Virginia Regulatory Town Hall

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# Proposed Regulation
# Agency Background Document

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| **Agency name** | Board of Nursing, Department of Health Professions |
| **Virginia Administrative Code (VAC) citation** | 18VAC90-60-10 et seq. |
| **Regulation title** | Regulations Governing the Registration of Medication Aides |
| **Action title** | Initial regulation |
| **Document preparation date** | 12/6/05 |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual.*

## Brief summary

*In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.*

Pursuant to the 2005 Acts of the Assembly (Chapters 610 and 924), the Board of Nursing has promulgated proposed regulations for registration of medication aides who administer drugs to residents of assisted living facilities, for approval of training programs in medication administration, and for standards of practice and grounds for disciplinary action. Requirements for Board approved training programs include qualifications for instructors, hours of classroom instruction and practical skills training, content of the curriculum and maintenance of certain records.

To be registered as a medication aide, an applicant must document completion of an approved training program and passage of a competency evaluation as determined by the Board. Currently practicing medication aides will not be required to complete an approved training program but will be required to take an eight-hour refresher course and pass the competency examination. Requirements for renewal and reinstatement are set, including four hours of in-service training each year. Fees are established for program approval, application, and renewal as necessary to provide funding for the Board to administer the regulatory program.

## Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400 (6), which provides the Board of Nursing the authority to promulgate regulations to administer the regulatory system:

> ***§ 54.1-2400 -General powers and duties of health regulatory boards***
> *The general powers and duties of health regulatory boards shall be:*
> *…*
> *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 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title. …*

Senate Bill 1183 (Chapter 610), patroned by Senator Emmett Hanger and House Bill 2512 (Chapter 924), patroned by Delegate Phillip Hamilton in the 2005 General Assembly required the Board of Nursing to promulgate regulations for the registration and regulation of medication aides who administer medications in assisted living facilities.

The specific authorization to promulgate regulations for implementation of registration of medication aides is found in the Nurse Practice Act in the following sections:

§ 54.1-3005. Specific powers and duties of Board.

*16. To register medication aides and promulgate regulations governing the criteria for such registration and standards of conduct for medication aides; and*

*17. To approve training programs for medication aides to include requirements for instructional personnel, curriculum, continuing education, and a competency evaluation.*

*§ 54.1-3041. Registration required.*

*A medication aide who administers drugs that would otherwise be self-administered to residents in an assisted living facility licensed by the Department of Social Services shall be registered by the Board.*

*§ 54.1-3042. Application for registration by competency evaluation.*

*Every applicant for registration as a medication aide by competency evaluation shall pay the required application fee and shall submit written evidence that the applicant:*

*1. Has not committed any act that would be grounds for discipline or denial of registration under this article; and*

*2. Has met the criteria for registration including successful completion of an education or training program approved by the Board.*

*§ 54.1-3043. Continuing training required.*

*Every applicant for registration as a medication aide shall complete ongoing training related to the administration of medications as required by the Board.*

## Purpose

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.*

Pursuant to the 2005 Acts of the Assembly (Chapters 610 and 924), the Board of Nursing has a mandate to promulgate regulations for registration of medication aides who administer drugs to residents of assisted living facilities, for standards of conduct, and for approval of training programs in medication administration. Section 54.1-3042 of the Code was added to require every applicant for registration as a medication aide to meet the criteria for registration including successful completion of an education or training program approved by the Board, successful completion of a competency evaluation, payment of the required application fee, and submission of written evidence that the applicant has not committed any act that would be grounds for discipline or denial of registration. In addition, the rules provide that every applicant for registration as a medication aide complete ongoing training related to the administration of medications.

With the introduction of HB2512 and SB1183, proponents of legislation for tighter controls over the assisted living facilities, including registration of medication aides, argued that the current regulatory scheme was insufficient to ensure the health, safety and welfare of residents who are increasingly becoming a more frail population in need to a higher level of competency for caregivers. The Drug Control Act allows medication aides to "*administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services*" but specifies that only a licensed nurse can administer medications to patients of nursing homes. In the current healthcare environment, residents of assisted living facilities often have similar characteristics to patients in nursing homes, so additional competencies and accountability are necessary through registration of medication aides by the Board.

The primary challenges and issues addressed in the development and implementation of the regulation were to write rules that: 1) recognize the training and experience of current medication aides who are administering drugs after completion of the approved training program now in effect, but also ensure competency and consistency with new requirements; and 2) maintain the fiscal viability of a competency evaluation and a regulatory/disciplinary program under the

Board of Nursing, but also establish fees that are reasonable and not prohibitive. In addition, the Board has specified that an approved competency evaluation or written test will be required for registration. But before the effective date of the regulations, the Board has the challenge of identifying or developing a competency evaluation or examination that is defensible and assures minimal competency since there is no such national standard or credential available for this profession.

