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## Periodic Review and Small Business Impact Review Report of Findings

<b>Agency name</b>	State Board of Social Services
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	22VAC40-73
<b>VAC Chapter title(s)</b>	Standards for Licensed Assisted Living Facilities
<b>Date this document prepared</b>	June 15, 2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the **Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code**.

## Acronyms and Definitions

*Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

ALF Assisted Living Facilities  
VDSS Virginia Department of Social Services

## Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

The State Board of Social Services has the legal authority to adopt regulations and requirements for licensed assisted living facilities in accordance with §§ 63.2-217, 63.2-217.1, and 63.2-1732 of the *Code of Virginia*. The *Code of Virginia* mandates promulgation of regulations for the activities, services and

facilities to be employed by persons and agencies required to be licensed which shall be designed to ensure that such activities, services and facilities are conducive to the well-being of aged, infirm or disabled adults residing in an ALF and regulate emergency response plans for ALF.

**Alternatives to Regulation**

*Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.*

There are no alternatives for achieving the purpose of the regulation, which is promulgated to protect the health, safety and welfare of infirm or disabled adults residing in an ALF.

**Public Comment**

*Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

Commenter	Comment	Agency response
Marcus Squires	<p>An amendment to section 22VAC40-73-130. Reports of abuse, neglect, or exploitation.</p> <p>Hello, my name is Marcus Omar Squires a resident of Petersburg, Virginia where many licensed assisted care facilities are located. One facility in Petersburg has many residents who do not know what rights they have, and are being abused, but they do not know what to do and are afraid of retaliation if they do speak up. Over the summer of 2020 the residents did not have AC, adequate food, or even lighting. When I reported this issue to the state, their response was that the state relies on the faith and good will of the building administrator.</p> <p>I would propose an amendment to section 22VAC40-73-130. Reports of abuse, neglect, or exploitation.</p> <p>C. A facility will lose their license if found to retaliate against residents who report abuse, neglect, or exploitation.</p> <p>D. Require a telephone in each facility to allow residents to report abuse, neglect, or exploitation.</p>	<p>The Code of Virginia prohibits retaliation against complainants in § 63.2-1730.</p>

	<p>E. Require tri-annually unannounced welfare checks to facilities with more than 15 residents where buildings are inspected and residents can report issues to an agent.</p> <p>I believe that these amendments would aid in keeping facilities up to par and allowing disenfranchised residents to maintain their quality of life in these facilities.</p>	<p>The regulations require that residents have reasonable access to a non-pay telephone and privacy for use (22VAC40-73-810).</p> <p>Inspection and interview requirements are set forth in the Code of Virginia, § 63.2-1706, and cannot be changed in the regulation.</p>
<p>Michelle Murrills</p>	<p>Amend Section 22VAC40-73-130. Reports of abuse, neglect, or exploitation</p> <p>I, too, would propose an amendment to section 22VAC40-73-130. Reports of abuse, neglect, or exploitation.</p> <p>C. A facility will lose their license if found to retaliate against residents who report abuse, neglect, or exploitation.</p> <p>D. Require a telephone in each facility to allow residents to report abuse, neglect, or exploitation.</p> <p>E. Require tri-annually unannounced welfare checks to facilities with more than 15 residents where buildings are inspected, and residents can report issues to an agent.</p> <p>I also believe that these amendments would aid in keeping facilities up to par and allowing disenfranchised residents to maintain their quality of life in these facilities as I agree that the conditions in Petersburg justify this.</p>	<p>The Code of Virginia prohibits retaliation against complainants in § 63.2-1730.</p> <p>The regulations require that residents have reasonable access to a non-pay telephone and privacy for use (22VAC40-73-810).</p> <p>Inspection and interview requirements are set forth in the Code of Virginia, § 63.2-1706, and cannot be changed in the regulation.</p>
<p>Judy Hackler, Virginia Assisted Living Association</p>	<p>The Virginia Assisted Living Association (VALA) represents nearly 200 licensed assisted living communities throughout Virginia of varying sizes with capacities ranging from 6 residents to several hundred. We welcome the opportunity to work with the State Board of Social Services (SBSS) and the Virginia Department of Social Services (VDSS) to amend the Standards for Licensed Assisted Living Facilities (Standards) as they have become overreaching in some areas and too descriptive of business operations that are not necessary for the protection of public health, safety, and welfare or for the economical performance of important</p>	<p>Thank you. DSS will consider these suggestions in upcoming regulation revisions. DSS plans to convene a regulatory advisory panel to gather stakeholder feedback.</p>

