

**VIRGINIA BOARD OF NURSING**

**HB349 Workgroup Meeting  
AGENDA**

**Monday, July 22, 2024 at 1:30 P.M.**

Department of Health Professions - Perimeter Center  
9960 Mayland Drive, Conference Center 201 – **Board Room 2**  
Henrico, Virginia 23233

*Our mission is to ensure safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to health care practitioners and the public.*

**BOARD MEMBERS:** Carol Cartte, RN, BSN, **Chair**  
Delia Acuna, FNP-C

**STAKEHOLDERS:** Andrew Lamar, Virginia Nurses Association (VNA)  
April Payne, Virginia Health Care Association (VHCA)/ Virginia Center for Assisted Living (VCAL)  
Scott Johnson, VHCA/VCAL  
Allyson Flinn, Virginia Department of Health (VDH)  
Melissa Green, VDH  
Karen Riley, LeadingAge Virginia

**DHP STAFF:** Claire Morris, RN, LNHA; Incoming Executive Director  
Christina Bargdill, BSN, MHS, RN; Deputy Executive Director  
Jacquelyn Wilmoth, RN, MSN; Deputy Executive Director  
Erin Barrett, JD, DHP Director of Legislative and Regulatory Affairs

1:30 p.m. Introduction and Review of Charge to Workgroup

1:35 p.m. Public Comment

1:40 p.m. Discussion Items:  
▪ HB349 Legislation  
▪ Medication Aide Statue - §54.1-3041, 3042 and 3043  
▪ Regulations Governing the Registration of Medication Aides – 18VAC90-60-10

Next Step

Prepared by: Huong Vu

# VIRGINIA ACTS OF ASSEMBLY -- 2024 SESSION

## CHAPTER 284

*An Act to amend and reenact §§ 54.1-3041 and 54.1-3042 of the Code of Virginia, relating to medication aides; certified nursing facilities; work group; report.*

[H 349]

Approved April 2, 2024

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-3041 and 54.1-3042 of the Code of Virginia are amended and reenacted as follows: § 54.1-3041. Registration required.**

A. 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 as a registered medication aide.

B. A medication aide who administers drugs as determined permissible by the Board for administration to residents in a certified nursing facility licensed by the Department of Health shall be registered by the Board as an advanced registered medication aide.

C. An advanced registered medication aide who is registered to administer drugs to residents in a certified nursing facility shall also be authorized to administer drugs to residents in an assisted living facility.

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

A. 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;

2. Has successfully completed a staff training program in direct care approved by the Department of Social Services or an approved nurse aide education program;

3. Has successfully completed an education or training program approved by the Board that shall include one of the following:

a. A medication aide education or training program approved by the Board that shall be 68 hours combined classroom instruction and clinical skills practice curriculum, *and for an advanced registered medication aide the number of additional hours as determined by the Board*; or

b. A nursing education program preparing for registered nurse or practical nurse licensure; ~~and~~

4. Has successfully completed a competency evaluation consisting of both a clinical evaluation of minimal competency and a written examination as specified by the Board; *and*

5. *In the case of medication aides who will administer drugs as determined permissible by the Board for administration to residents in a certified nursing facility licensed by the Department of Health, has successfully completed all educational requirements established by the Board for administering drugs in a certified nursing facility, which shall reflect the medically complex patient population found in certified nursing facilities and the resulting medication regime for that population.*

B. The Board shall (i) make the written examination available in both electronic and non-electronic format, (ii) provide sufficient locations for the administration of any written examination required for registration under this section, to ensure adequate access to the written examination for all applicants, (iii) establish a procedure pursuant to which an examination shall be offered at or near the location of an education or training course, upon the request of five or more applicants, provided that the security of the examination and the integrity of the administration of the examination are ensured and that any additional costs are born by the requesting applicants, and (iv) provide written notice to applicants of the results of any competency examination completed by the applicants within seven days of completion of the examination.

C. Any applicant under this section who has provided to the Board evidence of successful completion of the education or training course required for registration may act as a medication aide on a provisional basis for no more than 120 days before successfully completing any required competency evaluation. However, upon notification of failure to successfully complete the written examination after three attempts, an applicant shall immediately cease acting as a medication aide.

