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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)	18VAC95-20-10 <i>et seq.</i> ; 18VAC95-30-10 <i>et seq.</i>
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	June 30, 2022 Revised July 25, 2022

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 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.

The Board has amended its regulations to: 1) 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; 2) establish an additional pathway for individuals to qualify for AIT training in the assisted living setting and strengthen the current requirement for college or university coursework to include coursework in business and/or human services; 3) 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; and 4) specify limitations on the assisted living facilities that qualify for an AIT program.

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.

AIT = Administrator-in-Training
ALF AIT = Assisted Living Facility Administrator-in-Training
NAB = National Association of Long Term Care Administrator Boards
CE = continuing education

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 June 30, 2022, the Board of Long-Term Care Administrators voted to adopt final regulations governing Administrator-in-Training (AIT) Program Requirements.

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 a set of recommendations for action from a Regulatory Advisory Panel (“RAP”) on Administrators-in-Training convened by the Board in April and July of 2019. On September 27, 2019, the Chair of the RAP presented a series of collaborative and regulatory recommendations to improve the AIT program for prospective nursing home and assisted living facility administrator licensees to the Board. 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 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.”

Additionally, Virginia Code § 54.1-3102 requires an individual to hold a license as a nursing home administrator to engage in the general administration of a nursing home, and to hold a license as an assisted facility administrator or nursing home administrator to engage in the general administration of an assisted living facility. Administrators for residential living care as defined in Virginia Code § 63.2-100 are exempt from licensure requirements.

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's intended to solve.

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 has also strengthened 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, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.

The Board has amended its regulations to: 1) clarify and enhance training and supervision requirements for prospective nursing home and assisted living facility administrators receiving pre-licensure training in an AIT program; 2) establish an additional pathway for individuals to qualify for AIT training in the assisted living setting and strengthen the current requirement for college or university coursework to include coursework in business and/or human services; 3) 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; and 4) specify limitations on the assisted living facilities that qualify for an AIT program.

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 are more opportunity for persons to become administrators of assisted living facilities to alleviate workforce shortages, incentive for administrators to serve as preceptors for persons in training, and more emphasis on training and education in mental or cognitive impairment to better serve an affected population. There are no disadvantages to the public.
- 2) There are no advantages or disadvantages to the Board or the Department.
- 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 regulations.

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 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, via letter, on behalf of the Virginia Assisted Living Association (VALA)	Supports the additional pathways to licensure and inclusion of continuing education credits for AIT preceptors. Requests that the Board approve the recommendations of the RAP as final regulations.	The Board appreciates the support and VALA’s participation in the RAP.
4 comments posted on Town Hall in support	<p>Generally supportive of expansion of pathways to become a licensed administrator in senior living and care. Commenters note the aging workforce, need to attract younger licensees, and the numerous qualified individuals that are passionate about senior care yet do not meet traditional requirements.</p> <p>One comment from Fairfax Home Health Care requested that training programs be provided only at community colleges or universities, with the practical experience for such programs provided in nursing homes or assisted living facilities.</p>	<p>The Board appreciates the support and agrees with the need to increase the workforce.</p> <p>The comment by Fairfax Home Health Care regarding provision of training programs at community colleges or universities, with only the practical training at facilities, would decrease access to AIT programs rather than increase access. College programs are less accessible to portions of the population, particularly rural areas, and are a significant expense. Additionally, many of the applicants who would take advantage of the new AIT requirements have already attended some college or have a degree. Forcing those applicants to return to college would create unnecessary stress and cost. Because the intent of this regulatory action is to increase access to AIT programs, the Board did not make this change to the final regulations.</p>

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.*

None.

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.

Chapter 20 – Nursing home administrators

Current chapter-section number	Current requirements in VAC	Change, intent, rationale, and likely impact of updated requirements
18VAC95-20-175	Sets continuing education requirements for nursing home administrators.	<p>Subsection A is amended to:</p> <p>(1) Include a requirement that administrators obtain at least two hours of continuing education hours for each renewal year on the care of residents with mental impairments, including Alzheimer’s disease and dementia. Many residents of long term care facilities are affected by mental impairment. Continuous education is essential to appropriately plan for and execute their care. Administrators must stay knowledgeable and up-to-date on current techniques and treatments for mental impairments, which are changing and developing constantly.</p> <p>(2) Include language to permit preceptors who supervise AITs to obtain one hour of continuing education credit for every week of training for a maximum of 10 hours of self-study each renewal year. The intent of this action is to encourage and reward licensees for acting as preceptors of AIT programs. Serving as a preceptor is a time-consuming responsibility and a learning experience for the preceptor as well as the trainee. Half of a licensee’s required CE hours could be satisfied by serving as a preceptor. The other half (10 hours) would still need to be obtained from an approved CE provider.</p>
18VAC95-20-310	Establishes the required hours of training in an AIT program.	<p>Subsection D is amended to specify that an AIT can receive credit for no more than 40 hours of training per week. A 40-hour week is considered to be a full-time job; the intent of the limitation is to ensure that an AIT completes all the training with the range of experiences and expertise expected of a nursing home administrator. A person with no education or experience in health care is required to complete 2,000 hours of training, which can be accomplished in one year. An AIT with certain education and licensure qualifications can complete a program in as few as 320 hours (equivalent of 8 weeks at 40 hours per week).</p> <p>Subsection E is added to require an AIT to complete training on the care of residents with cognitive or mental impairments, including Alzheimer’s disease and dementia. As with the requirement for CE in this topic, competency in the care of such residents is</p>

