Virginia Regulatory Town Hall

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Final Regulation
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	Initial regulation
Document preparation date	12/5/06

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

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Pursuant to the 2005 Acts of the Assembly (Chapters 610 and 924), the Board of Nursing has promulgated regulations for registration of medication aides who administer drugs to residents of assisted living facilities, for approval of training programs in medication administration, and for standards of practice and grounds for disciplinary action. Requirements for Board approved training programs include qualifications for instructors, hours of classroom instruction and practical skills training, content of the curriculum and maintenance of certain records.

To be registered as a medication aide, an applicant must document completion of an approved training program and passage of a competency evaluation as determined by the Board. Currently practicing medication aides will not be required to complete an approved training program but will be required to take an eight-hour refresher course and pass the competency examination. Requirements for renewal and reinstatement are set, including four hours of in-service training each year. Fees are established for program approval, application, and renewal as necessary to provide funding for the Board to administer the regulatory program.

Statement of final agency action

Please 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 November 14, 2006, the Board of Nursing adopted final regulations 18VAC90-60-10 et seq. to establish qualifications for the registration and practice of medication aides.

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 numbers, 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. …*

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 Nursing to promulgate regulations for the registration and regulation of medication aides who administer medications in assisted living facilities.

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.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss 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 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 provide that every applicant for registration as a medication aide complete ongoing training related to the administration of medications.

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 addressed in the development and implementation of the regulation were 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 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 establish fees that are reasonable and not prohibitive. In addition, the Board has specified that an approved competency evaluation or written test will be required for registration. But before the effective date of the regulations, the Board has 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.

The goal was to develop regulations that provide some assurance that the aide is sufficiently trained to handle the increasing complexity of medications being administered in an assisted living facility and to adequately protect and care for the residents of that facility.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

The specifics of the new chapter for registration of medication aides were 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.

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 there are no disadvantages to the public or the Commonwealth, please indicate.

1) The primary advantage to the public is the assurance that aides who administer medications in assisted living facilities will be adequately trained and deemed competent by passage of an examination. In addition, there will be some accountability for the work and behaviors of aides who must practice under standards set by the Board or face possible disciplinary action. Without the statutory requirement for registration to administer medications, persons who engaged in a pattern of medication errors or who abused a resident could be fired by an employer but could be rehired by another facility. There are no disadvantages of the regulations unless the requirement to be registered results in a shortage of persons who want to work as medication aides, which should not be a problem for facilities that will assist with the cost of training and registering their aides.
2) The registration of medication aides creates a large new program under the Board of Nursing 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 medication aides and training programs, 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 registration program, approval of training programs, investigations and disciplinary proceedings for medication aides could not occur in a timely manner and could negatively affect other programs, such as regulation of certified nurse aides.
3) There are no other pertinent issues.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.

The following changes were made in the adoption of final regulations in response to public comment:

1) In section 30 on fees, the Board amended regulations to require an annual renewal of registration for medication aides at a fee of $25, rather than a biennial renewal of $50. The reduced fee paid every year will be less burdensome for aides, some of whom will only work in that capacity for a short time while preparing for or moving on to other jobs. Since the application fee was intended to cover the cost of processing an application and accompanying documentation plus the first biennial renewal, that fee was reduced from $75 to $50 to include the first annual renewal. The returned check is required by the Code of Virginia to be at least $35, so the regulation was amended from $25 to $35 to conform to all other regulations of the Board and the Department.

2) In section 50, subsection A, on requirements for instructional personnel, the Board amended the regulations in its final action to allow LPN's to also be primary instructors for medication aide training programs. All licensees who are primary instructors must have at least three years of experience in administering or dispensing drugs in long-term care facilities. That experience,

plus the requirement for every instructor to successfully complete a course with an examination on teaching the medication aide curriculum, should provide sufficient assurance of qualification for instructors. Those practitioners who have not had the requisite three years of experience could be used as secondary instructors for the skills practice portion of the course. These changes in the final regulation will greatly increase the availability of instructors for medication aide programs.

3) In section 50, subsection C, the requirement for completion of a course designed to prepare the instructor to teach the curriculum was clarified to specify what would be considered "completion." The revised requirement states that the course must be successfully completed to include a post-course examination. The curriculum is further specified as that approved by the board for administration of medications.

4) In sections 60 and 90, the Board clarified the requirement for a "clinical practicum" by eliminating the confusing term and specifying that the evaluation of the student's competency in the clinical skills of administering medications should be at the conclusion of the 20 hours of supervised clinical practice. It should be conducted by the training program as a one-on-one evaluation by a qualified instructor. The language in 60 B and in 90 A 5 was amended accordingly. Section 90 A and B were also amended to change the word from "written evaluation" to "written examination" to clarify the Board's requirement.

5) In section 100, the language about when the renewal is due was amended from the proposed regulation for consistency with changing from a biennial to an annual renewal.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Proposed regulations were published in the Virginia Register of Regulations on June 26, 2006. Public comment was requested for a 60-day period ending August 25, 2006. A Public Hearing before the Board was held on July 18, 2006. Three persons provided oral comment:

Carolyn Ohle (Innisfree Village) – described the community in which she lives where volunteers live side-by-side with persons who have disabilities. Since they are licensed as an assisted living facility, the persons who administer medications would need to be registered as aides. Requirements, such as wearing name tags and insulin administration training, are not necessary in that environment. NOTE: Ms. Ohle also provided written comment via the Regulatory Townhall that reiterated her oral comment at the hearing.

Board response: The law does not distinguish between persons who are volunteers and those who work for compensation in requiring those who administer medications in assisted living facilities to be licensed practitioners or persons registered as medication aides. The Board cannot write regulations that are inconsistent with the law or are tailored to one unique community.