D. Any applicant under this section who shall apply by endorsement from any state or the District of Columbia that requires registration of medication aides who has met the requirements of registration in such jurisdiction may be deemed eligible to sit for the competency evaluation required pursuant to this section, subject to approval of the Board.

**2. That the provisions of the first enactment of this act shall become effective on July 1, 2025.**

**3. That the Board of Nursing (the Board) shall convene a work group of stakeholders, including the Virginia Health Care Association, the Virginia Nurses Association, and LeadingAge Virginia,**

to develop recommendations to enable medication aides registered by the Board to administer drugs to residents in a certified nursing facility licensed by the Department of Health. The work group's recommendations shall be reported to the Chairmen of the Senate Committee on Education and Health and the House Committee on Health and Human Services by November 1, 2024.

4. That the Department of Health shall promulgate regulations to authorize medication aides registered by the Board of Nursing (the Board) to administer drugs as determined permissible by the Board for administration to residents in a certified nursing facility licensed by the Department of Health to be effective as of July 1, 2025.

5. That the Board of Nursing shall promulgate regulations to implement the provisions of this act to be effective as of July 1, 2025.

## **Article 7. Medication Aides.**

### **§ 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.

2005, cc. [610](#), [924](#).

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

A. 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;
2. Has successfully completed a staff training program in direct care approved by the Department of Social Services or an approved nurse aide education program;
3. Has successfully completed an education or training program approved by the Board that shall include one of the following:
  - a. A medication aide education or training program approved by the Board that shall be 68 hours combined classroom instruction and clinical skills practice curriculum; or
  - b. A nursing education program preparing for registered nurse or practical nurse licensure; and
4. Has successfully completed a competency evaluation consisting of both a clinical evaluation of minimal competency and a written examination as specified by the Board.

B. The Board shall (i) make the written examination available in both electronic and non-electronic format, (ii) provide sufficient locations for the administration of any written examination required for registration under this section, to ensure adequate access to the written examination for all applicants, (iii) establish a procedure pursuant to which an examination shall be offered at or near the location of an education or training course, upon the request of five or more applicants, provided that the security of the examination and the integrity of the administration of the examination are ensured and that any additional costs are born by the requesting applicants, and (iv) provide written notice to applicants of the results of any competency examination completed by the applicants within seven days of completion of the examination.

C. Any applicant under this section who has provided to the Board evidence of successful completion of the education or training course required for registration may act as a medication aide on a provisional basis for no more than 120 days before successfully completing any

required competency evaluation. However, upon notification of failure to successfully complete the written examination after three attempts, an applicant shall immediately cease acting as a medication aide.

D. Any applicant under this section who shall apply by endorsement from any state or the District of Columbia that requires registration of medication aides who has met the requirements of registration in such jurisdiction may be deemed eligible to sit for the competency evaluation required pursuant to this section, subject to approval of the Board.

2005, cc. [610](#), [924](#); 2009, cc. [133](#), [837](#).

**§ 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.

2005, cc. [610](#), [924](#).

*Commonwealth of Virginia*



**REGULATIONS**  
**GOVERNING THE REGISTRATION OF**  
**MEDICATION AIDES**

**Virginia Board of Nursing**

**Title of Regulations: 18VAC90-60-10 et seq.**

**Statutory Authority: § 54.1-2400 and Chapter 30 of Title 54.1**  
**of the *Code of Virginia***

**Effective Date: February 6, 2020**

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## Part I. General Provisions

### 18VAC90-60-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

“Board” means the Virginia Board of Nursing.

“Client” means a person receiving the services of a medication aide in an assisted living facility.

“Committee” means the Special Conference Committee, comprised of not less than two members of the board in accordance with § 2.2-4019 of the Code of Virginia.

“Direct client care” means assisting residents in performance of personal care and activities of daily living.

“Medication” means drugs as scheduled in the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia).

### 18VAC90-60-20. Identification; accuracy of records.

A. Any person regulated by this chapter shall, while on duty, wear identification that is clearly visible to the client and that indicates the appropriate title issued to such person by the board under which the person is practicing in that setting. Name identification on a badge shall follow the policy of the assisted living facility in which the medication aide is employed.

B. A medication aide who has changed his name shall submit as legal proof to the board a copy of the marriage certificate, a certificate of naturalization or a court order evidencing the change. A duplicate certificate shall be issued by the board upon receipt of such evidence.

