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## Proposed Regulation Agency Background Document

<b>Agency name</b>	Board of Nursing; Department of Health Professions
<b>Virginia Administrative Code (VAC) citation(s)</b>	18VAC90-26-10 et seq.
<b>Regulation title(s)</b>	Regulations for Nurse Aide Education Programs
<b>Action title</b>	Periodic review
<b>Date this document prepared</b>	12/4/19

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

## Brief Summary

*Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

Amendments to Chapter 26 will:

- Clarify the definition of select terms used in the Chapter
- Require all programs to implement the Board-approved curriculum
- Clarify requirements for instructional personnel
- Designate a skills acquisition minimum requirement and increase total program hours
- Move *advanced* nurse aide education program regulations to this Chapter

## 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.

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CNA = certified nurse aide

### Mandate and Impetus

Please identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, board decision, etc.). For purposes of executive branch review, "mandate" has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

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The mandate for this action is a periodic review that was posted on Townhall and published in the Register of Regulations. The comment period on the periodic review began on April 16, 2018 and ended on May 8, 2018; there were no comments on this chapter.

### Legal Basis

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

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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:*

- 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 statutory authority for approval of nurse aide education programs is found in:

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

*In addition to the general powers and duties conferred in this title, the Board shall have the following specific powers and duties:...*

8. To certify and maintain a registry of all certified nurse aides and to promulgate regulations consistent with federal law and regulation. The Board shall require all schools to demonstrate their compliance with § [54.1-3006.2](#) upon application for approval or reapproval, during an on-site visit, or in response to a complaint or a report of noncompliance. The Board may impose a fee pursuant to § [54.1-2401](#) for any violation thereof. Such regulations may include standards for the authority of licensed practical nurses to teach nurse aides;

**§ 54.1-3006.2. Nurse aide education program.**

*All approved nurse aide education programs shall provide each student applying to or enrolled in such program with a copy of applicable Virginia law regarding criminal history records checks for employment in certain health care facilities, and a list of crimes which pose a barrier to such employment.*

**Purpose**

*Please explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.*

Certified nurse aides often provide care to the most vulnerable of our citizens in long-term care, home health, and other health care settings. The workgroup convened in 2016 to review and standardize curriculum found that persons who train nurse aides need to be better trained themselves, that additional topics need to be taught in the educational programs, and that students need a sufficient number of hours of clinical training to be prepared to pass the examination and practice safely. Amendments are recommended to improve the training of nurse aides so they can be competent in their skills and knowledge to protect the health and safety of patients in their care.

## 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.*

As a result of periodic review of Chapter 26, the Board adopted amendments to clarify and update regulations for approval of nurse aide education programs. Substantive changes include:

- 1) A requirement that all clinical sites must be within 50 miles of the educational program or have Board approval (current policy of the Board);
- 2) A requirement for the certificate of completion to include specific information on the name of the program, the approval number from the Board, and the signature of the primary instructor or program coordinator;
- 3) A requirement for the primary instructor that states that while on-site to instruct students, that person cannot assume other duties within the school (such as serving as the school nurse and teaching the CNA course simultaneously);
- 4) A requirement for nurse aide education programs to follow the Board-approved curriculum with the addition of training in mental health and substance abuse;
- 5) A refresher course every three years for instructors to remain qualified to teach the nurse aide curriculum;
- 6) A change in the length of program to add 20 hours, from 120 to 140, with 20 hours specifically designated for skills acquisition; and
- 7) Two new sections 80 and 90 to move the provision of 18VAC90-25-130 and 18VAC90-25-140 (advanced nurse aide education programs) to Chapter 26 so all regulations for nurse aide education are included in one chapter.

## Issues

*Please identify the issues associated with the regulatory change, 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, include a specific statement to that effect.*

- 1) The primary advantage of the regulatory changes would be greater competency among certified nurse aides who have challenges in working with a vulnerable population of patients. There could also be an advantage to nurse aide students if instructors are better trained and more knowledgeable and there is more time in the curriculum for developing clinical skills – it may improve their opportunity to pass the required examination. The disadvantage of the regulatory changes may be an increase in the number of hours may necessitate a modest increase in staff in some situations.
- 2) There are no advantages or disadvantages to the agency or the Commonwealth, except clearer regulations may result in greater compliance.
- 3) There are no other pertinent matters of interest. 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.