Roy Bryant (Independent home owner) – commented that the proposed regulations and the process are biased against the small home owners, and adult homes are being forced into a nursing home

model. Opposes the high level of training required for medication aides and the test, which are comparable to LPN's.

Board response: The law does not provide an exception for smaller homes or for those that provide residential care; all licensed assisted living facilities must use registered medication aides. The training for medication aides requires 40 hours of classroom instruction and 20 hours of supervised skills practice with an additional 8 hours in training in insulin administration. A LPN program is minimally 12 to 15 months. The test required for LPN licensure is a national examination, NCLEX-PN, while the test for medication aides is being developed in Virginia based on the approved med aide curriculum; it will be similar to testing for certified nurse aides.

Irvin Land (speaking on behalf of Richard Brewer, President of Commonwealth Assistant Living) – Expressed concern about the financial costs to individual aides and facilities, especially to approximately 200 of the 600 assisted living facilities with nineteen or fewer residents. Supports advance training for medication aides to ensure better quality of care, but believes the costs are too high.

Board response: Costs associated with the medication aide program, including licensing, investigation of complaints, and disciplinary proceedings, must be borne by fees charged to regulants. There are no federal or state tax dollars for the Board to fund this program. To mitigate the effect of the fees, the Board has changed to an annual renewal of $25 and reduced the application fee to $50.

Written or electronic comment was received from the following persons or organizations, as summarized below:

Virginia Health Care Association (Beverley Soble) – Expresses concern with application fees and biennial renewals and requests a lower fee be considered for individuals who are certified as nurse aides. The total cost of holding both registrations will be a financial hardship.

Board response: Costs associated with the medication aide program, including licensing, investigation of complaints, and disciplinary proceedings, must be borne by fees charged to regulants. There are no federal or state tax dollars for the Board to fund this program. To mitigate the effect of the fees, the Board has changed to an annual renewal of $25 and reduced the application fee to $50.

Virginia Association of Nonprofit Homes for the Aging (Dana Steger) – Supports the proposed regulations as they will increase the quality of care for ALF's. Also concerned about cost, especially the double expense of holding registration as a CNA and a medication aide.

Board response: Costs associated with the medication aide program, including licensing, investigation of complaints, and disciplinary proceedings, must be borne by fees charged to regulants. There are no federal or state tax dollars for the Board to fund this program. To mitigate the effect of the fees, the Board has changed to an annual renewal of $25 and reduced the application fee to $50. The medication aide and nurse aide registrations are separate credentials, entitling the holders to differing scopes of practice and subjecting the holders to disciplinary action on one or both.

Virginia Nurses Association (Teresa Haller, President) – Concerned that the major change from the current training requirements may result in some residents getting care at all, because the traditional adult homes have been included with assisted living facilities. Also, some facilities use unit dose medication, while others administer from prescription bottles for each resident and others rely on more cryptic physician

orders on a medication chart – both of which are more likely to result in medication errors. The proposed level of training may create a financial hardship for smaller facilities. Some of the training appears to be more professional (such as understanding of basic pharmacology) than technical, and 60 hours of training does not qualify anyone to be a professional. The standards of practice require documentation and reporting of adverse reactions, but only a professional can determine if an adverse event is a medication reaction. Suggested: 1) Two levels of medication aides depending on the general health of the residents and procedures for administration; 2) Recognize that smaller facilities may rarely have residents with diabetes, so training in insulin administration could be required as continuing education, if necessary; and 3) Training components for diabetes and inhaled medication require further, specific consideration. VNA supports the use of licensed personnel, whose professional scope of practice includes administration and the monitoring and reporting of medication effects, to administer medication to residents of an assisted living facility. However, supports continuing and future efforts to upgrade the qualifications of medication aides, but move toward use of only licensed personnel in the future.

Board response: Since the law did not exclude residential care ALF's (adult homes), Board regulations are applicable to all ALF's. The curriculum approved by the Board contains basic instruction necessary for a medication aide without direct supervision from a nurse to be able to administer medications as prescribed; it is not anticipated that the aide will assess the adverse reaction, just report that the resident appears to be having one. The Board discussed the need for insulin administration and determined that it was essential for every medication aide because a current resident may become insulin dependent at any time, and an aide without that training would be unable to assist with medication. While the use of licensed personnel might be ideal, it is not required by law.

Virginia Assisted Living Association (May Fox) – Expressed concern that the fees are excessive, given the wages paid to medication aides; requested reduction of registration and renewal to $20. Fees create a disincentive for nurse aides to become medication aides because of the double fee; a reduced fee for those who have CNA training would be appropriate.

Board response: Costs associated with the medication aide program, including licensing, investigation of complaints, and disciplinary proceedings, must be borne by fees charged to regulants. There are no federal or state tax dollars for the Board to fund this program. To mitigate the effect of the fees, the Board has changed to an annual renewal of $25 and reduced the application fee to $50. The medication aide and nurse aide registrations are separate credentials, entitling the holders to differing scopes of practice and subjecting the holders to disciplinary action on one or both.

Alzheimer's Association - Virginia Chapter (Carter Harrison) – Supported the proposed requirements for instructors because the quality of the training directly impacts the quality of the medication aides. Supported a minimum of 68 hours of training and the proposed skills and written evaluations. Expressed concern about the fee structure; believed the cost for the medication aide program will be less than the nurse aide program.

Board response: Costs associated with the medication aide program, including licensing, investigation of complaints, and disciplinary proceedings, must be borne by fees charged to regulants. There are no federal or state tax dollars for the Board to fund this program. To mitigate the effect of the fees, the Board has changed to an annual renewal of $25 and reduced the application fee to $50. The cost of the nurse aide program is heavily supplemented by fees charged to nurses. If the revenue from the medication aide program exceeds the cost of the program, fees can be reduced under an exemption in the Administrative Process Act.

