



townhall.virginia.gov

Notice of Intended Regulatory Action (NOIRA) Agency Background Document

| | |
|---|--|
| Agency name | Board of Long-Term Care Administrators; Department of Health Professions |
| Virginia Administrative Code (VAC) Chapter citation(s) | 18VAC95-20-10 et seq.; 18VAC95-30-10 et seq. |
| VAC Chapter title(s) | Regulations Governing the Practice of Nursing Home Administrators; Regulations Governing the Practice of Assisted Living Facility Administrators |
| Action title | Administrator-in-Training (AIT) Program Requirements |
| Date this document prepared | 01/06/2020 |

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

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).

The Board intends to amend its regulations to clarify and enhance training and supervision requirements for prospective nursing home and assisted living facility administrators receiving pre-licensure training in an Administrator-in-Training (AIT) program. The Board intends to establish an additional pathway for individuals to qualify for AIT training in the assisted living setting and to strengthen the current requirement for college or university coursework to include coursework in business and/or human services. The Board will consider requiring an 80-hour training course that is based upon curriculum standards established by NAB for both nursing home and assisted living AITs, with those training hours to count toward total AIT hours.

The Board intends to offer continuing education credit for preceptors who supervise AITs and to enhance the training and continuing education received by both AITs and administrators related to mental impairments, including, but not limited to dementia and Alzheimer's.

Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

"AIT" means a person enrolled in the administrator-in-training program in nursing home administration in a licensed nursing home. (18VAC95-20-10)

"ALF AIT" means a person enrolled in an administrator-in-training program in a licensed assisted living facility. (18VAC95-30-10)

"NAB" means the National Association of Long Term Care Administrator Boards. (18VAC95-20-10, 18VAC95-30-10)

"RAP" means regulatory advisory panel as defined by 18VAC95-11-70.

Mandate and Impetus

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, or board decision). 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."

The impetus for this action is a set of recommendations for action from a Regulatory Advisory Panel (RAP) on Administrators-in-Training convened by the Board in April and July 2019. On September 27, 2019, the Chair of the RAP presented to the Board a series of collaborative and regulatory recommendations to improve the AIT program for prospective nursing home and assisted living facility administrator licensees. Members of the Board requested additional time for discussion of and research and information related to the regulatory recommendations of the RAP. Additional research and information was presented to the Board at its December 17, 2019 meeting, which led to the Board's decision to initiate rulemaking.

Legal Basis

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

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia, Section 54.1-2400, which provides the Board of Long-Term Care Administrators 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 (§ 2.2-4000 et seq.) that 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.)....

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

§ 54.1-3102. License required.

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

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

Purpose

Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.

The purpose of this regulatory action is to strengthen current training and supervision requirements for prospective administrator licensees in the nursing home and assisted living settings. Training is essential for prospective administrators not only as preparation for examination and licensure, but also as a means of ensuring safety and competency for practice within the long-term care setting, which in turn enhances public health and safety.

The Board also intends to strengthen training for current and prospective administrators in the area of mental impairments, including dementia and Alzheimer's, to ensure that administrators are adequately equipped to handle the needs of residents in their care who are facing these challenges.

Substance

Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

In addition to edits for clarity and consistency, the following changes will be considered:

18VAC95-20-10 et seq. Regulations Governing the Practice of Nursing Home Administrators

18VAC95-20-175. Continuing Education Requirements.

- Include language to permit preceptors who supervise administrators-in-training to obtain continuing education hours.
- Include requirement that administrators obtain a specified number of continuing education hours on a periodic basis on the care of residents with mental impairments, including but not limited to, Alzheimer's disease and dementia.

18VAC95-20-310. Required Hours of Training.

- Consider whether to require NHA AITs to complete 80-hour course in nursing home administration based upon curriculum that meets NAB-approved standards, with course hours to count toward total AIT hours.
- Include limitation on the number of hours per week that an AIT may count toward total training hours to be consistent with existing Board policy.

18VAC95-20-330. Training Facilities.

- Consider minimum bed size of facility for AIT training.

18VAC95-20-340. Supervision of Trainees.

- Include a minimum hour requirement for face-to-face instruction of AITs.
- Consider whether other on-site supervision requirements are necessary to ensure adequate oversight and training of AITs.

