applicants shall report to the Board information related to the following conduct by an applicant or a licensee:
  - (1) Failure to make reports as required by this law;
  - (2) Impairment in the ability to practice by reason of illness, use of alcohol, drugs, or other chemicals, or as a result of any mental or physical condition;
  - (3) Improper or fraudulent billing practices;
  - (4) Fraud in the licensure application process, examination process, or any other false statements made to the board;
  - (5) Conviction of any felony or any crime reasonably related to the practice of RC/AL Administrator; and
  - (6) A violation of any board order.
- (b) Licensees and applicants shall also report to the Board information on any other conduct by an applicant or a licensee that constitutes grounds for disciplinary action under this Act or the rules of the Board.

- (c) Failure of a licensee or applicant to report to the Board any information as required in subsection (a) or (b) above shall constitute grounds for discipline by the Board.

**Section 604. Reporting Other Licensed Professionals.**

A licensee or applicant shall report to the applicable board conduct by a licensed health professional which would constitute grounds for disciplinary action under the chapter governing the practice of the other licensed health professional and which is required by law to be reported to the applicable board.

**Section 605. Courts.**

The court administrator of the district court or any other court of competent jurisdiction shall report to the board any judgment or other determination of the court that adjudges or finds that an applicant or a licensee is mentally ill, mentally incompetent, guilty of a felony, guilty of a violation of federal or state narcotics laws or controlled substances act, or guilty of any crime reasonably related to the practice of RC/AL, or that appoints a guardian of the applicant or licensee or commits an applicant or licensee pursuant to applicable law.

**Section 606. Self-Reporting.**

An applicant or licensee shall report to the Board any personal action that would require that a report be filed pursuant to this Act.

**Section 607. Deadlines, Forms.**

Reports required by this Act must be submitted not later than 30 days after the occurrence of the reportable event or transaction. The Board may provide forms for the submission of reports required by this section, may require that reports be submitted on the forms provided, and may adopt rules necessary to assure prompt and accurate reporting.

**Section 608. Immunity.**

Any person is immune from liability or prosecution for submitting in good faith a report under Article VII or for otherwise reporting, providing information, or testifying about violations or alleged violations of this chapter. The identity of any person that submits a report shall be confidential.

## **Article VII. Other**

**Section 701. Severability.**

If any provision of this Act is declared unconstitutional or illegal, or the applicability of this Act to any person or circumstance is held invalid by a court of competent jurisdiction, the constitutionality or legality of the remaining provisions of this Act and the application of this Act to other persons and circumstances shall not be affected and shall remain in full force and effect without the invalid provision or application.

**Section 702: Grandparent Provision**

Applicants for licensure as a RCAL administrator who complete an application prior to (date specific) are not required to meet the education, exam or experience requirements in this section, provided they show evidence of active fulltime employment in the practice of RC/AL of at least ~~six months~~ one year within the three year period prior to the implementation date with evidence of the successful completion of the NAB examination. This provision expires one year after enactment.

**Section 703. Effective Date.**

This Act shall be in full force and effect on \_\_\_\_\_(insert date).