



Virginia
Regulatory
Town Hall

Final Regulation Agency Background Document

Agency Name:	Board of Nursing Home Administrators, Department of Health Professions
VAC Chapter Number:	18 VAC 95-20-10 et seq.
Regulation Title:	Regulations Governing the Practice of Nursing Home Administrators
Action Title:	Periodic review
Date:	

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.

The board has adopted amendments to its regulations for the licensure of nursing home administrators to allow additional hours of credit in an administrator in training program for persons with certain educational or professional credentials. Amendments will also clarify certain sections, will enable a licensee to obtain 5 of the required 20 hours of continuing education through the internet or by self-study and will enable a trainee to work in a practicum or administrator-in-training program outside of Virginia in a licensed nursing care facility under the supervision of a nursing home administrator licensed in that jurisdiction.

Changes Made Since the Proposed Stage

Please detail any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication. Please provide citations of the sections of the proposed regulation that have been altered since the proposed stage and a statement of the purpose of each change.

The Board amended sections 10 (Definitions), 175 (Continuing education requirements) and 200 (Reinstatement) to permit up to 5 of the required 20 hours to be obtained through internet or self-study courses. Editorial amendments consistent with that change were also adopted.

In section 310 B 3 (Administrator-in-training), the Board specified that, in order to receive credit in an AIT program, a registered nurse must have four years in an administrative-level supervisory position within the past five consecutive years. The proposed regulation required four years of supervisory experience but did not require that such experience be within the past five years.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

On April 9, 2003, the Board of Nursing Home Administrators adopted final amendments to 18 VAC 95-20-10 et seq., Regulations Governing the Practice of Nursing Home Administrators.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law

Chapter 24 of Title 54.1 of the Code of Virginia establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations, levy fees, administer a licensure and renewal program, and discipline regulated professionals.

§ 54.1-2400. General powers and duties of health regulatory boards.--The general powers and duties of health regulatory boards shall be:

1. *To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
2. *To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
3. *To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
4. *To establish schedules for renewals of registration, certification and licensure.*
5. *To levy and collect fees for application processing, examination, registration, certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*
6. *To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 and Chapter 25 of this title.*
7. *To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate or license which such board has authority to issue for causes enumerated in applicable law and regulations.*
8. *To appoint designees from their membership or immediate staff to coordinate with the Intervention Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.) of this title. Each health regulatory board shall appoint one such designee.*
9. *To take appropriate disciplinary action for violations of applicable law and regulations.*
10. *To appoint a special conference committee, composed of not less than two members of a health regulatory board, to act in accordance with § 9-6.14:11 upon receipt of information that a practitioner of the appropriate board may be subject to disciplinary action. The special conference committee may (i) exonerate the practitioner; (ii) reinstate the practitioner; (iii) place the practitioner on probation with such terms as it may deem appropriate; (iv) reprimand the practitioner; (v) modify a previous order; and (vi) impose a monetary penalty pursuant to § 54.1-2401. The order of the special conference committee shall become final thirty days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the thirty-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 9-6.14:12, and the action of the committee shall be vacated. This subdivision shall not be construed to affect the authority or procedures of the Boards of Medicine and Nursing pursuant to §§ 54.1-2919 and 54.1-3010.*

11. *To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 9-6.14:12, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 9-6.14:11 shall serve on a panel conducting formal proceedings pursuant to § 9-6.14:12 to consider the same matter.*
12. *To issue inactive licenses and certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of such licenses or certificates.*

The statutory authority for licensure and regulation of nursing home administrators is found in Chapter 31 of Title 54.1 of the Code of Virginia:

<http://leg1.state.va.us/000/lst/h3903040.HTM>

The Office of the Attorney General has certified by letter that the Board has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the amended regulation is to revise certain prerequisites for licensure that may be unnecessarily restrictive and adopt requirements that are reasonable and essential to protect the public health, safety and welfare. The intent of the changes is to eliminate barriers to licensure that may discourage a student or person working in another field from considering a career as a nursing home administrator. Therefore, amendments will allow an applicant to receive credit for certain educational or health care related credentials toward the requirements of an administrator-in-training program and will allow an applicant to receive credit for training in another jurisdiction under a preceptor registered by that state. At the same time, the Board has recognized its responsibility to license only those individuals that have sufficient knowledge and competency to safely and legally administer a long-term care facility with its population of extremely vulnerable and fragile persons.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action's detail.

Substantive changes to the existing sections of the regulations include: recognition of training and preceptor in other states; a limitation on the number of continuing education hours required for reinstatement; a reduction in the internship for the degree program; additional hours of credit in an AIT for education or work as a supervising nurse in a nursing home; specification about the responsibilities of a preceptor while eliminating the requirement for direct supervision.

Issues

Please provide a statement identifying the issues associated with the final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The primary advantage to the public of implementing the amended regulations is the elimination of barriers to licensure that might discourage some persons from seeking licensure as nursing home administrators. At a time when the number of persons in need of long-term care is increasing, the number of licensed nursing home administrators has decreased – from approximately 750 in 1998 to 708 in 2002. Amendments are intended to reduce the amount of time applicants, who may be changing careers or completing their education in another field, must spend receiving training prior to being licensed as a nursing home administrator. The Board will also be able to recognize preceptors licensed as administrators in other jurisdictions and to give credit for time spent in training in those facilities, which will encourage mobility from other states into Virginia. By making the training requirements less restrictive, the Board intends to make the profession more attractive to persons who have educational and experiential qualifications.

