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Fast-Track Regulation Agency Background Document

Agency name	Virginia Board of Health
Virginia Administrative Code (VAC) Chapter citation(s)	12VAC5-391-10 <i>et seq.</i>
VAC Chapter title(s)	Regulations for the Licensure of Hospice
Action title	Amend Regulation Following Periodic Review
Date this document prepared	November 5, 2020

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Virginia Board of Health recently concluded a periodic review of 12VAC5-391, in which it decided to amend the regulation. Part of the amendments contemplated include a repeal of 12VAC5-391-330(B). This subsection currently requires that a hospice's medical director have admitting privileges at one or more hospitals or nursing homes that provide inpatient service to the hospice's patients. This repeal will remove the admitting privileges requirement. A reference to an outdated Personal Care Aide Training Curriculum is also replaced by a new training option for hospice program volunteers. This action will also bring current several out-of-date references and associated Documents Incorporated by Reference in the regulations.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

“Agency” means the Virginia Department of Health.

“Board” means the Virginia Board of Health.

“FGI” means the Facility Guidelines Institute.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The Virginia Board of Health approved this Fast Track to amend the Regulations for the Licensure of Hospice on December 12, 2019.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

As required by Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track process.

The Board is mandated by Va. Code § 2.2-4007.1(D) and Executive Order 14 to conduct a periodic review of its regulations. The most recent periodic review prompted the Board to amend this regulation. Based on public comments and the opinion of subject matter experts within the agency, the Board has decided to repeal subsection B of 12VAC5-391-330. The rulemaking is expected to be noncontroversial because all public comments received during periodic review supported the repeal of subsection B of 12VAC5-391-330 and the agency’s subject matter experts believe that repeal would not jeopardize the protection of public health, safety, and welfare. Further, the additional updates to the regulations do not alter the intent of the regulations or the requirements placed on regulated entities.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.

Va, Code § 32.1-12 gives the Board the responsibility to make, adopt, promulgate, and enforce such regulations as may be necessary to carry out the provisions of Title 32.1 of the Code of Virginia. Va. Code § 32.1-162.5 requires the Board to adopt regulations governing the activities and services provided by hospices as may be necessary to protect the public health, safety and welfare, including requirements for (i) the qualifications and supervision of licensed and nonlicensed personnel; (ii) the standards for the care, treatment, health, safety, welfare, and comfort of patients and their families served by the program; (iii) the management, operation, staffing and equipping of the hospice program or hospice facility; (iv) clinical and

business records kept by the hospice or hospice facility; (v) procedures for the review of utilization and quality of care; and (vi) minimum standards for design and construction.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

This regulation is being amended due to public comments and the professional opinions of subject matter experts within the agency. The Board is required by the General Assembly to promulgate regulations for the licensure of hospice in order to protect the health, safety, and welfare of citizens utilizing hospices. This regulatory change removes the requirement that the medical director of a hospice have admitting privileges at one or more hospitals and nursing facilities that provide inpatient service to the hospice's patients. Public comment indicated that this requirement was difficult for hospices to meet and disqualified candidates that would otherwise have been suitable. Subject matter experts within the agency agreed that this requirement was burdensome to hospices and did not improve protection of the public health, safety, and welfare. The regulatory change is also intended to update outdated references to other documents or VAC sections.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

The Board has repealed subsection B of 12VAC5-391-330.

12VAC5-391-340: Updates the reference to Board of Nursing regulation sections.

12VAC5-391-350: Updates the requirements for personal care aide training.

12VAC5-391-380: Updates the reference to Dept. of Health Professions Code sections.

12VAC5-391-440: Updates the reference to the current edition of the *Guidelines for Design and Construction of Residential Health, Care, and Support Facilities*.

DIBRs: Updates the documents incorporated by reference regarding design and construction and removes a document regarding personal care aide training no longer referenced in the regulation.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The primary advantages are to hospices and their administrators, who will face less burdensome requirements in employing a medical director. Subject matter experts within the agency have determined that there are no disadvantages to repealing the requirement that hospice medical directors have admitting privileges at hospitals or nursing homes. Further, more up-to-date regulations will ensure that the industry

is regulated accurately and efficiently, and will reduce confusion among regulated entities. There are no primary advantages or disadvantages to the agency or to the Commonwealth.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and 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 specific statement to that effect.

