T & E

P.L. 2021, CHAPTER 368, ***approved January 12, 2022***
Senate, No. 4139 ***(Third Reprint)***

AN ACT concerning certain health care professionals [1]and amending [3][P.L. , c. (pending before the Legislature as Assembly Bill No. 5353 (2R) of 2020/2021)[1]] P.L.2021, c.326[3] .

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

1. [1](New section)[1] The Legislature finds and declares that:

a. Health care workers have demonstrated their commitment to helping the residents of the State of New Jersey emerge from the coronavirus disease 2019 (COVID-19) pandemic by continuing to provide care and treatment to patients while working under conditions of enormous stress and uncertainty.

b. On March 26, 2020, the Division of Consumer Affairs in the Department of Law and Public Safety issued waivers, under the authority of Executive Order No. 103 of 2020, permitting certain health care workers licensed in other states to practice in New Jersey under a temporary emergency license. On May 5, 2020, the division issued additional waivers authorizing graduates of certain accredited training programs to provide health care services in New Jersey under a temporary emergency license.

c. The temporary emergency reciprocal licensure of out-of-State health care workers in New Jersey and the temporary emergency graduate licensure for nurses, physician assistants, respiratory care therapists, pharmacists, and alcohol and drug counselors approved under these waivers will expire on January 11, 2022, pursuant to the provisions of P.L.2021, c.103 (C.26:13-32 et seq.) and Executive Order No. 244 of 2021.

d. In light of the ongoing health care needs of the citizens of New Jersey and the ongoing challenges in ensuring the health care workforce is able to meet the demand for health care services, the Legislature finds it is necessary and appropriate to authorize out-of-State health care workers practicing under a temporary emergency reciprocal license, and [1][recently-graduated] recently graduated[1] health care workers practicing under a temporary emergency graduate license, to continue to practice in the State to the same extent, and subject to the same requirements, as are provided under the Division of Consumer Affairs waivers, for a period [1][of 60 days following the end of the federal public health emergency declared in response to the COVID-19 pandemic] extending through June

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Senate SHH committee amendments adopted December 6, 2021.
[2]Senate floor amendments adopted December 20, 2021.
[3]Assembly floor amendments adopted January 10, 2022.

30, 2022, as well as to authorize additional out-of-State and recently graduated health care workers to apply for, and be issued, a temporary emergency license to practice in New Jersey during this period[1] .

2. [1](New section)[1] a. As used in this section:

[2]"Alcohol and drug counselor intern" means an individual in training working under the clinical supervision of a qualified clinical supervisor as set forth in N.J.A.C.13:34C-6.2(a) and who is working toward completing the requirements of N.J.A.C.13:34C-2.3(b)3ii.[2]

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Group 2 health care professional" means an advanced practice nurse, [2][certified] licensed[2] social worker, doctor of osteopathy, homemaker-home health aide, licensed practical nurse, licensed alcohol and drug counselor, licensed clinical social worker, marriage and family therapist, medical doctor, professional counselor, psychoanalyst, psychologist, registered professional nurse, and respiratory care practitioner.

[2]"Temporary emergency alcohol and drug counselor intern certification" means a certification to practice as an alcohol and drug counselor intern in New Jersey, subject to certain requirements and waivers, issued to an alcohol and drug counselor intern by the division pursuant to DCA Administrative Order No. 2020-13 and DCA Waiver No. W-2020-12.[2]

"Temporary emergency graduate license" means a license issued to a nurse, physician assistant, respiratory care therapist, pharmacist, [2]social worker,[2] or [2][alcohol and drug] associate[2] counselor who graduated from an accredited program but did not yet meet the requirements for licensure, which emergency [1][licensed] license[1] was issued by the division pursuant to DCA Administrative Order No. 2020-05 and DCA Waiver No. W-2020-09 [2]or DCA Administrative Order No. 2020-12 and DCA Waiver No. W-2020-11, as applicable[2] , and which license authorizes the nurse, physician assistant, respiratory care therapist, pharmacist, [2]social worker,[2] or [2][alcohol and drug] associate[2] counselor to practice in New Jersey.