18VAC95-20-390. Training Plan.

- Consider whether to require preceptor use of NAB's AIT Manual for development of AIT training plan.
- Consider whether to require all AITs to complete 80-hour course in nursing home administration based upon curriculum that meets NAB-approved standards, as part of AIT training plan and with course hours to count toward total AIT hours.
- Consider whether to include requirement that administrators-in-training obtain a specified number of training hours on the care of residents with mental impairments, including but not limited to, Alzheimer's disease and dementia.

18VAC95-20-400. Reporting Requirements.

- Include reporting requirement related to completion of 80-hour course in nursing home administration based upon curriculum that meets NAB-approved standards.

18VAC95-30-10 et seq. Regulations Governing the Practice of Assisted Living Facility Administrators**18VAC95-30-70. Continuing Education Requirements.**

- Include language to permit preceptors who supervise administrators-in-training to obtain continuing education hours.
- Include requirement that administrators obtain a specified number of continuing education hours on a periodic basis on the care of residents with mental impairments, including but not limited to, Alzheimer's disease and dementia.

18VAC95-30-100. Educational and Training Requirements for Initial Licensure.

- Subsection (A)(1) - Include additional qualification for licensure through an assisted living AIT program for an individual with (1) defined previous experience in a managerial or supervisory role in a healthcare setting and (2) completion of an 80-hour course in assisted living administration based upon curriculum that meets NAB-approved standards, and who completes Board-specified hours in an AIT program.
- Subsection (A)(1)(a) – Amend current requirement for 30 semester hours in an accredited college or university in any subject to mirror language in regulations of the Department of Social Services for residential-only facility administrators in 22VAC40-73-140 related to successful completion of “*at least 30 credit hours of postsecondary education from a college or university accredited...and at least 15 of the 30 credit hours shall be in business or human services or a combination thereof.*”
- Consider whether to require all AITs to complete 80-hour course in assisted living administration based upon curriculum that meets NAB-approved standards, with course hours to count toward total AIT hours.

18VAC95-30-160. Required Content of an ALF Administrator-In-Training Program.

- Consider whether to require preceptor use of NAB's AIT Manual for development of AIT training plan.
- Consider whether to require all AITs to complete 80-hour course in assisted living administration based upon curriculum that meets NAB-approved standards, as part of AIT training plan and with course hours to count toward total AIT hours.
- Include limitation on the number of hours per week that an AIT and an Acting AIT may count toward total training hours to be consistent with Board policy.
- Consider whether to include requirement that administrators-in-training obtain a specified number of training hours on the care of residents with mental impairments, including but not limited to, Alzheimer's disease and dementia.

18VAC95-30-170. Training facilities.

- Consider minimum bed-size of facility for AIT training, or in the alternative, whether a percentage of training hours should be conducted at a comprehensive care facility.
- Clarify that an ALF AIT cannot be conducted in an assisted living facility that is designated by DSS as residential only (or that does not require licensed administrator).
- Clarify that an ALF AIT cannot be conducted in facility with conditional license if the prospective AIT is the owner of that facility.

18VAC95-30-180. Preceptors.

- Include a minimum hour requirement for face-to-face instruction of AITs in the assisted living setting (not just acting AITs)
- Consider whether other on-site supervision requirements are necessary to ensure adequate oversight and training of AITs.

18VAC95-30-190. Reporting Requirements.

- Clarify that Acting AITs are required to report evidence of face-to-face instruction and review for a minimum of four hours per week to be consistent with the current four-hour requirement set forth in 18VAC95-30-180.
- Include reporting requirement related to completion of 80-hour course in assisted living administration based upon curriculum that meets NAB-approved standards.

Alternatives to Regulation

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.

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

Periodic Review and Small Business Impact Review Announcement

If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and Executive Order 14 (as amended, July 16, 2018)), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify as necessary for your agency. Otherwise, delete the paragraph below and insert "This NOIRA is not being used to announce a periodic review or a small business impact review."

This NOIRA is not being used to announce a periodic review or a small business impact review.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.

The Board of Long-Term Care Administrators is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail or email to Elaine Yeatts, 9960 Mayland Drive, Suite 300, Henrico, VA 23233 or elaine.yeatts@dhp.virginia.gov or by FAX to (804) 527-4434. 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 (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.