There are no requirements in this proposal that exceed applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

No other state agencies are particularly affected.

Localities Particularly Affected

No localities are particularly affected.

Other Entities Particularly Affected

Hospices and hospice administrators will be particularly affected by the proposed regulatory change.

Economic Impact

Pursuant to § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including:</p> <ul style="list-style-type: none"> a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources 	<p>None</p>
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<i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	None
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	None

Impact on Localities

Projected costs, savings, fees or revenues resulting from the regulatory change.	None
Benefits the regulatory change is designed to produce.	None

Impact on Other Entities

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	Hospices will face fewer requirements for qualification of medical directors.
Agency’s best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	There are approximately 133 licensed hospice agencies in Virginia. An estimated 18 of those are independently owned and operated. No hospice has more than 500 full-time employees.
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	There are no anticipated costs associated with this regulatory change.
Benefits the regulatory change is designed to produce.	This regulatory change is designed to make the employing of qualified medical directors less burdensome.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

Repeal of 12VAC5-391-330(B) is the least burdensome way to remove the admitting privileges requirement.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

There are no alternative regulatory methods. The Board is required by the General Assembly to regulate hospices. This regulatory action removes a requirement that hospice medical directors have admitting privileges to a hospital or nursing home, thus allowing for more flexibility in choosing hospice medical directors. It also updates outdated references contained within the regulations.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

As required by § 2.2-4011 of the Code of Virginia, 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: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

The Board is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Rebekah E. Allen, Senior Policy Analyst, Virginia Department of Health, Office of Licensure and Certification, 9960 Mayland Drive, Suite 401, Henrico, VA 23233; email: regulatorycomment@vdh.virginia.gov; fax: (804) 527-4502. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency

practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
330	N/A	<p>12VAC5-391-330. Medical direction.</p> <p>A. There shall be a medical director, who shall be a physician licensed by the Virginia Board of Medicine, responsible for the overall direction and management of the medical component of care. The individual shall have training and experience in the psychological and medical needs of the terminally ill.</p> <p>B. The medical director shall have admitting privileges at one or more hospitals and nursing facilities that provide inpatient service to the hospice program's patients.</p> <p>C. The duties and responsibilities of the medical director shall include at least the following:</p> <ol style="list-style-type: none"> 1. Consulting with attending physicians regarding pain and symptom management; 2. Reviewing patient eligibility for hospice services according to the law and the hospice program's admission policies; 3. Acting as a medical resource to the IDG; 4. Coordinating with attending physicians to assure a continuum of medical care in cases of emergency or in the event the attending physician 	<p>Change: The Board is proposing the following change:</p> <p>12VAC5-391-330. Medical direction.</p> <p>A. There shall be a medical director, who shall be a physician licensed by the Virginia Board of Medicine, responsible for the overall direction and management of the medical component of care. The individual shall have training and experience in the psychological and medical needs of the terminally ill.</p> <p>B. The medical director shall have admitting privileges at one or more hospitals and nursing facilities that provide inpatient service to the hospice program's patients.</p> <p>C-B. The duties and responsibilities of the medical director shall include at least the following:</p> <ol style="list-style-type: none"> 1. Consulting with attending physicians regarding pain and symptom management; 2. Reviewing patient eligibility for hospice services according to the law and the hospice program's admission policies; 3. Acting as a medical resource to the IDG; 4. Coordinating with attending physicians to assure a continuum of medical care in cases of emergency or in the event the attending physician is unable to retain responsibility for the patient's care;

