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Proposed Regulation Agency Background Document

Agency name	Board of Long-Term Administrators; Department of Health Professions
Virginia Administrative Code (VAC) citation(s)	18VAC95-20 18VAC95-30
Regulation title(s)	Regulations Governing the Practice of Nursing Home Administrators Regulations Governing the Practice of Assisted Living Facility Administrators
Action title	Periodic review
Date this document prepared	3/31/17

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Most of the amendments that the Board identified in its periodic review and has now proposed are editorial or intended to clarify existing language.

In addition, however, the Board proposes to include the Health Services Executive (HSE) credential as a qualification for licensure; the HSE is a new credential approved by the National Association of Long-Term Care Administrator Boards. The Board has also expanded the grounds for disciplinary actions or denial of licensure to include causes that would be considered unprofessional conduct but are not explicitly listed in the current regulation. Causes or grounds

for action currently listed in regulations of other boards, such as Nursing, are adopted in amendments for these professions.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

AIT = Administrator-in-training

HSE = Health Services Executive

NAB = National Association of Long-Term Care Administrator Boards

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

Regulations of the Board of Long-Term Care Administrators are promulgated under the general authority of Title 54.1, Chapter 24 of the Code of Virginia.

Chapter 24 establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations in accordance with the Administrative Process Act which are reasonable and necessary.

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

The general powers and duties of health regulatory boards shall be:

- 1. To establish the qualifications for registration, certification, licensure or the issuance of a multistate licensure privilege 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, license or issue a multistate licensure privilege to qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- 4. To establish schedules for renewals of registration, certification, licensure, and the issuance of a multistate licensure privilege.*

5. To levy and collect fees for application processing, examination, registration, certification or licensure or the issuance of a multistate licensure privilege 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 (§2.2-4000 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 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title.

The specific mandate for the Board of Long-Term Care Administrators to license nursing home and assisted living facility administrators is found in:

§ 54.1-3102. License required.

A. In order to engage in the general administration of a nursing home, it shall be necessary to hold a nursing home administrator's license issued by the Board.

B. In order to engage in the general administration of an assisted living facility, it shall be necessary to hold an assisted living facility administrator's license or a nursing home administrator's license issued by the Board. However, an administrator of an assisted living facility licensed only to provide residential living care, as defined in § 63.2-100, shall not be required to be licensed.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

In addition to updating and clarifying the regulations, the Board proposes inclusion of the Health Services Executive (HSE) credential as a qualification for licensure; the HSE is a new credential approved by the National Association of Long-Term Care Administrator Boards (NAB). Since the HSE incorporates and broadens the current qualifications for licensure as a nursing home administrator, it will provide adequate assurance of competency for practice and protection of the health and safety of the public served in long-term care facilities.

Additionally, the Board proposes to expand the grounds for disciplinary actions or denial of licensure to include causes that would be considered unprofessional conduct but are not explicitly listed in the current regulation. Causes or grounds for action currently listed in regulations of other boards, such as Nursing, will be adopted in amendments for these professions. With more specificity on unprofessional conduct, the Board will have a greater ability to fulfill its mission of public protection.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of changes” section below.

Most of the amendments that the Board has identified in its periodic review and has proposed are editorial or intended to clarify existing language. Specifically, the Board made changes in the following sections:

Chapter 20: Regulations Governing the Practice of Nursing Home Administrators (NHA)

18 VAC 95-20-10. Definitions.

- Add a definition for “active practice” as a minimum of 1,000 hours within the preceding 24 months

18 VAC 95-20-175. Continuing Education Requirements.

- Include additional requirements for extension requests

18 VAC 95-20-220. Educational and training requirements for initial licensure.

- Add designation as Health Services Executive by NAB as category that meets qualifications for initial licensure as NHA

18 VAC 95-20-221. Required content for coursework.

- Require official transcript from accredited college or university
- Rename content area categories to align with those in Domains of Practice

18 VAC 95-20-230. Application package.

- Include employer verifications as documents that are not required to be part of the application package to be submitted at the same time

18 VAC95-20-300. Administrator-in-training qualifications.

- Require that registered preceptors provide training
- Require submission of Domains of Practice form with application

18 VAC95-20-340. Supervision of trainees.

- Modify the requirement for the supervisor to be routinely in the training facility to include “as appropriate to the experience and training in the AIT and the needs of the residents.”

18VAC95-20-180. Qualifications of preceptors.

