



## Proposed Regulation Agency Background Document

<b>Agency name</b>	Board of Long Term Care Administrators, Department of Health Professions
<b>Virginia Administrative Code (VAC) citation</b>	18VAC95-30-10 et seq.
<b>Regulation title</b>	Regulations Governing the Licensure of Assisted Living Facility Administrators
<b>Action title</b>	Establishment of requirements for licensure
<b>Document preparation date</b>	2/21/06

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

### Brief summary

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

Regulations for the licensure of assisted living facility administrators include requirements for initial licensure to include a minimum of 30 hours of college-level courses, training in assisted living care, and passage of both a national credentialing examination and a state jurisprudence examination. Persons who have been serving as an administrator of an assisted living facility for two of the three years immediately preceding the effective date of regulations will be able to apply for licensure with documentation of their service and passage of the state jurisprudence examination. Provisions are also adopted for licensure by endorsement of persons who have held a license, certification or registration in another state. Regulations also set out requirements for an administrator-in-training program including registration of persons who serve as preceptors, the number of hours to be completed, the program content, and approved facilities for training.

Fees are established for applicants and licensees, which are the same as those charged under the same board for nursing home administrators. For annual renewal of licensure, there are provisions for 20 hours of continuing education and for recognition and documentation of approved courses. Finally, the regulations set out the acts of unprofessional conduct that may

cause the Board to refuse to license an applicant or to take some disciplinary action against a licensee.

## Legal basis

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

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400 (6), which provides the Board of 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 (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ [54.1-100](#) et seq.) and Chapter 25 (§ [54.1-2500](#) et seq.) of this title. ...*

Senate Bill 1183 (Chapter 610), patroned by Senator Emmett Hanger and House Bill 2512 (Chapter 924), patroned by Delegate Phillip Hamilton in the 2005 General Assembly required the Board of Long Term Care Administrators to promulgate regulations for the licensure and regulation of administrators in assisted living facilities.

The specific authorization to promulgate regulations for implementation of licensure of assisted living facility administrators is found in Chapter 31 of Title 54.1 in the following sections:

### CHAPTER 31.

#### NURSING HOME AND ASSISTED LIVING FACILITY ADMINISTRATORS.

§ [54.1-3100](#). *Definitions.*

*As used in this chapter, unless the context requires a different meaning:*

*"Assisted living facility" means any public or private assisted living facility, as defined in § [63.2-100](#), that is required to be licensed as an assisted living facility by the Department of Social Services under the provisions of Subtitle IV (§ [63.2-1700](#) et seq.) of Title 63.2.*

*"Assisted living facility administrator" means any individual charged with the general administration of an assisted living facility, regardless of whether he has an ownership interest in the facility.*

*"Board" means the Board of Long-Term Care Administrators.*

*"Nursing home" means any public or private facility required to be licensed as a nursing home under the provisions of Chapter 5 (§ [32.1-123](#) et seq.) of Title 32.1 and the regulations of the Board of Health.*

*"Nursing home administrator" means any individual charged with the general administration of a nursing home regardless of whether he has an ownership interest in the facility.*

*§ [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.*

*§ [54.1-3103.1](#). Administrator required for operation of assisted living facility; operation after death, illness, etc., of administrator; notification of Board; administrators operating more than one facility.*

*A. All licensed assisted living facilities within the Commonwealth shall be under the supervision of an administrator licensed by the Board, except as provided in subsection B of § [54.1-3102](#). If a licensed assisted living facility administrator dies, becomes ill, resigns, or is discharged, the assisted living facility that was administered by him at the time of his death, illness, resignation, or discharge may continue to operate until his successor qualifies, but in no case for longer than is permitted by the licensing authority for the facility. The temporary supervisor or administrator shall immediately notify the Board of Long-Term Care Administrators and the Commissioner of the Department of Social Services that the assisted living facility is operating without the supervision of a licensed assisted living facility administrator.*

*B. Nothing in this chapter shall prohibit an assisted living administrator from serving as the administrator of record for more than one assisted living facility as permitted by regulations of the licensing authority for the facility.*

## Purpose

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

Pursuant to the 2005 Acts of the Assembly (Chapters 610 and 924), the Board of Long-Term Care Administrators has a mandate to promulgate regulations for the licensure of assisted living facility administrators. Section 54.1-3102 was amended to mandate licensure: *"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."* In development of regulations, the Board established criteria for licensure, including educational and experiential qualifications and a competency assessment, standards for practice and provisions for renewal and reinstatement. The Board is mandated to have regulations for licensure in effect by July 1, 2007.

With the introduction of HB2512 and SB1183, proponents of legislation for enhanced oversight and accountability of assisted living facilities, including licensure of the administrators, argued that the current regulatory scheme was insufficient to ensure the health, safety and welfare of residents who are increasingly becoming a more frail population in need of a higher level of competency for caregivers. In the current healthcare environment, residents of assisted living facilities often have similar characteristics to patients in nursing homes, so additional competencies and accountability are necessary through licensure by the Board.

Its goal is to develop regulations that provide some assurance that the administrator is sufficiently educated and trained to handle the increasing complexity of an assisted living facility and to adequately protect and care for the residents of that facility. Since the regulation excludes from the licensure requirement any assisted living facility licensed only to provide residential living care, as defined in § [63.2-100](#), only the facilities that provide assisted living care (which tend to be the larger facilities) will be required to have a licensed administrator, as provided for in law.