There are no disadvantages to the public as all amendments are intended to provide the training and education necessary to ensure that administrators are knowledgeable and experienced in the care and treatment of a frail and/or elderly population. Therefore, all training, whether in an internship as a part of a degree or certificate program or in an AIT program must take place in a licensed nursing home. Experience as a hospital administrator or director of nursing is valuable for basic knowledge of health care and administration but is lacking in the essential knowledge of laws and regulations governing the nursing home industry and the challenges of the nursing home population. Therefore, amendments specify experience in a nursing home prior to licensure.

There are no disadvantages to the agency; the amended regulation does not impose a new responsibility on the Board and does not involve additional cost or staff time. There may be an advantage to the Commonwealth if the amended regulations have the intended result of encouraging more persons to seek licensure. An increase in the number of licensees would help reduce the deficit in the Board's budget, but more importantly, would ensure that nursing homes have an available supply of administrators in the future.

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

Proposed regulations were published in the Virginia Register of Regulations on December 2, 2002. Public comment was requested for a 60-day period ending January 31, 2003.

A public hearing was held before the Board of Nursing Home Administrators at the Department of Health Professions in Richmond on January 15, 2003. No comment was presented at that time nor was any written or electronically submitted comment received.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.

18 VAC 95-20-10. Definitions.

The Board has adopted amendments to: 1) define an “internship” as the term more commonly used in the education and training of nursing home administrators and eliminate the use of the term “practicum”; 2) clarify that the national examination is the test offered by the National Association of Examiners for Long Term Care Administrators or any other test approved by the board to determine competency; 3) delete the definition of “classroom hour” and add a definition of “hour” to allow for CE courses by internet or self-study; 4) modify the definition of “preceptor” in order to allow the Board to recognize preceptors licensed in other states; and 5) amend the definition of state examination so it is clear that an applicant is to be tested only on the laws and regulations governing nursing home administration.

18 VAC 95-20-175. Continuing education requirements.

An amendment will allow up to 5 of the required 20 hours of continuing education to be through internet or self-study courses; other language is amended to allow for participation in continuing education in addition to “attendance.” Another amendment will specify a period of three years for maintenance of CE documentation; the current regulation implies that records must be kept indefinitely. There are also amendments to make the type of documentation required less burdensome and more consistent with what CE providers actually give to participants.

18VAC 95-20-200. Reinstatement for nursing home administrator license or preceptor registration.

An amendment is proposed to set a limit on the amount of continuing education a licensee would need to have to reinstate a license for a total of 20 hours per year for each year the license was lapsed or a total of 60 hours.

18 VAC 95-20-220. Qualifications for initial licensure.

Amendments are adopted to: 1) reduce the internship requirement for someone with a degree in health care or long term care administration from 400 hours to 320 hours; 2) allow credit for courses in health care administration for the certificate program; and 3) permit someone to use a preceptor in another state registered with the licensing board of that jurisdiction.

18 VAC 95-20-230. Application package. & 18 VAC 95-20-290. Examination requirements.

The Board recommends amendments for consistency with the current computerized administration of the exam. The requirements and deadlines in section 290 are no longer necessary, so it is being repealed. Subsection C of 290 is moved to section 230 to retain a rule stating the application for licensure shall be submitted after the applicant completes the qualifications for licensure.

18 VAC 95-20-300. Administrator-in-training qualifications.

Amendments that would permit someone to use a preceptor in another state registered with the licensing board of that jurisdiction and that would clarify the additional documentation that may be necessary to determine eligibility are proposed.

18 VAC 95-20-310. Required hours of training.

Amendments to the 2,000-hour administrator-in-training program (AIT) will: a) give 1,000 hours of credit in an AIT program to an applicant who is a registered nurse with supervisory experience in a training facility; b) allow a person with a degree in health care administration or comparable field to be licensed after completion of a 320-hour internship; c) give 1,000 hours of credit to an applicant with a master's degree in an unrelated field; d) give 500 hours of credit to an applicant with a bachelor's degree in an unrelated field; and e) require training in the night shift in addition to other times of the day.

18 VAC 95-20-330. Training facilities.

Amendments are adopted to: 1) permit training in a licensed nursing facility in another state, provided the requirements for licensure and the AIT program are comparable to those in Virginia; 2) clarify that institutions are "operated by" rather than licensed by MHMRSAS; and 3) clarify the definition of a licensed hospital operating a certified nursing home unit.

18 VAC 95-20-340. Supervision of trainees.

The Board is eliminating the requirement for "direct supervision" as that implies that the preceptor is physically present in the facility at all times and that is not practical or necessary for

an administrator-in-training to be properly trained and supervised. To ensure that preceptors and trainees understand the responsibilities of the preceptor during training in a licensed facility, the Board proposes to add subsection C specifies the duties and responsibilities of the preceptor. In addition, an amendment will permit the acceptance of hours in an AIT obtained in another jurisdiction under a preceptor registered or recognized by a licensing board.

18 VAC 95-20-380. Qualifications of preceptors.

Amendments are proposed that would permit more nursing home administrators to serve as preceptors. Current regulations require that a preceptor be employed full-time at the training facility for 2 out of 3 years immediately preceding the preceptorship. Amended regulations will permit an administrator to serve as a preceptor provided he is already registered with the board and served as a full-time administrator 2 out of 3 years prior to registration.

18 VAC 95-20-390. Training plan.

For greater clarity, the Board has incorporated by reference the current Domains of Practice approved by the National Association of Boards of Examiners for Long Term Care Administrators and specified that an AIT program must include training in each of the learning areas in the Domains.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

In its preliminary analysis of the proposed regulatory action, the agency has determined that there is no potential impact on the institution of the family and family stability and no effect on family income.