		<p>an essential aspect of preparing someone to run a nursing home facility.</p> <p><u>Note:</u> In the NOIRA, the Board said it would consider whether to require nursing home AITs to complete an 80-hour course in nursing home administration based upon curriculum that meets NAB-approved standards, with course hours to count toward total AIT hours. However, a nursing home administrator pre-licensure course was still in the approval process with NAB when the regulations were being considered and there were not any pre-licensure programs or courses in place in Virginia that would have fit the specifications for such a course. The RAP/Committee agreed that such a course would be helpful, and it may be something that can be implemented at a later date.</p>
18VAC95-20-340	Sets out requirements for supervision of trainees in an AIT program.	<p>Subsection C is amended to clarify that the requirement for the preceptor to be “routinely present” with the trainee means that he or she is in the training facility for on-site supervision. The Board has sought ways to ensure that an AIT is receiving appropriate and necessary supervision. A specified number of hours for on-site, face-to-face supervision was considered, but the Board chose to leave it to the judgement of the preceptor to determine how often he or she needs to be present for on-site supervision. A new AIT may require frequent, hands-on oversight, while an experienced AIT may require less.</p>
18VAC95-20-390	Sets out the requirements for a training plan for each AIT program.	<p>The section on requirements for the AIT program training plan is amended to specify that an AIT program must include training in each of the learning areas as outlined in the NAB AIT manual. A training plan is currently required to address the Domains of Practice approved by NAB. The training manual from NAB provides specific learning areas that address each of the Domains, as well as the knowledge and skills necessary to be competent in those areas. While each AIT program can be tailored to meet the needs of the person in training, the manual is a valuable resource for ensuring that the program has addressed all Domains of Practice and has adequately prepared a person to pass the national examination.</p>
18VAC95-20-400	Sets out the reporting requirements for a preceptor training an AIT.	<p>Subsection A is amended to require the preceptor to document evidence of on-site supervision of AIT training. To ensure compliance with the requirement in section 340 for routine, on-site supervision, the Board wants some documentation in the progress reports for an AIT.</p>

		Subsection B is amended to clarify that the AIT receives a final report of completion rather than a “certificate” of completion.
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Chapter 30 – Assisted living facility administrators

18VAC 95-30-70	Sets out requirements for continuing education.	<p>Subsection A is amended to:</p> <p>(1) Include requirement that administrators obtain at least two hours of continuing education hours for each renewal year on the care of residents with mental impairments, including Alzheimer’s disease and dementia. Many residents of long term care facilities are affected by mental impairment. Continuous education is essential to appropriately plan for and execute their care. Administrators must stay knowledgeable and up-to-date on current techniques and treatments for mental impairments, which are changing and developing constantly.</p> <p>(2) Include language to permit preceptors who supervise AITs to obtain one hour of continuing education credit for every week of training for a maximum of 10 hours of self-study each renewal year. The intent of this action is to encourage and reward licensees for acting as preceptors for AIT programs. Serving as a preceptor is a time-consuming responsibility and a learning experience for the preceptor as well as the trainee. Half of a licensee’s required CE hours could be satisfied by serving as a preceptor. The other half (10 hours) would still need to be obtained from an approved CE provider.</p>
18VAC95-30-100	Sets out the educational and training requirements for initial licensure.	<p>Subsection A sets out the qualifications one must have in addition to a high school diploma or GED to qualify for licensure as an assisted living facility administrator. There are two amendments to qualifications for an AIT program: 1) of the 30 hours of postsecondary education, at least 15 must be hours in business or human services; and 2) a new pathway is created for someone with at least three years of health care experience with at least one year in a managerial or supervisory role in a health care setting. The specification of 15 hours of the 30 hours of postsecondary education is necessary to ensure that a person receives educational preparation to become the administrator of an assisted living facility. Attending thirty hours at a community college without some specified coursework (plus 640 hours in an AIT program) may not prepare an individual to handle the complexity of managing the health care needs, the financial and regulatory responsibilities, and the human resource issues of a facility.</p>