### Substance

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

Since this is a new set of regulations, the substantive provisions are the same as described in the Brief Summary Section above.

### Issues

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

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

1) The primary advantage to the public is the assurance that administrators who operate assisted living facilities will be adequately trained and deemed competent by passage of a national and state examination and completion of an Administrator in Training (AIT) program. In addition, there will be some accountability for the work and behaviors of administrators who must practice under standards set by the Board or face possible disciplinary action. Without the statutory requirement for licensure, persons who engaged in a pattern of errors or who abused a resident may be fired by an employer but could be rehired by another facility. There are no disadvantages of the regulations unless the requirement to be licensed results in a shortage of persons to serve as administrators. Costs may be a negative factor for some individuals who have a very small population of residents with limited resources or living on limited public assistance.

- 2) The licensure of assisted living facility administrators creates a large new program under the Board of Long Term Care Administrators and the Department, requiring new expenditures and new personnel for upcoming budgets. To the extent those positions are approved and can be funded with revenue generated by fees from applications for licensure and renewals, there should be no disadvantages to the agency or the Commonwealth. To the extent funding or new positions do not become available, the management of a new licensing program, investigations and disciplinary proceedings for ALF administrators could not occur in a timely manner and could negatively affect other programs.
- 3) There are no other pertinent issues.

**Economic impact**

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

<p><b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b></p>	<p>a) As a special fund agency, the Board must generate sufficient revenue to cover its expenditures from non-general funds, specifically the renewal and application fees it charges to practitioners; b) The agency will incur some one-time costs (less than \$2,000) for mailings to the Public Participation Guidelines mailing lists, conducting a public hearing, and sending notice of final regulations to regulated entities. Every effort will be made to incorporate those into anticipated mailings and Board meetings already scheduled. The on-going costs to the agency will be those relating to the operation of the Department and the Board and those directly related to the licensure and discipline of assisted living administrators.</p>
<p><b>Projected cost of the regulation on localities</b></p>	<p>There are no costs to localities</p>
<p><b>Description of the individuals, businesses or other entities likely to be affected by the regulation</b></p>	<p>The individuals affected will be those persons who are serving as administrators for assisted living facilities providing assisted living care. Assisted living facilities that provide residential care will not be affected. The businesses affected will be facilities licensed for assisted living by the Department of Social Services.</p>
<p><b>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.</b> Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>DSS has approximately 620 facilities licensed to provide assisted living – both in residential care and assisted living care. Approximately 10% of those are not licensed to provide assisted living care and would not be required to employ a licensed administrator. With the exception of a few nationally owned and operated chain facilities, most will be small businesses.</p>
<p><b>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative</b></p>	<p>Costs for compliance with these regulations will vary depending on the individual. For those persons already serving as the administrator, application cost would be \$200 plus the cost of taking the state examination. While that examination has not been developed or contracted, a</p>

<p><b>costs required for compliance by small businesses.</b></p>	<p>state jurisprudence examination typically cost \$25 to \$50. For those persons who must meet the minimal qualifications for licensure, the cost for 30 hours of post secondary education would be approximately \$2280 (based on \$76/semester hour) plus books and related expenses. The cost of the national examination has not been determined because the Board does not have a contract for administration. The examination fee for the NAB examination for residential care/assisted living administrators is currently \$235. An administrator-in-training (AIT) would have no cost for training but would typically be paid approximately \$10 to \$15 per hour for his work in the training facility. Often a current employee (a licensed nurse or dietary worker) will combine his employment with training hours and therefore would not be paid an additional amount for his AIT program. Persons who are obtaining training through an internship are not typically paid but are given academic credit for their work.</p> <p>Costs of continued compliance would include the proposed annual renewal fee of \$225 and the costs of obtaining 20 hours of continuing education. CE costs can run the gamut but can be expected to be approximately \$15/\$20 per credit hour, depending on the courses or learning activity chosen. CE is available on-line for individuals and facilities. For example, the Adult Care Education Center (approved by NAB as a CE provider) charges an individual \$95 a year for membership and provides a variety of free courses on line.</p> <p>Since one person may serve as the administrator of more than one assisted living facility, smaller facility may choose to share a licensed administrator. For facilities with fewer than 10 residents, DSS regulations allow one administrator to serve up to four facilities. For facilities with 11-19 residents, the administrator may serve two facilities. In addition, a nursing home administrator may also serve as the assisted living administrator, provided the facilities are within the same building.</p>
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**Alternatives**

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

There are no viable alternatives to the promulgation of regulations for licensure. Senate Bill 1183 (Chapter 610), patroned by Senator Emmett Hanger and House Bill 2512 (Chapter 924), patroned

by Delegate Phillip Hamilton, created the Board of Long-Term Care Administrators and required that board to promulgate regulations for the licensure of assisted living facility administrators. The sixth enactment clause on the legislation provides: “That the Board of Long-Term Care Administrators shall adopt final regulations to implement the provisions of this act to be effective on or before July 1, 2007.”

Legislation mandating the creation of a Board of Long-Term Care Administrators became effective on July 1, 2005. As soon as the Board was constituted, its first meeting was scheduled for August 10, 2005, at which time the issues surrounding licensure of assisted living administrators were discussed, a timetable reviewed and a Notice of Intended Regulatory Action (NOIRA) adopted. In the agency background document for the NOIRA, the purpose of the action was stated as implementation of a statutory mandate to promulgate regulations for licensure, and to that end, to develop regulations establishing educational and experiential qualifications, an assessment to test minimal competency, standards for professional practice and provisions for fees, renewal and reinstatement.

