



Final Minutes
***Virtual* Legislative/Regulatory**
Committee Meeting

June 15, 2021

The Virginia Board of Long-Term Care Administrators' Legislative/Regulatory Committee convened virtually via WebEx on Tuesday, June 15, 2021.

BOARD MEMBERS PRESENT (ALL VIRTUAL)

Derrick Kendall, NHA, Committee Chair
Jenny Inker, ALFA
Martha H. Hunt, ALFA

BOARD MEMBERS ABSENT

Ali Faruk, Citizen Member

DHP STAFF PRESENT FOR ALL OR PART OF THE MEETING (ALL VIRTUAL)

Erin Barrett, Assistant Attorney General, Board Counsel
Trasean Boatwright, Program Manager
Sarah Georgen, Licensing and Operations Manager
Kelley Palmatier, Deputy Executive Director
Corie Tillman Wolf, Executive Director
Elaine Yeatts, DHP Sr. Policy Analyst

OTHER GUESTS PRESENT (ALL VIRTUAL)

Judy Raymond, LeadingAge Virginia
Elmira Pitchford
Judy Hackler, Virginia Assisted Living Association
Ben Traynham
804-2**-**17 (Unknown Caller)

CALL TO ORDER

Mr. Kendall called the meeting to order at 9:01 a.m.

Due to the COVID-19 declared state of emergency and consistent with Item 4-0.01 of HB1800 (Budget Bill for 2020-2022) and the applicable provisions of the Freedom of Information Act including Virginia Code § 2.2-3708.2 and with Executive Order 51 (2020), the Committee convened a virtual meeting to consider such regulatory and business matters as were presented on the agenda necessary for the Board to discharge its lawful purposes, duties, and responsibilities.

Mr. Kendall provided the Committee members, staff, and the public with contact information should the electronic meeting be interrupted.

Mr. Kendall provided reminders to the Board and public regarding WebEx functions. He completed a roll call of the Committee members and staff.

With three Committee members present at the meeting, a quorum was established.

Mr. Kendall read the mission of the Board, which is also the mission of the Department of Health Professions.

ORDERING OF THE AGENDA

Hearing no changes to the agenda, Mr. Kendall accepted the agenda as written.

PUBLIC COMMENT

Written public comment (Attachment A) was provided by Judy Hackler, Virginia Assisted Living Association (VALA), Steven Wilkins, Legacy at Imperial Village, and Dana Parsons, LeadingAge Virginia.

The Committee received verbal public comment from Judy Hackler, VALA, and Judy Raymond, LeadingAge Virginia.

DISCUSSION

Ms. Tillman Wolf provided a brief summary of the past meetings of the Board related to Administrators-in-Training (AITs), including two Regulatory Advisory Panel ("RAP") meetings in 2019. The Full Board adopted a Notice of Intended Regulatory Action (NOIRA) in December 2019 to initiate the regulatory process as a result of the recommendations made by the RAP. She stated that the intent of the Legislative/Regulatory Committee was to review the draft language to provide recommendations to the Full Board for consideration in adopting proposed regulations.

Ms. Tillman Wolf and Ms. Yeatts provided an overview of the staff draft of proposed amendments to the regulations.

Draft Proposed Amendments to the Administrator-in-Training Regulations for Consideration by the Full Board (18 VAC 95-20-10 et seq. and 18 VAC 95-30-10 et seq.)

The Committee discussed the following recommendations for the proposed amendments to the Administrator-in-Training Regulations for consideration by the Full Board (18 VAC 95-20-10 et seq. and 18VAC 95-30-10 et seq.):

Regulations Governing the Practice of Nursing Home Administrators:

- 18VAC95-20-175, Continuing education requirements
 - A(3): "At least two hours of continuing education for each renewal year shall relate to the care of residents with mental or cognitive impairments, including Alzheimer's disease and dementia."
 - A(4): "A licensee who serves as the registered preceptor in an approved AIT or Assisted Living Facility AIT program may receive one hour of continuing education credit for each

week of training up to a maximum of 10 hours of self-study coursework for each renewal year.”

