



Judith M. Persichilli, R.N., B.S.N., M.A.
Commissioner
New Jersey Department of Health
PO Box 360
John Fitch Plaza
Trenton, NJ 08625-0360

March 25, 2021

Re: Petition for Rulemaking: N.J.A.C 8:39-43.10(m) Approval of a nurse aide in long-term care facilities training program

Dear Commissioner Persichilli,

On behalf of the nursing home members of the New Jersey Hospital Association, the Health Care Association of NJ, LeadingAge New Jersey and Delaware the New Jersey Business and Industry Association, and the New Jersey Council of County Colleges and the NJ Council of County Vocational-Technical Schools we are writing to petition the Department of Health pursuant to N.J.A.C. § 1:30-4.1 to revise the regulatory provisions governing approval of a nurse aide in long term care facilities training program that are found at N.J.A.C. 8:39-43.10(m).

The current regulatory requirement states:

(m) Each nurse aide training program instructor/evaluator shall:

- 1. Be currently licensed in New Jersey as a registered professional nurse;*
- 2. Possess at least three years of full-time or full-time equivalent experience in a licensed health care facility;*
- 3. Possess at least one year of full-time or full-time equivalent experience as a registered professional nurse in a licensed long term care facility, within the five years immediately preceding submission of the instructor/evaluator resume to the Certification Program of the Department for approval; and*
- 4. Have successfully completed a training workshop offered by the Department for instructors/evaluators.*

Requested Rulemaking Revisions to N.J.A.C. 8:39-43.10(m)

We are petitioning the Department to make revisions at N.J.A.C. 8:39-43.10(m) because New Jersey's requirements are more stringent than the Centers for Medicare and Medicaid Services' provisions related to the approval of instructors who can train nurse aides. This makes the operation of nurse aide training programs more difficult in New Jersey, with no apparent added value or benefit to New Jersey's nursing homes, the training programs or the nurse aide candidates themselves. Our colleagues from the vocational schools and county colleges that have approved CNA training programs have shared that they have approximately twice the number of applicants for available seats in their programs due to the difficulty of finding instructors who meet the Department's criteria. At a time when the shortage of qualified CNAs is a predominant concern, we

want to collaborate with the Department to remove as many impediments to training more CNAs as we possibly can.

Therefore, NJHA, HCANJ, LANJDE, NJBIA, NJCCC and NJCCVTS are proposing the following revisions to the current regulatory provisions to bring New Jersey's requirements into alignment with CMS' regulations at 42 CFR 483.152(a)(5)(i)-(iv). New language is in **bold** and language proposed to be removed is in brackets [].

N.J.A.C. 8:39-43.10(m).

(m) Each nurse aide training program instructor/evaluator shall:

- 1. Be currently licensed in New Jersey as a registered professional nurse;*
- 2. Possess at least **two** [three] years of **nursing** [full-time or full-time equivalent] experience [in a licensed health care facility];*
- 3. Possess at least one year of [full-time or full-time equivalent] experience as a registered professional nurse in a licensed long term care facility[, within the five years immediately preceding submission of the instructor/evaluator resume to the Certification Program of the Department for approval;] and*
- 4. Have successfully completed a training workshop **in teaching adults or have experience in teaching adults or supervising nurse aides** [offered by the Department for instructors/evaluators.]*
- 5. **In a facility-based program, the training of nurse aides may be performed under the general supervision of the director of nursing for the facility who is prohibited from performing the actual training; and***
- 6. **Other personnel from the health professions may supplement the instructor, including, but not limited to, registered nurses, licensed practical nurses, pharmacists, dietitians, social workers, sanitarians, fire safety experts, nursing home administrators, gerontologists, psychologists, physical and occupational therapists, activities specialists, speech language pathologists, audiologists and resident rights experts. Supplemental personnel must have at least 1 year of experience in their fields.***

NJHA, HCANJ, LANJDE, NJBIA, NJCCC and NJCCVTS appreciate the Department's consideration of this petition for rulemaking and look forward to working with you on this important issue. We would be happy to respond to any questions you may have.

Sincerely,

Theresa Edelstein
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Partnerships Transforming Health

Andrew Aronson
President & CEO
HCANJ

James McCracken
President & CEO
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