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Final Regulation Agency Background Document

Agency name	Board of Long-Term Care Administrators, Department of Health Professions
Virginia Administrative Code (VAC) Chapter citation(s)	18VAC95-20 18VAC95-30
VAC Chapter title(s)	Regulations Governing the Practice of Nursing Home Administrators Regulations Governing the Practice of Assisted Living Facility Administrators
Action title	Regulatory reduction 2023
Date this document prepared	12/3/2024

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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 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.

This regulatory action was initiated to implement changes targeted towards regulatory reduction as specified in Executive Order 19. The changes contained within this action include simple line-item elimination of needless regulation and the addition of inactive licensure for both practice groups.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

CE – Continuing Education
AIT – Administrator-in-training

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On December 3rd, 2024, the Board of Long-Term Care Administrators voted to amend 18VAC95-20, the Regulations Governing the Practice of Nursing Home Administrators and 18VAC95-30, the Regulations Governing the Practice of Assisted Living Facility Administrators.

Mandate and Impetus

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.

The impetus for this action is [EO19 \(2022\)](#).

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 of the Board of Long-Term Care Administrators are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Virginia Code § 54.1-2400(6) specifically states that the general powers and duties of health regulatory boards shall be "[t]o 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."

Purpose

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 is intended to solve.

The rationale of this action is to advance compliance with Executive Order 19 and to reduce unnecessary regulatory requirements. The changes are essential to protect the health, safety, and welfare of citizens to ensure there are sufficient numbers of licensed nursing home administrators and assisted living facility administrators to provide care to the citizens of the Commonwealth. The regulatory change is intended to reduce burdens on licensees and provide an option for an inactive license to encourage practitioners to maintain licensure even if practitioners may step away from practice temporarily.

Substance

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.

This action was initiated to implement changes targeted towards regulatory reduction as specified in Executive Order 19. The changes being taken include the following:

- Create a pathway for inactive licensure for nursing home administrators and assisted living facility administrators in new sections 18VAC95-20-201 and 18VAC95-30-91;
- Eliminate requirements for attestations of compliance with existing laws from application and renewal requirements throughout both chapters;
- Remove requirements for all documents in an application for licensure to be submitted at the same time throughout both chapters; and
- Remove requirements to obtain new preceptors within 60 days upon interruption of a preceptor program in 18VAC95-20-440 and 18VAC95-30-200

Issues

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 advantages to the public are reduced regulatory burden by eliminating needless attestations and requirements. There are no disadvantages to the public.
- 2) There are no primary advantages or disadvantages to the agency or the Commonwealth.
- 3) The Director of the Department of Health Professions has reviewed the proposal and performed a competitive impact analysis. Any restraint on competition as a result of promulgating these regulations is a foreseeable, inherent, and ordinary result of the statutory obligation of the Board to protect the safety and health of citizens of the Commonwealth. The Board is authorized under § 54.1-2400 “[t]o 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

promulgated regulations do not conflict with the purpose or intent of Chapters 1 or 25 of Title 54.1.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

There are no applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

Other State Agencies Particularly Affected – none

Localities Particularly Affected – none

Other Entities Particularly Affected – none

Public Comment

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

Commenter	Comment	Agency response
Judy Hackler	Supported actions Board was taking, recommended additional regulatory reduction actions outside the scope of the NOIRA submitted.	While the Board is receptive to the suggested additional changes submitted by VALA, the Board’s action is guided by the NOIRA that began this action, and many of the comments are outside of the scope of that NOIRA. The Board is holding a Regulatory Advisory Panel and continuing a workgroup to help address many of the concerns brought up in the suggestions, so the Board looks forward to continuing to work together towards a common goal.
Anonymous	Agreed with VALA’s recommendations, feels current regulations affect small businesses and exacerbate workforce shortages.	While the Board is receptive to the suggested additional changes submitted, the Board’s action is guided by the NOIRA that began this action, and many of the comments are outside of the scope of that NOIRA. The

