

~~government in the form of low interest loan/grant moneys from such locality's affordable housing funds in an amount equal to or greater than 20% of the total development costs, and (v) the application for the development must obtain as many points as the lowest ranked development that could have received a partial reservation of credits from the geographic pool in which the applicant would have been ranked in the most recent competitive scoring round. Any such reservations made in any calendar year may be up to 15% of the Commonwealth's annual state housing credit ceiling for the applicable credit year, of which at least 10% of the Commonwealth's annual state housing credit ceiling for the applicable credit year will be reserved for developments within Arlington County, Fairfax County, Alexandria City, Fairfax City or Falls Church City. However, such reservation will be for credits from the Commonwealth's annual state housing credit ceiling from the following calendar year.~~

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TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Final Regulation

REGISTRAR'S NOTICE: The State Board of Social Services has claimed an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The State Board of Social Services will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **22VAC40-72. Standards for Licensed Assisted Living Facilities (amending 22VAC40-72-201, 22VAC40-72-660).**

Statutory Authority: §§ 63.2-217 and 63.2-1732 of the Code of Virginia.

Effective Date: November 1, 2011.

Agency Contact: Judith McGreal, Program Consultant, Department of Social Services, Division of Licensing Programs, 801 North Main Street, Richmond, VA 23219, telephone (804) 726-7157, FAX (804) 726-7132, TTY (800) 828-1120, or email judith.mcgreal@dss.virginia.gov.

Summary:

The amendments conform the regulations to Chapters 463 and 609 of the 2011 Acts of Assembly. An amendment allows an assisted living facility to be operated for 150 days by an acting administrator who has applied for licensure, with a possible 30-day extension when awaiting

the results of the national exam. Facilities are limited to operating with an acting administrator one time during any two-year period unless authorized otherwise by the Department of Social Services. Another amendment provides that an assisted living facility administrator report certain information to the Department of Health Professions under specified circumstances about persons regulated by that department. This includes, but is not limited to, information regarding substance abuse and unethical or fraudulent conduct.

22VAC40-72-201. Administrator provisions and responsibilities.

A. Each facility shall have an administrator of record.

~~B. When an administrator terminates employment, the licensee shall hire a new administrator within 90 days from the date of termination. facility shall immediately employ a new administrator or appoint a qualified acting administrator so that no lapse in administrator coverage occurs. If a new administrator is not employed immediately when the administrator terminates employment, a qualified acting administrator, who is not required to be licensed, shall be appointed so that no lapse in administrator coverage occurs.~~

1. The licensee facility shall notify the department's regional licensing office in writing within 10 working days of a change in a facility's administrator including, but not limited to, the resignation of an administrator, appointment of an acting administrator, and appointment of a new administrator, except that the time period for notification may differ as specified in subdivision 2 of this subsection.

2. For facilities licensed for both residential and assisted living care, ~~if the facility is operating without an administrator licensed by the Virginia Board of Long-Term Care Administrators, the acting administrator~~ the facility shall immediately notify the Virginia Board of Long-Term Care Administrators and the department's regional licensing office of this fact that a new licensed administrator has been employed or that the facility is operating without an administrator licensed by the Virginia Board of Long-Term Care Administrators, whichever is the case, and provide the last date of employment of the previous licensed administrator.

3. For facilities licensed for both residential and assisted living care, when an acting administrator is named, he shall notify the department's regional licensing office of his employment, and if he is intending to assume the position permanently, submit a completed application for an approved administrator-in-training program to the Virginia Board of Long-Term Care Administrators within 10 days of employment.

4. For facilities licensed for both residential and assisted living care, the acting administrator shall be qualified by education for an approved administrator-in-training

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program and have a minimum of one year of administrative or supervisory experience in a health care or long-term care facility or have completed such a program and be awaiting licensure.

5. A facility may be operated by an acting administrator for no more than 150 days, or not more than 90 days if the acting administrator has not applied for licensure, from the last date of employment of the licensed administrator.

~~EXCEPTION: An acting administrator who is awaiting the final licensing decision of the Virginia Board of Long-Term Care Administrators may be granted one extension of up to 60 days in addition to the 90 allowed days if a written request to the regional licensing office of the Virginia Department of Social Services provides documentation of such.~~

EXCEPTION: An acting administrator may be granted one extension of up to 30 days in addition to the 150 days, as specified in this subdivision, upon written request to the department's regional licensing office. An extension may only be granted if the acting administrator (i) has applied for licensure as a long-term care administrator pursuant to Chapter 31 (§ 54.1-3100 et seq.) of Title 54.1 of the Code of Virginia, (ii) has completed the administrator-in-training program, and (iii) is awaiting the results of the national examination. If a 30-day extension is granted, the acting administrator shall immediately submit written notice of such to the Virginia Board of Long-Term Care Administrators.

6. A facility may not operate under the supervision of an acting administrator pursuant to §§ 54.1-3103.1 and 63.2-1803 of the Code of Virginia more than one time during any two-year period unless authorized to do so by the department.

C. The administrator shall be responsible for the general administration and management of the facility and shall oversee the day-to-day operation of the facility. This shall include, but shall not be limited to, responsibility for:

1. Maintaining compliance with applicable laws and regulations;
2. Developing and implementing all policies, procedures and services as required by this chapter;
3. Ensuring staff and volunteers comply with residents' rights;
4. Maintaining buildings and grounds;
5. Recruiting, hiring, training, and supervising staff; and
6. Ensuring the development, implementation, and monitoring of an individualized service plan for each resident, except that a plan is not required for a resident with independent living status.