Cindy Dillon, Assistant Administrator for St. Luke's ACR – Regulations will force facilities to pay qualified aides the same as a LPN. Concerned that facilities will not be able to afford to keep auxiliary grant residents; small family businesses will have to shut down. Medication aides will not be able to afford the fees.

Board response: Costs associated with the medication aide program, including licensing, investigation of complaints, and disciplinary proceedings, must be borne by fees charged to regulants. There are no federal or state tax dollars for the Board to fund this program. To mitigate the effect of the fees, the Board has changed to an annual renewal of $25 and reduced the application fee to $50. There should be no requirement to pay medication aides the same as a LPN; their training and scope of practice differ widely.

Roy Bryant – representing the small, independent homeowners. Commented that the process of developing the regulations was not legitimate; placing adult homes under the long term care umbrella is a form of eminent domain and a violation of antitrust laws. Ignored request for adult homes to be exempt from changes but with refresher courses every two years. Process will have a devastating effect on the poor and homes that accept auxiliary care residents. Opposed the high level medication training test for aides as it correlates to the test for a LPN. Requested full participation in all decision-making processes.

Board response: The comment relating to adult homes is a comment on the law and not the regulations. The Board does not have legal authority to exempt certain types of ALF's. The training and testing of a medication aide is not comparable to a LPN, who must have 12 to 15 months of education and must pass a national examination, NCLEX-PN. The commenter has participated in public comment and discussion during many of the Task Force and Board meetings.

Diana Ponterio (Regional Manager for Five Star Quality Care) – Agreed that medication techs need more training than has been previously required. Supported grandfathering current med techs to ensure continuity of care; favors 1250 hours of experience in the last five years as the criteria, rather than one year prior to taking the test. Asked about: 1) effect on someone who is a med tech, but oversees the facility and doesn't currently pass meds; 2) someone coming from another state; and 3) the type of test and availability of a prep course. Commented that the fees are too high and will be a problem for med techs.

Board response: Requiring 1250 hours in five years would be very difficult for most medication aides to document and would not assure any recent experience in medication administration. If a person is currently designated as a medication aide by passage of the current training course but has not worked as a medication aide (administering medications) without the past year, he would not qualify under the "grandfathering" provision. There will be no assurance that someone coming from another state has had training in the same curriculum adopted by the Board, so he will be required to successfully complete the approved course. The written examination will be developed by an examination service based on the curriculum, and all approved training programs will be required to provide the 8-hour refresher course.Costs associated with the medication aide program, including licensing, investigation of complaints, and disciplinary proceedings, must be borne by fees charged to regulants. There are no federal or state tax dollars for the Board to fund this program. To mitigate the effect of the fees, the Board has changed to an annual renewal of $25 and reduced the application fee to $50.

Pat Shifflett (St. Luke's Assisted Living Residence) – Most medication aides will not be able to pay the fees & will lose their jobs. Only a small number will be able to pass the current test for the med aide class. Costs are too high for the aides and the homes.

Board response: Costs associated with the medication aide program, including licensing, investigation of complaints, and disciplinary proceedings, must be borne by fees charged to regulants. There are no federal or state tax dollars for the Board to fund this program. To mitigate the effect of the fees, the Board has changed to an annual renewal of $25 and reduced the application fee to $50. There is no evidence that a small number of current med aides will be able to pass the test, and there is no limitation on the number of attempts.

Fred Gillispie, Ph.D. – Regulations are sorely needed to correct inaccurate and careless distribution of medications in nursing homes and assisted living facilities. Proposed regulations do not adequately address monitoring of practices. DSS inspection only looks at the written record, which often does not reflect what actually took place. The Board needs to develop procedures for accurate means of monitoring, such as on-site observation of medication distribution, talking with residents, etc.

Board response: The Board cannot address any problems with inspection by DSS; its sole responsibility is to establish criteria for the registration of medication aides. As with all other professions regulated by DHP, the enforcement of regulations will be based on reports of problems at facilities or complaints filed with the Board.

Margaret Perkins – As a LPN with 30 years of experience and 7 years of teaching the med aide training program, she recommends allowing LPN's to teach the new med aide program.

Board response: The Board concurred that a LPN with at least three years of experience and specific training and testing in teaching the med aide curriculum could be a primary instructor.

Dawn Swistak – Commented that the regulations seem more directed to long term care rather than homes under community service boards. Raised a number of questions: 1) Will the curriculum for training and the refresher course be provided by the Board; will it be different from the current curriculum; 2) Will staff need to take the Direct Care Class first; 3) Will current aides be grandfathered; and 4) Will task sheets for clinical training be provided and can we get some of the 20 hours by doing mock/role-playing in giving medications?

Board response: The regulations are directed to medication administration in assisted living facilities, not to community service boards. The curriculum has been prepared and approved by the Board so there will be consistency in all training programs throughout the state. Before applying for registration as a medication aide, an individual will need to complete the direct care training (8 hours) required by DSS.

Ruby Jones (Imperial Plaza) – Nursing assistants will have a hard time paying the fees and ALF's will lose them back to skilled nursing facilities. Facilities and med techs should not have to cover huge expenses for training and registration.

Board response: Nursing assistants with training as medication aides are not permitted by law to administer medications in skilled nursing facilities – only LPN's and RN's can do so. Medication aides will have to pay $50 to apply for registration; the cost of training programs will depend on what a trainee charges to the individual or the facility.

Mayfair Portsmouth – Regulations should allow LPN's to teach the course.

Board response: The Board concurred that a LPN with at least three years of experience and specific training and testing in teaching the med aide curriculum could be a primary instructor.

William Butler (Long Term Care & Quality Assurance Division, DMAS) – Have reviewed and have no comment.