The primary challenges and issues to be addressed in the development and implementation of the regulation were to write rules that: 1) recognize the training and experience of current administrators, but also will ensure competency and consistency with new requirements; 2) establish educational standards without the ready availability of specific course work in assisted living; and 3) establish the fiscal viability of a regulatory/disciplinary program under the Board of Long-Term Care Administrators with fees that are reasonable and not prohibitive. In addition, the Board will have the challenge of identifying or developing a competency evaluation or examination that is defensible and assures minimal competency, since there are varying standards in other states rather than one recognized nationally for this profession.

The fifth enactment clause on the legislation specified: “That the Board of Long-Term Care Administrators shall convene a task force to develop licensing regulations for assisted living facility administrators and submit an initial progress report by November 1, 2005, and a follow-up progress report by November 1, 2006, on such regulations to the chairmen of the Joint Commission on Health Care, the House Committee on Health, Welfare and Institutions, and the Senate Committee on Rehabilitation and Social Services.”

To that end, the Board of Long-Term Care Administrators convened a Task Force on Licensing Assisted Living Administrators, as required by the fifth enactment on the legislation. The Task Force held its organizational meeting on Wednesday, September 14, 2005. The members serving are:

- Ted LeNeave, Martha Hunt and Bert Simmons, members of the Board of Long-Term Care Administrators
- Karen Love representing the Consumer Consortium
- Randy Scott representing the Virginia Association of Nonprofit Homes for Aging
- Ed Owen representing the Virginia Health Care Association
- John Plichta representing the Virginia Association of Community Services Boards
- David McHarg representing the Virginia Assisted Living Association
- Jeffrey Hairston representing the Virginia Adult Home Association
- Carolynne Stevens representing the Department of Social Services.

The agenda of the Task Force has included consideration of guidance on the statutory requirements for licensing assisted living facility administrators, the timelines that must be met, and the typical provisions and requirements addressed in the regulation of any health profession. Public comment was received at each meeting, and the Task Force and staff of the Department of Health Professions were able to answer a number of questions related to the legislation and its licensure requirements. The Task Force also received a presentation by the Executive Director of the Board of Health Professions on its research into credentialing for assisted living administrators and on regulation of assisted living administrators in other states.

The subject areas and questions addressed in regulation were identified as:

- Qualification for initial licensure
  - What should be the educational qualifications for initial licensure by examination without an administrator-in-training (AIT) program?
  - Degree program in what area/subject?
  - Number of hours or title of degree?
  - Number of hours/requirements for internship?
  - Number of hours/requirements for internship?
- Licensing examinations
  - What examination should be used to test minimal competency?
  - Should there also be a jurisprudence examination on laws and regulations affecting administration of assisted living facilities?
- Training requirements
  - What should be the minimum education for a person entering an AIT program?
  - How many hours of training should be required?
  - What is the standard for the training – domains of practice?
- Preceptors and training plans
  - What are the minimum qualifications – education and experience?
  - What are “approved training facilities”?
- Requirements for continuing education
  - What are the minimum requirements for CE for annual renewal?
  - What should be “approved providers for CE”?
- Licensure by endorsement
  - What are the minimum qualifications – education and experience?
  - What “licenses” should the Board recognize?
  - Should there be a test of minimal competency?
- Provision for current administrators to become licensed
  - What are the minimum qualifications for someone to be licensed by “grandfathering” – education and experience?
  - Should there be a test of minimal competency for all licensees?



For what period of time should the prior experience be recognized?  
Should there be any other criteria? (DSS probationary status for ALF, etc)

Each member was asked to review a draft outline of regulations and to send in their individual recommendations about these subject areas in order for staff to prepare a working draft document for the next meeting. The Task Force set the dates for three additional meetings: October 24, 2005, November 21, 2005 and December 12, 2005, with a goal of having proposed regulations ready for the Board's consideration and adoption at its meeting in January of 2006.

With the seventh enactment stating: "That, notwithstanding the due course effective date of this act, the provisions of this act in §§ [54.1-3102](#), [54.1-3103.1](#) and [63.2-1803](#) shall not be implemented or enforced until 12 months after the regulations promulgated pursuant to the sixth enactment become effective," it would be anticipated that licensure of assisted living administrators would begin in late 2007 and not be required before July 1, 2008.

### Public comment

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

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The Notice of Intended Regulatory Action was submitted to the Register of Regulations on September 6, 2005 with publication on October 3, 2005. The Notice was sent to approximately 147 persons on a list of interested parties with a request for comment until November 2, 2005. Oral comment was received by the Task Force at its meeting on September 14, 2005 as follows:

Roy Bryant expressed concerns that homes serving minorities are not funded to meet new requirements, noting that auxiliary grants are the source of funding for most residents. He emphasized that assisted living facilities are not medical and are intended to provide affordable housing. He advised against adopting rules that move the facilities into the medical system and increase operating costs.

*Agency response: The Board heard Mr. Bryant's comment and concern about costs and representation at every meeting of the Task Force and LTC Board. Many of his concerns relate to requirements of DSS for assisted living facilities and the inclusion of adult homes as ALF's in DSS regulation. Mr. Bryant served as an alternate representative for the Virginia Adult Home Association for the November and December 2005 meetings of the Task Force, so he was closely involved in the development of regulations. Out of a concern about costs and impact on smaller homes, the Board reduced the training requirements recommended by the Task Force.*

Irvin Land commented that he supports a requirement for college-level education but also advocated for a non-college program such as the 125-hour training program offered by his company and currently approved by DSS. He requested that the Board approve the course offered by his credentialing center.