The goal was to develop regulations that provide some assurance that the aide is sufficiently trained to handle the increasing complexity of medications being administered in an assisted living facility and to adequately protect and care for the residents of that facility.

## Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)*

The specifics of the new chapter for registration of medication aides were guided by the provisions of law, which require the Board to "*approve training programs for medication aides to include requirements for instructional personnel, curriculum, continuing education, and a competency evaluation,*" to register any medication aide *"who administers drugs that would otherwise be self-administered to residents in an assisted living facility licensed by the Department of Social Services"* and to require an application, a fee and written evidence that the applicant has completed a competency evaluation, "*has not committed any act that would be grounds for discipline or denial of registration under this article; and has met the criteria for registration including successful completion of an education or training program approved by the Board."* In addition, the Code requires that medication aides complete ongoing training related to the administration of medications, as specified in regulation to be adopted by the Board.

## 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 the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

1) The primary advantage to the public is the assurance that aides who administer medications in assisted living facilities will be adequately trained and deemed competent by passage of an examination. In addition, there will be some accountability for the work and behaviors of aides who must practice under standards set by the Board or face possible disciplinary action. Without

the statutory requirement for registration to administer medications, persons who engaged in a pattern of medication errors or who abused a resident could be fired by an employer but could be rehired by another facility. There are no disadvantages of the regulations unless the requirement to be registered results in a shortage of persons who want to work as medication aides, which should not be a problem for facilities that will assist with the cost of training and registering their aides.
2) The registration of medication aides creates a large new program under the Board of Nursing and the Department, requiring new expenditures and new personnel for upcoming budgets. To the extent those positions are approved and can be funded with revenue generated by fees from medication aides and training programs, there should be no disadvantages to the agency or the Commonwealth. To the extent funding or new positions do not become available, the management of a registration program, approval of training programs, investigations and disciplinary proceedings for medication aides could not occur in a timely manner and could negatively affect other programs, such as regulation of certified nurse aides.
3) There are no other pertinent issues.

## Requirements more restrictive than federal

*Please identify and describe any requirement of the proposal which are 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 that are 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 regulation on farm or forest land preservation.*

In addition to any other comments, the board/agency 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 for the public comment file may do so at the public hearing or by mail, email or fax to Elaine Yeatts, 6603 W. Broad Street, Richmond, VA 23230, 804-662-9918 (phone), 804-662-9114 (fax) or **elaine.yeatts@dhp.virginia.gov** . Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last date of the public comment period.

A public hearing will be held and notice of the public hearing may appear on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

## Economic impact

*Please identify the anticipated economic impact of the proposed regulation.*

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| **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** | 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 and for the approval of training programs for necessary functions of regulation; b) The agency will incur some one-time costs (less than $2,000) for mailings to the Public Participation Guidelines mailing lists, conducting a public hearing, and sending notice of final regulations to regulated entities. Every effort will be made to incorporate those into anticipated mailings and Board meetings already scheduled. There are no on-going costs to the agency. |
| **Projected cost of the regulation on localities** | There are no costs to localities |
| **Description of the individuals, businesses or other entities likely to be affected by the regulation** | The individuals affected will be those persons who are working or will be seeking employment as medication aides in assisted living facilities. The businesses affected will be facilities licensed for assisted living by the Department of Social Services. |
| **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 (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million. | The Board's estimate of the number of medication aides that may be registered ranges from 5,000 to 15,000. Approximately 35,000 persons have completed the current DSS training program for medication aides, but that number would include everyone who has ever been trained to work in any type of facility, not just those currently working in assisted living. DSS has approximately 625 facilities licensed to provide assisted living – both in residential care and assisted living care. |
| **All projected costs of the regulation for affected individuals, businesses, or other** | For persons seeking to become registered medication aides, there will be costs for training, examination and |