- Specify a requirement for the registration as a preceptor that an administrator must complete the online preceptor training course offered by NAB.

18 VAC 95-20-430. Termination of program.

- Modify timing of written explanations to be provided to the Board upon termination of NHA AIT program

18 VAC 95-20-470. Unprofessional conduct.

- Include registrations as subject to Board discipline
- Add enumerated causes that would permit Board to refuse, deny, suspend, revoke, or otherwise impose discipline

Chapter 30: Regulations Governing the Practice Assisted Living Facility Administrators (ALFA)

18 VAC 95-30-10. Definitions.

- Include additional definitions to clarify references in regulations.
- Add a definition for “active practice” as a minimum of 1,000 hours within the preceding 24 months

18 VAC 95-30-70. Continuing Education Requirements.

- Include additional requirements for extension requests

18 VAC 95-30-100. Educational and training requirements for initial licensure.

- Modify the AIT hours for persons with 30 hours of course credit to be consistent with person who hold licensure as a registered nurse; AIT hours change from 320 to 480 hours
- Require an official transcript of accredited college or university coursework
- Make coursework references consistent with terminology in NAB Domains of Practice

18 VAC 95-30-130. Application package.

- Include employer verifications as documents that are not required to be part of the application package to be submitted at the same time

18 VAC95-30-140. Training Qualifications.

- Require that registered preceptors provide training
- Require submission of Domains of Practice form with application

18 VAC 95-30-170. Training facilities.

- Include requirement that training not occur at provisional or provisionally licensed facilities as defined by the Department of Social Services.

18 VAC 95-30-180. Preceptors.

- Increase required years of full-time employment for registration as a preceptor from one to two years
- Clarify that “routinely present” with the trainee in the facility must be appropriate to the experience and training of the ALF AIT and the needs of the residents
- Increase in weekly face-to-face instruction and review time with trainee who is an acting administrator trainee
- Require training for preceptors using preceptor training modules now available through NAB
- Specify requirements for renewal of registration in this section

18 VAC 95-30-200. Interruption or termination of program.

- Modify timing of written explanations to be provided to the Board upon termination of ALF AIT program

18 VAC 95-30-210. Unprofessional conduct.

- Include registrations as subject to Board discipline
- Add enumerated causes that would permit Board to refuse, deny, suspend, revoke, or otherwise impose discipline

Issues

Please identify the issues associated with the proposed regulatory action, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary 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 indicate.

1) The primary advantages of the amendments are more clarity in the requirements for active practice and for oversight of AITs, additional training for preceptors of AITs, and additional grounds for a finding of unprofessional conduct. All changes will benefit residents of long-term care facilities, who are often the elderly and most vulnerable members of the public. There are no disadvantages.

2) There are no advantages or disadvantages to the Commonwealth.

3) The Director of the Department of Health Professions has reviewed the proposal and performed a competitive impact analysis. The Board is authorized under § 54.1-2400 to “promulgate regulations in accordance with the Administrative Process Act which are reasonable and necessary to administer effectively the regulatory system.”

The proposed amendments are a foreseeable result of the statute requiring the Board to protect the health and safety of citizens of the Commonwealth. The additional qualification for licensure as a nursing home administrator is an option that may be chosen by applicants. There are no additional requirements that would constitute a competitive disadvantage or have an impact on competition.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities particularly affected.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the Board of Long-Term Care Administrators is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so via the Regulatory Townhall website, www.townhall.virginia.gov, or by mail to Elaine Yeatts at Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233 or elaine.yeatts@dhp.virginia.gov or by fax to (804) 527-4434. Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at: <http://www.townhall.virginia.gov>. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://www.virginia.gov/connect/commonwealth-calendar>). Both oral and written comments may be submitted at that time.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