Rebecca Mills – Applauds new registration of med aides as it provides accountability for negative actions. Opposes the regulation that does not allow LPN to be the primary instructor for the course, which she has done for several years. Current LPN-instructor should be grandfathered. Current course has no

pharmacology, but there is in-service training on medications. Would be willing to take advanced teaching class that focused on the new curriculum.

Board response: The Board concurred that a LPN with at least three years of experience and specific training and testing in teaching the med aide curriculum could be a primary instructor.

Dr. Craig Dreilinger (Innisfree Village) – Would have enormous, unintended consequences for our community, which is unique. The added requirements (such as insulin training) would have no value; rules should be re-written so it does not impose penalties on some ALF's.

Francis McDonough (Innisfree Village) – Has a disabled son at Innisfree. Major increases in training will unnecessarily increase costs, impact the viability of the community and ability to provide all the other activities. Doesn't want to quality of life to be jeopardized by regulations inappropriate to their needs.

Nancy Chappell (Innisfree Village) – Objects to requirement for name badges since staff are all volunteers who live in the community. The added burden of a medication class, including insulin administration, cost time and money. All ALF's should not be treated alike.

Barbara Fried (Innisfree Village) – Objects to wearing name badges in their community.

Linda DeMong (Innisfree Village) – Has been involved with Innisfree for 30 years, working for many years as a RN providing care; does not remember any medication errors. Innisfree is not an assisted living facility; disabled residents live like a family with volunteers. Adding a new requirement is unnecessary and burdensome for people in their community.

Andrew Wolf, M.D. (Innisfree Village) – Strong opposition to the proposed legislative changes as they do not take into account the diversity in assisted living settings in Virginia. Legislation is geared to facilities that care for the oldest, most seriously ill individuals who are on multiple medications, including insulin. Noted the uniqueness of Innisfree and reiterated comments made by others. The negative consequences outweigh the benefit in terms of patient safety. Also stated that LPN's should be able to oversee training of medication aides.

Melinda Robinson (Innisfree Village) – Effect of the proposal of community could be devastating because it is different. Adding another layer of regulation unnecessary. There should be a separate category that would apply to a village such as theirs.

Board response to all comment from Innisfree Village: Board response: The law does not distinguish between persons who are volunteers and those who work for compensation in requiring those who administer medications in assisted living facilities to be licensed practitioners or persons registered as medication aides. The Board cannot write regulations that are inconsistent with the law or are tailored to one unique community.

Laurie Youndt – Strongly supported regulation of medication aides. Expressed concern about the proposed renewal fee as a deterrent for qualified CNA's to take on additional responsibilities as medication aides and urged board to reconsider fees.

Board response: Costs associated with the medication aide program, including licensing, investigation of complaints, and disciplinary proceedings, must be borne by fees charged to regulants. There are no federal or state tax dollars for the Board to fund this program. To mitigate the effect of the fees, the Board has changed to an annual renewal of $25 and reduced the application fee to $50. The medication aide and nurse

aide registrations are separate credentials, entitling the holders to differing scopes of practice and subjecting the holders to disciplinary action on one or both.

Corrine Greene – Proposed regulation does not address what happens to aides who already hold a certificate of training. Also, training is comparable to a LPN without a LPN salary. Problem with errors is not related to training but the mechanisms in place in the facility to reduce error, such as supervision, ratio, and hourly wages. The current training is sufficient. Believes that, effective July 1, 2008, majority of med aides in assisted living will be fired and replaced by LPN's.

Board response: The proposed regulations do address current medication aides who have been working in an assisted living facility. Training is not comparable to a LPN; the medication aide program is 68 hours versus 12 to 15 months of training for a LPN. The Board does not concur that the current training is sufficient; all problems with errors are not related to training but sufficient training and testing for competency should prevent some errors from occurring.

Kadiatu Kallon (Hermitage Methodist Home, Richmond) – Medication administration can be deadly if you do not have sufficient information on drug action and reaction. Insulin should receive more attention in the course module. We should ensure that proper training is mandated. A name badge should always be worn to identify a med aide or a nurse, so the patient knows who is provided care. The agency should relentlessly hold a high standard for people in the health care field.

Board response: The Board believes the regulations are sufficient to provide minimal safety and competency; an ALF can always require additional training and qualification for its employees.

Richard Brewer (Commonwealth Assisted Living) – There is a problem with the availability of labor. For med techs, the shortage is due to a lack of training classes, the cost of classes, which deters staff from taking them, and aides cannot afford to miss the current 32 hours of work without pay to attend. The proposed regulations will have a negative impact on the industry by shrinking the labor pool. An increase in the required hours will increase tuition and cost to med aide students and to the facilities.

Medication errors are generally not education-related but related to management and oversight and a flawed documentation system. Supports: 1) A state registry to improve accountability and keep unqualified aides out of system; 2) Leaving curriculum at 32 hours; 3) Requiring med aides to take a refresher course on an annual basis; and 4) Mandatory computerization of the medication administration record. Does not support the proposed regulations, as they will reduce the labor pool and drive up wages.

Board response: The current curriculum of 32 hours is applicable to all types of settings in which medications can be legally administered by aides; the Board determined that it is insufficient to appropriately train aides for assisted living facilities in which many residents have multiple medications and a high level of dependence. The law and regulation require an annual refresher course for renewal of registration. Mandatory computerization of medication records may be an effective means of reducing errors but it would be a requirement for the facilities which are regulated by DSS, not by the Board. There is no data to support the argument that the regulations will reduce the labor pool and drive up wages, but regardless, the General Assembly has enacted a law requiring training, evaluation, and regulation of medication aides.

Barbara Ballard, Richard Rankin, and York Doerr signed identical letters, stating that they have a resident in a Five Star Quality Care Assisted Living community. Proposed regulations seem cost prohibitive, and those costs will be passed on to the elderly residents. Requests review and suggestions from organizations that provide care.