		<p>is unable to retain responsibility for the patient's care;</p> <p>5. Acting as medical liaison with physicians in the community; and</p> <p>6. Determining, in consultation with the patient's physician, when a patient can no longer remain at home and should be moved to a congregate living facility of the patient's choosing.</p>	<p>5. Acting as medical liaison with physicians in the community; and</p> <p>6. Determining, in consultation with the patient's physician, when a patient can no longer remain at home and should be moved to a congregate living facility of the patient's choosing.</p> <p>Intent: This regulatory change is intended to make it easier for hospices to find suitable medical directors.</p> <p>Rationale: Public comments indicate that the requirement of subsection B makes it difficult for hospices to find qualified medical directors. Subject matter experts from the agency agree that repeal would not jeopardize the protection of public health, safety, and welfare. Taking this into account, the Board decided to repeal this requirement.</p> <p>Likely impact: It will be easier for hospices to find qualified medical directors.</p>
340	N/A	<p>12VAC5-391-340. Nursing services.</p> <p>A. All nursing services shall be provided directly or under the supervision of a registered nurse, currently licensed by the Virginia Board of Nursing, who has education and experience in the needs of the terminally ill. Duties and responsibilities of the supervising nurse shall include:</p> <p>1. Assuring that nursing services delivered are provided according to established hospice program policies;</p> <p>2. Assuring that nursing services are available 24 hours a day, 7 days a week and that licensed practical nurses and home attendants work under the direct supervision of a registered nurse;</p>	<p>Change: The Board is proposing the following change:</p> <p>12VAC5-391-340. Nursing services.</p> <p>A. All nursing services shall be provided directly or under the supervision of a registered nurse, currently licensed by the Virginia Board of Nursing, who has education and experience in the needs of the terminally ill. Duties and responsibilities of the supervising nurse shall include:</p> <p>1. Assuring that nursing services delivered are provided according to established hospice program policies;</p> <p>2. Assuring that nursing services are available 24 hours a day, 7 days a week and that licensed practical nurses and home attendants work under the direct supervision of a registered nurse;</p>