"Temporary emergency reciprocal license" means a license issued by the division, pursuant to a waiver approved by the division under the authority of Executive Order No. 103 of 2020, to a health care professional licensed in a state other than New Jersey, [1][and][1] which license authorizes the health care professional to fully engage in the practice of that person's profession in New Jersey, both in person and using telemedicine and telehealth, without requiring full licensure by a licensing board within the division.

b. [1](1) For the period commencing on the effective date of this act through June 30, 2022, any group 2 health care professional may apply to the division for a temporary emergency reciprocal license,

which license, if approved, shall authorize the professional to practice in New Jersey under the same terms and conditions as apply to a temporary emergency reciprocal license issued under the waiver approved by the division under the authority of Executive Order No. 103 of 2020 authorizing the issuance of temporary emergency reciprocal licenses. The requirements and criteria for issuance of a temporary emergency reciprocal license pursuant to this paragraph shall be the same as for a temporary emergency reciprocal license issued under the waiver approved by the division under the authority of Executive Order No. 103 of 2020 authorizing the issuance of temporary emergency reciprocal licenses. A group 2 health care professional issued a temporary emergency reciprocal license pursuant to this paragraph shall be authorized to practice under the license through June 30, 2022.

(2)[1] Notwithstanding any other provision of law to the contrary, a group 2 health care professional practicing in New Jersey under a temporary emergency reciprocal license on the effective date of this act shall be authorized to continue practicing, under the same terms and conditions as applied under that temporary emergency reciprocal license, [1]**[**for a period of 60 days following the end of the federal public health emergency declared in response to the coronavirus disease 2019 (COVID-19) pandemic**]** through June 30, 2022. A group 2 health care professional who holds a valid temporary emergency reciprocal license on the effective date of this act shall not be required to apply for a license pursuant to paragraph (1) of this subsection to continue practicing under the temporary emergency reciprocal license through June 30, 2022[1] .

c. [1](1) For the period commencing on the effective date of this act through June 30, 2022, any nurse, physician assistant, respiratory care therapist, pharmacist, [2]social worker,[2] or [2]**[**alcohol and drug**]** associate[2] counselor may apply to the division for a temporary emergency graduate license, which license, if approved, shall authorize the professional to practice in New Jersey under the same terms and conditions as apply to a temporary emergency graduate license issued pursuant to DCA Administrative Order No. 2020-05 and DCA Waiver No. W-2020-09 [2]or DCA Administrative Order No. 2020-12 and DCA Waiver No. W-2020-11, as applicable[2] . The requirements and criteria for issuance of a temporary emergency graduate license pursuant to this paragraph shall be the same as for a temporary emergency graduate license issued pursuant to DCA Administrative Order No. 2020-05 and DCA Waiver No. W-2020-09 [2]or DCA Administrative Order No. 2020-12 and DCA Waiver No. W-2020-11, as applicable[2] . A nurse, physician assistant, respiratory care therapist, pharmacist, [2]social worker,[2] or [2]**[**alcohol and drug**]** associate[2] counselor issued a temporary emergency graduate license pursuant to this paragraph shall be authorized to practice under the license through June 30, 2022.

(2)[1] Notwithstanding any other provision of law to the contrary, a nurse, physician assistant, respiratory care therapist, pharmacist, [2]social worker,[2] or [2]**[**alcohol and drug**]** associate[2] counselor authorized to practice under a temporary emergency graduate license on the effective date of this act shall be authorized to continue practicing, under the same terms and conditions as applied to a license issued pursuant to DCA Administrative Order No. 2020-05 and DCA Waiver No. W-2020-09 [2]or DCA Administrative Order No. 2020-12 and DCA Waiver No. W-2020-11, as applicable[2] , [1]**[**for a period of 60 days following the end of the federal public health emergency declared in response to the COVID-19 pandemic**]** through June 30, 2022. A nurse, physician assistant, respiratory care therapist, pharmacist, [2]social worker,[2] or [2]**[**alcohol and drug**]** associate[2] counselor who holds a valid temporary emergency graduate license on the effective date of this act shall not be required to apply for a license pursuant to paragraph (1) of this subsection to continue practicing under the temporary emergency graduate license through June 30, 2022[1] .