Board response: The Board believes the additional cost will not be prohibitive but that the additional quality and safety of having trained, registered medication aides will benefit elderly residents.

Janeas Munden – Is a RN who has taught medication administration for 5 years. Questioned whether the primary instructor would be required to supervise the skills training. Requested a limitation on the size of the class for the didactic portion of the training, as well as the skills portion. Requested inclusion of adverse drug effects and interactions in the curriculum. Questioned whether med aides employed in Mental Health, Mental Retardation licensed facilities will be required to be regulated by the Board of Nursing.

Board response: A primary instructor is not required to supervise the skills training. A limitation of the didactic portion of the training may be set by the training program, but is not required by regulation. Adverse drug effects and interactions will be covered in the curriculum. Med aides employed by MHMR facilities will not be registered by the Board of Nursing unless such a facility holds a license as an ALF.

Theresa Taplin – Not all proposed regulations are realistic and achievable; expressed concern about who will perform the duties in ALF's. Agreed with increasing training from 32 to 68 hours, but believes a LPN should be able to teach the training course. Costs are overwhelming for the elderly. Training programs and courses should be offered by the state.

Board response: The Board concurred that a LPN with at least three years of experience and specific training and testing in teaching the med aide curriculum could be a primary instructor. The Board has prepared and approved a curriculum that all instructors will be required to teach; there is no provision for the Board to employ instructors to conduct the training.

Elmira Pitchford – Believes a LPN should be able to be a primary instructor and current med aides should be grandfathered or be able to challenge the exam without the additional hours. Agreed that the curriculum should be expanded. Commented that someone would have to work a year at an ALF before completing the course. Had questions about the composition of the committee that drafted the regulation.

Board response: The Board concurred that a LPN with at least three years of experience and specific training and testing in teaching the med aide curriculum could be a primary instructor. Since the current curriculum is greatly expanded and designed solely for assisted living, current aides with at least one year of experience will need to take a refresher course and successful complete the evaluations to ensure minimal competency. The composition of the committee is available in minutes posted on the website.

All changes made in this regulatory action

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

There are no current requirements; all sections are new regulations.

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 sets out requirements for the aide to wear identification that is clearly visible to clients to indicate the appropriate title issued by the board. This section

	also sets the requirement for an aide to notify the board of a name or address change, and states that all notices mailed to the address of record are considered to be validly given. The provisions of section 20 are identical to requirements for nurse aides and nurses, also regulated by the board.
30	Section 30 establishes the fees for this occupation, as follows: Application for program approval $500 Application for registration as a medication aide $50 Annual renewal for medication aide $25 Late renewal $15 Reinstatement of registration $90 Returned check $35 Duplicate registration $5 Reinstatement following suspension, mandatory suspension or revocation $120 *The Board amended regulations to require an annual renewal of registration for medication aides at a fee of $25, rather than a biennial renewal of $50. The lesser fee paid every year will be less burdensome for aides, some of whom will only work in that capacity for a short time while preparing for or moving on to other jobs. Since the application fee was intended to cover the cost of processing an application and accompanying documentation plus the first biennial renewal, that fee was reduced from $75 to $50 to include the first annual renewal. The returned check is required by the Code of Virginia to be at least $35, so the regulation was amended from $25 to $35 to conform to all other regulations of the Board and the Department.* *The renewal fee and miscellaneous fees for returned check, etc. are consistent with the fees for certified nurse aides. Federal law does not allow the Board to charge a fee for putting nurse aides on the registry, but in turn, there is federal funding for the Nurse Aide Registry. Since there is no such federal funding or restriction for medication aide, the Board has proposed an application fee, including a modest fee for processing the application and the cost of the first annual renewal.* *In addition, the Board proposes to impose a $500 fee for approval of a medication aide program to offset the cost of program review. Approval of a new educational program requires both staff and board member time, including convening a special conference committee and possible site visits to the program. There will not be a fee for on-going approval, which necessitates monitoring for quality and compliance. Without a fee to the programs, costs for program review and approval would have to be born by the medication aides, which would require more burdensome, higher fees for these individuals. (The proposed regulations recently adopted by the Board for Chapter 20 include a $1,200 fee for approval of a RN or LPN educational program.)* The section also stipulates that all fees cannot be refunded once submitted and that the fee for the competency evaluation must be paid directly to the examination service contracted by the board for its administration.
40	Section 40 establishes the requirements and process for establishing and maintaining a medication aide training program as follows: A. To establish a program: 1. A program provider wishing to establish a medication aide training program must submit a completed application and the prescribed fee at least 90 days in advance of the first expected offering of the program to allow sufficient time for review by board

	and staff. 2. The application must provide evidence of the program's compliance with requirements as set forth in Part II of this chapter. 3. The committee shall, in accordance with the APA, receive and review the application and shall make a recommendation to the board to grant or deny approval. 4. If the committee's recommendation is to deny approval, no further action is required of the board unless the program requests a hearing before the board or a panel thereof in accordance with provisions of the APA. B. To maintain an approved medication aide training program, the program must: 1. Continue to comply with requirements as set forth in Part II. 2. Document that the cumulative passing rate for the program's first-time test takers taking the competency evaluation required for registration over the past two years is not less than 80%. 3. Report all substantive changes within 10 days of the change to the board to include, but not be limited to, a change in the program instructors, curriculum or program location. 4. Cooperate with any unannounced visits to the program conducted by board representatives for the purpose of ensuring compliance with requirements for approval or in response to complaints about the program. 5. Provide documentation that each student enrolled in such program has been given a copy of applicable Virginia law and regulation for the registration and practice of medication aides. 6. Provide each student with a certificate of completion. *Requirements for establishing and maintaining an educational program are similar to those for nurse aide education and nursing education. The 80% passage rate for first-time test takers is a standard that is proposed by the Board for all educational programs as a means of assuring that students are not paying tuition for an inferior program that does not adequately prepare them to pass the certifying examination. Using first-time test takers over a two-year period is a very modest standard by which a program can be measured – it allows for fluctuation in the ability of classes and discounts those who have already demonstrated an inability to pass the test. Failure to demonstrate 80% passage over a two-year period does not automatically result in denial of continued program approval but would trigger further review of program quality.*
50	Section 50 sets out the criteria for instructors in an approved medication aide training program. A. The primary instructors must be licensed registered nurses, licensed practical nurses or pharmacists who, consistent with provisions of the Drug Control Act, are authorized to administer or dispense drugs and have at least three years of experience in such practice. B. Licensed practical nurses, registered nurses or pharmacists who have not had at least three years of experience in administering or dispensing drugs may be used as secondary instructors for the supervised skills practice hours of the program. *The Task Force that developed draft regulations had recommended that training programs use only RN's or pharmacists as instructors. However, in response to*