<p>Projected cost to the state to implement and enforce the proposed regulation, including: a) fund source / fund detail; and b) a delineation of one-time versus on-going expenditures</p>	<p>a) As a special fund agency, the Board must generate sufficient revenue to cover its expenditures from non-general funds, specifically the renewal and application fees it charges to practitioners for necessary functions of regulation; b) The agency will incur no additional costs for mailings to the Public Participation Guidelines mailing lists, conducting a public hearing, and sending notice of final regulations to regulated entities. Since most mailings to the PPG list are handled electronically, there is very little cost involved. Every effort will be made to incorporate those into anticipated mailings and Board meetings already scheduled. There are no on-going expenditures.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>There is no cost to localities.</p>
<p>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>Licensed nursing home administrators and assisted living facility administrators and applicants for such licensure</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>There are 891 nursing home administrators licensed and 615 assisted living administrators in Virginia. Since they are licensed as individual practitioners, there is no estimate of the number who are small businesses.</p>
<p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including: a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>There are no projected costs of new regulations; the online preceptor course is offered by NAB at no charge.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>Because the preceptor course modules are recognized for CE credit, there would be a cost benefit to preceptors. There are four modules, each with possible CE of 1.25 hours, for a total of 5 hours for all four modules. The additional training for preceptors and</p>

	<p>specification about “routinely present” in the training facility may improve the quality of training AITs receive and subsequently improve the quality of life for residents in long term care facilities.</p>
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Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

Since the requirements for licensure and practice are set in regulation, amendments are necessary to make any changes. There are no alternatives that meet the essential purpose of protection of the public.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

There are no alternative regulatory methods.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

There was a comment period on the NOIRA from January 23, 2017 to February 22, 2017; there was no public comment.

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent 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.

There is no impact on the family.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below.

Amendments to Chapter 20 – Nursing Home Administrators

Current section number	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
10	Sets out definitions for words and terms used in the chapter	The term “active practice” is defined to mean a minimum of 1,000 hours of practice within the preceding 24 months. <i>“Active practice” is used in several sections of regulations – for licensure by endorsement, reinstatement, or reactivation, but it has not been defined. Therefore, it could be interpreted as full-time practice. To ensure that there are substantial hours associated with “active practice” but to also provide for persons who may be working part-time or may have taken a break from practice, the Board decided to set the standard at half-time for one year spread over 24 months.</i> The acronym “NAB” is defined because it is used frequently in the chapter.
80	Sets fee for applicants, preceptors, and licensees	Subsection B is deleted because it was a one-time debt reduction assessment and is no longer applicable.
175	Sets out requirements for evidence of continuing competency for renewal	Subsection D is amended to specify that a request for an extension must be received prior to the renewal date and must be in writing (email is acceptable). <i>While this is the current policy of this and other boards, it was not explicitly stated in regulation.</i>
180	Sets out requirement for late renewal	The word “penalty” is replaced by “late” for consistency with the work used to describe the fee in section 80.
200	Sets out requirements for reinstatement of a license or preceptor registration	Subsection D is added to specify the process and requirements for reinstating a license or registration that has been disciplined or denied. <i>In addition to a reinstatement fee, the Board will require other evidence that the person is safe and competent to return to practice. Reinstatement after discipline typically requires an investigation of the person’s activity while he was unlicensed or unregistered and a hearing before a panel of the Board.</i>
220	Establishes the qualifications for initial licensure	Section A (3) is amended to require submission of the Domains of Practice form. <i>The Domains are the core areas of knowledge for practice as a nursing home administrator, as determined by NAB. They are the</i>

		<p><i>foundation for accredited educational programs and for an AIT program. To ensure completion of instruction and experience in the Domains, the Board requires submission of the form.</i></p> <p>Section A (4) is added as a new pathway for licensure as a nursing home administrator.</p> <p><i>NAB's proposed HSE standard is intended to promote licensure portability. The HSE is a broader, more inclusive combination of education, experience, and examination as meeting the equivalence of licensure qualifications for nursing home administrators and assisted living administrators. Graduates of a NAB-accredited HSE program, of which two years is dedicated to the long-term care administration major and which includes a minimum 1,000-hour field experience, would be eligible to apply for the HSE credential. States maintain their individual existing pathways to current licensure, as applicable, which is especially important for the new licensee that elects to maintain permanent state residence and/or practice in a specific line of service. States are asked to adopt the HSE qualification standard as an alternative pathway to support practice in multiple lines of service and portability of an individual's license. The Board has adopted the HSE as an acceptable alternative to its current qualifications for licensure.</i></p>
221	Sets out the required content for coursework	Amendments to section 221 are adopted to conform the course content to the recently revised Domains of Practice established by NAB.
225	Sets out qualifications for licensure by endorsement	Currently, applicants for endorsement are required to either have the education and experience equivalent to what is required for licensure by examination, or have one year of practice as a nursing home administrator. <i>The "one year" has never been defined, so the regulation is changed to use the term "active practice" which is now defined as 1,000 hours with the past 24 months preceding application.</i>
230	Sets out the essential provisions for an application package	Subsection C is amended to include "employer verifications" among those documents that do not have to be submitted all at the same time with the original application. <i>Those verifications are sent directly to the Board rather than to the applicant.</i>
300	Sets out the qualifications for an applicant to be approved as an administrator-in-training	Subsection A is amended to clarify that the preceptor named on the applicant is "registered" with the Board, and to require the Domains of Practice form on the AIT application to ensure the applicant has be foundational knowledge to work in a supervised training program.
340	Sets out the requirements for supervision of trainees in an AIT program	Subsection A (2) provides that the supervisor shall be "routinely present" with the trainee in the training facility. The amendment will add "as appropriate to the experience and training of the AIT and the needs of the residents in the facility." <i>The Board has long debated whether it is necessary to establish a minimum number of hours for on-site supervision. By setting a number, the Board is concerned</i>