- 18VAC95-20-310, Required hours of training
 - *D: “An AIT shall receive credit for no more than 40 hours per week of training.”*
 - E: The Committee recommended striking draft language related to a board-approved course in nursing home administration that meets NAB approved standards until more information could be provided on the NAB-approved course.
 - *F: “An AIT shall complete training on the care of residents with cognitive or mental impairments, including Alzheimer’s disease and dementia during the AIT training program.”*
- 18VAC95-20-330, Training facilities
 - The Committee recommended that a limitation on training facilities based on resident beds/ facility size not be included in the draft regulations.
- 18VAC95-20-340, Supervision of trainees
 - C(2): “Shall be routinely present with the trainee for *on-site supervision* in the training facility as appropriate to the experience and training of the AIT and the needs of the residents in the facility;”
- 18VAC95-20-390, Training plan
 - “The training plan shall address the Domains of Practice approved by NAB that is in effect at the time the training program is submitted for approval *and outlined in the NAB AIT Manual.*”
- 18VAC95-20-400, Reporting requirements
 - *A: “The preceptor shall document in the progress report the dates of on-site supervision of the AIT training.”*
 - B: The Committee agreed to clarifying language without reference to completion of a course at this time.

BREAK

The Committee took a break at 10:54 a.m. and returned at 11:05 a.m.

Regulations Governing the Practice of Assisted Living Facility Administrators

- 18VAC95-30-70, Continuing education requirements
 - *A(3): “At least two hours of continuing education for each renewal year shall relate to the care of residents with mental or cognitive impairments, including Alzheimer’s disease and dementia.”*
 - *A(4): “A licensee who serves as the registered preceptor in an approved AIT or Assisted Living Facility AIT program may receive one hour of continuing education credit for each week of training up to a maximum of 10 hours of self-study coursework for each renewal year.”*
- 18VAC95-30-100, Educational and training requirements for initial licensure
 - A(1)(a): “Complete at least 30 semester hours of *postsecondary education* in an accredited college or university *and at least 15 of the 30 semester hours shall be in business or human services or a combination thereof* and 640 hours in an ALF AIT program as specified in 18VAC95-30-150.”
 - *A(1)(g) and (h):* The Committee recommended the convening of a Regulatory Advisory Panel to provide recommendations to the Legislative/Regulatory Committee regarding the

definitions and requirements for a new pathway to registration for previous healthcare experience in a health care setting.

- 18VAC95-30-160, Required content of an ALF administrator-in-training program
 - A: “The training plan shall include the tasks and the knowledge and skills required to complete those tasks as approved by NAB as the domains of practice for residential case/assisted living in effect at the time the training is being provided *and outlined in the NAB AIT Manual.*”
 - C: “*An ALF AIT shall receive credit for not more than 40 hours per week of training.*”
 - D: The Committee recommended striking draft language related to a board-approved course in assisted living facility administration that meets NAB approved standards until more information could be provided on the NAB-approved course.
 - E: “*An ALF AIT shall complete training on the care of residents with cognitive or mental impairments, including Alzheimer’s disease and dementia.*”
- 18VAC95-30-170, Training facilities
 - B: “*Training in an ALF AIT program or internship shall not be conducted in:*”
 - B(1): “*An assisted living facility with a provisional license as determined by the Department of Social Services in which the AIT program is a new ALF AIT program;*”
 - B(2): “*An assisted living facility with a conditional license as determined by the Department of Social Services where the AIT applicant is the owner of the facility;*”
 - B(3): “*A facility that is licensed as residential only and does not require an administrator licensed by the Board of Long-Term Care Administrators; or*”
 - B(4): The Committee recommended the convening of a Regulatory Advisory Panel to provide recommendations to the Legislative/Regulatory Committee regarding whether a limitation on facility size/resident beds should be included in the requirements for AIT training.
- 18VAC95-30-180, Preceptors
 - C(2): “Be routinely present for *on-site supervision* of the trainee in the training facility as appropriate to the experience and training of the ALF AIT and the needs of the residents in the facility;”
 - F(1): “Hold a current, unrestricted Virginia assisted living facility or nursing home license and be employed *full-time as an administrator in a training facility, be a regional administrator with on-site supervisory responsibilities for a training facility, or have a written agreement with a training facility for a preceptorship;*”
- 18VAC95-30-190, Reporting requirements
 - A: “The preceptor shall maintain progress reports on forms prescribed by the board for each month of training. *The preceptor shall document in the progress report the dates of on-site supervision of the AIT training.* For a person who is serving as an acting administrator while in an ALF AIT program, the preceptor shall include in the progress report evidence of face-to face instruction and review for a minimum of *four hours per week.*”
 - B: The Committee recommended no substantive change to the current language.