	comment, the Board amended the regulations in its final action to allow LPN's to also be primary instructors. All licensees who are primary instructors must have at least three years of experience in administering or dispensing drugs in long-term care facilities. That experience, plus the requirement for every instructor to successfully complete a course with a post-course examination on teaching the medication aide curriculum, should provide sufficient assurance of qualification for instructors. Those practitioners who have not had the requisite three years of experience could be used as secondary instructors for the skills practice portion of the course. These changes in the final regulation will greatly increase the availability of instructors for medication aide programs. C. The overall qualifications for an instructor, either a nurse or a pharmacist, are 1. Hold a current, active, unrestricted license or a multistate licensure privilege; and 2. Successfully complete a course, including a post-course examination, which is designed to prepare the instructor to teach the medication aide curriculum approved by the board for administration of medications to clients in assisted living facilities. The course shall include adult learning principles and evaluation strategies and shall be completed prior to teaching a course in a medication aide program. *Currently, instructors in the medication aide courses take a "train-the-trainer course to prepare them to teach the curriculum and to instruct the adult learner. Training by master trainers is currently approved through the Virginia Geriatric Education Center, and they have approximately 50 persons on the approved list. The Board believes such training improves the quality of the instruction and provides greater assurance that students will be adequately prepare to take the examinations and practice safely.* *The requirement for completion of a course designed to prepare the instructor to teach the curriculum was clarified to specify what would be considered "completion." The revised requirement states that the course must be successfully completed to include a post-course examination. The curriculum is further specified as that approved by the board for administration of medications.* B. The responsibilities of instructors in an approved program include: 1. Participation in the planning of each learning experience and responsibility for the teaching and evaluation of students; 2. Ensuring that course objectives are accomplished and the curriculum content has been completed; and 3. Maintaining student records as required by section 70. *Requirements for instructors in a medication aide program are similar to those for a nurse aide program; they are intended to ensure that the instructor assumes a hands-on role in the training of students and has accountability for their progress and records.*
60	Section 60 establishes the requirements for the program curriculum. A. As a prerequisite for the medication aide training program, a student must have successfully completed the direct care staff training required by the Department of

	Social Services for employment in an assisted living facility or an approved nurse aide education program. *The Department of Social Services requires all employees of assisted living facilities to complete direct care staff training that includes information on care of the elderly, care of residents with disabilities and special health needs, infection control, transfer and ambulation, provision of personal care, first aid and injury prevention, meals and nutrition and restraint use. Such information would be the prerequisite for a student who then receives specific training on administration of medications.* B. An approved program would consist of a minimum of 68 hours of student instruction and training to include: 1. At least 40 hours of classroom or didactic instruction over and above any facility orientation program or training in direct client care provided by the facility; 2. At least 20 hours of supervised skills practice in medication administration to residents of an assisted living facility, after which the training program shall evaluate the student's minimal competency in the clinical skills of administering medications on a form provided by the board. The clinical evaluation shall be conducted one-on-one with a qualified instructor with experience in medications in long term care; and 3. An eight-hour module in facilitating client self-administration or assisting with the administration of insulin to include instruction and skills practice in the administration of insulin as specified in the board-approved curriculum. *Currently, the medication aide training program approved by the Board requires 32 hours of didactic training. Supervised practice in the skills learned in the classroom is the responsibility of the individual facilities and varies in quality and quantity. The Task Force and the Board agreed that there should be a practical component to the training that ensures the student has absorbed information related to medication administration and can demonstrate the ability to do so with skill and safety. The Task Force discussed whether the insulin module should be an elective and only required if a student intends to work in a facility with diabetic residents, but that would be unsatisfactory since an aide needs to be knowledgeable about the signs of diabetes or a current ALF resident may become diabetic.* *In sections 60 and 90, the Board clarified the requirement for a "clinical practicum" by eliminating the confusing term and specifying that the evaluation of the student's competency in the clinical skills of administering medications should be at the conclusion of the 20 hours of supervised clinical practice. It should be conducted by the training program as an one-on-one evaluation by a qualified instructor. The language in 60 B and in 90 A 5 was amended accordingly.* C. Content of the curriculum. An approved program shall use the curriculum developed and provided by the board which shall, at a minimum, include the following topics: 1. Preparing for safe administration of medications to clients in assisted living facilities; 2. Maintaining aseptic conditions;