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| **entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.** | application. Medication aide training programs vary widely in costs – ranging from $50 to several hundred dollars per student, depending on whether the program is being operated for profit or as a service. Given the average salary of an RN, who will be teaching the didactic portion of training, and of a LPN, who will likely be leading the skills practice, the costs should be approximately $155 per student, if there are no more than 10 students in a class. The training manual currently cost $10 and is expected to increase by a few dollars to include an expanded scope of knowledge. There will be a competency evaluation (examination), similar to the one for certified nurse aides. Since the medication exam has not yet been developed or contracted, costs can only be estimated based on the certified nurse aide examination, which is $80 for both the written and skills practice portion of the test. To take the written portion alone (which would be comparable to the medication aide examination), the cost is $33.<br>For assisted living facilities, there may be some increased costs if the persons who work as aides are able to command higher wages as registered aides. Higher wages will more likely be the result of a greater demand for medication aides as the population ages and more people are forced to live in facilities where they can receive assistance with daily living. Some facilities will voluntarily pay for training aides and for the application and renewal fees. In many cases, training is currently being provided by provider pharmacies that have a contract with the ALF to supply residents with their drugs. In those cases, training of aides in medication administration is a service the pharmacy provides as part of doing business. |

## 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.*

There are no alternatives to the proposed regulatory action; it is mandated by Chapters 610 and 924 of the 2005 Acts of the Assembly. The third enactment mandates: "That the Board of Nursing shall adopt final regulations to implement the provisions of this act to be effective on or before July 1, 2007." In the second enactment clause, the legislation provided: *"That the Board of Nursing shall convene a task force to develop regulations for the registration of medication aides and submit a progress report on such regulations to the chairmen of the Joint Commission on Health Care, the House Committee on Health, Welfare and Institutions and the Senate Committee on Rehabilitation and Social Services on or before December 1, 2005."*

As provided in the enactment of the legislation, the Board of Nursing convened a Task Force on Regulation of Medication Aides, which held its organizational meeting on Tuesday, July 12, 2005. The members serving were:

- Lynne Cooper, Chairperson and citizen member of the Board of Nursing
- Gregory Huber, R.N. member of the Board
- Woody Hanes, R.N. member of the Board
- Lin Arnett, Westminster-Canterbury of the Blue Ridge
- Susan Bess, Williamson's Pharmacy
- Joanne Alston-Hooker, Williamson's Health Care Network
- Sherry Broussard, R.N., Neighbor Care Pharmacy
- Carolyn Inman, R.N., Sunrise Senior Living
- Deborah Lloyd, R.N., Dept. of Social Services
- Christine Stacy, R.N., Adult Care Education Consultants, LLC
- Julie Wine, Administrator of Beth Shalom Gardens
- Toni Parks, R.N., Medical Facilities of America

The Task Force convened three meetings – all of which were heavily attended by interested parties representing the assisted living communities.

**Meeting of July 12, 2005**

As guidance for rule-making, the Task Force reviewed the current regulations for approval of a training program for medication aides, as stated in regulations 18VAC90-20-370 through 18VAC90-20-400 to determine those aspects of the program that are adequate to ensure minimum competency and those that need to be strengthened. In addition, the Task Force was given information on laws and regulations from 15 other jurisdictions that regulate medication aides, including specific requirements from North Carolina, Maryland, Oregon and New Mexico. Since most other states have requirements that the medication aide must first be a CNA and that the practice of a medication aide is supervised by a licensed nurse, there is no model regulation or standard on which the Board can rely. Following a discussion about the issues and problems surrounding administration of medications in assisted living facilities with differing options about minimal competencies, there was unanimous consent that patient advocacy and safety, as well as increased patient acuity be considered. Discussion also included the importance of the development of a competency evaluation that would reflect a minimum competency for the medication aides, as well as standards for monitoring and oversight. The Task Force was presented with a summary of the tasks to be completed for the development of regulatory language for medication aides and medication aide training and competency evaluation and agreed to work on draft language prior to the next scheduled meeting.

**Meeting of September 7, 2005**

Draft regulations complied from comments/suggestions sent by Task Force members provided the basis for discussion at the September meeting. The Task Force began with the format and basic rules governing the practice of certified nurse aides and agreed to consistency between the two professions where appropriate. For example, the renewal fee for certified nurse aides is $50 per biennium, which is the amount proposed for medication aides. Decision points that were not resolved included: qualifications for instructors in a medication aide training program, the minimum number of didactic and clinical training hours for an approved program, the content of

the curriculum, the ratio of instructor to students, requirements for registration of currently-practicing medication aides, and continuing education. Task Force members were asked to work on specific recommendations for the decision points that remained prior to the next scheduled meeting in October.

**Meeting of October 25, 2005**

A revised draft of regulations was sent to members prior to the meeting for review. In addition, the members reviewed comments on regulations, minimum qualifications for direct care staff required by Social Services for licensed assisted living facilities and information from Oregon and Texas about hours of training and examinations. The Task Force agreed to criteria for approved training programs to include a total of 68 hours of didactic and clinical education with an eight-hour module for insulin training. They agreed to the qualifications for instructors and supervisors of a clinical practicum and a ratio of instructor to student for the practical skills portion of the training. Finally, it was recommended that a person who has worked as a medication aide for one year prior to the requirement for registration be given credit for that experience as a training program if he or she also completed an 8-hour refresher course and passed with competency evaluations.