		<p><i>that AITs and supervisors will limit supervision to the minimum, rather than providing on-site supervision that is necessary for their particular situation. Therefore, the standard adopted is more subjective, but places the burden on the supervisor to be aware of how much on-site supervision is required, depending on the experience and training of the AIT and the needs of the residents. An AIT who has been the Director of Nursing and is near completion of her AIT hours would need far less oversight than a newly graduated person with minimal exposure to a nursing home environment.</i></p>
380	Sets out qualifications for preceptors	<p>Subsection A is amended to require evidence of completion of an online preceptor training course offered by NAB. <i>Boards across the country have requested some instructional material for preceptors so they would have a better understanding of their responsibilities and more consistency in training. In response, NAB has recently created an online offering for preceptor training. It is available as a continuing education course, so a licensee who wants to register as a preceptor can receive CE credit for course completion. The preceptor training modules are offered by NAB at no-cost. The person taking the course just has to create an account to access the modules. (For example, Module 1: http://nab.academy.reliaslearning.com/NAB-ACHCA-Preceptor-Training-Course-Module-1--CC-ROP-NAB.aspx.) There are four modules, each with possible CE of 1.25 hours, for a total of 5 hours for all four modules.</i></p> <p>Subsection B is added to specify the requirement for a current license and an agreement with or employment by a training facility. Renewal of a preceptor registration is currently specified in section 170 and the fee is set in section 80.</p>
390	Sets out requirements for a training plan	<p>The name for the National Association of Long-Term Care Administrator Boards is replaced with the acronym.</p>
430	Sets out provisions to follow for termination of an AIT program	<p>Subsection A is amended to allow 10 business days for submission of documentation rather than five working days.</p>
470	Sets out the meaning of unprofessional conduct and the causes for which disciplinary action may be taken	<p>In the introductory paragraph, “registrant” is added to clarify that the causes for disciplinary action apply to persons registered as preceptors in addition to the license of a nursing home administrator. Therefore, if the cause for action is related to one’s role as a preceptor, the registration may be suspended or restricted without the license having disciplinary action.</p> <p>Number 5 was amended to further clarify the use of this cause for a finding of unprofessional conduct: <u>Inability to practice with reasonable skill or safety by reason of illness, substance abuse, or as a result of any mental or physical condition;</u></p> <p>The following causes for disciplinary action were added:</p> <ol style="list-style-type: none"> 1. Abuse, negligent practice, or misappropriation of a

		<p>resident's property;</p> <ol style="list-style-type: none"> 2. Entering into a relationship with a resident that constitutes a professional boundary violation in which the administrator uses his professional position to take advantage of the vulnerability of a resident or his family, to include actions that result in personal gain at the expense of the resident, an inappropriate personal involvement or sexual conduct with a resident; 3. The denial, revocation, suspension or restriction of a license to practice in another state, the District of Columbia or a United States possession or territory; 4. Assuming duties and responsibilities within the practice of nursing home administration without adequate training or when competency has not been maintained; 5. Obtaining supplies, equipment, or drugs for personal or other unauthorized use; 6. Falsifying or otherwise altering resident or employer records, including falsely representing facts on a job application or other employment-related documents; 7. Fraud or deceit in procuring or attempting to procure a license or seeking reinstatement of a license; or 8. Employing or assigning unqualified persons to perform functions that require a license, certificate or registration. <p><i>During its periodic review, the Board looked at disciplinary provisions from other board regulations and discussed with staff prior cases in which there were no regulatory provisions that were clearly applicable and could be cited in a notice or order. Other boards have an extensive listing of grounds for disciplinary action in their basic law (Dentistry - § 54.1-2706; Medicine - § 54.1-2914; Nursing - § 54.1-3007); there are no grounds provided for this Board in Chapter 31 of Title 54.1. Based on a compilation of information from other boards and past investigations reviewed by this Board, the additions to section 470 were proposed.</i></p>
471	Sets out criteria for delegation to an agency subordinate	Since the delegation of informal fact-finding to an agency subordinate applies to all licensees and registrants, section 471 is being repealed in Chapter 20, and a new Chapter promulgated for the Board.