C. A medication aide shall maintain an address of record with the board. Any change in the address of record or in the public address, if different from the address of record, shall be submitted electronically or in writing to the board within 30 days of such change. All notices required by law and by this chapter to be sent by the board to any registrant shall be validly given when sent to the latest address of record on file with the board.

### 18VAC90-60-30. Fees.

1. Application for program approval	\$500
2. Application for registration as a medication aide	\$50
3. Annual renewal for medication aide	\$30
4. Late renewal	\$15
5. Reinstatement of registration	\$90
6. Handling fee for returned check or dishonored credit card or debit card	\$50



- |   |       |
|---|-------|
| 7. Duplicate registration   | \$15  |
| 8. Reinstatement following suspension, mandatory suspension or revocation | \$120 |

B. Fees shall not be refunded once submitted.

C. The fee for the state examination shall be paid directly to the examination service contracted by the board for its administration.

## **Part II. Medication Aide Training Programs**

### **18VAC90-60-40. Establishing and maintaining a medication aide training program.**

A. Establishing a medication aide training program.

1. A program provider wishing to establish a medication aide training program shall submit a completed application and pay the prescribed fee to the board at least 90 days in advance of the first expected offering of the program.
2. Initial approval may be granted when all documentation of the program's compliance with requirements as set forth in this part has been submitted and deemed satisfactory to the board.
3. If approval is denied, the applicant may request, within 30 days of the mailing of the decision, an informal conference committee convened in accordance with § 2.2-4019 of the Code of Virginia.
4. If the committee's recommendation is to deny approval, no further action will be required of the board unless the program requests a hearing before the board or a panel thereof in accordance with § 2.2-4020 and subdivision 11 of § 54.1-2400 of the Code of Virginia.

B. Maintaining an approved medication aide training program. To maintain approval, the program shall:

1. Continue to comply with requirements as set forth in this part.
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%.
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.
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.
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.

6. Provide each student with a certificate of completion, which shall include the name of the program, the approval number provided by the board, and the signature of the instructor.

**18VAC90-60-50. Requirements for instructional personnel.**

A. Primary instructors in an approved program shall be licensed registered nurses, licensed practical nurses or pharmacists who, consistent with provisions of the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia), are authorized to administer or dispense drugs and have at least three years of experience in such practice.

B. Licensed practical nurses, registered nurses, or pharmacists who have not had at least three years of experience in administering or dispensing drugs may be used as secondary instructors for the supervised skills practice hours of the program.

C. To be qualified as an instructor, a nurse or a pharmacist shall:

1. Hold a current, active, unrestricted license or a multistate licensure privilege; and
2. Successfully complete a course, including a post-course examination, that is designed to prepare the instructor to teach the medication aide curriculum approved by the board for administration of medications 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.

D. Each instructor in an approved program shall:

1. Participate in the planning of each learning experience and be responsible for the teaching and evaluation of students;
2. Ensure that course objectives are accomplished and the curriculum content has been completed; and
3. Maintain student records as required by 18VAC90-60-70 B.

**18VAC90-60-60. Requirements for the program curriculum.**

A. Prerequisite for the program.

A student seeking enrollment in a medication aide training program shall 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.

B. Hours of instruction. An approved program shall consist of a minimum of 68 hours of student instruction and training to include:

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;

2. At least 20 hours of supervised skills practice in medication administration to residents of an assisted living facility, after which the training program shall evaluate the student's minimal competency in the clinical skills of administering medications on a form provided by the board. Up to twenty percent (20%) of the supervised skills practice may be completed by a simulation experience in a simulation laboratory. The clinical evaluation shall be conducted one-on-one with a qualified instructor with experience in medications in long-term care; and

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.

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:

1. Preparing for safe administration of medications to clients in assisted living facilities;
2. Maintaining aseptic conditions;
3. Understanding of basic pharmacology;
4. Facilitating client self-administration or assisting with medication administration;
5. Following proper procedure for preparing, administering, and maintaining medications; and
6. Following appropriate procedures for documentation and reporting to the licensed healthcare professional on duty at the facility or to the client's prescriber.

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.

#### **18VAC90-60-70. Other program requirements.**

A. Ratio. An approved training program shall maintain a ratio of no more than 10 students for one instructor for the 20 hours of supervised skills practice as required by 18VAC90-60-60 B.