	<p>governmental functions. The abundance of unnecessary regulations has also become very expensive to comply with for an industry that receives very little, if any, financial relief from the Commonwealth, as there is no Medicaid Waiver for assisted living, and the Auxiliary Grant is severely underfunded resulting in a decreasing number of participating assisted living facilities. The current Standards are also not clearly written which unfortunately results in varying interpretations and enforcement actions and decisions across the Commonwealth. We request the SBSS to convene a workgroup of stakeholders to thoroughly review the Standards along with comments submitted during the public comment period and to seek additional comments on Standards that are potentially unnecessary. Reducing the unnecessary requirements will provide for more flexibility in operations of assisted living providers resulting in more freedom of choice for residents, reduction of financial outlay in a financially struggling industry due to the COVID-19 pandemic, and a more streamlined workforce requirement on the VDSS licensing inspectors for inspecting only those standards that are necessary. Listed below are some, not all, of the sections of the Standards that we have identified as unnecessary, that infringe upon the rights of residents in freedom of choice, or that are not clearly written. We look forward in working with the SBSS and VDSS on these and other sections of the Standards to improve.</p> <p>22VAC40-73-10. Definitions - "Resident" means any adult residing in an assisted living facility for the purpose of receiving maintenance or care. The definition of resident also includes adults residing in an assisted living facility who have independent living status.</p> <ul style="list-style-type: none"> <li>• This is one example where the actual definition may cause conflict in the standards for residents with independent living status and the completion of ISPs. 22VAC40-73-450 states, "An individualized service plan is not required for those residents who are assessed as capable of maintaining themselves in an independent living status." An example of potential conflict where ISPs are</li> </ul>	
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	<p>required to be updated with specific information for “residents” but are not needed for IL residents is found in 22VAC40-73-220 A 2 Private duty personnel.</p> <p>22VAC40-73-70. Incident Reports - Each facility shall report to the regional licensing office within 24 hours any major incident that has negatively affected or that threatens the life, health, safety, or welfare of any resident.</p> <ul style="list-style-type: none"> <li>• Over the years, we have received numerous concerns from ALFs about the varying interpretations of licensing inspectors on what is a “major incident.” The previous Standards were accompanied with Technical Assistance to clearly identify major incidents, which was helpful to ALFs.</li> </ul> <p>22VAC40-73-380. Resident personal and social information. A. 5. Birthplace, if known;</p> <ul style="list-style-type: none"> <li>• This information is not necessary for the protection of public health, safety, and welfare of the resident.</li> </ul> <p>22VAC40-73-390. Resident agreement with facility. A. 4. F. The resident or his legal representative or responsible individual as stipulated in 22VAC40-73-550 H has reviewed and had explained to him the facility's policies and procedures for implementing § 63.2-1808 of the Code of Virginia;</p> <ul style="list-style-type: none"> <li>• This is duplicative of 22VAC40-73-390.A.4.E and §63.2-1808.20.D and is unnecessary to be included in the Standards.</li> </ul> <p>22VAC40-73-530. Freedom of movement. C. The facility shall provide freedom of movement for the residents to common areas and to their personal spaces.</p> <ul style="list-style-type: none"> <li>• This requirement was restricted by the Commonwealth during the COVID-19 pandemic.</li> </ul> <p>22VAC40-73-540. Visiting in the facility.</p> <ul style="list-style-type: none"> <li>• This requirement was restricted by the Commonwealth during the COVID-19 pandemic.</li> </ul>	
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	<p>22VAC40-73-550. Resident rights. D. The operator or administrator of an assisted living facility shall establish written policies and procedures for implementing §63.2-1808 of the Code of Virginia.</p> <ul style="list-style-type: none"> <li>• This is duplicative of 22VAC40-73-390.A.4.E and §63.2-1808.20.D and is unnecessary to be included in the Standards.</li> </ul> <p>22VAC40-73-550. Resident rights. F. The rights and responsibilities of residents shall be printed in at least 14- point type and posted conspicuously.</p> <ul style="list-style-type: none"> <li>• This conflicts with §63.2-1808. A. 20. C. The rights and responsibilities of the residents shall be printed in at least 12-point type...</li> </ul> <p>22VAC40-73-580. Food service and nutrition. B. 3. When meals are served in a resident’s room, a sturdy table must be used.</p> <ul style="list-style-type: none"> <li>• This potentially infringes on the resident’s right to choose how to eat their meals. The language could be amended to require the staff to place the food service on a sturdy, flat surface.</li> </ul> <p>22VAC40-73-580. Food service and nutrition. G. Residents with independent living status who have kitchens equipped with stove, refrigerator, and sink within their individual apartments may have the option of obtaining meals from the facility or from another source.</p> <ul style="list-style-type: none"> <li>• This should also be an option for residents with independent living status that may not have kitchens equipped with stove, refrigerator, and sink.</li> </ul> <p>22VAC40-73-590. Number of meals and availability of snacks. B. Snacks shall be made available at all times...</p> <ul style="list-style-type: none"> <li>• We recommend amending the language to, “Snacks shall be available upon request at all times...”</li> </ul> <p>22VAC40-73-750. Resident Rooms. B. Bedrooms shall contain the following items...</p> <ul style="list-style-type: none"> <li>• We have received comments from providers about licensing requiring vacant bedrooms to be furnished. Maybe an appropriate amendment</li> </ul>	
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	<p>would be, “Occupied bedrooms shall contain the following items...”</p> <p>22VAC40-73-760. Living room or multipurpose room. A. Sitting rooms or recreation areas or both shall be equipped with:</p> <ul style="list-style-type: none"> <li>• Clarification should be made that this section refers to common areas.</li> </ul> <p>22VAC40-73-870. Maintenance of buildings and grounds.</p> <ul style="list-style-type: none"> <li>• Absolute terminology should not be used in the Standards in this section, as buildings and grounds will wear over time. Language should be in the Standards in a manner to require upkeep, but not to require every upkeep need to be resolved immediately. Terminology could be used such as below:             <ul style="list-style-type: none"> <li>o “The facility will routinely evaluate the building and grounds for repair and cleaning needs and implement procedures to attend to the identified needs. Documentation of the identified needs and resolution will be maintained in facility logs.”</li> </ul> </li> </ul> <p>22VAC40-73-940. Fire safety. Compliance with state regulations and local fire ordinances.</p> <ul style="list-style-type: none"> <li>• During the COVID-19 pandemic, VDSS licensing inspectors did not conduct all licensing inspections in person, and neither did the fire officials. ALFs should not be cited for the refusal of government officials to visit the building during extenuating circumstances, such as the COVID-19 pandemic.</li> </ul> <p>22VAC40-73-1130. Staffing</p> <ul style="list-style-type: none"> <li>• A workforce shortage that existed prior to the COVID-19 pandemic has been exacerbated over the last couple of years. The requirement of, “for every additional 10 residents, or portion thereof” continues to strain the ability of ALFs to care for residents by significantly limiting the number of available beds in an industry with limited number of available individuals willing and able to work. The requirement should be based on the actual needs of the residents instead of a count of individuals.</li> </ul>	<p>The staffing requirements referenced are determined by the Virginia General Assembly (Chapter 97 of the Virginia Acts of Assembly, 2019) and cannot be changed in this regulation.</p>
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	<p>Please note that there are other sections within the Standards that ALFs have expressed concerns or that we have identified as unnecessary or as creating substantial financial strain on small businesses.</p>	
<p>Anonymous</p>	<p>Amend regulations for residential care only</p> <p>The Gilmore administration put in law that the department of social services must take into consideration the cost impact their regulations will have on small business. Throughout their report they consistently put there will be no impact; but today we are clearly feeling the affect because 1) small business (AG) Auxiliary Grant facility doors are increasingly closing 2) the auxiliary grant amount is way below market prices \$53 a day per person. The cost of the ag is not sufficient to ensure compliance with DSS standards (jlarc 2006,p 33).</p> <p>The following regulations have negatively impacted residential only licensed facilities and created our facilities to become pseudo nursing homes without any funding to match their mandates.</p> <p>Even the department of social service define Assisted living Facilities as non-medical setting and as residential only facilities we should be exempt from the following regulations and requirement should be amended.</p> <p>Residential only facilities should only be required to take the 32-hour medication course and 4-hour annual training. (This will create an increase in a staff workforce, the same training that is required for the mental health should be enough to meet the safety and welfare concerns since we serve their population, and those facilities that accept individuals needing more assistance can have experience an increase workforce of registered medication aide.</p> <p>Having to hire dieticians, doctors, and consultants to do oversites should be promulgated to those facilities that cater to clients with more intensive</p>	<p>Thank you for submitting comments.</p> <p>The Virginia Department for Aging and Rehabilitative Services implements the Auxiliary Grant program, which is also included in the Code of Virginia.</p> <p>The requirements for residential care and medication aides are directed by the Code of Virginia and cannot be changed in regulations.</p>



