

**REPORT OF THE
VIRGINIA BOARD OF LONG-TERM CARE ADMINISTRATORS
DEPARTMENT OF HEALTH PROFESSIONS**

Final Progress Report on the Regulation of Assisted Living Facility Administrators

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



SENATE DOCUMENT NO. 17

**COMMONWEALTH OF VIRGINIA
RICHMOND
2006**

Progress Report on the Regulation of Assisted Living Administrators Pursuant to Chapters 610 and 924 (2005)

Background

Senate Bill 1183 (Chapter 610), patroned by Senator Emmett Hanger and House Bill 2512 (Chapter 924), patroned by Delegate Phillip Hamilton, created the Board of Long-Term Care Administrators and required that board to promulgate regulations for the licensure of assisted living facility administrators. In the fifth enactment clause, the legislation provides: “ *That the Board of Long-Term Care Administrators shall convene a task force to develop licensing regulations for assisted living facility administrators and submit an initial progress report by November 1, 2005, and a follow-up progress report by November 1, 2006, on such regulations to the chairmen of the Joint Commission on Health Care, the House Committee on Health, Welfare and Institutions, and the Senate Committee on Rehabilitation and Social Services.*”

Progress in Development of Regulations

As specified in the enactment of the legislation, the Board of Long-Term Care Administrators presents the following follow-up progress report:

Pursuant to the 2005 Acts of the Assembly, the Board of Long-Term Care Administrators has a mandate to promulgate regulations for the licensure of assisted living facility administrators. Section 54.1-3102 was amended to mandate licensure: “*In order to engage in the general administration of an assisted living facility, it shall be necessary to hold an assisted living facility administrator's license or a nursing home administrator's license issued by the Board. However, an administrator of an assisted living facility licensed only to provide residential living care, as defined in § [63.2-100](#), shall not be required to be licensed.*” In development of regulations, the Board established criteria for licensure, including educational and experiential qualifications and a competency assessment, standards for practice and provisions for renewal and reinstatement.

Its goal has been to develop regulations that provide some assurance that the administrator is sufficiently educated and trained to handle the increasing complexity of an assisted living facility and to adequately protect and care for the residents of that facility. Since the regulation excludes from the licensure requirement any assisted living facility licensed only to provide residential living care, as defined in § [63.2-100](#), only the facilities that provide assisted living care (which tend to be the larger facilities) will be required to have a licensed administrator, as provided for in law.

In the sixth enactment clause, the Board of Long-Term Care Administrators was mandated to adopt final regulations to implement the provisions of this act to be effective on or before July

1, 2007. Therefore, the Board has planned and scheduled to complete all requirements of Executive Order 21(2002) and the Administrative Process Act for Executive Branch review and approval of each stage of regulatory action, for publication of regulatory language, public comment periods and a public hearing by the deadline in 2007.

With the seventh enactment stating: “That, notwithstanding the due course effective date of this act, the provisions of this act in §§ [54.1-3102](#), [54.1-3103.1](#) and [63.2-1803](#) shall not be implemented or enforced until 12 months after the regulations promulgated pursuant to the sixth enactment become effective,” it would be anticipated that licensure of assisted living administrators would begin in late 2007 and not be required before July 1, 2008.

Public Comment on Proposed Regulations

Following adoption of proposed regulation in January of 2006, the Board submitted the regulatory package for executive branch review. Approval for publication was received on June 30, 2006, and proposed regulations were published in *The Register of Regulations* on July 24, 2006. The Board sent a copy of the proposed regulations and notified approximately 625 facilities licensed by the Department of Social Services for assisted living of the opportunities to comment during the comment period. Comment was received by email or regular mail for a period of 60 days beginning July 24, 2006 and ending September 22, 2006. Written comments came from 15 individuals or organizations, and 18 persons submitted electronic comment on the Virginia Regulatory Town Hall. Ten other persons signed an identical letter expressing concern about the impact of regulations on their loved one in an assisted living facility. There was also a public hearing on September 12, 2006 at which eight persons provided comment.

Comments on the administrator regulations are summarized as follows:

- There was great concern about the impact on small facilities or homes, especially those that serve auxiliary grant residents. Homes will not be able to afford a licensed administrator, and the impact has not been fully studied. One size does not fit all.
- A number of people commented in favor of “grandfathering” all current administrators. It should not be necessary to pass a test to be licensed, or they thought it would be too difficult to pass a test. There were varying suggestions about the number of years of practice that should be grandfathered. There were also comments about other types of persons who should be grandfathered or allowed to be licensed after passage of a test – such as business managers or central office managers.
- There was concern expressed about the educational requirements with many commenting that someone should not have to have any hours of college education; a high school diploma or GED plus on-the-job training should be sufficient. On the other hand, one person commented that a bachelor’s degree should be the basic prerequisite, and another that education and training in business management should be required. Several people stated that the current training in a course approved by Social Services was sufficient, and no additional education should be necessary.