*Agency response: The Board was advised by counsel that it did not have statutory authority to approve educational programs (such as the Board of Nursing for nursing programs) nor does the Board have the staff for such approval, which would necessitate course review, site visits, reporting, etc. There was a suggestion that the Board recognize NAB-approved programs, but NAB has verified that it does not approved educational programs, only continuing education providers.*

Carter Harrison (Alzheimer’s Association) commented that he would to ensure that the needs of consumers are considered as standards for licensing assisted living facility administrators are developed.

*Agency response: The Board did place public safety and welfare foremost in its consideration of requirements for licensure. Mr. Harrison has subsequently expressed his support for the proposed regulations adopted by the Board.*

In addition to comment received on the NOIRA, the Task Force on Regulation of Assisted Living Facility Administrators sent the working draft of regulations to the same list of interested parties with a request for comment prior to the December 8, 2005 meeting at which the final draft was adopted for consideration by the Board in January. Specific comment and suggestion was received from seven persons, all of which was considered point-by-point.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability.*

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

**Detail of changes**

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

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

Proposed new section number	Proposed change and rationale
10	Section 10 provides definitions of words and terms used in this chapter so that there is a common understanding of their application in the rules.
20	Section 20 requires each licensee to post his license in a main entrance or place conspicuous to the public in each facility in which the licensee is administrator-of-record.

	<p><i>The requirement is similar to other professions in which there is an administrator of record, such as nursing homes and funeral establishments. It is necessary in order for the public to be able to identify the licensee in charge of the facility.</i></p>																										
<p>30</p>	<p>Section 30 requires all changes of mailing address or names to be furnished to the board within 30 days after the change occurs and states that all notices required by law and by this chapter to be mailed to any licensee are validly given when mailed to the latest address on file with the board and do not relieve the licensee, trainee, or preceptor of the obligation to comply.</p> <p><i>The rule is necessary to ensure that licensees understand their responsibility to notify the Board of changes in name or address, so that renewal or disciplinary notices or other official communications reach the licensee. If such notices are mailed to the address the Board has on record, it is deemed an official notice, and the licensee must bear the penalty for failure to renew or respond to a notice duly given.</i></p>																										
<p>40</p>	<p>Section 40 sets the fees as necessary for the licensing and disciplinary functions of the Board as follows:</p> <table border="0"> <tr> <td>1. Administrator-in-training application</td> <td style="text-align: right;">\$185</td> </tr> <tr> <td>2. Preceptor application</td> <td style="text-align: right;">\$125</td> </tr> <tr> <td>3. Licensure application</td> <td style="text-align: right;">\$200</td> </tr> <tr> <td>4. Verification of licensure requests from other states</td> <td style="text-align: right;">\$25</td> </tr> <tr> <td>5. Assisted living facility administrator license renewal</td> <td style="text-align: right;">\$225</td> </tr> <tr> <td>6. Preceptor renewal</td> <td style="text-align: right;">\$100</td> </tr> <tr> <td>7. Penalty for assisted living facility administrator late renewal</td> <td style="text-align: right;">\$65</td> </tr> <tr> <td>8. Penalty for preceptor late renewal</td> <td style="text-align: right;">\$35</td> </tr> <tr> <td>9. Assisted living facility administrator reinstatement</td> <td style="text-align: right;">\$315</td> </tr> <tr> <td>10. Preceptor reinstatement</td> <td style="text-align: right;">\$150</td> </tr> <tr> <td>11. Duplicate license</td> <td style="text-align: right;">\$15</td> </tr> <tr> <td>12. Duplicate wall certificates</td> <td style="text-align: right;">\$25</td> </tr> <tr> <td>13. Returned check</td> <td style="text-align: right;">\$35</td> </tr> </table> <p>Subsection B provides that fees cannot be refunded once submitted.          Subsection C specifies that examination fees are to be paid directly to the service or services contracted by the board to administer the examinations.</p> <p><i>Assisted living facility administrators will be regulated by the Board of Long Term Care Administrators. It is estimated that the number of ALF administrators will be similar to the number of nursing home administrators, and therefore, the disciplinary caseload, credentials hearings, board business relating the promulgation of regulations, and licensing functions will be similar. For that reason, the Board has proposed fees that are the same as nursing home administrators. Once there is some actual data on the number of licensees and disciplinary cases, it will be possible to more accurately assess the expenditures of the Board attributable to each profession and to adjust fees accordingly. The examination fee will be set by and paid to the organization or service recognized by the Board for administration of the licensing examination.</i></p>	1. Administrator-in-training application	\$185	2. Preceptor application	\$125	3. Licensure application	\$200	4. Verification of licensure requests from other states	\$25	5. Assisted living facility administrator license renewal	\$225	6. Preceptor renewal	\$100	7. Penalty for assisted living facility administrator late renewal	\$65	8. Penalty for preceptor late renewal	\$35	9. Assisted living facility administrator reinstatement	\$315	10. Preceptor reinstatement	\$150	11. Duplicate license	\$15	12. Duplicate wall certificates	\$25	13. Returned check	\$35
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<p>50</p>	<p>Section 50 reiterates a provision of law (§ 54.1-3102 B) that allows a person who holds a license as a nursing home administrator issued by the board to engage in the general administration of an assisted living facility.</p> <p><i>In accordance with regulations promulgated by DSS and VDH, it is anticipated that some nursing home administrators will continue to administer both facilities, especially in care communities that offer both nursing and assisted living care. Since salaries are generally higher in nursing home and administrators are in demand, it is not anticipated that many</i></p>																										