The Task Force recommended that the Board set broad curriculum requirements in regulation but approve a specified curriculum for use by all programs. Six members of the Task Force volunteered to serve as a subcommittee for the purpose of writing the curriculum document. No additional meetings will be scheduled until completion of the 60-day comment period on proposed regulations.

With the fourth enactment stating: *"That, notwithstanding the due course effective date of this act, the provisions of this act in §§ 54.1-3041, 54.1-3042, 54.1-3043 and 54.1-3408 of the Code of Virginia shall not be implemented or enforced until 12 months after the regulations promulgated pursuant to the third enactment become effective; however, the Board of Nursing may accept and process applications for the registration of medication aides and charge an application fee anytime on or after July l, 2005,"* it would be anticipated that registration of medication aides would begin in the second half 2007 and not be required before July 1, 2008.

## Regulatory flexibility analysis

*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 is no alterative method for compliance with statute other than the promulgation of regulations to establish a regulatory system for the registration of medication aides. The only alternative regulatory method that would be appropriate in this chapter would be the

establishment of less stringent compliance or reporting requirements. Requirements for registration of medication aides were determined by the Task Force and the Board of Nursing to be those necessary to ensure minimal competency. Extensive discussions were held about the issues and problems surrounding administration of medications in assisted living facilities with differing options about minimal competencies, but in the end, there was unanimous consent that patient advocacy and safety, as well as increased patient acuity had to be considered in the adoption of criteria for approval of training programs and qualifications of medication aides.

## Public comment

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

The Notice of Intended Regulatory Action (NOIRA) was submitted for Executive Branch review on May 20, 2005 and, once approved, submitted to the Register of Regulations on June 23, 2005 with publication on July 25, 2005. Approximately 155 persons on a list of interested parties were sent a notice of the first meeting of the Task Force and a copy of the NOIRA with a request for comment until August 24, 2005. While there was no written comment specifically on the NOIRA during the comment period, there has been extensive participation by interested parties in the deliberations of the Task Force that developed the regulations.

## Family impact

*Please assess the impact of the proposed 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.*

The Board has assessed the impact of the proposed regulatory action and does not believe there will be any impact on the family or family stability.

## Detail of changes

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.*

There are no current sections or requirements since this is a newly promulgated chapter.

| Proposed new section number | Proposed change and rationale |
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| 10 | Section 10 provides definitions of words and terms used in this chapter so that there is a common understanding of their application in the rules. |
| 20 | Section 20 sets out requirements for the aide to wear identification that is clearly visible to clients to indicate the appropriate title issued by the board. This section also sets the requirement for an aide to notify the board of a name or address change, and states that all notices mailed to the address of record are considered to be validly given. The provisions of section 20 are identical to requirements for nurse aides and nurses, also regulated by the board. |
| 30 | Section 30 establishes the fees for this occupation, as follows:<br>Application for program approval $500<br>Application for registration as a medication aide $75<br>Biennial renewal for medication aide $50<br>Late renewal $15<br>Reinstatement of registration $90<br>Returned check $25<br>Duplicate registration $5<br>Reinstatement following suspension, mandatory suspension or revocation $120<br><br>*The renewal fee and miscellaneous fees for returned check, etc. are consistent with the fees for certified nurse aides. Federal law does not allow the Board to charge a fee for putting nurse aides on the registry, but in turn, there is federal funding for the Nurse Aide Registry. Since there is no such federal funding or restriction for medication aide, the Board has proposed an application fee, including a modest fee for processing the application and the cost of the first biennial renewal.*<br><br>*In addition, the Board proposes to impose a $500 fee for approval of a medication aide program to offset the cost of program review. Approval of a new educational program requires both staff and board member time, including convening a special conference committee and possible site visits to the program. There will not be a fee for on-going approval, which necessitates monitoring for quality and compliance. Without a fee to the programs, costs for program review and approval would have to be born by the medication aides, which would require more burdensome, higher fees for these individuals. (The proposed regulations recently adopted by the Board for Chapter 20 include a $1,200 fee for approval of a RN or LPN educational program.)*<br><br>The section also stipulates that all fees cannot be refunded once submitted and that the fee for the competency evaluation must be paid directly to the examination service contracted by the board for its administration. |
| 40 | Section 40 establishes the requirements and process for establishing and maintaining a medication aide training program as follows:<br>A. To establish a program:<br>1. A program provider wishing to establish a medication aide training program must submit a completed application and the prescribed fee at least 90 days in advance of the first expected offering of the program to allow sufficient time for review by board and staff.<br>2. The application must provide evidence of the program's compliance with requirements as set forth in Part II of this chapter.<br>3. The committee shall, in accordance with the APA, receive and review the application and shall make a recommendation to the board to grant or deny approval.<br>4. If the committee's recommendation is to deny approval, no further action is required of |