		<p>3. Participating in the development and implementation of orientation and in-service training hospice programs for all levels of nursing staff employed by the hospice program;</p> <p>4. Acting as nurse liaison with staff and other agencies, hospice programs and individuals that have contractual agreements to provide nursing services;</p> <p>5. Participating in quality improvement reviews and evaluations of the nursing services provided; and</p> <p>6. Directing or supervising the delivery of nursing services.</p> <p>B. Nursing services shall include, but are not limited to:</p> <ol style="list-style-type: none"> 1. Assessing a patient's needs and admission for service as appropriate; 2. Working with the IDG to develop a plan of care; 3. Implementing the plan of care; 4. Obtaining physician's orders when necessary; 5. Providing those services requiring substantial and specialized nursing skill; 6. Educating the patient and patient's family in the care of the patient, including pain management; 7. Evaluating the outcome of services; 8. Coordinating and communicating the patient's physical or medical condition to the IDG; 	<p>3. Participating in the development and implementation of orientation and in-service training hospice programs for all levels of nursing staff employed by the hospice program;</p> <p>4. Acting as nurse liaison with staff and other agencies, hospice programs and individuals that have contractual agreements to provide nursing services;</p> <p>5. Participating in quality improvement reviews and evaluations of the nursing services provided; and</p> <p>6. Directing or supervising the delivery of nursing services.</p> <p>B. Nursing services shall include, but are not limited to:</p> <ol style="list-style-type: none"> 1. Assessing a patient's needs and admission for service as appropriate; 2. Working with the IDG to develop a plan of care; 3. Implementing the plan of care; 4. Obtaining physician's orders when necessary; 5. Providing those services requiring substantial and specialized nursing skill; 6. Educating the patient and patient's family in the care of the patient, including pain management; 7. Evaluating the outcome of services; 8. Coordinating and communicating the patient's physical or medical condition to the IDG; 9. Preparing clinical notes; and 10. Supervising licensed practical nurses and home attendants providing delegated nursing services.
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		<p>9. Preparing clinical notes; and</p> <p>10. Supervising licensed practical nurses and home attendants providing delegated nursing services.</p> <p>C. A registered nurse shall coordinate the implementation of each patient's plan of care.</p> <p>D. If nursing duties are delegated, the hospice program shall develop and implement an organizational plan pursuant to 18VAC90-20-420 through 18VAC90-20-460 of the Virginia Administrative Code.</p> <p>E. Licensed practical nurses shall be currently licensed by the Virginia Board of Nursing.</p> <p>F. The services provided by a licensed practical nurse may include, but are not limited to:</p> <ol style="list-style-type: none"> 1. Delivering nursing services according to the hospice program's policies and standard nursing practices; 2. Assisting the registered nurse in performing specialized procedures; 3. Assisting the patient with activities of daily living, including the teaching of self-care techniques; 4. Preparing equipment and supplies for treatment that requires adherence to sterile or aseptic techniques; and 5. Preparing clinical notes. 	<p>C. A registered nurse shall coordinate the implementation of each patient's plan of care.</p> <p>D. If nursing duties are delegated, the hospice program shall develop and implement an organizational plan pursuant to 18VAC90-20-420 18VAC90-19-240 through 18VAC90-20-460 <u>18VAC90-19-280</u> of the Virginia Administrative Code.</p> <p>E. Licensed practical nurses shall be currently licensed by the Virginia Board of Nursing.</p> <p>F. The services provided by a licensed practical nurse may include, but are not limited to:</p> <ol style="list-style-type: none"> 1. Delivering nursing services according to the hospice program's policies and standard nursing practices; 2. Assisting the registered nurse in performing specialized procedures; 3. Assisting the patient with activities of daily living, including the teaching of self-care techniques; 4. Preparing equipment and supplies for treatment that requires adherence to sterile or aseptic techniques; and 5. Preparing clinical notes. <p>Intent: The change updates the reference to the Board of Nursing's regulations regarding delegation of duties.</p> <p>Rationale: The sections of the Virginia Administrative Code currently cited in this section has been repealed and the respective requirements are now located elsewhere in the VAC.</p> <p>Likely Impact: The change will reduce confusion for regulated entities regarding the specific requirements for the delegation of nursing duties.</p>
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<p>350</p>	<p>N/A</p>	<p>12VAC5-391-350. Home attendant services. A. Services of the home attendants may include, but are not limited to:</p> <ol style="list-style-type: none"> 1. Assisting patients with (i) activities of daily living; (ii) ambulation and prescribed exercise; (iii) other special duties with appropriate training and demonstrated competency; 2. Administration of normally self-administered drugs in a patient's private residence as allowed by § 54.1-3408 of the Virginia Drug Control Act (Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia); 3. Taking and recording vital signs as indicated in the plan of care; 4. Measuring and recording fluid intake and output; 5. Recording and reporting to the health care professional changes in the patient's physical condition, behavior or appearance; 6. Documenting services and observations in the medical record; and 7. Performing any other duties that the attendant is qualified to do by additional training and demonstrated competency, within state guidelines. <p>B. Prior to the initial delivery of services, the home attendant shall receive specific written instructions for the patient's care from the appropriate health care professional responsible for the care.</p> <p>C. Home attendants shall work under the supervision of the appropriate health care</p>	<p>Change: The Board is proposing the following change:</p> <p>12VAC5-391-350. Home attendant services. A. Services of the home attendants may include, but are not limited to:</p> <ol style="list-style-type: none"> 1. Assisting patients with (i) activities of daily living; (ii) ambulation and prescribed exercise; (iii) other special duties with appropriate training and demonstrated competency; 2. Administration of normally self-administered drugs in a patient's private residence as allowed by § 54.1-3408 of the Virginia Drug Control Act (Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia); 3. Taking and recording vital signs as indicated in the plan of care; 4. Measuring and recording fluid intake and output; 5. Recording and reporting to the health care professional changes in the patient's physical condition, behavior or appearance; 6. Documenting services and observations in the medical record; and 7. Performing any other duties that the attendant is qualified to do by additional training and demonstrated competency, within state guidelines. <p>B. Prior to the initial delivery of services, the home attendant shall receive specific written instructions for the patient's care from the appropriate health care professional responsible for the care.</p> <p>C. Home attendants shall work under the supervision of the appropriate health care professional responsible for the patient's care.</p>
