

CHAPTER 326

AN ACT concerning the certification of temporary nurse aides.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The Legislature finds and declares that:

a. In order to be employed as a certified nurse aide in a health care facility, an applicant is required to have successfully completed a State-approved training and competency evaluation program or a program that is at least equal to State requirements.

b. Certified nurse aide training helps to ensure that certified nurse aides possess the education, practical knowledge, and skills needed to care for residents of health care facilities participating in Medicare and Medicaid programs.

c. In light of COVID-19, regulatory provisions have been waived to permit the hiring of temporary nurse aides to address staffing shortages, including CMS's 1135 waiver of certain requirements for training and certification of nurse aides.

d. Temporary nurse aides have served admirably and compassionately in this capacity and have demonstrated, through accelerated training and experience, adequate competency and the ability to transition to working as certified nurse aides.

2. As used in this act:

"CMS" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

"Commissioner" means the Commissioner of the New Jersey Department of Health.

"Health care facility" means a health care facility licensed by the Department of Health pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

"Temporary nurse aide" means a nurse aide who has been hired by a health care facility in accordance with applicable federal and State regulatory waivers that were issued in response to COVID-19.

3. Notwithstanding any provision of law to the contrary, the Commissioner shall issue a nurse aide certification to an applicant who has applied to the Department of Health for certification as a nurse aide, in a manner determined by the Commissioner, and who is a temporary nurse aide, if:

a. between the first day of the public health emergency declared in response to COVID-19 and January 11, 2022:

(1) the temporary nurse aide successfully completed a training program and competency assessment authorized under a New Jersey waiver due to COVID-19 which included an online training component and an online examination, and, if so required, such additional training as may be required to satisfy the requirements of 42 C.F.R. s.483.152 or any other provision of federal law or regulation; and

(2) the temporary nurse aide worked a minimum of 80 hours under the supervision of a licensed professional nurse, and the temporary nurse aide's adequate competency during that period is established by a certification or letter from the director of nursing attesting to the temporary nurse aide's adequate competency;

b. the temporary nurse aide successfully completed the criminal history record background check required pursuant to section 2 of P.L.1997, c.100 (C.26:2H-83) except that this section shall not be construed to supersede subsection d. or any other provision of section 3 of P.L.1997, c.100 (C.26:2H-84); and

c. between the first day of the public health emergency declared in response to COVID-19 and February 16, 2022, the temporary nurse aide successfully completed (1) a State-approved nurse aide written examination in no more than three attempts and (2) a State-approved clinical skills competency examination.

4. Temporary nurse aides who have not been certified as nurse aides pursuant to section 3 of this act shall be permitted to work as temporary nurse aides until February 16, 2022.

5. The Department of Health may issue guidance or adopt regulations necessary to effectuate the purposes of this act, which regulations shall be effective immediately upon filing with the Office of Administrative Law and until February 16, 2022.

6. This act shall take effect immediately and shall expire on the 365th day after the end of the public health emergency declared in response to COVID-19.

Approved December 21, 2021.