



## Fast Track Proposed Regulation Agency Background Document

<b>Agency name</b>	Board of Long-Term Care Administrators, Department of Health Professions
<b>Virginia Administrative Code (VAC) citation</b>	18VAC95-30-10 et seq.
<b>Regulation title</b>	Regulations Governing the Practice of Assisted Living Facility Administrators
<b>Action title</b>	Periodic review
<b>Date this document prepared</b>	10/8/13

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.*

The amendments are recommended as a result of a periodic review of Chapter 30 and are clarifying in nature or intended to make the requirements somewhat less restrictive. Amendments will clarify that practice on an expired license may be grounds for disciplinary action and that a preceptor must be registered by Virginia or a “similar” licensing board in another jurisdiction. An amendment will make the notification requirement less restrictive for a trainee whose program is interrupted or terminated.

### Acronyms and Definitions

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the “Definition” section of the regulations.*

ALF = Assisted living facility  
 AIT = Administrator-in-training

**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 September 24, 2013, the Board of Long-Term Care Administrators concluded its periodic review of 18VAC95-30-10 et seq., Regulations Governing the Practice of Assisted Living Facility Administrators and adopted minor changes by a fast-track action.

**Legal basis**

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.*

18VAC95-30-10 et seq., Regulations Governing the Practice of Assisted Living Facility Administrators are promulgated by the Board of Long-Term Care Administrators under the general authority of Title 54.1, Chapter 24 of the Code of Virginia.

Chapter 24 establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations in accordance with the Administrative Process Act which are reasonable and necessary for the administration of a regulatory program.

**§ 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. ...*

**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.*

The overall purpose of the amended regulation is clarification and ease of compliance with requirements for licensure and maintenance of licensure. Regulations governing assisted living facility administrators are essential to oversee the competency and practices of those in charge of facilities with the most vulnerable citizens. An amendment to the renewal section is intended to specify that practice on an expired license may be grounds for disciplinary action which would further protect the health, welfare and safety of these citizens.

**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 30-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 objections 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 fast track process is being used because the changes are mostly technical and clarifying. There should be no controversy from these periodic review recommendations.

**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.) Please be sure to define any acronyms.*

Amendments will clarify that practice on an expired license may be grounds for disciplinary action and that a preceptor must be registered by a similar licensing board. A requirement that a trainee whose program is interrupted or terminated notify the board within ten days is less restrictive than the current requirement of five days. There are no substantive changes to existing regulations.

**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) There are no advantages or disadvantages to the public. The amendments are clarifying for persons in training or who are currently licensed as ALF administrators.
- 2) There are no advantages or disadvantages to the Commonwealth.
- 3) This action is in response to a periodic review of regulations.

**Requirements more restrictive than federal**

*Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

There are no requirements more restrictive than federal requirements.

**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.

**Regulatory flexibility analysis**

*Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

There are no alternative regulatory methods that accomplish the purpose of these regulations.

**Economic impact**

*Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.*

<b>Description of the individuals, businesses or other entities likely to be affected (positively or negatively) by this regulatory proposal.</b> Think	There are no entities affected by this proposal, which is only clarifying current regulations. Administrators of assisted living facilities are
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broadly, e.g., these entities may or may not be regulated by this board	required by these regulations to obtain and maintain a license. Persons who want to become administrators are trained in an AIT program, which is established in accordance with these regulations.
<b>Agency’s best estimate of the number of (1) entities that will be affected, including (2) small businesses affected.</b> Small business means a business, including affiliates, that is independently owned and operated, employs fewer than 500 full-time employees, or has gross annual sales of less than \$6 million.	There are currently 622 person licensed as assisted living facility administrators. It is unknown how many of those are working in a small business, since some assisted living facilities are located within large corporate establishments.
<b>Benefits expected as a result of this regulatory proposal.</b>	More clarity for applicants and licensees.
<b>Projected cost to the state to implement and enforce this regulatory proposal.</b>	There are no costs to implement and enforce. Regulatory provisions that are clarified by amendments are already enforceable.
<b>Projected cost to localities to implement and enforce this regulatory proposal.</b>	There are no costs to localities.
<b>All projected costs of this regulatory proposal for affected individuals, businesses, or other entities.</b> Please be specific and include all costs, including projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses, and costs related to real estate development.	There are no costs to affected individuals or entities.

**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.*

There are no viable alternatives to the proposed changes that meet the essential purpose, since requirements for licensure, renewal and standards of conduct are set in current regulations.

**Periodic review/small business impact review result**

***If this fast-track regulation is not the result of a periodic review/small business of the regulation, please delete this entire section.***

*If this fast-track regulation is the result of a periodic review/small business impact review, please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and (2) indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to the which the regulation overlaps, duplicates, or conflicts with federal or state*

law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

- (1) The Notice of Periodic Review was published in the *Register of Regulations*, posted on Townhall and sent to the PPG list for the Board. The comment period began December 17, 2012 and ended on January 16, 2013. There were no comments.
- (2) The regulation is necessary for public protection since assisted living facility administrators oversee the facilities in which the most vulnerable citizens receive care. It has been reviewed for clarity and amended for ease of understanding.
- (3) The regulation for licensure is mandated by Chapter 31 of Title 54.1 of the Code of Virginia.
- (4) The agency has not received complaints or comments; it does not overlap or duplicate other law or regulation.
- (5) Amendments to this chapter have been promulgated six times to update or eliminate unnecessary requirements since initial licensure of assisted living administrators in 2008.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

There is no impact on the family.

**Detail of changes**

*Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.*

<b>Current section number</b>	<b>Current requirement</b>	<b>Proposed change, intent, rationale, and likely impact of proposed requirements</b>
60	Sets out requirements for renewal of licensure	An amendment to subsection C adds “and continued practice may constitute grounds for disciplinary action” to the provision stating that a license which is not renewed by the expiration date is invalid. The intent is clarification of the rule. To state explicitly that you cannot practice on an expired license is not necessary for enforcement but may avoid some inadvertent action by a person with an expired license.
70	Establishes the requirements for obtaining continuing education for	An amendment is subsection A clarifies that the exemption from completing continuing education

	renewal of licensure	applies to the first renewal after initial licensure in Virginia. There has been some confusion about this provision, so a clarification was sought.
95	Set out a “grandfathering” provision for persons practicing prior to 2009	The provisions of this section have expired, so it can be repealed.
180	Sets out the requirements for a preceptor supervising in an administrator-in-training program	An amendment in subsection A clarifies that the preceptor must be registered or recognized by Virginia or by a “similar” licensing board in another jurisdiction. The language lacked some specificity, and, while not really problematic, was amended for more clarity.
200	Sets out the provisions for interruption or termination of an AIT program	Currently, the trainee is required to notify the Board within five working days if his program is interrupted or terminated. That requirement has been amended to ten working days to give the trainee more time for notification.