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		<p>professional responsible for the patient's care.</p> <p>D. The nurse responsible for supervising the home attendant shall make visits to the patient's home as frequently as necessary, but not less than every two weeks. The results of each visit shall be documented in the medical record.</p> <p>E. Relevant in-service education or training for home attendants shall consist of at least 12 hours annually. In-service training may be in conjunction with on-site supervision.</p> <p>F. Home attendants shall be able to speak, read and write English and shall meet one of the following qualifications:</p> <ol style="list-style-type: none"> 1. Have satisfactorily completed a nursing education hospice program preparing for registered nurse licensure or practical nurse licensure; 2. Have satisfactorily completed a nurse aide education hospice program approved by the Virginia Board of Nursing; 3. Have certification as a nurse aide issued by the Virginia Board of Nursing; 4. Be successfully enrolled in a nursing education hospice program preparing for registered nurse or practical nurse licensure and have currently completed at least one nursing course that includes clinical experience involving patient care; 5. Have satisfactorily passed a competency evaluation that meets the criteria of 42 CFR 484.36 (b); or 	<p>D. The nurse responsible for supervising the home attendant shall make visits to the patient's home as frequently as necessary, but not less than every two weeks. The results of each visit shall be documented in the medical record.</p> <p>E. Relevant in-service education or training for home attendants shall consist of at least 12 hours annually. In-service training may be in conjunction with on-site supervision.</p> <p>F. Home attendants shall be able to speak, read and write English and shall meet one of the following qualifications <u>before providing services to the hospice program's patients:</u></p> <ol style="list-style-type: none"> 1. Have satisfactorily completed a nursing education hospice program preparing for registered nurse licensure or practical nurse licensure; 2. Have satisfactorily completed a nurse aide education hospice program approved by the Virginia Board of Nursing; 3. Have certification as a nurse aide issued by the Virginia Board of Nursing; 4. Be successfully enrolled in a nursing education hospice program preparing for registered nurse or practical nurse licensure and have currently completed at least one nursing course that includes clinical experience involving patient care; <u>or</u> 5. Have satisfactorily passed a competency evaluation that meets the criteria of 42 CFR 484.36 (b); or 6. Have satisfactorily completed training using the "Personal Care Aide Training Curriculum," dated 2003, of the Department of Medical Assistance Services. However, the training is permissible for volunteers only.
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		<p>6. Have satisfactorily completed training using the "Personal Care Aide Training Curriculum," dated 2003, of the Department of Medical Assistance Services. However, the training is permissible for volunteers only.</p>	<p><u>If the home attendant is a volunteer, the home attendant shall meet one of the qualifications listed in subdivisions 1 through 5 of this subsection or have satisfactorily completed training provided by a hospice program or other entity that meets the requirements of subsection G.</u></p> <p><u>G. Hospice programs may develop a 40-hour training program for volunteers. The program shall:</u></p> <p><u>1. Include education addressing:</u></p> <ul style="list-style-type: none"> <u>a. Goals of personal care;</u> <u>b. Prevention of skin breakdown;</u> <u>c. Physical and biological aspects of aging;</u> <u>d. Physical and emotional needs of older adults;</u> <u>e. Orientation to types of physical disabilities;</u> <u>f. Personal care and rehabilitative services;</u> <u>g. Body mechanics;</u> <u>h. Home management;</u> <u>i. Safety and accident prevention in the home;</u> <u>j. Policies and procedures regarding accidents or injuries;</u> <u>k. Food, nutrition, and meal preparation;</u> <u>l. Special considerations in preparation of special diets;</u> <u>m. Care of the home and personal belongings; and</u> <u>n. Documentation requirements for Medicaid individuals.</u> <p><u>2. Be conducted by a registered nurse who meets the requirements</u></p>
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			<p><u>in 18VAC90-26-30.</u></p> <p><u>3. Issue and maintain certificates of completion containing:</u></p> <p><u>a. The instructor's printed name and signature;</u></p> <p><u>b. The participant's printed name; and</u></p> <p><u>c. The date of completion of the program.</u></p> <p>Intent: The intent is to replace the reference to an outdated training manual. The change allows hospice programs to set up in-house training for volunteer home attendants, as long as it meets the requirements set forth here. The change also ensures that all home aides have completed their required training before seeing patients.</p> <p>Rationale: The reference to 2003 DMAS Personal Care Aide Training Curriculum is out of date and needs to be replaced by a current curriculum. DMAS indicated that their requirements for personal care aide training existed within the CCC Plus Waiver Manual, on which this language is based.</p> <p>Likely Impact: Hospice programs will set up their own training for volunteer home attendants. Once a person has completed one of these trainings, they will meet the training requirement at any hospice program.</p>
380	N/A	<p>12VAC5-391-380. Dietary or nutritional counseling Dietary or nutritional counselors shall meet the requirements of 18VAC75-30 pursuant to Chapter 27.1 (§ 54.1-2730 et seq.) of Title 54.1 of the Code of Virginia and have at least two years experience in a health care food or nutrition delivery system.</p>	<p>Change: The Board is proposing the following change:</p> <p>12VAC5-391-380. Dietary or nutritional counseling Dietary or nutritional counselors shall meet the requirements of 18VAC75-30 pursuant to Chapter 27.1 (§ 54.1-2730 et seq.) of Title 54.1 of the Code of Virginia and have at least two years experience in a health care food or nutrition delivery system.</p> <p>Intent: The change removes a reference to a chapter of regulations that has been repealed.</p>