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| | the board unless the program requests a hearing before the board or a panel thereof in accordance with provisions of the APA.<br>B. To maintain an approved medication aide training program, the program must:<br>1. Continue to comply with requirements as set forth in Part II.<br>2. Document that the cumulative passing rate for the program's first-time test takers taking the competency evaluation required for registration over the past two years is not less than 80%.<br>3. Report all substantive changes within 10 days of the change to the board to include, but not be limited to, a change in the program instructors, curriculum or program location.<br>4. Cooperate with any unannounced visits to the program conducted by board representatives for the purpose of ensuring compliance with requirements for approval or in response to complaints about the program.<br><br>5. Provide documentation that each student enrolled in such program has been given a copy of applicable Virginia law and regulation for the registration and practice of medication aides.<br>6. Provide each student with a certificate of completion.<br><br>*Requirements for establishing and maintaining an educational program are similar to those for nurse aide education and nursing education. The 80% passage rate for first-time test takers is a standard that is proposed by the Board for all educational programs as a means of assuring that students are not paying tuition for an inferior program that does not adequately prepare them to pass the certifying examination. Using first-time test takers over a two-year period is a very modest standard by which a program can be measured – it allows for fluctuation in the ability of classes and discounts those who have already demonstrated an inability to pass the test. Failure to demonstrate 80% passage over a two-year period does not automatically result in denial of continued program approval but would trigger further review of program quality.* |
| 50 | Section 50 sets out the criteria for instructors in an approved medication aide training program.<br>A. The primary instructors must be licensed registered nurses or pharmacists who, consistent with provisions of the Drug Control Act, are authorized to administer, prescribe or dispense drugs and have at least three years of experience in such practice.<br><br>B. Licensed practical nurses may be used as secondary instructors for the supervised skills practice hours of the program.<br><br>*The Task Force that developed draft regulations believes that most, if not all, training programs currently use RN's or pharmacists as instructors. While LPN's administer drugs in long-term care facilities, it was felt that they did not have sufficient educational preparation in pharmacology to teach the concepts of safe administration of drugs. However, LPN's are skilled at the practical aspects of administration and could be used as instructors for the skills practice portion of the course.*<br><br>*The Board's current regulations for medication aide training (in Chapter 20) require the instructors to be licensed health care professionals who are authorized to administer, prescribe or dispense drugs and who have completed a program designed to prepare the instructor to teach the course as it applies to the clients in the specific setting in which those completing the course will administer medications.*<br><br>C. The overall qualifications for an instructor, either a nurse or a pharmacist, are |

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| | 1. Hold a current, active, unrestricted license or a multistate licensure privilege; and<br>2. Complete a course designed to prepare the instructor to teach the medication aide curriculum as it relates to clients in assisted living facilities. The course shall include adult learning principles and evaluation strategies and shall be completed prior to teaching a course in a medication aide program.<br><br>*Currently, instructors in the medication aide courses take a "train-the-trainer course to prepare them to teach the curriculum and to instruct the adult learner. Training by master trainers is currently approved through the Virginia Geriatric Education Center, and they have approximately 50 persons on the approved list. The Board believes such training improves the quality of the instruction and provides greater assurance that students will be adequately prepare to take the examinations and practice safely.*<br><br>B. The responsibilities of instructors in an approved program include:<br><br>1. Participation in the planning of each learning experience and responsibility for the teaching and evaluation of students;<br><br>2. Ensuring that course objectives are accomplished and the curriculum content has been completed; and<br><br>3. Maintaining student records as required by section 70.<br><br>*Requirements for instructors in a medication aide program are similar to those for a nurse aide program; they are intended to ensure that the instructor assumes a hands-on role in the training of students and has accountability for their progress and records.* |
| 60 | Section 60 establishes the requirements for the program curriculum.<br><br>A. As a prerequisite for the medication aide training program, a student must have successfully completed the direct care staff training required by the Department of Social Services for employment in an assisted living facility or an approved nurse aide education program.<br><br>*The Department of Social Services requires all employees of assisted living facilities to complete direct care staff training that includes information on care of the elderly, care of residents with disabilities and special health needs, infection control, transfer and ambulation, provision of personal care, first aid and injury prevention, meals and nutrition and restraint use. Such information would be the prerequisite for a student who then receives specific training on administration of medications.*<br><br>B. An approved program would consist of a minimum of 68 hours of student instruction and training to include:<br><br>1. At least 40 hours of classroom or didactic instruction over and above any facility orientation program or training in direct client care provided by the facility;<br><br>2. At least 20 hours of supervised skills practice in medication administration; and<br><br>3. An eight-hour module in facilitating client self-administration or assisting with the administration of insulin to include instruction and skills practice in the administration of insulin as specified in the board-approved curriculum. |