	and assistance. Residential care facilities should be exempt for we are not nursing homes or medical facilities. Therefore, it should be amended to exclude residential only facilities; unless funding is for provided for these extra services that did not consider the Below Pay of the (AG).	
Michele Hamilton	<p>22VAC40-73-10. Definitions</p> <p>22VAC40-73-10. Definitions - "Resident" means any adult residing in an assisted living facility for the purpose of receiving maintenance or care. The definition of resident also includes adults residing in an assisted living facility who have independent living status.</p> <ul style="list-style-type: none"> <li>• This is one example where the actual definition may cause conflict in the standards for residents with independent living status and the completion of ISPs. 22VAC40-73-450 states, "An individualized service plan is not required for those residents who are assessed as capable of maintaining themselves in an independent living status." An example of potential conflict where ISPs are required to be updated with specific information for "residents" but are not needed for IL residents is found in 22VAC40-73-220 A 2 Private duty personnel.</li> </ul>	DSS will consider these suggestions in upcoming regulation revisions.
Michele Hamilton	<p>22VAC40-73-380. Resident personal and social information. A. 5. Birthplace, if known;</p> <ul style="list-style-type: none"> <li>• This information is not necessary for the protection of public health, safety, and welfare of the resident.</li> </ul>	Thank you for submitting this suggestion for consideration. DSS will consider this in upcoming regulation revisions.
Anonymous	<p>22VAC40-73-390. Resident agreement with facility. A. 4. F. The resident or his legal representative or responsible individual as stipulated in 22VAC40-73-550 H has reviewed and had explained to him the facility's policies and procedures for implementing § 63.2-1808 of the Code of Virginia;</p> <ul style="list-style-type: none"> <li>• This is duplicative of 22VAC40-73-390.A.4.E and §63.2-1808.20.D and is unnecessary to be included in the Standards.</li> </ul>	DSS will consider this comment as part of upcoming regulation revisions.
Michele Hamilton	22VAC40-73-530. Freedom of movement. C. The facility shall provide freedom of movement for the	Thank you for submitting this comment.

