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Subject: Out of State ALF Administrator Temporary Authorization to Practice

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VIRGINIA DEPARTMENT OF
SOCIAL SERVICES

People Helping People



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COMMONWEALTH of VIRGINIA

DEPARTMENT OF SOCIAL SERVICES

DATE: November 6, 2024

TO: Assisted Living Facilities

FROM: Tara Ragland, Director
Division of Licensing Programs

SUBJECT: Revisions to Chapter 73. *Standards for Licensed Assisted Living Facilities*

The regulation, 22VAC40-73, *Standards for Licensed Assisted Living Facilities* (ALF), has been revised to incorporate Chapter [390](#) of the 2024 Acts of the General Assembly that affects Assisted Living Facilities.

The amended regulation was published as final regulation in the Virginia Register of Regulations on October 7, 2024. The effective date of the amended regulation is November 6, 2024. This action was exempt from the full Administrative Process Act regulatory process because the purpose of the revision to the regulation was to incorporate the changes in state law.

The amendment made to the regulation adds being authorized to temporarily practice pursuant to § [54.1-2408.4](#) of the Code of Virginia as a qualification option for administrators of facilities licensed for both residential and assisted living care.

ALF administrators licensed, certified, or registered in another state or the District of Columbia are authorized to temporarily practice for one 90-day period, provided that the ALF administrator is contracted by or has received an offer of employment in Virginia and certain other conditions are met.

The ALF and ALF administrator shall adhere to the following requirements outlined in § 54.1-2408.4 of the Code of Virginia to be eligible for the temporary practice period:

1. The out-of-state ALF administrator shall be contracted by or have received an offer of employment in the Commonwealth from an assisted living facility;

2. The assisted living facility shall verify that the out-of-state ALF administrator possesses an active and unencumbered license, certification, or registration in another state or the District of Columbia;
3. The assisted living facility shall obtain a report from the National Practitioner Data Bank if the applicant is subject to reporting; and
4. Prior to the out-of-state ALF administrator practicing, the assisted living facility shall notify the Virginia Board of Long-Term Care Administrators that the out-of-state ALF administrator is employed or under contract and will practice under the temporary authorization. This notice shall include the out-of-state ALF administrator's out-of-state license, certification, or registration number and a statement that such ALF administrator meets all of the requirements set forth in § 54.1-2408.4 of the Code of Virginia.

The Virginia Board of Long-Term Care Administrator's Out-of-State Temporary Practitioner Reporting form can be accessed [here](#).

Out-of-state ALF administrators practicing under a temporary authorization pursuant to § 54.1-2408.4 of the Code of Virginia shall be subject to the laws and regulations of the Commonwealth and shall be subject to disciplinary action by the Virginia Board of Long Term Care Administrators.

The regulation replacement page is attached to this memo. A copy of the revised regulation and replacement page can be found on the Virginia Department of Social Services (VDSS) [website](#) under the Regulations and Code References on the ALF program page.

Please contact your licensing inspector should you have questions.

22VAC40-73-140. Administrator qualifications.

- B. The administrator shall be able to read and write and understand this chapter.
- C. The administrator shall be able to perform the duties and carry out the responsibilities required by this chapter.
- D. For a facility licensed only for residential living care that does not employ an administrator licensed by the Virginia Board of Long-Term Care Administrators, the administrator shall:
1. Be a high school graduate or shall have a General Education Development (GED) Certificate;
 2. (i) Have successfully completed at least 30 credit hours of postsecondary education from a college or university accredited by an association recognized by the U.S. Secretary of Education and at least 15 of the 30 credit hours shall be in business or human services or a combination thereof; (ii) have successfully completed a course of study approved by the department that is specific to the administration of an assisted living facility; (iii) have a bachelor's degree from a college or university accredited by an association recognized by the U.S. Secretary of Education; or (iv) be a licensed nurse; and
 3. Have at least one year of administrative or supervisory experience in caring for adults in a residential group care facility.

The requirements of this subsection shall not apply to an administrator of an assisted living facility employed prior to February 1, 2018, who met the requirements in effect when employed and who has been continuously employed as an assisted living facility administrator.

- E. For a facility licensed for both residential and assisted living care, the administrator shall be:
1. Licensed as an assisted living facility administrator or nursing home administrator by the Virginia Board of Long-Term Care Administrators pursuant to Chapter 31 (§ 54.1-3100 et seq.) of Title 54.1 of the Code of Virginia; or
 2. Authorized to temporarily practice pursuant to § 54.1-2408.4 of the Code of Virginia.

22VAC40-73-150. Administrator provisions and responsibilities.

- A. Each facility shall have an administrator of record.