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| | *Currently, the medication aide training program approved by the Board requires 32 hours of didactic training. Supervised practice in the skills learned in the classroom is the responsibility of the individual facilities and varies in quality and quantity. The Task Force and the Board agreed that there should be a practical component to the training that ensures the student has absorbed information related to medication administration and can demonstrate the ability to do so with skill and safety. The Task Force discussed whether the insulin module should be an elective and only required if a student intends to work in a facility with diabetic residents, but that would be unsatisfactory since an aide needs to be knowledgeable about the signs of diabetes or a current ALF resident may become diabetic.*<br><br>C. Content of the curriculum. An approved program shall use the curriculum developed and provided by the board which shall, at a minimum, include the following topics:<br><br>1. Preparing for safe administration of medications to clients in assisted living facilities;<br><br>2. Maintaining aseptic conditions;<br><br>3. Understanding of basic pharmacology;<br><br>4. Facilitating client self-administration or assisting with medication administration;<br><br>5. Following proper procedure for preparing, administering, and maintaining medications; and<br><br>6. Following appropriate procedures for documentation and reporting to the licensed healthcare professional on duty at the facility or to the client's prescriber.<br><br>*In the development of regulations, the Task Force recommended the major 6 areas of knowledge and skills in which a minimally-competent medication aide should have training, including those that emphasize safety, infection control, proper procedures, and documentation. Rather that specifying the detailed course content in regulation, the Task Force recommended that a specific curriculum be developed and approved by the Board for use by all medication aide training programs. Use of an approved curriculum will facilitate training and ensure consistency.*<br><br>D. In addition to the training curriculum, the program shall provide one or more four-hour modules that can be used by facilities as refresher courses or by medication aides to satisfy requirements for continuing education.<br><br>*Medication aides are required by law to demonstrate continuing competency, and many ALF's also require refresher courses as staff development. In order to ensure that such courses are available to facilities and the aides they employ, the Board will require that approved training programs also provide refresher modules.* |
| 70 | Section 70 sets out other program requirements, including:<br><br>A. Ratio. A ratio of no more than 10 students for one instructor for the 20 hours of supervised skills practice in section 60. |

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| | *The Task Force debated the appropriate ratio for the didactic and skills portions of the training course; it was agreed that there did not need to be ratio for the classroom teaching but that it was essential to have a ratio of student to instructor for the supervised skills practice. It was felt that 10 students would be the maximum number a nurse or pharmacist could supervise in the practice of medication administration.*<br><br>B. Recordkeeping. Each medication aide training education program must develop and maintain an individual record of major skills taught and the date of performance by the student. At the completion of the program, the medication aide must receive a copy of this record and a certificate of completion from the program. Each program must maintain a record of the reports of graduates' performance on the approved competency evaluation program. A record that documents the disposition of complaints against the program must also be maintained. All records required by this section shall be maintained for at least five years.<br><br>*From previous experience with nurse aide programs, the Board has determined that specific requirements for keeping records of student performance on the skills practice and the competency evaluations are necessary. In addition, the programs must be required to give each student a copy of his record and certificate of completion to ensure that students have such a record to keep for future employment.*<br><br>B. Student identification. The medication aide students shall wear identification that clearly distinguishes them as a "medication aide student" while engaged in practical skills training under direct supervision by an instructor.<br><br>*The identification requirement is essential to ensure that residents and others are aware that the person is practicing under supervision and is not authorized to administer medications independent of a supervisor.* |
| 80 | Section 80 sets out the requirements for a provider who is planning to close a program.<br><br>When a medication aide training program closes, the program provider must notify the board of the date of closing following completion of the last program for which students are already enrolled and submit to the board a list of all persons who have completed the program with the date of completion of each.<br><br>*Notification is necessary to ensure that the Board is aware that a program is no longer operating and has the records of students who have completed the program so that information is not lost for future verification of a student's education and training.* |
| 90 | Section 90 sets out the requirements for initial registration as a medication aide, including:<br><br>a. Documentation of successful completion of a staff training program in direct client care approved by the Department of Social Services or of an approved nurse aide education program (*a prerequisite for entering a medication aide training program)*;<br><br>b. Documentation of successful completion of either:<br>(1) A medication aide training program approved by the board in accordance with this chapter;<br>(2) A nursing education program preparing for registered nurse licensure or practical nurse licensure; or<br>(3) An eight-hour refresher course preparing a person to take the competency evaluations |