	<p>residents to common areas and to their personal spaces.</p> <ul style="list-style-type: none"> <li>• This requirement was restricted by the Commonwealth during the COVID-19 pandemic.</li> </ul>	
Anonymous	<p>22VAC40-73-750. Resident Rooms. B. Bedrooms shall contain the following items...</p> <ul style="list-style-type: none"> <li>• We have received comments from providers about licensing requiring vacant bedrooms to be furnished.</li> </ul> <p>Maybe an appropriate amendment would be, "Occupied bedrooms shall contain the following items..."</p>	<p>DSS appreciates the suggestion. Thank you.</p>
Anonymous	<p>22VAC40-73-940. Fire safety. Compliance with state regulations and local fire ordinances.</p> <ul style="list-style-type: none"> <li>• During the COVID-19 pandemic, VDSS licensing inspectors did not conduct all licensing inspections in person, and neither did the fire officials. ALFs should not be cited for the refusal of government officials to visit the building during extenuating circumstances, such as the COVID-19 pandemic.</li> </ul>	<p>Thank you for submitting this comment.</p>
Michele Hamilton	<p>22VAC40-73-1130. Staffing</p> <ul style="list-style-type: none"> <li>• A workforce shortage that existed prior to the COVID-19 pandemic has been exacerbated over the last couple of years. The requirement of, "for every additional 10 residents, or portion thereof" continues to strain the ability of ALFs to care for residents by significantly limiting the number of available beds in an industry with limited number of available individuals willing and able to work. The requirement should be based on the actual needs of the residents instead of a count of individuals.</li> </ul>	<p>Staffing requirements are in the Code of Virginia and cannot be changed in regulations.</p>
Kim Hurt	<p>Executive Director Licensure: Regulations regarding ED's: Pathway to licensure should be less restrictive. I would suggest 320 hours for someone with an associate or bachelors in health care. 480 for LPN's. (Due to financial training required) 640 hours for all others. I would suggest this be the pathway for an individual that has worked in the industry and has a pathway to licensure with experience, no college required.</p> <p>RMA Training:</p>	<p>Thank you for submitting these comments.</p> <p>Requirements for Long-Term Care Administrators and medication aides are addressed in the Code of Virginia, and cannot be changed in these regulations.</p>