		Board is holding a Regulatory Advisory Panel and continuing a workgroup to help address many of the concerns brought up in the suggestions, so the Board looks forward to continuing to work together towards a common goal.
Silverstone Senior Living	Identical to VALA's public comment.	While the Board is receptive to the suggested additional changes submitted, the Board's action is guided by the NOIRA that began this action, and many of the comments are outside of the scope of that NOIRA. The Board is holding a Regulatory Advisory Panel and continuing a workgroup to help address many of the concerns brought up in the suggestions, so the Board looks forward to continuing to work together towards a common goal.
Anonymous	Suggested adding reciprocity in addition to endorsement.	Reciprocity is an agreement that would have to be made with other states and is not something the Board can unilaterally create. The Board will continue to consider methods that allow for faster and more efficient licensing of practitioners.
Charity Sillero, Jackson House Assisted Living Corporation	Did not address the proposed regulations, discussed other regulations loosely that the commenter felt represent the bad direction the ALF industry is going.	The Board thanks you for your comments and concerns regarding regulation.

Detail of Changes Made Since the Previous Stage

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

No changes were made to the proposed stage.

Detail of All Changes Proposed in this Regulatory Action

*List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of updated requirements
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18VAC95-20-80		Fees table	<p>Addition of “Inactive nursing home administrator license renewal” and “fee for late inactive licensure renewal” to the fees table with the addition of inactive licensure with this action. The inactive licensure renewal fee was determined by comparing inactive licensure renewal fees among other Boards and determining an amount comparable to those. This will allow a licensee to maintain an inactive license with the Board while not actively practicing for a reduced rate than maintaining a full, active license and would also allow them to quickly re-enter the workforce as opposed to the process of getting a new license.</p> <p>Table numbers change as well due to the addition of the two line items.</p>
18VAC95-20-130 (C)		C. Examination fees are to be paid directly to the service contracted by the board to administer the exam	Elimination of the wording “contracted by the board to” and addition of the wording “or entity that.” The Board does not contract with a test provider, but instead simply require a national exam to obtain licensure. The new language is intended to clarify that the Board does not contract exams directly with a provider.
18VAC95-20-175 (C)(2)		d. Signature of an authorized representative of the approved sponsor	Obtaining a signature can be difficult with virtual continuing education and the Board can find proof of participation on the electronic CEs if needed. This is an outdated regulation.
18VAC95-20-175 (C)(3)		3. If contacted for an audit, the licensee shall forward to the board by the date requested a signed affidavit of completion on forms provided by the board and evidence of attendance or participation as provided by the approved sponsor	Adding “or as documented in the NAB continuing education registry” as this is where the Board searches to find CE information, reducing a burden on the licensee to provide information the Board can easily find.
18VAC95-20-180		(A) A person who fails to renew his license or preceptor registration by the expiration date shall....	Replacing the word “shall” with “may” as no licensee is required to renew their license should it lapse. This word change clarifies that someone MAY regain their license with the addition of a late fee should they miss the renewal window.
18VAC95-20-201	New section	New section	Language for inactive licensure is pulled from other boards that have inactive licensure. This addition allows licensees an additional pathway to

			<p>licensure, which is considered a reduction of burden by the ORM. It also allows licensees who are not actively practicing but want to keep their license a way to do so at a lower cost than an active license. An inactive licensee may not practice in their profession but may request to have their license reactivated should they desire to practice again by providing proof of completion of CE hours and paying the reactivation fee.</p>
18VAC95-20-220 (3)		(iii) completed the Domains of Practice form required by the board	<p>Eliminating this language would eliminate the duplication of a form that the licensee already completed as part of the administrator-in-training program.</p>
18VAC95-20-230 (B)		(4). An attestation that he has read and understands and will remain current with the applicable Virginia laws and regulations relating to the administration of nursing homes	<p>Currently, every licensee is required to attest that they know the laws and regulations when they apply for their license. An attestation to that effect is a standard part of an application and requiring a separate, additional attestation as this regulation does is unnecessary.</p>
18VAC95-20-230		(C) With the exception of school transcripts, examination scores, the NPDB report, employer verifications, and verifications from other state boards, all parts of the application package shall be submitted at the same time.	<p>Board staff cannot act on the application to be licensed until all parts of the application package have been submitted, and if someone does not submit a part of their application package, the Board staff asks for that information. There is no need to have regulation that requires all items to come in together, since the applicant will be unable to be licensed without including all that information. It is on the licensee to provide all the information, regardless of when they decide to do so.</p>
18VAC95-20-300		(B) With the exception of school transcripts, all parts of the application package shall be submitted at the same time.	<p>For similar reasons as above, this item is being eliminated. Most people do submit all their documents at once, and there seems to be no need to single out one type of document to specify could be submitted later when no application can be considered until all documentation has been received.</p>
18VAC95-20-440 (A)		...and shall obtain a new preceptor who is registered with the board within 60 days	<p>This item is being eliminated as it places an unnecessary and burdensome timeline on the AIT to acquire a new preceptor within an arbitrary timeline. An AIT can obtain a new preceptor whenever they are ready to continue their program.</p>