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| | required for registration and one year of experience working as a medication aide in an assisted living facility. The one year of experience as a medication aide shall be immediately prior to applying for registration and may only be accepted as evidence of training until (one year following the effective date of this chapter);<br><br>*While the statute did not authorize the Board to "grandfather" persons currently working as medication aides in assisted living facilities, the Board determined that a year of experience as a med aide/tech and a refresher course that would cover more recent drug information would provide adequate evidence of minimal competency to practice. Such a provision was included to allow for a transition period from the current system to the registration of aides and to ensure that shortages in the labor pool would be minimized.*<br><br>c. Submission of the required application and fee as prescribed by the board;<br><br>d. Disclosure whether there are grounds for denial of registration as specified in § 54.1-3007 of the Code of Virginia; and<br><br>e. Documentation of successful completion of competency evaluations consisting of:<br><br>(1) A clinical practicum that evaluates minimal competency in the skills specified by the board. The clinical practicum shall be a one-on-one evaluation with a registered nurse, a licensed practical nurse or a pharmacist with experience in medications in long term care; and<br>(2) A written evaluation as specified by the board with a passing score determined by the board;<br><br>2. An applicant who fails to take the board-approved competency evaluation within one year of completion of the training or who has failed the evaluation in three attempts shall re-enroll and successfully complete another approved medication aide training program.<br><br>*The law (§ 54.1-3042) requires medication aides to be registered by competency evaluation. Passage of the training program will include a clinical practicum in which the student will demonstrate the core knowledge and skills from an approved training program. In addition, the student will be required to pass a written evaluation or examination approved by the Board to provide a consistent measure of minimal competency. Students who do not complete a competency evaluation within one year or who fail 3 times will be required to retake the training program in order to ensure that they have retained sufficient core knowledge to be safe in administering drugs to residents of an ALF.* |
| 100 | Section 100 establishes requirements for renewal or reinstatement of registration.<br>A. The requirements for renewal of registration are:<br><br>1. Registered medication aides born in even-numbered years must renew by the last day of the birth month in even-numbered years. Registrants born in odd-numbered years must renew by the last day of the birth month in odd-numbered years.<br>2. The medication aide must complete the application and submit it with the required fee and an attestation that he has completed continuing education as required by subsection B.<br>3. Failure to receive the application for renewal does not relieve the medication aide of the responsibility for renewing his registration by the expiration date. The registration automatically lapses if the medication aide fails to renew by the expiration date.<br>4. Any person administering medications in an assisted living facility during the time a |

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| | registration has lapsed is considered an illegal practitioner and is be subject to prosecution.<br><br>*Language related to the timing of renewals and the responsibility of the medication aide related to renewal is the same for other registrants or licensees under the Board.*<br><br>B. Continuing education required for renewal:<br><br>1. In addition to hours of continuing education in direct client care required for employment in an assisted living facility, a medication aide shall have four hours each year of population-specific training in medication administration in the assisted living facility in which the aide is employed or a refresher course in medication administration offered by an approved program.<br><br>2. A medication aide shall maintain documentation of continuing education for a period of four years following the renewal period for which the records apply.<br>3. The board shall periodically conduct a random audit of at least one percent of its registrants to determine compliance. A medication aide selected for audit shall provide documentation as evidence of compliance within 30 days of receiving notification of the audit.<br>4. The board may grant an extension for compliance with continuing education requirements for up to one year, for good cause shown, upon a written request from the registrant prior to the renewal deadline.<br><br>*The law (§ 54.1-3043) requires medication aides to complete ongoing training related to medication administration. Therefore, the Board has stipulated four hours of population-specific training in addition to any patient care training within the employing facility. It would be expected that most facilities would provide the refresher continuing education as an in-service training for their employees. All approved training programs providers are required to offer refresher course modules, so there should be sufficient opportunity to obtain the required four hours.*<br><br>C. Reinstatement of certification.<br><br>1. An individual whose registration has lapsed for less than one renewal cycle may renew by payment of the renewal fee and late fee and attestation that he has completed all required continuing education for the period since his last renewal.<br>2. An individual whose registration has lapsed for more than two years shall:<br>a. Apply for reinstatement of registration by submission of a completed application and fee;<br>b. Provide evidence of completion of all required continuing education for the period since his last renewal, not to exceed 16 hours of training in medication administration;<br>c. Retake the written and practical competency evaluation as required by the board; and<br>d. Attest that there are no grounds for denial of registration as specified in § 54.1-3007 of the Code of Virginia.<br><br>*An individual who has allowed his registration to lapse for more than two years has not been administered medications in an assisted living facility during that period, so competency cannot be assured. To indicate that he is current in his knowledge and skills, he will be required complete CE for the period (not to exceed 16 hours or two renewal cycles) and pass the competency evaluation.* |