	<p>RMA's I would suggest to allow classroom via Zoom indefinitely and allow clinicals be done in an AL/MC with a nurse that checks the students off, not needing to be associated with a program. The nurse can submit a report to the instructor.</p> <p>DCS should also be allowed via Zoom indefinitely and practical's be signed off by a nurse on site.</p>	
<p>Lynwood Russell, The Independent Home Owners</p>	<p>22VAC40-73, Standards for Licensed Assisted Living Facilities</p> <p>The Assisted Living Standards and Regulations listed below are killing smart business owners. They are burdensome and present unnecessary barriers and obstacles to compliance. At least 90% the facilities receiving auxiliary grant funding provide residential living level of care. The individuals residing in our homes tend to be seriously mentally ill often with dual diagnoses or have intellectual limitations sometimes both. Behavioral Health has abdicated their responsibility to these individuals. Once our target population was the elderly this is no longer the case. We have moved from a social model to a medical model. Residential living is still operating at the social model level and Assisted living at the medical care model. However, there is minor difference in the standard requirements. Assisted living care serves individuals with complex medical needs, cognitive deficits, hospice, oxygen therapy, wound care. They employ nurses, doctors, therapists etc. One size does not fit all. All levels of care are grouped together in a mixing bowl situation. There should be separate standards for the various levels of care.</p> <p>Currently, due to fall out from the recent pandemic we are still operating in a crisis mode. The leniency afforded us during the state of emergency is lifted but we are still experiencing challenges attracting and retaining qualified workers which impacts staffing. Unlike our private pay counterparts, we are not able to use staffing agencies due to the prohibitive cost. Most owners are working shifts due to the lack of staffing. In the central region alone, we have lost approximately 768 beds.</p>	<p>Thank you for submitting these comments.</p> <p>The Virginia Department for Aging and Rehabilitative Services implements the Auxiliary Grant program, which is also included in the Code of Virginia.</p>

	<p>2. When the department meets with providers, publicly paid providers, and minority small business owners are not included. We have been excluded from the current mental health task force. Yet, that is the population served by us not the private pay facilities. Instead, we receive emails. We do not feel our input is valued. Decisions are made based on the input from the facilities with lobbyist or large corporations. The Department no longer provides technical assistance to licensees. We want the department’s interpretation not the licensing inspectors. We want to be assured that everyone is receiving the same response. The federal government requires the department provide technical assistance to licensees. This needs to be reinstated. Now the emphasis is strictly on enforcement, not collaboration. Funding is low and enforcement is high with no money. Governor Gilmore and Eric Canter stated that any regulation promulgated should take into consideration the cost to the provider by way of a Cost Impact Analysis Report. This no longer is the case. The assisted living standards are considered to be minimal, but the Department's expectations are not.</p> <p>670.1.b Qualifications and supervision of staff administering medications. Be registered with the Virginia Board of Nursing as a medication aide...</p> <p>Behavioral Health staff working in group homes and other mental health settings can administer medication with the 32-hour medication administration course. ALF staff are serving the same population at the residential level of care and required to take the 68-hour course and become registered with the Virginia Board of Nursing. We recommend that if 80% of the population in a residential facility has a diagnosed mental illness they should be held to the same standard as behavioral health staff. This will not impact the health, welfare, and safety of the residents.</p> <p>3. 650.E Physician's or other prescriber's order.</p>	<p>Medication aide requirements are addressed in the Code of Virginia, and cannot be changed in these regulations.</p>
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	<p>The resident record shall contain the physician's or other prescriber's signed written order or a dated notation of the physician's or other prescriber's oral order. Orders shall be organized chronologically in the resident's record. Physician's orders are sent electronically to the pharmacy and are attached to the resident's MAR's and sent to the facility monthly. The date of the order is on the side of the MAR. The doctor and the pharmacist manage these orders. Currently, we are asked that orders generated by the pharmacy are signed monthly. The prescription could not be filled if there was not an order. This is an unnecessary regulation. But, if the monthly order isn't signed, we get a violation.</p> <p>1.40.D Administrator Qualification For a facility licensed only for residential living care that does not employ an administrator licensed by the Virginia Board of Long-Term Care Administrators, the administrator shall:</p> <p>2. ii. Have successfully completed a course of study approved by the department that is specific to the administration of an assisted living facility. We are unaware of any available training for residential providers specific to the administration of an assisted living facility. We strongly recommend that the department provide this training free of cost. Training has been offered periodically by outside vendors, but the cost has been exorbitant. This presents a barrier and hardship to potential applicants wanting to become licensed and current providers seeking to fill vacancies. This standard is too restrictive for facilities that are adult care residences providing Board and Care.</p> <p>4. During these difficult times the department should allow facilities to receive temporary variances to address staffing and other standards that are difficult to comply.</p>	<p>The requirements for residential care, staffing, long-term care administrators and medication aides are directed by the Code of Virginia and cannot be changed in regulations.</p> <p>The conditions and process for allowable variances are located in General Procedures and Information for Licensure, 22VAC40-80 Part V.</p>
Michele Hamilton	22VAC40-73-150. Administrator provisions and responsibilities.	Requirements for Long-Term Care Administrators are