B. Records.

1. Each medication aide training education program shall 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, as specified in 18VAC9-60-40.
2. A record of the reports of graduates' performance on the approved competency evaluation program shall be maintained.
3. A record that documents the disposition of complaints against the program shall be maintained.
4. All records required by this section shall be maintained for at least five years.

C. 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. Name identification shall follow the policy of the assisted living facility in which the medication aide is engaged in practical training.

**18VAC90-60-75. Conditional or Withdrawal of Approval of a Medication Aide Training Program.**

A. If the board determines that a medication aide training program is not maintaining the requirements of Part II (18VAC90-60-40 et seq.) of this chapter, the board may:

1. Place the program on conditional approval with terms and conditions to be met within the timeframe specified by the board; or
2. Withdraw program approval.

B. If the board either places a program on conditional approval with terms and conditions to be met within a timeframe specified by the board or withdraws approval, the following shall apply:

1. No further action will be required of the board unless the program requests an informal conference pursuant to §§ 2.2-4019 and 54.1-109 of the Code of Virginia.
2. If withdrawal or continued program approval with terms and conditions is recommended following the informal conference, the recommendation shall be presented to the board or a panel of the board for review and action.
3. If the recommendation of the informal conference committee is accepted by the board or a panel of the board, the decision shall be reflected in a board order, and no further action by the board is required unless the program requests a formal hearing within 30 days from entry of the order in accordance with § 2.2-4020 of the Code of Virginia.
4. If the decision of the board or a panel of the board following a formal hearing is to withdraw approval or continue on conditional approval with terms or conditions, the program shall be advised of the right to appeal the decision to the appropriate circuit court in accordance with § 2.2-4026 of the Code of Virginia and Part 2A of the Rules of the Supreme Court of Virginia.

**18VAC90-60-80. Requirements for closing of a program.**

When a medication aide training program closes, the program provider shall:

1. Notify the board of the date of closing following completion of the last program for which students are already enrolled.
2. Submit to the board a list of all persons who have completed the program with the date of completion of each.

**Part III. Registration of Medication Aides.**

**18VAC90-60-90. Requirements for initial registration.**

A. To be registered as a medication aide, an applicant shall:

1. Provide documentation of successful completion of:
  - a. A staff training program in direct client care approved by the Department of Social Services;
  - b. A nursing education program;
  - c. An approved nurse aide education program; or
  - d. A clinical nursing course that includes at least 40 hours of clinical experience involving direct client care within the past 12 months;
2. Provide documentation of successful completion of one of the following:
  - a. A medication aide training program approved by the board in accordance with this chapter; or
  - b. A nursing education program preparing for registered nurse licensure or practical nurse licensure.
3. Submit the required application and fee as prescribed by the board;
4. Disclose whether there are grounds for denial of registration as specified in § 54.1-3007 of the Code of Virginia; and
5. Provide documentation of successful completion of competency evaluations consisting of:
  - a. A clinical evaluation of minimal competency in the skills of administering medications as specified in 18VAC90-60-60 B 2; and
  - b. A written examination as specified by the board with a passing score determined by the board.

B. An applicant who fails to take the board-approved examination within two years of completion of the training or who has failed the examination in three attempts shall reenroll and successfully complete another approved medication aide training program before re-applying for registration.

**18VAC90-60-91. Requirements for provisional practice.**

- A. An applicant for registration who wants to practice as a medication aide on a provisional basis shall:
1. Submit the required application for registration and fee as prescribed by the board; and
  2. Provide evidence to the board of successful completion of the medication aide training course or a nursing education program.
- B. An applicant shall practice for no more than 120 days from the date of a letter from the board acknowledging receipt of the documentation required in subsection A of this section and granting provisional authorization.
- C. An applicant acting as a medication aide under provisional authorization shall be identified as a “provisional medication aide” on a nametag worn in the facility.
- D. An applicant with provisional authorization shall immediately cease acting as a medication aide at the conclusion of the 120-day period or upon notification of failure after three attempts to pass the written examination required for registration, whichever comes first.

**18VAC90-60-92. Requirements for registration by endorsement.**

An applicant applying for registration by endorsement who has met the requirements for registration or certification as a medication aide in another state or the District of Columbia may be deemed eligible to sit for the state examination if there are no grounds for denial of registration as specified in § 54.1-3007 of the Code of Virginia and upon submission of:

1. A completed application and fee; and
2. Verification of registration or certification as a medication aide in another state or the District of Columbia, which is current or eligible for reinstatement.