D. The administrator shall report to the Director of the Department of Health Professions information required by and in accordance with § 54.1-2400.6 of the Code of Virginia regarding any person (i) licensed, certified, or registered by a health regulatory board or (ii) holding a multistate licensure privilege to practice nursing or an applicant for licensure, certification, or registration. Information required to be reported under specified circumstances includes, but is not limited to, substance abuse and unethical or fraudulent conduct.

~~D. E.~~ E. For facilities licensed for residential living care only, either the administrator or a designated assistant who meets the qualifications of the administrator shall be awake and on duty on the premises at least 40 hours per week with no fewer than 24 of those hours being during the day shift on week days.

EXCEPTIONS:

1. 22VAC40-72-220 allows a shared administrator for smaller facilities.
2. If the administrator is licensed as an assisted living facility administrator or nursing home administrator by the Board of Long-Term Care Administrators, the provisions regarding the administrator in subsection ~~E~~ F of this section apply. When such is the case, there is no requirement for a designated assistant.

~~E. F.~~ F. For facilities licensed for both residential and assisted living care, an administrator licensed by the Virginia Board of Long-Term Care Administrators, as specified in 22VAC40-72-191 E, shall serve as the on-site agent of the licensee and shall be responsible on a full-time basis for the day-to-day administration and management of the facility, except as provided in 22VAC40-72-220.

~~F. G.~~ G. The administrator, acting administrator or, as allowed in subsection ~~D~~ E of this section, designated assistant administrator shall not be a resident of the facility.

~~G. H.~~ H. The facility shall maintain a written work schedule of the on-site presence of the administrator and, if applicable, the designated assistant or, as provided for in 22VAC40-72-220 and 22VAC40-72-230, the manager.

1. Any changes shall be noted on the schedule.
2. The facility shall maintain a copy of the schedule for two years.

22VAC40-72-660. Qualifications and supervision of staff administering medications.

When staff administers medications to residents, the following standards shall apply:

1. Each staff person who administers medication shall be authorized by § 54.1-3408 of the Virginia Drug Control

Act. All staff responsible for medication administration shall:

- a. Be licensed by the Commonwealth of Virginia to administer medications; or
- b. Be registered with the Virginia Board of Nursing as a medication aide, except as specified in subdivision 2 of this section.

2. Any applicant for registration as a medication aide who has provided to the Virginia Board of Nursing evidence of successful completion of the education or training course required for registration may act as a medication aide on a provisional basis for no more than 120 days before successfully completing any required competency evaluation. However, upon notification of failure to successfully complete the written examination after three attempts, an applicant shall immediately cease acting as a medication aide.

3. Medication aides shall be supervised by:

- a. An individual employed full time at the facility who is licensed by the Commonwealth of Virginia to administer medications;
- b. The administrator who is licensed by the Commonwealth of Virginia to administer medications or who has successfully completed a training program approved by the Virginia Board of Nursing for the registration of medication aides. The training program for administrators who supervise medication aides, but are not registered medication aides themselves, must include a minimum of 68 hours of student instruction and training, but need not include the prerequisite for the program or the written examination for registration; or
- c. For facilities licensed for residential living care only, the designated assistant administrator, as specified in 22VAC40-72-201 ~~D~~ E, who is licensed by the Commonwealth of Virginia to administer medications or who has successfully completed a training program approved by the Virginia Board of Nursing for the registration of medication aides. The training program for designated assistant administrators who supervise medication aides, but are not registered medication aides themselves, must include a minimum of 68 hours of student instruction and training, but need not include the prerequisite for the program or the written examination for registration.

VA.R. Doc. No. R12-2907; Filed August 22, 2011, 8:54 a.m.

Final Regulation

REGISTRAR'S NOTICE: The State Board of Social Services has claimed an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to

conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The State Board of Social Services will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 22VAC40-890. Human Subject Research Regulations (amending 22VAC40-890-10).

Statutory Authority: §§ 63.2-217 and 63.2-218 of the Code of Virginia.

Effective Date: November 1, 2011.

Agency Contact: Todd Areson, Institutional Review Board Administrator, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7490, FAX (804) 726-7946, or email todd.areson@dss.virginia.gov.

Summary:

The amendment replaces the definition of "local agency" with the definition of "local department" in conformance with § 63.2-100 of the Code of Virginia.

22VAC40-890-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Affiliated with the department" means any individual employed, either on a paid or volunteer basis, by the Virginia Department of Social Services, by a local department of social services, or by an agency licensed by the Virginia Department of Social Services.

"Authorized" means to permit the implementation or conducting of research.

"Board" means the Virginia State Board of Social Services.

"Commissioner" means the Commissioner of the Virginia Department of Social Services or his designee.

"Committee" means the human research review committee which reviews and approves human research activities related to this chapter.

"Contractor" means agencies, organizations, or individuals providing goods or services, receiving funds, or under contract with the department or a local agency including, but not limited to, foster homes and day-care homes.

"Department" means the Virginia Department of Social Services.

"Discomforts, risks, and benefits" means the expected advantages and disadvantages to the participant for participating in the research.

"Facility" means any agency licensed by the department including, but not limited to, adult and child day and residential facilities.