Amendments to Chapter 30 – Assisted Living Facility Administrators

Current section number	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
10	Sets out definitions for words and terms used in the chapter	<p>Terms used in Chapter 30 that are defined in Chapter 20 but not currently defined in this section are added with identical or very similar definitions.</p> <p>The term “active practice” is defined to mean a minimum of 1,000 hours of practice within the preceding 24 months. “Active practice” is used in several sections of regulations – for licensure by endorsement, reinstatement, or reactivation, but it has not been defined. Therefore, it could be interpreted as full-time practice. To ensure that there are substantial hours associated with “active practice” but</p>

		<i>to also provide for persons who may be working part-time or may have taken a break from practice, the Board decided to set the standard at half-time for one year spread over 24 months.</i>
40	Sets fee for applicants, preceptors, and licensees	Subsection B is deleted because it was a one-time debt reduction assessment and is no longer applicable.
70	Sets out requirements for evidence of continuing competency for renewal	Subsection D is amended to specify that a request for an extension must be received prior to the renewal date and must be in writing (email is acceptable). <i>While this is the current policy of this and other boards, it was not explicitly stated in regulation.</i>
90	Sets out requirements for reinstatement of a license or preceptor registration	Subsection D is added to specify the process and requirements for reinstating a license or registration that has been disciplined or denied. <i>In addition to a reinstatement fee, the Board will require other evidence that the person is safe and competent to return to practice. Reinstatement after discipline typically requires an investigation of the person's activity while he was unlicensed or unregistered and a hearing before a panel of the Board.</i>
100	Establishes the qualifications for initial licensure	Section A is amended to increase the hours required for an AIT for a person who has completed 30 hours of accredited coursework in certain areas. The current requirement is 320 hours, which board members who serve as preceptors believe is insufficient; the proposed 480 hours in an AIT program comparable to the hours required for someone with an RN degree and license. Section B is amended to align the Domains of Practice with current terminology used by NAB. <i>The Domains are the core areas of knowledge for practice as a nursing home or an assisted living administrator, as determined by NAB. They are the foundational for accredited educational programs and for an AIT program. To ensure completion of instruction and experience in the Domains, the Board requires submission of the form.</i>
120	Sets out qualifications for licensure by endorsement or credentials	Currently, applicants for endorsement are required to either have the education and experience equivalent to what is required for licensure by examination, or have practiced for two of the past four years as an ALF administrator in another jurisdiction. <i>The regulation is changed to use the term "active practice" which is now defined as 1,000 hours with the past 24 months preceding application. Therefore, the active practice requirement is less restrictive for applicants for licensure by endorsement.</i>
130	Sets out the essential provisions for an application package	Subsection C is amended to include "employer verifications" among those documents that do not have to be submitted all at the same time with the original application. <i>Those verifications are sent directly to the Board rather than to the applicant.</i>
140	Sets out the qualifications for an applicant to be approved as an administrator-in-training	Subsection A is amended to clarify that the preceptor named on the applicant is "registered" with the Board, and to require the Domains of Practice form on the AIT application to ensure the applicant has be foundational knowledge to work in a supervised training program.