**18VAC90-60-100. Renewal or reinstatement of registration.**

**A. Renewal of registration.**

1. Registered medication aides shall renew by the last day of their birth month each year.
2. The medication aide shall complete the renewal notice and submit it with the required fee and an attestation that he has completed continuing education as required by subsection B of this section.
3. Failure to receive the notice for renewal shall not relieve the medication aide of the responsibility for renewing his registration by the expiration date.
4. The registration shall automatically lapse if the medication aide fails to renew by the expiration date.
5. Any person administering medications in an assisted living facility during the time a registration has lapsed shall be considered an illegal practitioner and shall be subject to prosecution under the provisions of §54.1-3008 of the Code of Virginia.

**B. Continuing education required for renewal.**

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:
  - a. Four hours each year of population-specific training in medication administration in the assisted living facility in which the aide is employed; or
  - b. A refresher course in medication administration offered by an approved program.
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.
3. The board shall periodically conduct a random audit 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.
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.

C. Reinstatement of registration.

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 the individual has completed all required continuing education for the period since his last renewal.

2. An individual whose registration has lapsed for more than one year shall:

a. Apply for reinstatement of registration by submission of a completed application and fee;

b. Provide evidence of completion of all required continuing education for the period since his last renewal, not to exceed eight hours of training in medication administration;

c. Retake the written and practical competency evaluation as required by the board; and

d. Attest that there are no grounds for denial of registration as specified in §54.1-3007 of the Code of Virginia.

D. A medication aide whose registration has been suspended or revoked by the board may apply for reinstatement by filing a reinstatement application, fulfilling requirements of subsection C of this section, and paying the fee for reinstatement after suspension or revocation. A medication aide whose registration has been revoked may not apply for reinstatement sooner than three years from entry of the order of revocation.

**18VAC90-60-110. Standards of practice.**

A. A medication aide shall:

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;

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

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.

B. A medication aide shall not:

1. Transmit verbal orders to a pharmacy;

2. Make an assessment of a client or deviate from the medication regime ordered by the prescriber;

3. Mix, dilute, or reconstitute two or more drug products, with the exception of insulin or glucagon;

4. Administer by intramuscular or intravenous routes or medications via a nasogastric or percutaneous endoscopic gastric tube; or

5. Administer by subcutaneous route, except for insulin medications, glucagon, or auto-injectable epinephrine.

## **18VAC90-60-120. Disciplinary provisions for medication aides.**

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:

1. Fraud or deceit in order to procure or maintain a registration shall mean, but shall not be limited to:
  - a. Filing false credentials;
  - b. Falsely representing facts on an application for initial registration, reinstatement or renewal of a registration; or
  - c. Giving or receiving assistance in taking the competency evaluation.
2. Unprofessional conduct shall mean, but shall not be limited to:
  - a. Performing acts beyond those authorized by the Code of Virginia and this chapter for practice as a medication aide.
  - b. Assuming duties and responsibilities within the practice of a medication aide without adequate training or when competency has not been maintained;
  - c. Obtaining supplies, equipment or drugs for personal or other unauthorized use;
  - d. Falsifying or otherwise altering client or drug records relating to administration of medication;
  - e. Falsifying or otherwise altering employer records, including falsely representing facts on a job application or other employment-related documents;
  - f. Abusing, neglecting or abandoning clients;
  - g. Having been denied a license, certificate or registration or having had a license, certificate or registration issued by the board revoked or suspended.
  - 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;
  - i. Obtaining money or property of a client by fraud, misrepresentation or duress;
  - j. Entering into a relationship with a client that constitutes a professional boundary violation in which the medication aide uses his professional position to take advantage of a client's vulnerability, to include actions that result in personal gain at the expense of the client, an inappropriate personal involvement or sexual conduct with a client;
  - k. Violating state laws relating to the privacy of client information, including § 32.1-127.1:03 of the Code of Virginia;



1. Failing to follow provisions of the Medication Management Plan for the assisted living facility in which the aide is employed; or

m. Violating any provisions of this chapter, including the standards of practice as set forth in 18VAC90-60-110.

3. For the purposes of interpreting provisions of subdivision 5 of § 54.1-3007 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.