	<p><i>nursing home administrators will choose to operate an assisted living facility instead of a nursing home.</i></p>
<p>60</p>	<p>Section 60 sets the requirements for renewal of an assisted living administrator license which include submission of a completed renewal application and fee by the expiration date of March 31 of each year. The renewal application and fee must be received no later than the expiration date, and postmarks will not be considered. An assisted living facility administrator license or preceptor registration not renewed by the expiration date is invalid.</p> <p><i>Rules and deadlines for renewal of a license are necessary to ensure that the licensee maintains a current and valid license, as required by law.</i></p>
<p>70</p>	<p>Section 70 sets the requirements for continuing education to include: Completion of 20 hours of approved continuing education for each renewal year as attested on the renewal application. Regulations allow up to ten of the 20 hours to be obtained through Internet or self-study courses and up to 10 continuing education hours in excess of the number required to be transferred or credited to the next renewal year.</p> <p>The regulation also provides that a licensee is exempt from completing continuing education requirements and considered in compliance on the first renewal date following initial licensure.</p> <p><i>The total number of CE hours required for annual renewal of an ALF administrator license is the same as for a nursing home administrator license, but the number that can be obtained through self-study or the Internet is doubled in an effort to reduce the cost and make CE less burdensome. Continuing education is not required for the first renewal for either profession.</i></p> <p>Subsection B specifies that in order for continuing education to be approved by the board, it must be related to the domains of practice for residential care/assisted living and approved or offered by NAB, an accredited educational institution or a governmental agency.</p> <p><i>The NAB domains of practice specific the knowledge and skills necessary for administration of an assisted living facility. Any approved CE must relate to the domains and must be offered by a NAB approved sponsor or by an educational institution or a governmental agency. Therefore, if an ALF administrator attends a seminar or takes a course related to assisted living offered by DSS, it could be counted as CE for renewal of licensure.</i></p> <p>C. Documentation of continuing education.</p> <ol style="list-style-type: none"> <li>1. The licensee shall retain in his personal files for a period of three renewal years complete documentation of continuing education including evidence of attendance or participation as provided by the approved sponsor for each course taken.</li> <li>2. Evidence of attendance shall be an original document provided by the approved sponsor and shall include:             <ol style="list-style-type: none"> <li>a. Date or dates the course was taken;</li> <li>b. Hours of attendance or participation;</li> </ol> </li> </ol>

	<p>c. Participant's name; and</p> <p>d. Signature of an authorized representative of the approved sponsor.</p> <p>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.</p> <p><i>Subsection C sets out the rules for maintenance of documentation that is necessary for compliance with a random audit of CE by the Board.</i></p> <p>D. The board may grant an extension of up to one year or an exemption for all or part of the continuing education requirements due to circumstances beyond the control of the administrator, such as a certified illness, a temporary disability, mandatory military service, or officially declared disasters.</p> <p><i>Subsection D provides for extensions or exemptions from the requirement for special circumstances.</i></p>
<p>80</p>	<p>Section 80 sets out the rules for late renewal of an expired license within one year of the initial expiration date to include:</p> <ol style="list-style-type: none"> <li>1. Respond to the renewal notice or request renewal in writing to the board;</li> <li>2. Submission of the applicable renewal fee and penalty fee; and</li> <li>3. Provide evidence as may be necessary to establish eligibility for renewal.</li> </ol> <p><i>Policies for late renewal within one renewal cycle are the same for all professions at DHP.</i></p>
<p>90</p>	<p>Section 90 sets out the rules for reinstatement of an expired license after one year. The board may reinstate an assisted living facility administrator license or preceptor registration that was not renewed within one year of the initial expiration date. An applicant for assisted living facility administrator license reinstatement must apply on a reinstatement form provided by the board, submit the reinstatement fee, and provide one of the following:</p> <ol style="list-style-type: none"> <li>1. Evidence of the equivalent of 20 hours of continuing education for each year since the last renewal, not to exceed a total of 60 hours.</li> <li>2. Evidence of active practice in another state or U.S. jurisdiction or in the U.S. armed services during the period licensure in Virginia was lapsed.</li> <li>3. Evidence of requalifying for licensure by meeting the requirements prescribed in 18VAC95-30-90 and 18VAC95-30-100.</li> </ol> <p><i>The Board has provided three methods by which an applicant for reinstatement can demonstrate his competency to be reinstated – by continuing education, continued practice in another state or the armed services, or requalification for licensure. With the continuing education requirement, there is a limitation on the number of hours regardless of the number of years the license has been expired.</i></p> <p>Subsection C provides that an applicant for preceptor reinstatement must apply on a reinstatement form provided by the board, submit the reinstatement fee, and meet the current requirements for a preceptor in effect at the time of application for reinstatement.</p>
<p>100</p>	<p>Section 100 sets out the education and training required for licensure.</p> <p>Subsection A provides that until (date of one year from the effective date of the regulations), any person who has served full-time as the administrator of record in accordance with requirements of 22VAC40-71-60 and 22VAC40-71-630, or an assistant administrator in an assisted living facility licensed in the Commonwealth of Virginia, for the period of two of the three years immediately preceding the effective date of these regulations may be licensed by the board if he provides:</p>