			<p>Rationale: The sections of the Code of Virginia already cited by the regulation contain the appropriate requirements. No regulations have been promulgated to replace 18VAC75, thus the Code reference is sufficient.</p> <p>Likely Impact: The change will reduce confusion for regulated entities regarding the specific requirements for dietary or nutritional counselors.</p>
440	N/A	<p>12VAC5-391-440. General facility requirements.</p> <p>A. All construction of new buildings and additions, renovations or alterations of existing buildings for occupancy as a hospice facility shall conform to state and local codes, zoning and building ordinances and the Uniform Statewide Building Code.</p> <p>In addition, hospice facilities shall be designed and constructed according to section 4.2 of Part 4 of the 2006 Guidelines for Design and Construction of Health Care Facilities of the American Institute of Architects. However, the requirements of the Uniform Statewide Building Code and local zoning and building ordinances shall take precedence.</p> <p>B. All buildings shall be inspected and approved as required by the appropriate regional state fire marshal's office or building and fire regulatory official. Approval shall be a Certificate of Use and Occupancy indicating the building is classified for its proposed licensed purpose.</p> <p>C. The facility must have space for private patient family visiting and accommodations for family members after a patient's death. Patients shall be allowed to receive guests, including small children, at any hour.</p>	<p>Change: The Board is proposing the following change:</p> <p>12VAC5-391-440. General facility requirements.</p> <p>A. All construction of new buildings and additions, renovations or alterations of existing buildings for occupancy as a hospice facility shall conform to state and local codes, zoning and building ordinances and the Uniform Statewide Building Code. In addition, hospice facilities shall be designed and constructed according to <u>section 4.2 of Part 4 of the 2006 3.2 of Part 3 of the 2018</u> Guidelines for Design and Construction of <u>Health Care Residential Health, Care, and Support Facilities of the American Institute of Architects. However, the requirements of the Uniform Statewide Building Code and local zoning and building ordinances shall take precedence. The Facility Guidelines Institute.</u></p> <p>B. All buildings shall be inspected and approved as required by the appropriate regional state fire marshal's office or building and fire regulatory official. Approval shall be a Certificate of Use and Occupancy indicating the building is classified for its proposed licensed purpose.</p> <p>C. The facility must have space for private patient family visiting and accommodations for family members after a patient's death. Patients shall be allowed to receive guests, including small children, at any hour.</p>