	3. Understanding of basic pharmacology; 4. Facilitating client self-administration or assisting with medication administration; 5. Following proper procedure for preparing, administering, and maintaining medications; and 6. Following appropriate procedures for documentation and reporting to the licensed healthcare professional on duty at the facility or to the client's prescriber. *In the development of regulations, the Task Force recommended the major 6 areas of knowledge and skills in which a minimally-competent medication aide should have training, including those that emphasize safety, infection control, proper procedures, and documentation. Rather that specifying the detailed course content in regulation, the Task Force recommended that a specific curriculum be developed and approved by the Board for use by all medication aide training programs. Use of an approved curriculum will facilitate training and ensure consistency.* D. In addition to the training curriculum, the program shall provide one or more four-hour modules that can be used by facilities as refresher courses or by medication aides to satisfy requirements for continuing education. *Medication aides are required by law to demonstrate continuing competency, and many ALF's also require refresher courses as staff development. In order to ensure that such courses are available to facilities and the aides they employ, the Board will require that approved training programs also provide refresher modules.*
70	Section 70 sets out other program requirements, including: A. Ratio. A ratio of no more than 10 students for one instructor for the 20 hours of supervised skills practice in section 60. *The Task Force debated the appropriate ratio for the didactic and skills portions of the training course; it was agreed that there did not need to be ratio for the classroom teaching but that it was essential to have a ratio of student to instructor for the supervised skills practice. It was felt that 10 students would be the maximum number a nurse or pharmacist could supervise in the practice of medication administration.* B. Recordkeeping. Each medication aide training education program must develop and maintain an individual record of major skills taught and the date of performance by the student. At the completion of the program, the medication aide must receive a copy of this record and a certificate of completion from the program. Each program must maintain a record of the reports of graduates' performance on the approved competency evaluation program. A record that documents the disposition of complaints against the program must also be maintained. All records required by this section shall be maintained for at least five years. *From previous experience with nurse aide programs, the Board has determined that specific requirements for keeping records of student performance on the skills practice and the competency evaluations are necessary. In addition, the programs*

	must be required to give each student a copy of his record and certificate of completion to ensure that students have such a record to keep for future employment. B. Student identification. The medication aide students shall wear identification that clearly distinguishes them as a "medication aide student" while engaged in practical skills training under direct supervision by an instructor. *The identification requirement is essential to ensure that residents and others are aware that the person is practicing under supervision and is not authorized to administer medications independent of a supervisor.*
80	Section 80 sets out the requirements for a provider who is planning to close a program. When a medication aide training program closes, the program provider must notify the board of the date of closing following completion of the last program for which students are already enrolled and submit to the board a list of all persons who have completed the program with the date of completion of each. *Notification is necessary to ensure that the Board is aware that a program is no longer operating and has the records of students who have completed the program so that information is not lost for future verification of a student's education and training.*
90	Section 90 sets out the requirements for initial registration as a medication aide, including: a. Documentation of successful completion of a staff training program in direct client care approved by the Department of Social Services or of an approved nurse aide education program (*a prerequisite for entering a medication aide training program)*; b. Documentation of successful completion of either: (1) A medication aide training program approved by the board in accordance with this chapter; (2) A nursing education program preparing for registered nurse licensure or practical nurse licensure; or (3) An eight-hour refresher course preparing a person to take the competency evaluations required for registration and one year of experience working as a medication aide in an assisted living facility. The one year of experience as a medication aide shall be immediately prior to applying for registration and may only be accepted as evidence of training until (one year following the effective date of this chapter); *While the statute did not authorize the Board to "grandfather" persons currently working as medication aides in assisted living facilities, the Board determined that a year of experience as a med aide/tech and a refresher course that would cover more recent drug information would provide adequate evidence of minimal competency to practice. Such a provision was included to allow for a transition period from the current system to the registration of aides and to ensure that shortages in the labor pool would be minimized.*

	c. Submission of the required application and fee as prescribed by the board; d. Disclosure whether there are grounds for denial of registration as specified in § 54.1-3007 of the Code of Virginia; and e. Documentation of successful completion of competency evaluations consisting of: (1) A clinical evaluation of minimal competency in the skills of administering medications as specified in 18VAC90-60-60 B 2; and (2) A written evaluation as specified by the board with a passing score determined by the board; *In sections 60 and 90, the Board clarified the requirement for a "clinical practicum" by eliminating the confusing term and specifying that the evaluation of the student's competency in the clinical skills of administering medications should be at the conclusion of the 20 hours of supervised clinical practice. It should be conducted by the training program as an one-on-one evaluation by a qualified instructor. The language in 60 B and in 90 A 5 was amended accordingly. Section 90 A and B were also amended to change the word from "written evaluation" to "written examination" to clarify the Board's requirement.* 2. An applicant who fails to take the board-approved competency evaluation within one year of completion of the training or who has failed the evaluation in three attempts shall re-enroll and successfully complete another approved medication aide training program. *The law (§ 54.1-3042) requires medication aides to be registered by competency evaluation. Passage of the training program will include a clinical practicum in which the student will demonstrate the core knowledge and skills from an approved training program. In addition, the student will be required to pass a written evaluation or examination approved by the Board to provide a consistent measure of minimal competency. Students who do not complete a competency evaluation within one year or who fail 3 times will be required to retake the training program in order to ensure that they have retained sufficient core knowledge to be safe in administering drugs to residents of an ALF.*
100	Section 100 establishes requirements for renewal or reinstatement of registration. A. The requirements for renewal of registration are: 1. Registered medication aides must renew by the last day of the birth month each year. 2. The medication aide must complete the application and submit it with the required fee and an attestation that he has completed continuing education as required by subsection B. 3. Failure to receive the application for renewal does not relieve the medication aide of the responsibility for renewing his registration by the expiration date. The registration automatically lapses if the medication aide fails to renew by the expiration date. 4. Any person administering medications in an assisted living facility during the time a registration has lapsed is considered an illegal practitioner and is be subject to prosecution.

