

22 VAC 40-72-10. Definitions.

"Licensee" means any person, association, partnership, corporation, company or public agency to whom the license is issued.

"Manager" means a designated person who serves as a manager pursuant to 22 VAC 40-72-220 and 22 VAC 40-72-230.

"Mandated reporter" means the following persons acting in their professional capacity who have reason to suspect abuse, neglect or exploitation of an adult:

1. Any person licensed, certified, or registered by health regulatory boards listed in § 54.1-2503 of the Code of Virginia, with the exception of persons licensed by the Board of Veterinary Medicine;
2. Any mental health services provider as defined in § 54.1-2400.1 of the Code of Virginia;
3. Any emergency medical services personnel certified by the Board of Health pursuant to § 32.1-111.5 of the Code of Virginia;
4. Any guardian or conservator of an adult;
5. Any person employed by or contracted with a public or private agency or facility and working with adults in an administrative, supportive or direct care capacity;
6. Any person providing full, intermittent or occasional care to an adult for compensation, including but not limited to companion, chore, homemaker, and personal care workers; and
7. Any law-enforcement officer.

This is pursuant to § 63.2-1606 of the Code of Virginia.

"Maximum physical assistance" means that an individual has a rating of total dependence in four or more of the seven activities of daily living as documented on the uniform assessment instrument. An individual who can participate in any way with performance of the activity is not considered to be totally dependent.

"Medication aide" means a staff person who has current registration with the Virginia Board of Nursing to administer drugs that would otherwise be self-administered to residents in an assisted living facility in accordance with the Regulations Governing the Registration of Medication Aides (18 VAC 90-60). This definition also includes a staff person who is an applicant for registration as a medication aide as provided in 22 VAC 40-72-660.

22 VAC 40-72-150. Safeguarding residents' funds.

4. If any personal funds are held by the facility for safekeeping on behalf of the resident, a written accounting of money received and disbursed, showing a current balance, shall be maintained. Residents' funds and the accounting of the funds shall be made available to the resident or the legal representative or both upon request.

B. No facility administrator or staff person shall act as either attorney-in-fact or trustee unless the resident has no other preferred designee and the resident himself expressly requests such service by or through facility personnel. Any facility administrator or staff person so named shall be accountable at all times in the proper discharge of such fiduciary responsibility as provided under Virginia law, shall provide a quarterly accounting to the resident, and, upon termination of the power of attorney or trust for any reason, shall return all funds and assets, with full accounting, to the resident or to his legal representative or to another responsible party expressly designated by the resident. See also 22 VAC 40-72-120 regarding conservators or guardians appointed by a court of competent jurisdiction.

**PART III.
PERSONNEL.**

22 VAC 40-72-160. Personnel policies and procedures.

A. The facility shall develop and keep current a written job description for each position in the facility. The job description shall include:

1. Job title;
2. Duties and responsibilities required of the position;
3. Job title of the immediate supervisor; and
4. Minimum knowledge, skills and abilities, experience, or educational or professional qualifications required for entry level.

B. Each staff person shall be given a copy of his current job description and of the facility's current organizational chart.

C. The facility shall develop and implement procedures for verifying current professional licensing, registration, provisional status of medication aides, or certification and training of staff.

D. The facility shall develop and implement procedures for annually evaluating staff performance.

22 VAC 40-72-210. Administrator training.

Care Administrators, subsection B of this section applies rather than subsection A of this section.

B. For facilities licensed for both residential and assisted living care, the administrator shall meet the continuing education requirements for licensure as an assisted living facility or nursing home administrator, whichever is applicable.

C. Any administrator who has not previously undergone the training specified in 22 VAC 40-72-50 D shall be required to complete that training within two months of employment as administrator of the facility. The training may be counted toward the annual training requirement for the first year, except that for licensed administrators, whether the training counts toward continuing education and for what period of time depends upon the administrator licensure requirements.

EXCEPTION: Administrators employed prior to December 28, 2006, are not required to complete this training.

D. If medication is administered to residents by medication aides as allowed in 22 VAC 40-72-660 1 b and 2, the administrator shall successfully complete 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. The training shall be completed within four months of employment as an administrator and may be counted toward the annual training requirement for the first year, except that for licensed administrators, whether the training counts toward continuing education and for what period of time depends upon the administrator licensure requirements. The following exceptions apply:

1. The administrator is licensed by the Commonwealth of Virginia to administer medications; or
2. Medication aides are supervised by an individual employed full time at the facility who is licensed by the Commonwealth of Virginia to administer medications.

22 VAC 40-72-220. Shared administrator for smaller facilities.

A. For facilities licensed for residential living care only, the administrator may be awake and on duty on the premises of a facility for fewer than the minimum 40 hours per week, without a designated assistant, under the following conditions:

22 VAC 40-72-650. Storage of medications.

b. When it is necessary to store medications in a refrigerator that is routinely used for food storage, the medications shall be stored together in a locked container in a clearly defined area.

B. A resident may be permitted to keep his own medication in a secure place in his room if the UAI has indicated that the resident is capable of self-administering medication. The medication and any dietary supplements shall be stored so that they are not accessible to other residents. This does not prohibit the facility from storing or administering all medication and dietary supplements.

22 VAC 40-72-660. 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,

22 VAC 40-72-660. Qualifications and supervision of staff administering medications.

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 22 VAC 40-72-201 D, 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.

22 VAC 40-72-670. Administration of medications and related provisions.

A. Staff who are licensed, registered, or acting as a medication aide on a provisional basis as specified in 22 VAC 40-72-660 shall administer drugs to those residents who are dependent in medication administration as documented on the UAI.

B. All medications shall be removed from the pharmacy container by a staff person licensed, registered, or acting as a medication aide on a provisional basis as specified in 22 VAC 40-72-660 and administered by the same staff person not earlier than one hour before and not later than one hour after the facility's standard dosing schedules, except those drugs that are ordered for specific times, such as before, after or with meals. Pre-pouring for later administration is not permitted.

C. All medications shall be administered in accordance with the physician's or other prescriber's instructions and consistent with the standards of practice outlined in the current registered medication aide curriculum approved by the Virginia Board of Nursing.

D. All medications shall remain in the pharmacy issued container, with the legible prescription label or direction label attached, until administered.

E. Sample medications shall remain in the original packaging, labeled by a physician or other prescriber or pharmacist with the resident's name, the name of the medication, the strength, dosage, route and frequency of administration, until administered.

F. Over-the-counter medication shall remain in the original container, labeled with the resident's name, or in a pharmacy-issued container, until administered.

G. In the event of an adverse drug reaction or a medication error:

1. First aid shall be administered as directed by a physician, pharmacist or the Virginia Poison Control Center.

2. The resident's physician of record shall be notified as soon as possible.