	<p>1. Documentation that he was the full-time administrator of record or the full-time assistant administrator for an assisted living facility licensed in the Commonwealth of Virginia for the specified time period; and</p> <p>2. Documentation of a passing grade on a state examination approved by the board. <i>While there was no provision in the Code for “grandfathering” persons who were currently serving as ALF administrator, the Board determined that their experience could be considered as evidence of competency to be licensed, provided such person was able to pass a state examination on the laws and regulations governing assisted living. The administrator-in-training program specifies 1,000 hours of supervised experience over a 24 month period. Therefore, the Board determined that 2 years of experience could serve as a substitute for the AIT program and that experience should be recent (within the past three years). In addition, licensure is not required for until one year after the effective date of the regulation (which must be by July 1, 2007), so a person hired after the effective date of the law (July 1, 2005) would have more than two years of experience. While the minimal education of 30 hours of college-level courses would not be required, the passage of a jurisprudence examination coupled with years of experience as an administrator of record provides adequate assurance of minimal competency and ensures that there will be a supply of administrators immediately available for assisted living facilities.</i></p> <p>B. To be qualified for initial licensure as an assisted living facility administrator, an applicant shall hold a high school diploma or general education diploma (GED) and hold one of the following qualifications:</p> <p>1. Degree and practical experience.</p> <p>Hold a baccalaureate or higher degree in a health care related field that meets the course content requirements of subsection C of this section from an accredited college or university and have completed not less than a 320-hour internship that addresses the Domains of Practice as specified in 18VAC95-30-160 in a licensed assisted living facility as part of the degree program under the supervision of a preceptor registered by the board; or</p> <p>2. Certificate program.</p> <p>Hold a baccalaureate or higher degree in a field unrelated to health care from an accredited college or university and successfully complete a certificate program with a minimum of 21 semester hours study in a health care related field that meets course content requirements of subsection C of this section from an accredited college or university and successfully complete not less than a 320-hour internship that addresses the Domains of Practice as specified in 18VAC95-30-160 in a licensed assisted living facility as part of the certificate program under the supervision of a preceptor registered by the board; or</p> <p>3. Administrator-in-training program.</p> <p>a. Complete at least 30 semester hours in an accredited college or university with courses in the content areas of (i) Client/resident care; (ii) Human resources management; (iii) Financial management; (iv) Physical environment; and (v) Leadership and governance; and 500 hours in an administrator-in-training program within one year; or</p> <p>b. Complete at least 30 semester hours in an accredited college or university in any subject; and 1,000 hours in an administrator-in-training program within two years;</p>
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	<p><i>In 22VAC40-71-630 of the current regulations for Assisted Living Facilities promulgated by the Department of Social Services, the administrator is required to have at least two years of post-secondary education or one year of courses in human services or group care administration from an accredited college or a department approved curriculum specific to the administration of an assisted living facility, plus the administrator must have one year of experience in caring for adults with mental or physical impairments. There are exceptions for persons employed prior to 1996 and for nurses with the required experience. Therefore, the Board determined that the requirement of 30 semester hours should be the minimal educational level for an administrator (the minimum for a nursing home administrator is 60 hours). If those hours are specific to the domains of practice for assisted living (a), the experience required is 500 hours. If those hours are non-specific, the training required consists of 1,000 (which is ½ the amount for training in nursing homes). The Board reduced the education and training in response to concerns expressed that the administration of an assisted living facility was not as complex as a nursing home and the requirements should be less burdensome.</i></p> <p>C. To meet the educational requirements for a degree in a health care related field, an applicant must provide a transcript from an accredited college or university that documents successful completion of a minimum of 21 semester hours of coursework concentrated on the administration and management of health care services to include a minimum of six semester hours in the content area set out in subdivision 1 of this subsection, three semester hours in each of the content areas in subdivisions 2 through 5, and three semester hours for an internship.</p> <ol style="list-style-type: none"> <li>1. Resident/client services management;</li> <li>2. Human resource management;</li> <li>3. Financial management;</li> <li>4. Physical environment management;</li> <li>5. Leadership and governance.</li> </ol>
110	<p>Subsection 110 provides the examinations requirements for initial licensure under subsection B of 18VAC95-30-100 to include:</p> <ol style="list-style-type: none"> <li>1. A national credentialing examination for administrators of assisted living facilities; and</li> <li>2. A jurisprudence examination on the laws and regulations governing the practice of an assisted living facility administrator in Virginia.</li> </ol> <p><i>As a measure of minimal competency, an applicant will have to pass a credentialing examination that tests one's knowledge of providing appropriate and safe care for residents of assisted living. Given that there are no approved, standardized educational programs in assisted living and that knowledge and skills are gained through a training program (apprenticeship) under the supervision of preceptors, such an exam will provide an objective standard for measuring competency. In addition, a state examination will test whether the applicant is knowledgeable about laws and regulations for assisted living facilities in Virginia.</i></p>
120	<p>Section 120 provides that the board may issue a license to any person who:</p> <ol style="list-style-type: none"> <li>1. Holds a current, unrestricted license, certificate or registration as an assisted living facility administrator from any state or the District of Columbia;</li> <li>2. Has not been the subject of a disciplinary action taken by any jurisdiction in which he was found to be in violation of law or regulation governing practice and which, in the judgment of the board, has not remediated;</li> <li>3. Meets one of the following conditions:             <ol style="list-style-type: none"> <li>a. Has practiced as the administrator of record in an assisted living facility that provides assisted living care as defined in § 63.2-100 of the Code of Virginia for at least two of the</li> </ol> </li> </ol>