	Language related to the timing of renewals and the responsibility of the medication aide related to renewal is similar to that for other registrants or licensees under the Board. The timing of the renewal was amended from the proposed regulation for consistency with changing from a biennial to an annual renewal. B. Continuing education required for renewal: 1. In addition to hours of continuing education in direct client care required for employment in an assisted living facility, a medication aide shall have four hours each year of population-specific training in medication administration in the assisted living facility in which the aide is employed or a refresher course in medication administration offered by an approved program. 2. A medication aide shall maintain documentation of continuing education for a period of four years following the renewal period for which the records apply. 3. The board shall periodically conduct a random audit of at least one percent of its registrants to determine compliance. A medication aide selected for audit shall provide documentation as evidence of compliance within 30 days of receiving notification of the audit. 4. The board may grant an extension for compliance with continuing education requirements for up to one year, for good cause shown, upon a written request from the registrant prior to the renewal deadline. *The law (§ 54.1-3043) requires medication aides to complete ongoing training related to medication administration. Therefore, the Board has stipulated four hours of population-specific training in addition to any patient care training within the employing facility. It would be expected that most facilities would provide the refresher continuing education as an in-service training for their employees. All approved training programs providers are required to offer refresher course modules, so there should be sufficient opportunity to obtain the required four hours.* C. Reinstatement of certification. 1. An individual whose registration has lapsed for less than one renewal cycle may renew by payment of the renewal fee and late fee and attestation that he has completed all required continuing education for the period since his last renewal. 2. An individual whose registration has lapsed for more than two years shall: a. Apply for reinstatement of registration by submission of a completed application and fee; b. Provide evidence of completion of all required continuing education for the period since his last renewal, not to exceed 16 hours of training in medication administration; c. Retake the written and practical competency evaluation as required by the board; and d. Attest that there are no grounds for denial of registration as specified in § 54.1-3007 of the Code of Virginia. *An individual who has allowed his registration to lapse for more than two years has not been administered medications in an assisted living facility during that period, so competency cannot be assured. To indicate that he is current in his knowledge and*

	skills, he will be required complete CE for the period (not to exceed 16 hours or two renewal cycles) and pass the competency evaluation.
110	Section 110 establishes the standards of practice. A. A medication aide shall: 1. Document and report all medication errors and adverse reactions immediately to the licensed healthcare professional in the facility or to the client's prescriber; 2. Give all medications in accordance with the prescriber's orders and instructions for dosage and time of administration and document such administration in the client's record; and 3. Document and report any information giving reason to suspect the abuse, neglect or exploitation of clients immediately to the licensed healthcare professional in the facility or to the facility administrator. *The responsibilities of a medication aide for documentation, reporting, and following prescribed orders are specifically stated because of their importance to the health, safety and welfare of assisted living residents. From the experience of persons who have supervised or employed medication aides, these standards are not met by some aides and need to be emphasized by regulation.* B. A medication aide shall not: 1. Transmit verbal orders to a pharmacy; 2. Make an assessment of a client or deviate from the medication regime ordered by the prescriber; 3. Mix, dilute or reconstitute two or more drug products, with the exception of insulin; or 4. Administer intramuscular, intravenous or medications via a nasogastric or percutaneous endoscopic gastric tube. *Activities that are prohibited to the practice of a medication aide are those that require some independent judgment and/or more specialized knowledge and skills than can be acquired in a 40-hour didactic training course.*
120	Section 120 sets out the grounds for disciplinary actions for medication aides as follows: The board has the authority to deny, revoke or suspend a registration issued, or to otherwise discipline a registrant upon proof that he has violated any of the provisions of §54.1-3007 of the Code of Virginia. For the purpose of establishing allegations to be included in the notice of hearing, the board has adopted the following definitions: 1. Fraud or deceit in order to procure or maintain a registration shall mean, but shall not be limited to: a. Filing false credentials; b. Falsely representing facts on an application for initial registration, reinstatement or renewal of a registration; or c. Giving or receiving assistance in taking the competency evaluation.

	2. Unprofessional conduct shall mean, but shall not be limited to: a. Performing acts beyond those authorized by the Code of Virginia and this chapter for practice as a medication aide. b. Assuming duties and responsibilities within the practice of a medication aide without adequate training or when competency has not been maintained; c. Obtaining supplies, equipment or drugs for personal or other unauthorized use; d. Falsifying or otherwise altering client or drug records relating to administration of medication; e. Falsifying or otherwise altering employer records, including falsely representing facts on a job application or other employment-related documents; f. Abusing, neglecting or abandoning clients; g. Having been denied a license, certificate or registration having had a license, certificate or registration issued by the board revoked or suspended. h. Giving to or accepting from a client property or money for any reason other than fee for service or a nominal token of appreciation; i. Obtaining money or property of a client by fraud, misrepresentation or duress; j. Entering into a relationship with a client that constitutes a professional boundary violation in which the nurse aide uses his professional position to take advantage of a client's vulnerability, to include but not limited to actions that result in personal gain at the expense of the client, an inappropriate personal involvement or sexual conduct with a client; k. Violating state laws relating to the privacy of client information, including but not limited to § 32.1-127.1:03 of the Code of Virginia; l. Failing to follow provisions of the Medication Management Plan for the assisted living facility in which the aide is employed; or m. Violating standards of practice as set forth in 18VAC90-60-110 of this chapter. 3. For the purposes of interpreting provisions of § 54.1-3007 (5) of the Code of Virginia, a pattern of medication errors may constitute practice that presents a danger to the health and welfare of clients or to the public.

Family impact

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

There is a potential impact on the institution of the family or on family stability for failure to take regulatory action, which would likely result in a significant reduction in expenditures related to the investigation and adjudication of complaints against nurse aides for abuse, neglect, and misappropriation of property. That would leave the most vulnerable members of families subject to neglect or mistreatment by some persons who should have been removed from the Registry but would be able to continue in practice. On the other hand, the Board realized that any significant increase in fees for certified nurse aides would have a negative effect on their ability to support themselves and their families and could represent a real hardship to persons who are

making little more than minimum wage. Therefore, the fee increase is minimal ($5 per biennium) and should have little or no impact on nurse aides and their families.