Upon a **MOTION** by Dr. Inker, and properly seconded by Ms. Hunt, the Committee voted to recommend the proposed changes to the Regulations for the Administrator-in-Training program to the full Board for consideration as amended. The motion passed unanimously (3-0).

NEXT MEETING

Mr. Kendall stated that following a Regulatory Advisory Panel meeting to review the regulations for additional consideration, a final Legislative/Regulatory Committee meeting will convene to finalize the recommendations to the Full Board.

ADJOURNMENT

With all business concluded, the meeting adjourned at 12:30 p.m.



~~Derrick Kendall, NHA, Committee Chair~~

Jenny Inker

10/27/21
Date



Corie Tillman Wolf, J.D., Executive Director

October 27, 2021
Date



Virginia Assisted Living Association

"Virginia's Unified Voice for Assisted Living"

To: Virginia Board of Long-Term Care Administrators

From: Judy Hackler, Executive Director
Virginia Assisted Living Association, PO Box 71266, Henrico, VA 23255
(804) 332-2111~ jhackler@valainfo.org

Date: May 28, 2021

Re: Public Comments – Draft Proposed Amendments to the Administrator-In-Training Regulations for Consideration to the Full Board (18 VAC 95-30-10 et seq.)

The Virginia Assisted Living Association (VALA) represents licensed assisted living communities from throughout Virginia of varying organizational structures and resident capacities. We thank the Board of Long-Term Care Administrators for considering areas of improvement to the current regulations that will support the recruitment, licensure, and retention of licensed assisted living facility administrators. Below are some of our initial comments regarding the draft proposed amendments to the Administrator-In-Training (AIT) Regulations.

- **18VAC95-30-70 – Continuing Education Requirements** – VALA supports allowing registered preceptors to count one hour of credit for each week of training towards their required continuing education continuing education requirements. This may help to encourage more licensed administrators to become registered preceptors and more registered preceptors to accept new administrators-in-training. VALA continues to receive numerous requests from individuals interested in completing the AIT program that are unable to find a registered preceptor available and willing to precept them.
- **18VAC95-30-100 – Educational and Training requirements for initial licensure –**
 - g. VALA supports the creation of an additional pathway to licensure as an administrator that does not require an individual to have received post-secondary education credits. There is a significant shortage of licensed administrators, and the impending retirement of many administrators that existed prior to 2020 has now been exacerbated by the COVID-19 pandemic causing significant stress and burnout for currently licensed administrators. It is crucial that Virginia provide additional pathways to licensure that allow for individuals that have worked in the direct caregiving industries to be able to be trained as an administrator. By creating this additional pathway, the Board is increasing the workforce pool of desirable candidates passionate about caring for the elderly and no longer discriminating against individuals with a lower income that may not have been able to afford obtaining a college/university education.
 - g. The requirement for some ALF AITs to complete possibly an 80-hour course *in addition to* the hundreds of hours required in the ALF AIT program is another prohibitive condition to licensure. The possibly 80-hour course should be included in the total number of hours required for the generalized ALF AIT program.
 - h. VALA supports a specific definition of a "health care setting" for the specific purpose of the section that includes a "licensed assisted living facility", since licensed assisted living facilities are not technically identified as a "health care institution" or a "health care provider" in other Virginia Code references.