- One person commented that individuals with a bachelor’s or master’s degree should only have to have 6 hours in resident services management and an internship. The commenter also opposed the requirement for a national examination. Only a state examination should be required, and even nursing home administrators should be required to take that.
- Several noted that 1,000 hours of training in an administrator-in-training (AIT) program was too much; other advocated less AIT hours for persons who have an associate’s degree or a license as a healthcare practitioner. Some believed the state should offer training courses and preparation to sit for the examination. One commented that someone should be allowed to complete the AIT program in a nursing or rehabilitation facility.
- One person suggested two levels of licensure – a general license for basic assisted living care and an advanced license for those who have a special needs population or dementia residents.
- One organization commented that the proposed fees were too high; the license should cost no more than \$100. They also advocated for less hours of continuing education for renewal.
- There was concern expressed about whether a violation noted in a DSS inspection would result in a disciplinary action against the administrator under the unprofessional conduct regulations.
- Two organizations wrote to support the regulations as proposed.

The Administrative Process Act requires that a summary of comment be sent to all persons who commented at least five days prior to the adoption of a final regulation. The Board of Long-Term Care Administrators will receive a copy of all comment, consider any amendments, and respond to the comment prior to adoption of final regulations at its meeting on October 31, 2006.

Timeline for Promulgation of Regulations for Licensure of Assisted Living Administrators

Enactment of legislation	(SB1183) (HB2512)	3/23/05 4/6/05
Effective date of legislation		7/1/05
Adoption of Notice of Intended Regulatory Action (NOIRA) by Board		8/10/05
Submission of NOIRA to Registrar of Regulations		9/6/05
1 st meeting of Task Force on Assisted Living Administrator Licensure		9/14/05
Publication of NOIRA		10/3/05

Submission of draft report to the General Assembly to Secretary	10/17/05
2 nd meeting of Task Force	10/24/05
Submission of progress report to the General Assembly	11/1/05
Close of comment on NOIRA	11/2/05
3 rd meeting of Task Force	11/21/05
4 th meeting of Task Force	12/12/05
Adoption of Proposed Regulations	1/10/06
Publication of proposed regulations	7/24/06
Public hearing	9/12/06
60-day Comment period ends	9/22/06
Submission of draft report to the General Assembly to Secretary	9/29/06
Adoption of final regulations	10/31/06
Submission of follow-up progress report to the General Assembly	11/1/06
Effective date of final regulations	<u>by July 1, 2007</u>

Date assisted living facility administrators (in facilities providing assisted living care) will be required to be licensed - One year after the effective date of the regulations



COMMONWEALTH of VIRGINIA

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Director

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MEMORANDUM

TO: The Honorable Philip A. Hamilton
Chairman
Joint Commission on Health Care

FROM: Robert A. Nebiker 

DATE: September 27, 2006

SUBJECT: Progress Report on Licensure of Assisted Living Administrators

Enclosed is the follow-up progress report on the promulgation of regulations for licensure of assisted living administrators as specified in the fifth enactment clause of Senate Bill 1183 (Chapter 610) and House Bill 2512 (Chapter 924).

The Board of Long Term Care Administrators has published proposed regulations on licensure of assisted living administrators and has completed a sixty-day comment period and public hearing. A summary of the comments on proposed regulations is included in the report. The Board is on schedule to have Thai regulations in effect by the statutory deadline of July 1, 2007.

If you have any questions about the report or need additional information, please do not hesitate to call on my successor as of October 1, 2006, Sandra Ryals, at 662-9919 or Elaine Yeatts at 662-9918.

cc: The Honorable Marilyn B. Tavenner
Secretary of Health and Human Resources
Sandra Ryals,
Director Designate, Department of Health Professions



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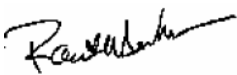
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MEMORANDUM

TO: The Honorable Philip A. Hamilton
Chairman
House Committee on Health, Welfare and Institutions

FROM: Robert A. Nebiker 

DATE: September 27, 2006

SUBJECT: Progress Report on Licensure of Assisted Living Administrators

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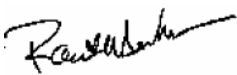
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MEMORANDUM

TO: The Honorable Emmett W. Hanger, Jr.
Chairman
Senate Committee on Rehabilitation and Social Services

FROM: Robert A. Nebiker 

DATE: September 27, 2006

SUBJECT: Progress Report on Licensure of Assisted Living Administrators

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