	<p>The regulatory requirement for an administrator be designated immediately upon the departure of a licensed administrator from a licensed facility is burdensome to providers/operators. The number of licensed administrators in the state of Virginia versus the numbers of licensed facilities is in a deficit. The training requirements, time to train and test is burdensome for interim administrators. Smaller companies find it difficult to appoint interim administrators and meet the burdensome regulations.</p> <p>9. No assisted living facility shall operate under the supervision of an acting administrator pursuant to §§ 54.1-3103.1 and 63.2-1803 of the Code of Virginia more than two times during any two-year period unless authorized to do so by the department.</p>	<p>addressed in the Code of Virginia, and cannot be changed in these regulations.</p>
<p>Michele Hamilton</p>	<p>18VAC90-26-50(C)(3)</p> <p>For nurse aide education, there are currently no waivers in place for clinical sites. Pursuant to 18VAC90-26-50(C)(3), Clinical training in clinical settings shall be at least 40 hours of providing direct client care. Five of the clinical hours may be in a setting other than a geriatric long-term care facility. Hours of observation shall not be included in the required 40 hours of skills training. 35 of the mandated 40 hours of live client clinical shall be performed in a Virginia Department of Health regulated long-term care facility.</p> <p>The executive orders that permitted clinicals for the CNA program in ALF's expired last year (2021). Five hours may be performed outside of a LTC facility. Being that it isn't a full 8 hr shift allowed, if doesn't make sense to switch students clinical rotations for 5 hours. We can do clinicals for Medication Aide in ALF's just not CNA.</p> <p>The new executive orders do not specifically permit training programs or allowing clinicals for students to be held in ALF's. The order appears to lessen employment restrictions; i.e. how many people a licensed EMT, Pharmacist, etc. may supervise.</p>	<p>Medication aide requirements are addressed in the Code of Virginia, and cannot be changed in these regulations.</p>

	<p>We need to have regulations to allow for a variety of clinical training in different settings rather than limiting and restricting the workforce training.</p>	
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**Effectiveness**

*Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.*

The regulation meets the criteria set forth in Executive Order 14 (as amended July 16, 2018) and is necessary because it provides minimum requirements for the protection of health, safety, and welfare of infirm or disabled adults residing in an ALF. The regulation is clearly written and easy to understand.

**Decision**

*Explain the basis for the promulgating agency’s decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

The State Board of Social Services recommends amending the regulation to make amendments necessary to clarify the purpose of requirements for protecting the health, safety, and well-being of aged, infirm or disabled adults residing in an ALF and to align regulation requirements with Virginia Code, federal requirements and applicable practices.

**Small Business Impact**

*As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency’s decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.*

(1) The regulation is necessary for the protection of public health, safety and welfare of aged, infirm or disabled adults residing in an ALF. (2) Comments received are being considered during regulation revision. (3) The regulation is concise and understandable. (4) The regulation does not overlap or duplicate any other federal or state law. (5) Changes in laws and technology since the regulation has been evaluated include legalization of marijuana, advancements in technology systems to monitor residents at risk for falls and wandering, and the availability/use of e-cigarettes and vaping. The regulation has a limited impact on small businesses, and only proposes the minimal regulations necessary to protect the health and safety of residents served in assisted living facilities.