Attachment A

- h. VALA supports the definition of the “managerial or supervisory role” to include “management responsibility and supervision of two or more staff.”
- **18VAC95-30-160 – Required content of an ALF administrator-in-training program –**
 - A. References to having training as “outlined in the NAB AIT Manual” may not be needed as there is already a reference to “tasks as approved by NAB as the domains of practice for residential care/assisted living in effect at the time the training is being provided.”
 - A. Another option would be to state, “The training plan shall include the tasks and the knowledge and skills required to complete those tasks as are covered in the domains of practice outlined in the NAB National Administrator-In-Training Program Manual.”
 - C. Having a minimum work schedule of “not less than 20 hours” per week *would be prohibitive and discriminatory* to those AITs that must continue to work another job while in training in order to cover the costs of living. There is already a requirement in 18VAC95-30-150 that the required hours of training are “to be completed within 24 months”, and that requirement should be sufficient without placing another burden of a minimum number of hours per week for completing the AIT program. Adding the restriction of the “not less than 20 hours” per week would also be prohibitive for the AIT to take time off for vacations, family emergencies, etc.
 - D. As currently worded in the proposed language, VALA supports having the possibly 80-hour course be included “as part of the total required AIT program hours.” The requirement for all ALF AITs to complete possibly an additional 80-hour course *in addition to* the hundreds of hours required in the ALF AIT program would result in another prohibitive condition to licensure.
- **18VAC95-30-170 Training Facilities –**
 - B. 1. VALA has received several comments regarding the proposed inability of an ALF AIT program being commenced in a facility with a provisional license. In some instances of the issuances of a provisional license, a different administrator is assigned to the ALF to resolve issues that led to the provisional licensure. It has been noted that an ALF AIT being precepted by the administrator brought in to resolve the issues may be provided the best training on how to properly and efficiently manage the ALF to ensure compliance with regulations.
 - B. 4. VALA is cautious of the Board in excluding smaller, licensed ALFs from being able to train ALF AITs. This exclusion may be considered discriminatory and unethical.
- **18VAC95-30-180 Preceptors –**
 - With the severe shortage of registered preceptors, VALA encourages the Board to consider more options to increase the available supply of registered preceptors and the availability of those preceptors. We thank the Board for currently publishing the listing of licensed preceptors who volunteered their contact information to be shared in a public directory; however, many of those listed are already precepting two AITs or are restricted to only serve as a preceptor for AITs within their employment organization. As recommended by the Regulatory Advisory Panel (RAP), maybe adding a column to the public directory of any restrictions on the preceptor would be beneficial and prevent AITs from having to contact all of the listed preceptors.

We request the Board of Long-Term Care Administrators to follow the recommendations of the RAP in working with the Virginia Department of Health Professions Workforce Data Center and industry stakeholders to increase exposure and education opportunities for individuals and to develop additional academic pipelines for students to become licensed assisted living administrators.

Again, we thank you for your considerations to improving the current AIT regulatory process by expanding the eligibility criteria to allow for more individuals to become administrators-in-training. Please let me know if you have any questions regarding these comments.



Georgen, Sarah <sarah.georgen@dhp.virginia.gov>

Re: LTC AIT Comments

Tillman Wolf, Corie <corie.wolf@dhp.virginia.gov>

Fri, May 28, 2021 at 11:37 AM

To: Steven Wilkins <steven@legacyimperialvillage.com>

Cc: "jhackler@valainfo.org" <jhackler@valainfo.org>, Sarah Georgen <sarah.georgen@dhp.virginia.gov>

Mr. Wilkins,

The Board of Long Term Care Administrators is in receipt of your comments, which will be included in the public comments for the Legislative/Regulatory Committee meeting on June 2, 2021.

Sincerely,

Corie Tillman Wolf

Corie E. Tillman Wolf, J.D.
 Executive Director
 Boards of Funeral Directors and Embalmers,
 Physical Therapy, and Long-Term Care Administrators
 (804) 367-4424 office
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 corie.wolf@dhp.virginia.gov

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On Wed, May 26, 2021 at 2:02 PM Steven Wilkins <steven@legacyimperialvillage.com> wrote:

Good afternoon. I am a Board Member of VALA and have a unique perspective on the AIT program based on my personal experiences. Below is a summation of what I shared with Judy Hackler (minus the final paragraph that I added to this e-mail), but I'm happy to discuss this further with you if you have time. Thank you for providing us with an opportunity to share our thoughts.

