

HEALTH

THE COMMISSIONER

STANDARDS FOR LICENSURE OF LONG-TERM CARE FACILITIES

CERTIFICATION OF NURSE AIDES IN LONG-TERM CARE FACILITIES

Notice of Receipt of Petition for Rulemaking

Approval of a Nurse Aide in Long-Term Care Facilities Training Program

Eligibility Criteria for Evaluators in Training Programs for Long Term Care Facility

Nurse Aides

N.J.A.C. 8:39-43.10

Petitioner: Theresa Edelstein, Senior Vice President, Partnerships Transforming Health,
on behalf of the New Jersey Hospital Association.

Take notice that on November 17, 2022, the Department of Health (Department) received a petition for rulemaking from Theresa Edelstein, Senior Vice President, Partnerships Transforming Health on behalf of the New Jersey Hospital Association.

Substance or Nature of the Requested Rulemaking Action:

The petitioner requests that the Department make certain amendments to N.J.A.C. 8:39-43.10(n), pertaining to the approval of a nurse aide in long-term care facilities training program.

Problem or Purpose of the Request:

N.J.A.C. 8:39-43:10(n) sets forth the minimum qualifications for individuals to serve as evaluators of the clinical skills demonstration part of the competency

evaluation for certified nurse aide (CNA) candidates. Certification is a condition of employment in licensed long-term care facilities in New Jersey.

The petitioner states that the eligibility requirements for evaluators of nurse aide training programs are more stringent than the requirements of the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services, which are set forth at 42 CFR 483.154(c)(4)(ii). The petitioner requests that the Department relax the requirements at N.J.A.C. 8:39-43.10(n) to mirror the nurse aide evaluator requirements in the referenced Federal regulation.

The petitioner states that N.J.A.C. 8:39-43.10(n) makes the operation of the nurse aide training programs and clinical skills evaluation of candidates more difficult, “with no apparent added value or benefit to New Jersey’s nursing homes, the training programs or the nurse aide candidates themselves.” The petitioner states that they have “worked collaboratively to have many temporary nurse aides complete their clinical skills test, but (they) have seen delays occur often because of the shortage of clinical skills evaluators.” Further, “at a time when the shortage of qualified CNAs is a predominant concern, (they) want to collaborate with the Department to remove as many impediments to credentialing more CNAs.” The petitioner provides suggested changes to the text of existing N.J.A.C. 8:39-43.10(m). The petitioner states “the Health Care Association of New Jersey, Leading Age New Jersey & Delaware and the New Jersey Business and Industry Association have expressed their support for this petition.”

Full text of the petitioner’s suggested changes to existing N.J.A.C. 8:39-43.10 (with technical modifications to comport the text to New Jersey Register style and

formatting conventions) follows (additions to existing text indicated in boldface **thus**; deletions from existing text indicated in brackets [thus]):

8:39-43.10 Approval of a nurse aide in long-term care facilities training program

(a)-(m) (No change.)

[(n) Each nurse aide training program 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 evaluator resume to the Certification Program of the Department for approval; and

4. Have successfully completed a training workshop offered by the Department for evaluators.]

(n) Each nurse aide evaluator shall be a registered nurse with at least one year's experience in providing care for the elderly or the chronically ill of any age.

In accordance with the provisions at N.J.A.C. 1:30-4.2, a copy of this notice has been mailed to the petitioner, and the Department will subsequently mail to the petitioner, and file with the Office of Administrative Law, a notice of action on the petition.