Virginia Regulatory Town Hall

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Notice of Intended Regulatory Action (NOIRA)
Agency Background Document

Agency name	Board of Nursing, Department of Health Professions
Virginia Administrative Code (VAC) citation	18VAC90-60-10 et seq.
Regulation title	Regulations Governing the Registration of Medication Aides
Action title	Establishment of requirements for registration of medication aides
Document preparation date	5/17/05

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.*

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

Pursuant to the 2005 Acts of the Assembly (Chapters 610 and 924), the Board of Nursing has a mandate to promulgate regulations for registration of medication aides who administer drugs to residents of assisted living facilities, for standards of conduct, and for approval of training programs in medication administration. Section 54.1-3042 of the Code was added to require every applicant for registration as a medication aide to meet the criteria for registration including successful completion of an education or training program approved by the Board, successful completion of a competency evaluation, payment of the required application fee, and submission of written evidence that the applicant has not committed any act that would be grounds for discipline or denial of registration. In addition, the rules must provide that every applicant for registration as a medication aide complete ongoing training related to the administration of medications.

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., 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 Nursing 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. …*

The specific authorization to promulgate regulations for implementation of registration of medication aides is found in the Nurse Practice Act in the following sections:

§ 54.1-3005. Specific powers and duties of Board.

16. To register medication aides and promulgate regulations governing the criteria for such registration and standards of conduct for medication aides; and

17. To approve training programs for medication aides to include requirements for instructional personnel, curriculum, continuing education, and a competency evaluation.

§ 54.1-3041. Registration required.

A medication aide who administers drugs that would otherwise be self-administered to residents in an assisted living facility licensed by the Department of Social Services shall be registered by the Board.

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

Every applicant for registration as a medication aide by competency evaluation shall pay the required application fee and shall submit written evidence that the applicant:

1. Has not committed any act that would be grounds for discipline or denial of registration under this article; and

2. Has met the criteria for registration including successful completion of an education or training program approved by the Board.

§ 54.1-3043. Continuing training required.

Every applicant for registration as a medication aide shall complete ongoing training related to the administration of medications as required by the Board.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

The specifics of the new chapter for registration of medication aides will be guided by the provisions of law, which require the Board to "*approve training programs for medication aides to include requirements for instructional personnel, curriculum, continuing education, and a competency evaluation,*" to register any medication aide *"who administers drugs that would otherwise be self-administered to residents in an assisted living facility licensed by the Department of Social Services"* and to require an application, a fee and written evidence that the applicant has completed a competency evaluation, "*has not committed any act that would be grounds for discipline or denial of registration under this article; and has met the criteria for registration including successful completion of an education or training program approved by the Board."* In addition, the Code requires that medication aides complete ongoing training related to the administration of medications, as specified in regulation to be adopted by the Board.

With the introduction of HB2512 and SB1183, proponents of legislation for tighter controls over the assisted living facilities, including registration of medication aides, 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 to a higher level of competency for caregivers. The Drug Control Act allows medication aides to "*administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services*" but specifies that only a licensed nurse can administer medications to patients of nursing homes. 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 registration of medication aides by the Board.

The primary challenges and issues to be addressed in the development and implementation of the regulation will be to write rules that: 1) recognize the training and experience of current medication aides who are administering drugs after completion of the approved training program now in effect, but also will ensure competency and consistency with new requirements; and 2) maintain the fiscal viability of a competency evaluation and a regulatory/disciplinary program under the Board of Nursing, but also will establish 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 is no such national standard or credential available for this profession.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

There are no alternatives to the proposed regulatory action; it is mandated by Chapters 610 and 924 of the 2005 Acts of the Assembly. The third enactment mandates: "That the Board of Nursing shall adopt final regulations to implement the provisions of this act to be effective on or before July 1, 2007." Therefore, the Board must begin to convene a task force for development of the rules governing the training programs, curriculum, competency evaluation and practice of medication aides.