18VAC95-30-40		Fees table	<p>Addition of “Inactive license renewal” and “fee for late inactive licensure renewal” to the fees table with the addition of inactive licensure with this action. The inactive licensure renewal fee was determined by comparing inactive licensure renewal fees among other Boards and determining an amount comparable to those. This will allow a licensee to maintain an inactive license with the Board while not actively practicing for a reduced rate than maintaining a full, active license and would also allow them to quickly re-enter the workforce as opposed to the process of getting a new license.</p> <p>Table numbers change as well due to the addition of the two line items.</p>
18VAC95-30-40 (C)		C. Examination fees are to be paid directly to the service contracted by the board to administer the exam	Elimination of the wording “contracted by the board to” and addition of the wording “or entity that.” The Board does not contract with a test provider, but instead simply require a national exam to obtain licensure. The new language is intended to clarify that the Board does not contract exams directly with a provider.
18VAC95-30-70 (C)(2)		d. Signature of an authorized representative of the approved sponsor	Obtaining a signature can be difficult with virtual continuing education and the Board can find proof of participation on the electronic CEs if needed. This is an outdated regulation.
18VAC95-30-70 (3)		3. If contacted for an audit, the licensee shall forward to the board by the date requested a signed affidavit of completion on forms provided by the board and evidence of attendance or participation as provided by the approved sponsor	Adding “or as documented in the NAB continuing education registry” as this is where the Board searches to find CE information, reducing a burden on the licensee to provide information the Board can easily find.
18VAC95-30-80		(A) A person who fails to renew his license or preceptor registration by the expiration date shall....	Replacing the word “shall” with “may” as no licensee is required to renew their license should it lapse. This word change clarifies that someone MAY regain their license with the addition of a late fee should they miss the renewal window.
18VAC95-30-91	New Section	New Section	Language for inactive licensure is pulled from other boards that have inactive licensure. This addition allows licensees an additional pathway to licensure, which is considered a

			reduction of burden by the ORM. It also allows licensees who are not actively practicing but want to keep their license a way to do so at a lower cost than an active license. An inactive licensee may not practice in their profession but may request to have their license reactivated should they desire to practice again by providing proof of completion of CE hours and paying the reactivation fee.
18VAC95-30-130 (B) (4)		(4). An attestation that he has read and understands and will remain current with the applicable Virginia laws and regulations relating to the administration of assisted living facilities.	Currently, every licensee is required to attest that they know the laws and regulations when they apply for their license. An attestation to that effect is a standard part of an application and requiring a separate, additional attestation as this regulation does is unnecessary.
18VAC95-30-130 (C)		(C) With the exception of school transcripts, examination scores, the NPDB report, employer verifications, and verifications from other state boards, all parts of the application package shall be submitted at the same time.	Board staff cannot act on the application to be licensed until all parts of the application package have been submitted, and if someone does not submit a part of their application package, the Board staff asks for that information. There is no need to have regulation that requires all items to come in together, since the applicant will be unable to be licensed without including all that information. It is on the licensee to provide all the information, regardless of when they decide to do so.
18VAC95-30-140 (B)		(B) With the exception of school transcripts, all parts of the application package shall be submitted at the same time.	For similar reasons as above, this item is being eliminated. Most people do submit all their documents at once, and there seems to be no need to single out one type of document to specify could be submitted later when no application can be considered until all documentation has been received.
18VAC95-30-200 (A)		...and shall obtain a new preceptor who is registered with the board within 60 days	This item is being eliminated as it places an unnecessary and burdensome timeline on the AIT to acquire a new preceptor within an arbitrary timeline. An AIT can obtain a new preceptor whenever they are ready to continue their program.