		<p>In the RAP convened to discuss the AIT program, there was strong support for an additional pathway for persons who have managerial or supervisory experience in health care settings, but who do not have the 30 hours of postsecondary education or a degree as a nurse. The amendment in 18VAC95-30-100(A)(1)(g) allows a person who has had at least three years of health care experience, with one year in a managerial or supervisory role, to qualify for an ALF AIT program and become qualified to be an assisted living facility administrator. Some examples of health care experience which would qualify include serving as the food service manager, activities director, or human resources manager in a health care setting. With an increasingly aging population, there is an ongoing need for more administrators in the field. This additional pathway will open up opportunity for some individuals to climb the career ladder into that role.</p>
<p>18VAC95-30-160</p>	<p>Establishes the required content of an ALF AIT program.</p>	<p>Subsection A is amended to specify that an AIT program include training in each of the learning areas as outlined in the NAB AIT manual. A training plan is currently required to address the Domains of Practice approved by NAB. The training manual from NAB provides specific learning areas that address each of the Domains, as well as the knowledge and skills necessary to be competent in those areas. While each AIT program can be tailored to meet the needs of the person in training, the manual is a valuable resource for ensuring that the program has addressed all Domains of Practice and has adequately prepared a person to pass the national examination.</p> <p>Subsection C is added to specify that an AIT can receive credit for no more than 40 hours of training per week. A 40-hour week is considered to be a full-time job; the intent of the limitation is to ensure that an AIT completes all the training with the range of experiences and expertise expected of an assisted living administrator. The maximum number of hours required in an ALF AIT is 640 hours, which is the equivalent of 16 weeks at 40 hours per week; the minimum number of hours is 320 which can be completed in 8 weeks.</p> <p>Subsection D is added to require an AIT to complete training on the care of residents with cognitive or mental impairments, including Alzheimer’s disease and dementia. As with the requirement for CE, competency in the care of such</p>

		<p>residents is an essential aspect of preparing someone to run a nursing home facility.</p>
<p>18VAC95-30-170</p>	<p>Sets out the requirements for assisted living facilities that serve as training facilities.</p>	<p>Currently, subsection B specifies that an ALF AIT program cannot be conducted in an assisted living facility with a provisional license as determined by DSS. The RAP/Committee recommended three amendments based on the need to train administrators with the competencies to safely run an assisted living facility. Under the amended language, an AIT program cannot be operated in: 1) an assisted living facility with a conditional license in which the AIT applicant is the owner of the facility; 2) an assisted living facility that is only licensed for residential care (not assisted living); or 3) an assisted living facility with a resident capacity of less than 20 residents.</p> <p>If the person who wants to participate in an ALF AIT program is the owner of the facility and it has been given a conditional license by DSS, there are concerns that the owner would be serving as the Acting AIT of their own new facility, thereby resulting in inadequate AIT training and supervision.</p> <p>If a facility is only licensed for residential care, a licensed administrator is not required to run the facility and there would be insufficient oversight and training opportunities for an ALF AIT. For example, in residential care facilities, residents handle their own medications. Assisted living facilities employ medication aides or nurses for that task.</p> <p>The RAP/Committee used data estimates from the Department of Social Services to make its recommendation about the bed capacity of an ALF facility in which an AIT program could be operated. It concluded that a facility with fewer than 20 beds did not have the breadth and depth of staff and experience to adequately prepare a person in training to safely and effectively operate an assisted living facility. DSS estimated that of the 571 facilities licensed to provide assisted living care, there were approximately 100 that are in the range of 3-10 beds. 73 of those are located in Fairfax and Central Virginia; none were located in the Western district of the state. Therefore, the Board agreed with the recommendation of the RAP/Committee that there was ample opportunity in all parts of the state for AIT programs in facilities with adequate bed capacity needed for training of competent administrators.</p>

<p>18VAC95-30-180</p>	<p>Sets out requirements for preceptors in an ALF AIT program.</p>	<p>Subsection C is amended to clarify that the requirement for the preceptor to be “routinely present” with the trainee means that he or she is in the training facility for on-site supervision. The Board has sought ways to ensure that an AIT is receiving appropriate and necessary supervision. A specified number of hours for on-site, face-to-face supervision was considered, but the Board chose to leave it to the judgement of the preceptor to determine how often he or she needs to be present for on-site supervision. A new AIT may require frequent, hands-on oversight, while an experienced AIT may require less.</p> <p>Subsection F is amended to require a person who is renewing registration as a preceptor to have a written agreement with training facility if he or she is not an employee of that facility. Having an agreement in writing will ensure that roles and responsibilities of the preceptor are clearly set out.</p>
<p>18VAC95-30-190</p>	<p>Sets out the reporting requirements for a preceptor training an AIT.</p>	<p>Subsection A is amended to require the preceptor to document evidence of on-site supervision of ALF AIT training. In an ALF AIT where the person in training is also the acting administrator, the requirement for face-to-face instruction and review is increased from two to four hours per week. To ensure compliance with the requirement in section 180 for routine, on-site supervision, the Board wants some documentation in the progress reports for an AIT. The Board believes the current requirement for supervision of a person who is training but also the acting administrator of a facility is insufficient to ensure the health and safety of residents in that facility. Four hours per week should be the bare minimum time that a supervisor is in the facility meeting face-to-face with an acting administrator/AIT trainee.</p> <p>Subsection B is amended to clarify that the AIT receives a final report of completion rather than a “certificate” of completion.</p>