150	Sets out the required hours of training for persons with various experiences	The word “program” is added after ALF AIT to differentiate between the person and the program.
170	Sets out the requirements for training facilities for AIT programs	<p>Adds a provision prohibiting the use of a facility that has a provisional license as a site for training an ALF AIT. <i>An assisted living facility that has been placed on provisional status with the Department of Social Services has not demonstrated consistent compliance with regulations, and therefore, is not an appropriate place to train an administrator. Once deficiencies have been corrected and the facility has an unrestricted, full license, it may serve as a training facility. In FY15-16, there were 582 licensed facilities, of which only 18 were in provisional status at some time during the year. Therefore, there should not be any significant reduction in training sites for AIT programs</i></p>
180	Sets out requirements for preceptors (supervisors of ALF AITs)	<p>Subsection B is amended to require: 1) a preceptor to have two rather than just one year of experience as an administrator; and 2) evidence of completion of an online preceptor training course offered by NAB. <i>Boards across the country have requested some instructional material for preceptors so they would have a better understanding of their responsibilities and more consistency in training. In response, NAB has recently created an online offering for preceptor training. It is available at no cost as a continuing education course, so a licensee who wants to register as a preceptor can receive CE credit for course completion. The additional year of experience is necessary because the Board has found that persons who limited experience as an administrator lacks the depth and breadth of knowledge needed to train a person as an administrator.</i></p> <p>Subsection C provides that the supervisor shall be “routinely present” with the trainee in the training facility. The amendment will add “as appropriate to the experience and training of the AIT and the needs of the residents in the facility.” <i>The Board has long debated whether it is necessary to establish a minimum number of hours for on-site supervision. By setting a number, the Board is concerned that AITs and supervisors will limit supervision to the minimum, rather than providing on-site supervision that is necessary for their particular situation. Therefore, the standard adopted is more subjective, but places the burden on the supervisor to be aware of how much on-site supervision is required, depending on the experience and training of the AIT and the needs of the residents. An AIT who has been the Director of Nursing and is near completion of her AIT hours would need far less oversight than a newly graduated person with minimal exposure to a nursing home environment.</i></p> <p>Subsection E is amended to increase the specific amount of time a preceptor must be present for face-to-face instruction and review for an AIT who is the acting</p>

		<p>administrator. <i>For a limited amount of time, a facility may utilize someone in an AIT program as the acting administrator if it loses its administrator-of-record. Since the AIT is the person in charge of the facility, more direct and specific oversight is necessary from a preceptor for the protection of the public.</i></p> <p>Subsection F is added to specify the requirement for a current license and an agreement with or employment by a training facility. Renewal of a preceptor registration is currently specified in section 60 and the fee is set in section 40.</p>
200	Sets out provisions to follow for termination of an AIT program	Subsection A is amended to allow 10 business days for submission of documentation rather than five working days.
210	Sets out the meaning of unprofessional conduct and the causes for which disciplinary action may be taken	<p>In the introductory paragraph, “registrant” is added to clarify that the causes for disciplinary action apply to persons registered as preceptors in addition to the license of an assisted living facility administrator. Therefore, if the cause for action is related to one’s role as a preceptor, the registration may be suspended or restricted without the license having disciplinary action.</p> <p>Number 5 was amended to further clarify the use of this cause for a finding of unprofessional conduct: <u>Inability to practice with reasonable skill or safety by reason of illness, substance abuse, or as a result of any mental or physical condition;</u></p> <p>The following causes for disciplinary action were added:</p> <ol style="list-style-type: none"> 1. Abuse, negligent practice, or misappropriation of a resident's property; 2. Entering into a relationship with a resident that constitutes a professional boundary violation in which the administrator uses his professional position to take advantage of the vulnerability of a resident or his family, to include actions that result in personal gain at the expense of the resident, an inappropriate personal involvement or sexual conduct with a resident; 3. The denial, revocation, suspension or restriction of a license to practice in another state, the District of Columbia or a United States possession or territory; 4. Assuming duties and responsibilities within the practice of assisted living facility administration without adequate training or when competency has not been maintained; 5. Obtaining supplies, equipment, or drugs for personal or other unauthorized use; 6. Falsifying or otherwise altering resident or employer records, including falsely representing facts on a job application or other employment-related documents; 7. Fraud or deceit in procuring or attempting to procure a license or seeking reinstatement of a license; or 8. Employing or assigning unqualified persons to perform functions that require a license, certificate or registration.

		<p><i>During its periodic review, the Board looked at disciplinary provisions from other board regulations and discussed with staff prior cases in which there were no regulatory provisions that were clearly applicable and could be cited in a notice or order. Other boards have an extensive listing of grounds for disciplinary action in their basic law (Dentistry - § 54.1-2706; Medicine - § 54.1-2914; Nursing - § 54.1-3007); there are no grounds provided for this Board in Chapter 31 of Title 54.1. Based on a compilation of information from other boards and past investigations reviewed by this Board, the additions to section 210 were proposed.</i></p>
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