Virginia Regulatory Town Hall

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Fast Track Proposed Regulation
Agency Background Document

Agency name	Board of Nursing; Department of Health Professions
Virginia Administrative Code (VAC) citation	18VAC90-60-10
Regulation title	Regulations Governing the Registration of Medication Aides
Action title	Correction of reinstatement requirement
Date this document prepared	7/17/07

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

When final regulations for the registration of medication aides were adopted, the Board changed the renewal schedule from a biennial to an annual renewal to reduce the effect of the fee for registrants. Other amendments were adopted accordingly, but the reinstatement requirements were overlooked and now need to be conformed to an annual renewal. Renewal of a lapsed registration with a late fee is allowed for one renewal cycle and then an aide must reinstate the registration. The proposed amendment would clarify that reinstatement is necessary after one year rather than after two years and that the equivalent of one year of continuing education is required (8 hours), rather than the equivalent of two years (16 hours).

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.

The Board of Nursing adopted the amendments to 18VAC90-60-10 et seq., Regulations Governing the Registration of Medication Aides on July 17, 2007.

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 General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

Chapter 24 of Title 54.1 establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations, establish renewal schedules and to levy fees:

§ 54.1-2400. General powers and duties of health regulatory boards.--The general powers and duties of health regulatory boards shall be:

4. To establish schedules for renewals of registration, certification, licensure, and the issuance of a multistate licensure privilege.

5. To levy and collect fees for application processing, examination, registration, certification or licensure or the issuance of a multistate licensure privilege and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.

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 and Chapter 25 of this title…

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 the regulation 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.

Proposed amendments clarify the process for reinstatement of a lapsed registration for a medication aide. Subsection C of section 100 provides that an individual who has allowed registration to lapse may renew within one renewal cycle by payment of the renewal fee and the late fee and attestation of completing the required continuing education. The amendment would make the process consistent by providing that a registration lapsed for more than one renewal cycle (one year) must reinstate and must provide evidence of completion of continuing education equal to 8 hours of training in medication administration. Without amendments to the regulations, there would be a gap between the period in which the aide could renew with payment of a late fee (one year) and the period in which he could reinstate (after two years). It is

a necessary correction for consistency with the change in the renewal cycle passed by the Board in the final stage. Its adoption will ensure that medication aides are able to reinstate and resume employment in assisted living facilities and that they will have the continuing training necessary to safely administer medications.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The Board has determined that a fast-track process is appropriate because there is no controversy with this action. It will eliminate an inconsistency that was created by a change in the renewal cycle adopted during the promulgation of final regulations.

Substance

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

Amendments to reinstatement of registration correctly provide that after a registration has been lapsed for more than one year, an individual must reinstate and must provide evidence of at least 8 hours of continuing education, rather than the 16 hours as currently stated.

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.

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1) The advantage to the public of the amendment may be that it will facilitate the ability of an individual who has left employment as a medication aide in returning to that position with reinstatement of his registration requiring only 8 hours of continuing education.

2) There are no disadvantages to the agency or the Commonwealth. It is anticipated that the amendments can be effective before any medication aide has had a registration lapsed for more than one year, so the inconsistency in the regulation will not affect any potential reinstatement process.

3) There is no other pertinent matter of interest related to this action.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities particularly affected.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	a) As a special fund agency, the Board must generate sufficient revenue to cover its expenditures from non-general funds, specifically the renewal and application fees it charges to practitioners for necessary functions of regulation; b) The agency will incur some one-time costs (less than $1,000) for mailings to the Public Participation Guidelines mailing lists and conducting a public hearing. Every effort will be made to incorporate those into anticipated mailings and Board meetings already scheduled. There will be no on-going expenditures related to this action.
Projected cost of the regulation on localities	There are no costs to localities.
Description of the individuals, businesses or other entities likely to be affected by the regulation	The individuals affected by this regulation would be persons who have allowed their registration as a medication aide to lapse for more than one year.
Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently	Since there are no registered medication aides as of this time, there is no estimate. Individuals are not required to be registered for one year following the effective date of the

owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million.	regulations, which was July 1, 2007.
All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.	There are no additional costs for compliance. The reduction in the amount of continuing education hours will result in a cost-savings.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

The correction in section 100 is required for consistency with the renewal cycle adopted by the Board. There were no alternatives.

Family impact

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

There is no impact on the institution of the family or family stability.

Detail of changes

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

Current section number	Proposed new section number, if applicable	Proposed change and rationale
100	n/a	The title of subsection C is amended to refer to registration rather than certification. Current regulations provide that an individual whose registration has lapsed for less than one renewal cycle (one year) 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. Number two of this subsection should have been amended when the renewal cycle was changed from two years to one year, so it would provide that an individual whose registration has lapsed for more than ~~two years~~ one year 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~~ 8 hours of training in medication administration; *The requirement for hours of continuing education was tied to the biennial renewal cycle with 8 hours for each year. With reinstatement required after one year, the Board can reduce the continuing education requirement to 8 hours rather than 16 hours.*