### Requirements More Restrictive than Federal

*Please identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and 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 specific statement to that effect.*

There are federal requirements for nurse aides in nursing facilities to be on a nurse aide registry maintained by the state. While there are no specific requirements for nurse aide educational programs relating to curriculum and instructional personnel, there is a prohibition on charging a fee for approval of a program by a nursing board or other state entity. There is also a prohibition against an entity that accepts Medicaid or Medicare funds on charging a person to enroll in a facility-based program.

### Agencies, Localities, and Other Entities Particularly Affected

*Please identify any other state agencies, localities, or other entities particularly affected by the regulatory change. “Particularly affected” are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.*

Other State Agencies Particularly Affected – To the extent a few of the community college programs do not meet proposed requirements pertaining to a minimum number of hours (increase from 120 to 140), there would be some impact on those state-supported programs.

Localities Particularly Affected - To the extent a few of the high school programs do not meet proposed requirements pertaining to a minimum number of hours (increase from 120 to 140), there would be some impact on those programs supported by local funds.

Other Entities Particularly Affected – the largest number of current nurse aide programs that are currently below the proposed level of 140 hours are proprietary (for-profit) schools.

### Economic Impact

*Pursuant to § 2.2-4007.04 of the Code of Virginia, please identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Please keep in mind that this is change versus the status quo.*

**Impact on State Agencies**

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including:  a) fund source / fund detail;  b) delineation of one-time versus on-going expenditures; and  c) whether any costs or revenue loss can be absorbed within existing resources</p>	<p>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 for necessary functions of regulation. Since state expenditures for nurse aide training are considered administrative costs by OBRA (42CFR § 483.158), the Board does not charge an application or survey visit fee for nurse aide education programs. The costs of inspectors and operational expenses are incorporated into the budgets of the Nurse Aide Program and the Board of Nursing.  There are no on-going expenditures related to these proposed regulations.</p>
<p><i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p>Currently, 30 of the 44 community college programs have 140 or more hours in their curriculum. However, 6 programs have 120 hours, and 8 programs have 121-139 hours. Those programs with less than 140 hours may be impacted relating to potential costs for increased hours (from 1-20 hours, depending on the program). Budgeting for any increase in instructional personnel workload may be necessary. Affected programs would have two years from the effective date of the regulations to adjust schedules and plan for the personnel costs.</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>There is a benefit to all agencies if nurse aides graduate as more competent caregivers due to increased skills acquisition training and more graduates are able to pass the examination.</p>

**Impact on Localities**

<p>Projected costs, savings, fees or revenues resulting from the regulatory change.</p>	<p>Currently, 68 of the 77 high school programs have 140 or more hours in their curriculum. However, 4 programs have 120 hours, and 5 programs have 121-139 hours. Those programs with less than 140 hours may be impacted relating to costs for increased hours (from 1-20 hours, depending on the program). Budgeting for an increase in instructional personnel workload may be necessary. Affected programs would have two years from the effective date of the regulations to adjust schedules and plan for the personnel costs.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>There is a benefit in having more nurse aides pass the competency examination and more qualified in their skills.</p>

**Impact on Other Entities**

<p>Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.</p>	<p>Other entities affected would be proprietary (for profit) schools and nursing home/hospital programs.</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>Out of 72 proprietary schools, 29 currently have 140 hours or more. Twelve have 120 hours, and 31 have between 121-139 hours. Out of 34 nursing home/hospital programs, 17 have 140 hours or more. Nine have 120 hours, and 8 have 121-139 hours.  The agency has no information on which are small businesses.</p>
<p>All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Please be specific and include all costs including, but not limited to:  a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses;  b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change;  c) fees;  d) purchases of equipment or services; and  e) time required to comply with the requirements.</p>	<p>Instructional personnel would need to be paid for the additional hours of work. Those programs would have two years from the effective date of the regulations to adjust schedules and plan for the personnel costs.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>The Board believes the benefits of more specific training for instructors and more hours in skills acquisition will result in an increase in passage rates on the skills portion of the national competency examination, which will result in more CNAs available to meet the growing needs of the Commonwealth and better trained CNAs to serve a very vulnerable population.</p>