	<p>three years immediately preceding application to the board; or                  b. Has education and experience substantially equivalent to qualifications required by this chapter and has provided written evidence of those qualifications at the time of application for licensure; and                  3. Has successfully completed a state examination on the laws and regulations governing the practice of an assisted living facility administrator.</p> <p><i>An applicant for licensure from another state can be licensed by endorsement if he holds a similar license, certification or registration in another state and meets one of the other criteria for education and experience. Applicants from states that regulate assisted living administrators may be licensed by meeting requirements similar to those current administrators who will be initially licensed in Virginia based on their experience and passage of a jurisprudence examination. An applicant who had been the subject of disciplinary action in another jurisdiction would not be eligible for licensure unless, in the opinion of the Board, the violation had been appropriately remediated.</i></p>
<p>130</p>	<p>A. An application for licensure shall be submitted after the applicant completes the qualifications for licensure.                  B. An individual seeking licensure as an assisted living facility administrator or registration as a preceptor shall submit simultaneously:                  1. A completed application as provided by the board;                  2. Additional documentation as may be required by the board to determine eligibility of the applicant; and                  3. The applicable fee.                  C. With the exception of school transcripts, examination scores, and verifications from other state boards, all parts of the application package shall be submitted at the same time. An incomplete package shall be retained by the board for one year, after which time the application shall be destroyed and a new application and fee shall be required.</p> <p><i>Application requirements and policies for retention are similar to those for other professions at DHP.</i></p>
<p>140</p>	<p>A. To be approved as an administrator-in-training, a person shall:                  1. Have received a passing grade on a total of 30 semester hours of education from an accredited college or university;                  2. Obtain a preceptor to provide training;                  3. Submit the application provided by the board and the fee prescribed in 18VAC95-30-40; and                  4. Submit additional documentation as may be necessary to determine eligibility of the applicant and the number of hours required for the A.I.T. program.                  B. With the exception of school transcripts, all required parts of the application package shall be submitted at the same time. An incomplete package shall be retained by the board for one year after which time the application shall be destroyed and a new application and fee shall be required.</p> <p><i>The application package must be complete in order to approve a person to begin an administrator-in-training program. The educational prerequisite is set out in section 100 of this chapter.</i></p>
<p>150</p>	<p>A. The A.I.T. program shall consist of 1,000 hours of continuous training in a facility as prescribed in 18VAC95-30-160 to be completed within 24 months. An extension may be granted by the board on an individual case basis. The board may reduce the required hours for applicants with certain qualifications as prescribed in subsection B and C of this</p>



	<p>section.</p> <p><i>Training in an administrator-in-training program provides the experience and knowledge a person needs to be licensed as an assisted living facility administrator. Since the operation of an assisted living facility is less complex than a nursing home, the Board reduced the hours recommended by the Task Force to 1,000, which can be achieved in approximately 6 months of full-time work. A person registered for the AIT is given 24 months to complete the program to allow for part-time employment. Some individuals work in some capacity in a facility and add hours in an AIT program to qualify for licensure.</i></p> <p>B. An A.I.T. applicant with prior health care work experience may request approval to receive a maximum 500 hours of credit toward the total 1,000 hours as follows:</p> <ol style="list-style-type: none"> <li>1. An applicant who has been employed full time for four of the past five years immediately prior to application as an assistant administrator in a licensed assisted living facility or nursing home;</li> <li>2. An applicant who has been employed full time for four of the past five years immediately prior to application as a hospital administrator having responsibilities in all of the following areas:             <ol style="list-style-type: none"> <li>a. Regulatory;</li> <li>b. Fiscal;</li> <li>c. Supervisory;</li> <li>d. Personnel; and</li> <li>e. Management; or</li> </ol> </li> <li>3. An applicant who holds a license as a nurse and who has held an administrative level supervisory position in nursing for at least four of the past five consecutive years, in a training facility as prescribed in 18VAC95-30-160.</li> </ol> <p>C. An A.I.T. applicant with the following educational qualifications shall meet these requirements:</p> <ol style="list-style-type: none"> <li>1. An applicant with a master's or a baccalaureate degree in health care related field or a comparable field that meets the requirements of subsection C of 18VAC95-30-90 with no internship shall complete 320 hours in an A.I.T. program;</li> <li>2. An applicant with a master's degree in an unrelated field shall complete 320 hours in an A.I.T. program; or</li> <li>3. An applicant with a baccalaureate degree in an unrelated field shall complete 500 hours in an A.I.T. program.</li> </ol> <p><i>The Board has recognized that individuals with additional education or experience may not need the full amount of time in an AIT program to acquire the knowledge necessary to administer an assisted living facility. Therefore, credit from 680 to 500 of the 1,000 hours is given for various degrees or work experiences that relate to operation of a health care facility.</i></p>
<p>160</p>	<p>A. Prior to the beginning of the training program, the preceptor shall develop and submit for board approval a training plan which shall include and be designed around the specific training needs of the administrator-in-training. The training plan shall include the tasks and the knowledge and skills required to complete those tasks as approved by NAB as the domains of practice for residential care/assisted living in effect at the time the training is being provided. An A.I.T. program shall include training in each of the learning areas in the domains of practice.</p> <p>B. An A.I.T. shall be required to serve weekday, evening, night and weekend shifts and to receive training in all areas of an assisted living facility operation.</p>