		<p>D. Patient rooms shall not exceed two beds per room and must be at grade level or above, enclosed by four ceiling-high walls. Each room shall be equipped for adequate nursing care, the comfort and privacy of patients, and with a device for calling the staff member on duty.</p> <p>E. Designated guest rooms for family members or patient guests and beds for use by employees of the facility shall not be included in the bed capacity of a hospice facility provided such beds and locations are identified and used exclusively by staff, volunteers or patient guests.</p> <p>Employees shall not utilize patient rooms nor shall bedrooms for employees be used by patients.</p> <p>F. Waste storage shall be located in a separate area outside or easily accessible to the outside for direct pickup or disposal. The use of an incinerator shall require permitting from the nearest regional permitting office for the Department of Environmental Quality.</p> <p>G. The facility shall provide or arrange for under written agreement, laboratory, x-ray, and other diagnostic services, as ordered by the patient's physician.</p> <p>H. There shall be a plan implemented to assure the continuation of essential patient support services in case of power outages, water shortage, or in the event of the absence from work of any portion of the workforce resulting from inclement weather or other causes.</p> <p>I. No part of a hospice facility may be rented, leased or used for any purpose other than the provision of hospice care at the facility.</p>	<p>D. Patient rooms shall not exceed two beds per room and must be at grade level or above, enclosed by four ceiling-high walls. Each room shall be equipped for adequate nursing care, the comfort and privacy of patients, and with a device for calling the staff member on duty.</p> <p>E. Designated guest rooms for family members or patient guests and beds for use by employees of the facility shall not be included in the bed capacity of a hospice facility provided such beds and locations are identified and used exclusively by staff, volunteers or patient guests. Employees shall not utilize patient rooms nor shall bedrooms for employees be used by patients.</p> <p>F. Waste storage shall be located in a separate area outside or easily accessible to the outside for direct pickup or disposal. The use of an incinerator shall require permitting from the nearest regional permitting office for the Department of Environmental Quality.</p> <p>G. The facility shall provide or arrange for under written agreement, laboratory, x-ray, and other diagnostic services, as ordered by the patient's physician.</p> <p>H. There shall be a plan implemented to assure the continuation of essential patient support services in case of power outages, water shortage, or in the event of the absence from work of any portion of the workforce resulting from inclement weather or other causes.</p> <p>I. No part of a hospice facility may be rented, leased or used for any purpose other than the provision of hospice care at the facility.</p> <p>J. A separate and distinct entrance shall be provided if the program intends to administer and provide its community-based hospice care from the facility so that such traffic and</p>
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DIBR	N/A	<p>DOCUMENTS INCORPORATED BY REFERENCE (12VAC5-391) Personal Care Aide Training Curriculum, 2003, Department of Medical Assistance Services.</p> <p>2006 Guidelines for Design and Construction of Health Care Facilities, The Facility Guidelines Institute, The American Institute of Architects Academy of Architecture for Health, 1-800-242-3837.</p>	<p>Change: The Board is proposing the following change:</p> <p>DOCUMENTS INCORPORATED BY REFERENCE (12VAC5-391) Personal Care Aide Training Curriculum, 2003, Department of Medical Assistance Services.</p> <p>2006 Guidelines for Design and Construction of Health Care Facilities, The Facility Guidelines Institute, The American Institute of Architects Academy of Architecture for Health, 1-800-242-3837.</p> <p><u>2018 Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, The Facility Guidelines Institute.</u></p> <p>Intent: The intent of the change is to update the reference to the appropriate guidelines for design and construction of hospice facilities and to</p>

			<p>delete a document that is no longer referenced in the regulation.</p> <p>Rationale: Section 32.1-162.5 of the Code of Virginia requires the regulations for the licensure of hospice programs to include minimum standards for design and construction consistent with the current edition of the FGI guidelines. 1VAC7-10-140 (C) requires the incorporation of such references to indicate the specific version or edition of a text that is referenced within regulation.</p> <p>Likely Impact: Hospice facilities will be designed and constructed according to the current version of the FGI guidelines.</p>
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