**Alternatives**

*Please describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.*

In 2016, Delegate Orrock sent a letter to the Director of the Department of Health Professions requesting the convening of a stakeholder workgroup to “discuss existing practices and curricula while seeking ways to standardize and improve the training provided to the front-line (CNAs) clinicians.” The Delegate asked that specific state agencies and professional associations be included in such a workgroup. The group was provided data regarding the approved nurse aide programs in Virginia, their pass rates on the nurse aide exam, and the number of didactic and

clinical hours per type of program. Subsequently, a subgroup met several times to work on the nurse aide curriculum. Recommendations from this review were incorporated into the periodic review and adopted by the Board. There are no alternatives that would achieve the purpose of the regulatory change.

**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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.*

The standards by which a nurse aide education program can be initially approved and continue to have board approval must be set forth in regulations. There are no alternative methods consistent with public health and safety in the population served by nurse aides who are certified by the board.

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

*If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, please indicate whether the regulatory change meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable.*

*In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.*

(1) There is a continued need for the regulation as nurse aide education programs must be approved by the Board of Nursing, and the only standards by which such approval can be determined must be set out in regulations promulgated through the Administrative Process Act.

(2) A Notice of Periodic Review was published on April 16, 2018 for a 30-day comment period; there were no comments from the public.

(3) The regulation has been amended in a number of sections to bring greater clarity to the requirements and foster compliance by the regulated entities;

(4) The regulation does not overlap, duplicate, or conflict with federal or state law or regulation; and

(5) The chapter was last amended in 2016 to add “observational and reporting techniques” to the required content of a nurse aide education program to conform regulation to changes made to the Code of Virginia by passage of HB386 in the 2016 General Assembly (Chapter 582). The population of clients/patients for whom nurse aides provide care has become increasingly more complex with increasing health and mental health needs and problems. An increase in competency and skills is the goal of this action.

**Public Comment**

*Please summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. If no comment was received, enter a specific statement to that effect.*

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
Sharon Griffin	Proposed regulation specifying that the primary instructor should assume no other duties is desperately needed.	The Board concurs with the comment.
Patty Wiesenhofer	Recommends the train-the-trainer class be 10 hours over 2 days and the refresher course be 5 hours in one day.	The Board did not specify the number of days in which the 12-hour trainer course would be offered, and it did not specify the number of hours for the refresher course – only that an instructor must take a course every 3 years.
Director of Allied Health Programs - No. Va. Community College	An increase in 20 hours will necessitate an increase in faculty pay and in tuition	The Board recognizes that there may be increased costs, so the proposed amendment provides a two-year period after the effective date of the regulation to give programs time to phase in additional hours. Only 6 of the 44 community college programs currently have 120 hours; 30 programs currently have 140 or more hours. The issue is public safety, and the Workgroup comprised of stakeholders agreed that more hours of education are needed – especially in skills acquisition.
Karen Grove	Recommended that the refresher course be hosted by the Board in conjunction with the testing agency. Agreed with comment that 140 with additional hours in the skills lab may be problematic.	See response to comment about hours above. The Board will consider the request for a refresher course.
JoHanna Carlos	Should consider a 20-hour mandatory nurse evaluator training;	Evaluators are not regulated by these regulations or the Board; they are employed

	there is inconsistency among evaluators.	by the testing service. The Board will share the comment with the service.
JoAnna Collins	Current train-the-trainer offerings should be re-evaluated. Also noted inconsistency among evaluators	Proposed amendments to regulations address the instructional personnel teaching experience requirements incorporating the federal requirement found at 42 CFR § 483.152. The Board of Nursing does not have the authority to regulate instructional personnel training programs.
Cherrie Eubanks, Red Cross	Reviewed the changes and all seem reasonable.	The Board appreciates the comment.