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| 110 | Section 110 establishes the standards of practice.<br><br>A. A medication aide shall:<br><br>1. Document and report all medication errors and adverse reactions immediately to the licensed healthcare professional in the facility or to the client's prescriber;<br><br>2. Give all medications in accordance with the prescriber's orders and instructions for dosage and time of administration and document such administration in the client's record; and<br><br>3. Document and report any information giving reason to suspect the abuse, neglect or exploitation of clients immediately to the licensed healthcare professional in the facility or to the facility administrator.<br><br>*The responsibilities of a medication aide for documentation, reporting, and following prescribed orders are specifically stated because of their importance to the health, safety and welfare of assisted living residents. From the experience of persons who have supervised or employed medication aides, these standards are not met by some aides and need to be emphasized by regulation.*<br><br>B. A medication aide shall not:<br>1. Transmit verbal orders to a pharmacy;<br>2. Make an assessment of a client or deviate from the medication regime ordered by the prescriber;<br>3. Mix, dilute or reconstitute two or more drug products, with the exception of insulin; or<br>4. Administer intramuscular, intravenous or medications via a nasogastric or percutaneous endoscopic gastric tube.<br><br>*Activities that are prohibited to the practice of a medication aide are those that require some independent judgment and/or more specialized knowledge and skills than can be acquired in a 40-hour didactic training course.* |
| 120 | Section 120 sets out the grounds for disciplinary actions for medication aides as follows:<br><br>The board has the authority to deny, revoke or suspend a registration issued, or to otherwise discipline a registrant upon proof that he has violated any of the provisions of §54.1-3007 of the Code of Virginia. For the purpose of establishing allegations to be included in the notice of hearing, the board has adopted the following definitions:<br><br>1. Fraud or deceit in order to procure or maintain a registration shall mean, but shall not be limited to:<br>a. Filing false credentials;<br>b. Falsely representing facts on an application for initial registration, reinstatement or renewal of a registration; or<br>c. Giving or receiving assistance in taking the competency evaluation.<br><br>2. Unprofessional conduct shall mean, but shall not be limited to:<br>a. Performing acts beyond those authorized by the Code of Virginia and this chapter for practice as a medication aide.<br>b. Assuming duties and responsibilities within the practice of a medication aide without adequate training or when competency has not been maintained; |

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| | c. Obtaining supplies, equipment or drugs for personal or other unauthorized use;<br>d. Falsifying or otherwise altering client or drug records relating to administration of medication;<br>e. Falsifying or otherwise altering employer records, including falsely representing facts on a job application or other employment-related documents;<br>f. Abusing, neglecting or abandoning clients;<br>g. Having been denied a license, certificate or registration having had a license, certificate or registration issued by the board revoked or suspended.<br>h. Giving to or accepting from a client property or money for any reason other than fee for service or a nominal token of appreciation;<br>i. Obtaining money or property of a client by fraud, misrepresentation or duress;<br>j. Entering into a relationship with a client that constitutes a professional boundary violation in which the nurse aide uses his professional position to take advantage of a client's vulnerability, to include but not limited to actions that result in personal gain at the expense of the client, an inappropriate personal involvement or sexual conduct with a client;<br>k. Violating state laws relating to the privacy of client information, including but not limited to § 32.1-127.1:03 of the Code of Virginia;<br>l. Failing to follow provisions of the Medication Management Plan for the assisted living facility in which the aide is employed; or<br>m. Violating standards of practice as set forth in 18VAC90-60-110 of this chapter.<br><br>3. For the purposes of interpreting provisions of § 54.1-3007 (5) of the Code of Virginia, a pattern of medication errors may constitute practice that presents a danger to the health and welfare of clients or to the public. |