Steve

There is a lot to unpack in that section, but I can tell you that I don't care for the AIT program as it exists. As you know, I went through the entire 480 hour program and the NAB documents, study guides, books, etc. did nothing to assist me. If it wasn't for the book provided by Irvin Land, I doubt I would have passed the test based on the study guides. I remember very specifically studying the financial stuff and I couldn't figure out the practice question. I contacted the CFO and Controller of the company and they wanted to know if I was studying for my CPA license. I suppose the best way to sum it up is that they can keep altering the number of hours and criteria to get into the field, but the reality is that many people are leaving the profession and they should be finding ways to make the test more

applicable to really running a building. There should be a focus on state regulations and not the overall NAB guidelines.

The other thing that jumped out at me was the section that talked about not being able to precept if the community is on a provisional, etc. Oftentimes, the community goes on a provisional license or scrutinized license and the administrator that was over the community leaves/is fired. If a Rockstar ED in good standing comes in to fix the community, we should want them to be precepting people because they will be showing the AIT how to properly run a community, lead, budget, etc.

Lastly, I was fortunate to be with a company that allowed me to purchase the materials, but despite spending hours studying the expensive books and practice tests, ultimately they did very little to help prepare me for the test or for a career in the industry. Without the support of the company, I wouldn't have been able to afford the study materials. This says nothing of the frustration that would have come from purchasing the materials that ultimately didn't help. I remember very specifically thinking that I was in the midst of a self-taught Master's level academic program. I recognize that the preceptor is tasked with ensuring the material is pertinent and assisting in the training, but the reality is that there is so many other pressing issues in the life of an Executive Director, they cannot always dedicate the time to the AIT that is perhaps needed or warranted.

Steven H. Wilkins
Regional Director of Operations
Legacy at Imperial Village



June 13, 2021

Virginia Board of Long-Term Care Administrators
9960 Mayland Drive, Suite 300
Richmond, Virginia 23233

Contacts:

Dana Parsons
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Judy Raymond
Executive Director
Lake Prince Woods
jraymond@uchas.org

LeadingAge Virginia represents the full continuum of older adult services and supports in Virginia, including not-for-profit nursing home and assisted living providers throughout the Commonwealth.

Thank you for the opportunity to provide feedback on the proposed amendments to the Administrator-In-Training Regulations, 18 VAC 95-20-10 et seq. and 18 VAC 95-30-10 et seq. We appreciate the Board of Long-Term Care Administrators taking steps to clarify and enhance the Administrator in Training program. Our comments are below.

18VAC95-20-175. Continuing Education Requirements.

Proposed Language:

3. At least [two hours] of continuing education [for each renewal year/for each even numbered renewal year] shall relate to the care of residents with mental or cognitive impairments, including Alzheimer's disease and dementia.

Comment: Support

18VAC95-20-310. Required Hours of Training.

Proposed Language:

D. An AIT shall be required to serve weekday, evening, night and weekend shifts to receive training in all areas of nursing home operation. An AIT shall be assigned a work schedule of [not less than 20 hours nor more than [x] hours per week] in order to receive credit for such training. For good cause shown, the board may waive the limitation on an AIT's work schedule.



Comment: We do not see the need to require a minimum number of work hours for AITs. Some AIT's may work over and above their position hours and a requirement of a minimum number may constrain this work ethic.

E. An AIT shall be required to complete [an 80-hour course/a board-approved course] in nursing home administration based upon a curriculum that meets NAB-approved standards as part of the total required AIT program hours as set forth by this section.

Comment: More information is needed about the proposed course. Such an additional course requirement may be a prohibitive condition to licensure.

F. An AIT shall complete at least [number] hours of training on the care of residents with cognitive or mental impairments, including Alzheimer's disease and dementia.

Comment: Support.

18VAC95-20-330. Training Facilities.