### Public Participation

*Please include a statement that in addition to any other comments on the regulatory change, the agency is seeking comments on the costs and benefits of the regulatory change and the impacts of the regulated community. Also, indicate whether a public hearing will be held to receive comments.*

In addition to any other comments, the Board of Nursing 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 by mail, email or fax to Elaine Yeatts at [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov) or at 9960 Mayland Drive, Henrico, VA 23233 or by fax at (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.

### Detail of Changes

*Please list all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation.*

*If the regulatory change will be 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 change. Delete inapplicable tables.*

If the regulatory change is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below. Please include citations to the specific section(s) of the regulation that are changing.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
10		Sets out the definitions for words and terms used in the chapter	New definitions are added for “approval,” “conditional approval,” “site visit,” and “survey visit” - all terms more explicitly describe the meanings as used in the chapter. The term “program provider” is amended to clarify that it is an entity that conducts a “board-approved” education program.
20		Sets out requirements for establishing and maintaining a nurse aide education program	<p>Subsection A is amended to specify that the application that is required to be filed at least 90 days in advance of an opening must be a <u>complete</u> application, which is necessary for the Board to make a determination of compliance and grant approval. The Board has added the specific requirement for a site visit, which is currently conducted prior to granting approval to ensure that the essential elements for conducting an approved program are in place. There is also a specific restriction on advertising the program until approval has been granted to prevent misrepresentation by a provider.</p> <p>Subsection B is amended to specify that programs must implement the Board-approved curriculum to ensure consistency with the content set out in sections 40 and 50. <i>The amendment is necessary to ensure consistency and accountability in the program content. Development of the curriculum was a primary function of the Workgroup over a two-year period.</i></p> <p>Other amendments are:</p> <ol style="list-style-type: none"> <li>1) Requirement that any nursing facility used for skills training that is more than 50 miles from the program must have board approval. <i>The requirement is consistent with nursing education and is necessary to prevent an undue hardship on students.</i></li> <li>2) Amendment to specify that reports required must be submitted within a time frame specified by the board.</li> </ol>

			<p>3) Clarify that the fee restriction applies to a nurse aide student.                  4) Clarify that the licensure status referenced is for the clinical facility rather than the instructors, etc.</p>
30		<p>Sets out the requirements for instructional personnel in a nurse aide education program.</p>	<p>Amendments to subsection A clarify that the program coordinator for a nurse aide education program has administrative responsibility and accountability for the program. An amendment will also clarify that the director of nursing services may serve as the program coordinator but cannot act as the engage in the actual classroom instruction or clinical teaching at the same time he/she is serving as the director. <i>While the rule has not changed, it has been misunderstood, so the restatement is clarifying and will benefit compliance. In a nursing facility, the director of nursing has be available at all times to handle patient needs and emergencies.</i></p> <p>Amendments in subsection B specify that the primary instructor must have two years of experience in provision of geriatric long-term care with at least one year of direct client care or supervisory experience. <i>The current rule is less specific about the experience requirement, and the Workgroup and the Board concurred that hands-on experience with the geriatric population is critical in training nurse aides.</i></p> <p>There is an amendment specifying that the primary instructor cannot assume other duties while instructing or supervising students. <i>For example, the primary instructor in a high school program cannot also serve as the school nurse, which takes time and attention away from instructing students in a nurse aide program.</i></p> <p>Subsection C is amended to clarify that an instructor may be practicing under a multistate licensure privilege and that experience in geriatric long-term care is necessary to be qualified to teach the nurse aide curriculum.</p> <p>Subsection D is amended to include teaching high school students as evidence of competency along with completion of a train-the-training course of at least 12 hours. There are also additional competencies that must be covered in a train-the-trainer course – including a review of current regulations</p>