	<p><i>To ensure that there is some consistency in AIT programs and that trainees are receiving training in all areas of resident care, regulations require the preceptor to develop and submit a training plan that is based on the knowledge, skills and tasks approved by NAB as the domains of practice essential for minimal competency. An AIT is required to work a variety of shifts and in all areas of a facility in order to understand the issues that arise at different times and places. If an AIT has experience in some aspect of resident care (nursing, management, etc.), the Board expects the training plan to emphasize those areas in which there may be some deficiencies.</i></p>
<p>170</p>	<p>Training in an A.I.T. program or for an internship shall be conducted only in:</p> <ol style="list-style-type: none"> <li>1. An assisted living facility or unit licensed by the Virginia Board of Social Services or by a similar licensing body in another jurisdiction;</li> <li>2. An assisted living facility owned or operated by an agency of any city, county, or the Commonwealth or of the United States government; or</li> <li>3. An assisted living unit located in and operated by a licensed hospital as defined in §32.1-123 of the Code of Virginia, a state-operated hospital, or a hospital licensed in another jurisdiction.</li> </ol> <p><i>The categories of facilities that are approved for training are listed in this section and include any licensed assisted living facility or unit within a larger complex.</i></p>
<p>180</p>	<p>A. Training in an A.I.T. program or an internship shall be under the supervision of a preceptor who is registered or recognized by a licensing board.</p> <p>B. To be registered by the board as a preceptor, a person shall:</p> <ol style="list-style-type: none"> <li>1. Hold a current, unrestricted Virginia assisted living facility administrator or nursing home administrator license;</li> <li>2. Be employed full-time as an administrator in a training facility for a minimum of two of the past three years immediately prior to registration; and</li> <li>3. Submit an application and fee as prescribed in 18VAC95-30-40.</li> </ol> <p><i>Requirements for the preceptor in an AIT program in assisted living are identical to those for a preceptor in a nursing home AIT. A preceptor must have been employed full-time for at least 2 out of the 3 years because the Board believes it is essential that the preceptor have some real-life experience as an administrator in order to properly train an AIT.</i></p> <p>C. A preceptor shall:</p> <ol style="list-style-type: none"> <li>1. Provide direct instruction, planning and evaluation;</li> <li>2. Be routinely present with the trainee in the training facility; and</li> <li>3. Continually evaluate the development and experience of the trainee to determine specific areas needed for concentration.</li> </ol> <p><i>The requirements for direct instruction and to be routinely present with the trainee are necessary to ensure that there is a hands-on approach to the training so the AIT and preceptor can readily communicate when either is faced with a learning/teaching situation in the facility. The Board considers a request to amend the requirement for a preceptor in a nursing home but declined to do so because it could undermine the essential nature of the AIT program and the relationship with a preceptor.</i></p> <p>D. A preceptor may supervise no more than two trainees at any one time.</p> <p><i>From their experience with AIT programs and preceptorships in nursing homes, the Board has determined that it is not possible to adequately train and supervise more than two trainees at any one time.</i></p>

<p>190</p>	<p>A. The preceptor shall maintain progress reports on forms prescribed by the board for each month of training.</p> <p>B. The trainee's certificate of completion plus the accumulated original monthly reports shall be submitted by the preceptor to the board within 30 days following the completion of the program.</p> <p><i>The requirements for maintenance of progress reports and for submission within a set time frame are for the protection of the trainee who is dependent of those reports as evidence that he has completed the required number of hours and is eligible for licensure.</i></p>
<p>200</p>	<p>A. If the program is interrupted because the registered preceptor is unable to serve, the trainee shall notify the board within five working days and shall obtain a new preceptor who is registered with the board within 60 days.</p> <ol style="list-style-type: none"> <li>1. Credit for training shall resume when a new preceptor is obtained and approved by the board.</li> <li>2. If an alternate training plan is developed, it shall be submitted to the board for approval before the trainee resumes training.</li> </ol> <p>B. If the training program is terminated prior to completion, the trainee and the preceptor shall each submit a written explanation of the causes of program termination to the board within five working days. The preceptor shall also submit all required monthly progress reports completed prior to termination.</p> <p><i>This section provides the rules for interruption of an AIT program, including notification and reporting requirements so the Board is informed of the situation and can approve a new preceptor to resume training.</i></p>
<p>210</p>	<p>The board may refuse to admit a candidate to an examination, refuse to issue or renew a license or approval to any applicant, suspend a license for a stated period of time or indefinitely, reprimand a licensee, place his license on probation with such terms and conditions and for such time as it may designate, impose a monetary penalty, or revoke a license for any of the following causes:</p> <ol style="list-style-type: none"> <li>1. Conducting the practice of assisted living administration in such a manner as to constitute a danger to the health, safety, and well-being of the residents, staff, or public;</li> <li>2. Failure to comply with federal, state, or local laws and regulations governing the operation of an assisted living facility;</li> <li>3. Conviction of a felony or any misdemeanor involving abuse, neglect or moral turpitude;</li> <li>4. Failure to comply with any regulations of the board; or</li> <li>5. Inability to practice with skill or safety.</li> </ol> <p><i>Establishing grounds for disciplinary action is the purpose of this section, which is consistent with the regulations for nursing home administrators and other similar health professions. The Task Force recommended the grounds as necessary and appropriate for adequate oversight of the practice of ALF licensed administrators. The regulations also provide a basis for denial of licensure based on evidence that an applicant may have violated a rule set out in this section.</i></p>