Proposed Language:

18VAC95-20-330. Training facilities. Training in an A.I.T. program shall be conducted only in [a facility with _____ or more resident beds and that is]:

Comment: We do not support excluding smaller nursing homes from being able to train AITs. We need to promote the training opportunity in all nursing homes regardless of licensing capacity.

18VAC95-20-340. Supervision of Trainees.

Proposed Language:

C. A preceptor shall:

2. Shall be routinely present with the trainee for on-site supervision in the training facility as appropriate to the experience and training of the AIT and the needs of the residents in the facility;

Comment: Add "or approved designee" to the following proposed language:

2. Shall be routinely present with the trainee or approved designee for on-site supervision in the training facility as appropriate to the experience and training of the AIT and the needs of the residents in the facility;



18VAC95-20-400. Reporting Requirements.

Proposed Language:

A. The preceptor shall maintain progress reports on forms prescribed by the board for each month of training. The preceptor shall include in the progress report evidence of on-site supervision of the AIT training.

Comment: Sufficient data needs to be provided to support the need for reporting. It appears to be an ethical standard that does not justify the need to regulate such a requirement.

18VAC95-30-70. Continuing Education Requirements.

Proposed Language:

3. At least [two hours] of continuing education [for each renewal year/for each even numbered renewal year] shall relate to the care of residents with mental or cognitive impairments, including Alzheimer's disease and dementia.

Comment: Support.

18VAC95-30-160. Required Content of an ALF Administrator-In-Training Program.

Proposed Language:

D. An ALF AIT shall be required to complete [an 80-hour course/a board-approved] in assisted living administration based upon a curriculum that meets NAB-approved standards as part of the total required AIT program hours as set forth by 18VAC95-30-100.

Comment: More information is needed about the proposed course. Such an additional course requirement may be a prohibitive condition to licensure.

E. An ALF AIT shall complete at least [number] hours of training on the care of residents with cognitive or mental impairments, including Alzheimer's disease and dementia.

Comment: Support

18VAC95-30-170. Training facilities.

Proposed Language: 4. An assisted living facility with less than [number] resident beds.

Comment: We do not support excluding smaller assisted livings from being able to train AITs. We need to promote the training opportunity in all assisted livings regardless of licensing capacity.



Fwd: ALF Sizes

1 message

----- Forwarded message -----

From: **Judy Hackler** <jhackler@valainfo.org>
Date: Tue, Jun 15, 2021 at 12:07 PM
Subject: ALF Sizes
To: Tillman Wolf, Corie <corie.wolf@dhp.virginia.gov>

Resident capacities per a report from Dec 2020...

- 20 or less – 149
- 21-50 – 105
- 51-75 – 102
- 76-100 – 93
- 101-150 – 84
- 151-200 – 19
- 200+ - 14

Mrs. Judy M. Hackler

Executive Director

Virginia Assisted Living Association (VALA)

PO Box 71266, Henrico, VA 23255

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Visit www.valainfo.org more information on upcoming dates of interest for Assisted Living Providers and Industry Partners.

Coronavirus (COVID-19) Resources and Updates: <https://www.valainfo.org/healthalert>

Virginia Assisted Living Spring/Summer Conference, June 28-30, 2021, The Hotel Roanoke, Roanoke, VA

Virginia Assisted Living Fall Conference, October 18-20, 2021, Hilton Norfolk The Main, Norfolk, VA



Fwd: smallest licensed nursing home

1 message

----- Forwarded message -----

From: **Judy Hackler** <jhackler@valainfo.org>
Date: Tue, Jun 15, 2021 at 10:21 AM
Subject: smallest licensed nursing home
To: Tillman Wolf, Corie <corie.wolf@dhp.virginia.gov>

FYI - According to VDH – the smallest on the list they provided me was 18. The largest was 312.

Mrs. Judy M. Hackler

Executive Director

Virginia Assisted Living Association (VALA)

PO Box 71266, Henrico, VA 23255

(804) 332-2111

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Virginia Assisted Living Fall Conference, October 18-20, 2021, Hilton Norfolk The Main, Norfolk, VA