			<p>and the Board-approved curriculum and a review of the skills evaluated on the examination. <i>A concern expressed by persons knowledgeable about current nurse aide instructor training courses is the variability in the courses – some of which are inadequate in content and length. Therefore, the Board is setting a minimum number of 12 hours for a training course and specifying additional topics that must be covered for minimal competency to teach in a program.</i></p> <p>The alternative to taking a train-the-trainer course is evidence of prior teaching experience. That option is amended to specify that the experience must be in teaching the curriculum content and skills to adults or high school students and knowledge of current regulations. <i>Prior experience in teaching subjects not specific to nurse aide education is not adequate to ensure the competency of an instructor to teach in a nurse aide education program.</i></p> <p>Subsection E is added to require a refresher course every three years to include a review of regulations and skills evaluated on the examination. <i>Initially, the Board intended to specify the number of hours in such a course but decided to leave the requirement open to the needs of the personnel for additional training.</i></p> <p>Subsection G is amended to specify that the ratio of 10:1 for students to instructors also applies to the skills laboratory. <i>Since the skills portion of the examination has a low passage rate in Virginia, students may benefit from more close instruction in performance of skills. Patients who are ultimately the recipients of those skills will certainly benefit from more proficiency. In 2018, the passage rate in Virginia on the skills portion of the examination was only 64% (2<sup>nd</sup> lowest among all states in which nurse aide education is regulated by a board of nursing).</i></p>
40		Sets out requirements for the curriculum	<p>Subsection A is amended to clarify that the curriculum includes the skills laboratory and that the requirement for hours of instruction before there is client contact by a student applies to any type of client, not just clients of a nursing facility. The one addition to the curriculum is instruction in substance abuse and opioid misuse, since aides are</p>

			<p>increasingly exposed to clients who have those issues.</p> <p>Subsection C is deleted because all programs will be required to follow the Board-approved curriculum. There will be no need for board approval for changes in a program’s curriculum. <i>Consistency in the program offering will result in more qualified aides and should improve passage rates.</i></p>
50		Sets out other program requirements	<p>Subsection A is amended to specify more complete information to be included on the certificate of completion from a program. <i>Without information necessary to identify the program and confirm completion, the Board is unable to determine whether an applicant is qualified to be placed on the Registry.</i> Additionally, the “competency evaluation” is clarified to mean the national certification examination rather than an internal evaluation conducted by the program.</p> <p>Subsection B is amended to allow student identification in clinical settings to follow the policy of the facility (consistent with regulations for nurses and nursing students).</p> <p>Subsection C is amended to change the length of the program from 120 to 140 hours with the additional 20 hours designated for skills acquisition. <i>Since some programs (see economic impact for data) currently offer less than 140 hours, the proposed amendment would not be implemented until two years after the effective date of the regulation.</i> Other amendments in subsection C are clarifying in nature.</p> <p>In subsection D on classroom facilities, the requirement for technology and equipment used for simulation is amended to clarify that it should be current and that the equipment and supplies should be sufficient for the size of the student cohort.</p>
60		Sets out the requirements for continued approval of an education program	<p>Subsection A is amended to use the terms defined – survey visit and site visit – and to make the distinction between the two. There is no change; the amendments are clarifying. Additionally, the Board’s requirement that any additional information needed to evaluate a program’s compliance must be submitted within a timeframe specified by the Board. The Board currently sets such</p>

			<p>a timeframe for submission of any additional information.</p> <p>Subsection B is amended to clarify the process for continued, conditional or withdrawal of approval. The process was more clearly defined for consistency with the APA, the process followed for nursing education programs, and with the advice of counsel.</p>
70		<p>Sets out the process to be followed for interruption or closing of a program</p>	<p>Subsection A is amended to allow a program that has been placed on inactive status to readmit students at any time during the following year by providing a list of admitted students and a start date. A program that does not hold classes for two consecutive years is considered to be closed. After closure of a program, a new approval application is required in order to reopen.</p>
	80	<p>Sets out requirements for approved advanced certification education programs.</p>	<p>Section 80 is identical to 18VAC90-25-130, which was repealed in the periodic review action for that chapter. Including this section in the chapter on nurse aide education provides for a more logical placement as it pertains to approval of a nurse aide education program for advanced CNAs There are no changes in the requirements set out in this section.</p>
	90	<p>Sets out requirements for curriculum content for an advanced certification education program</p>	<p>Section 90 is identical to 18VAC90-25-140, which was repealed in the periodic review action for that chapter. Including this section in the chapter on nurse aide education provides for a more logical placement as it pertains to approval of a nurse aide education program for advanced CNAs. There are no changes in the requirements set out in this section.</p>