As guidance for those rules, the Board will first review its current regulations for approval of a training program for medication aides, as stated in 18VAC90-20-370 through 18VAC90-20-400 to determine those aspects of the program that are adequate to ensure minimum competency and those that need to be strengthened. Those requirements include:

18VAC90-20-370. Establishing a medication administration training program.
A. A program provider wishing to establish a medication administration training program pursuant to §54.1-3408 of the Code of Virginia shall submit an application to the board at least 90 days in advance of the expected beginning date.
B. The application shall be considered at a meeting of the board. The board shall, after review and consideration, either grant or deny approval.
C. If approval is denied, the program provider may request a hearing before the board, and the provisions of the Administrative Process Act shall apply (§9-6.14:1 et seq. of the Code of Virginia).

18VAC90-20-380. Qualifications of instructional personnel.
Instructors shall be licensed health care professionals who, consistent with provisions of the Drug Control Act (§54.1-3400 et seq. of the Code of Virginia), are authorized to administer, prescribe or dispense drugs and who have completed a program designed to prepare the instructor to teach the course as it applies to the clients in the specific setting in which those completing the course will administer medications.

18VAC90-20-390. Content.
The curriculum shall include a minimum of 24 hours of classroom instruction and practice in the following:
1. Preparing for safe administration of medications to clients in specific settings by:
a. Demonstrating an understanding of the client's rights regarding medications, treatment decisions and confidentiality.
b. Recognizing emergencies and other health-threatening conditions and responding accordingly.
c. Identifying medication terminology and abbreviations.
2. Maintaining aseptic conditions by:
a. Implementing universal precautions.
b. Insuring cleanliness and disinfection.
c. Disposing of infectious or hazardous waste.
3. Facilitating client self-administration or assisting with medication administration by:
a. Reviewing administration records and prescriber's orders.
b. Facilitating client's awareness of the purpose and effects of medication.
c. Assisting the client to interpret prescription labels.
d. Observing the five rights of medication administration and security requirements appropriate to the setting.
e. Following proper procedure for preparing medications.
f. Measuring and recording vital signs to assist the client in making medication administration decisions.

g. Assisting the client to administer oral medications.
h. Assisting the client with administration of prepared instillations and treatments of:
(1) Eye drops and ointments.
(2) Ear drops.
(3) Nasal drops and sprays.
(4) Topical preparations.
(5) Compresses and dressings.
(6) Vaginal and rectal products.
(7) Soaks and sitz baths.
(8) Inhalation therapy.
(9) Oral hygiene products.
i. Reporting and recording the client's refusal to take medication.
j. Documenting medication administration.
k. Documenting and reporting medication errors.
l. Maintaining client records according to facility policy.
m. Sharing information with other staff orally and by using documents.
n. Storing and securing medications.
o. Maintaining an inventory of medications.
p. Disposing of medications.
4. Facilitating client self-administration or assisting with the administration of insulin.
Instruction and practice in the administration of insulin shall be included only in those settings where required by client needs and shall include:
a. Cause and treatment of diabetes.
b. The side effects of insulin.
c. Preparation and administration of insulin.

18VAC90-20-400. Post-course examination.

The program provider shall require that each student shall pass a written and practical examination at the conclusion of the training which measures minimum competency in medication administration.

In addition, the Board will review laws and regulations from 15 other jurisdictions that regulate medication aides, including Delaware, the District of Columbia, and Maryland. The North Carolina Board of Nursing has developed the Medication Aide Project to implement uniform standards for non-licensed individuals administering medications, so the Board will also request information from that Board. Finally, the National Council of State Boards of Nursing has developed Draft Model Language for Assistive Personnel and has scheduled a conference on medication aides on June 3, 2005; the Board will have representation at that meeting to gather information for development of rules in Virginia.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

The proposed regulatory action will have no impact on the institution of the family and family stability.