d. [2](1) For the period commencing on the effective date of this act through June 30, 2022, any alcohol and drug counselor intern may apply to the division for a temporary emergency alcohol and drug counselor intern certification, which certification, if approved, shall authorize the alcohol and drug counselor intern to practice in New Jersey under the same terms and conditions as apply to a temporary emergency alcohol and drug counselor intern certification issued pursuant to DCA Administrative Order No. 2020-13 and DCA Waiver No. W-2020-12. The requirements and criteria for issuance of a temporary emergency alcohol and drug counselor intern certification pursuant to this paragraph shall be the same as for a temporary emergency alcohol and drug counselor intern certification issued pursuant to DCA Administrative Order No. 2020-13 and DCA Waiver No. W-2020-12. An alcohol and drug counselor intern issued a temporary emergency alcohol and drug counselor intern certification pursuant to this paragraph shall be authorized to practice under the certification through June 30, 2022.

(2) Notwithstanding any other provision of law to the contrary, an alcohol and drug counselor intern authorized to practice under a temporary emergency alcohol and drug counselor intern certification on the effective date of this act shall be authorized to continue practicing, under the same terms and conditions as applied to a certification issued pursuant to DCA Administrative Order No. 2020-13 and DCA Waiver No. W-2020-12 through June 30, 2022. An alcohol and drug counselor intern who holds a valid temporary emergency alcohol and drug counselor intern certification on the effective date of this act shall not be required to apply for a certification pursuant to paragraph (1) of this subsection to continue practicing under the temporary emergency alcohol and drug counselor intern certification through June 30, 2022.

e.[2] Nothing in this section shall be construed to:

(1) prevent a health care professional practicing under a temporary emergency reciprocal license [2][or] ,[2] an emergency graduate license [2], or a temporary emergency alcohol and drug counselor intern certification[2] from applying for or receiving full licensure [2]or certification[2] in New Jersey, provided the professional otherwise meets the requirements for licensure [2]or certification[2] ; or

(2) [1]authorize the issuance of a temporary emergency reciprocal license [2][or] ,[2] a temporary emergency graduate license [2], or a temporary emergency alcohol and drug counselor intern certification[2] to, or[1] reinstate a temporary emergency reciprocal license [2][or] ,[2] a temporary emergency graduate license [2], or a temporary emergency alcohol and drug counselor intern certification[2] for [1],[1] any individual whose temporary emergency reciprocal license [2][or] ,[2] temporary emergency graduate license [2], or temporary emergency alcohol and drug counselor intern certification expired or[2] was [2][revoked] rescinded[2] by the division prior to the effective date of this act.

[3][1]3. Section 4 of P.L. , c. (pending before the Legislature as Assembly Bill No. 5353 (2R) of 2020/2021) is amended to read as follows:

4. Temporary nurse aides who have not been certified as nurse aides pursuant to section 3 of [this act] P.L. , c. (pending before the Legislature as Assembly Bill No. 5353 (2R) of 2020/2021) shall be permitted to work as temporary nurse aides until [February 16, 2022] June 30, 2022.[1]

(cf: P.L. , c. , s.4 (pending before the Legislature as Assembly Bill No. 5353 (2R) of 2020/2021))[]3

[3]3. Section 3 of P.L.2021, c.326 is amended to read as follows:

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⟧ June 30, 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.[3]

(cf: P.L.2021, c.326, s.3)

[3]4. Section 4 of P.L.2021, c.326 is amended to read as follows:

4. Temporary nurse aides who have not been certified as nurse aides pursuant to section 3 of ⟦this act⟧ P.L.2021, c.326 shall be permitted to work as temporary nurse aides until ⟦February 16, 2022⟧ June 30, 2022.[3]

(cf: P.L.2021, c.326, s.4)

[3]5. Section 5 of P.L.2021, c.326 is amended to read as follows:

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⟧ June 30, 2022.[3]

(cf: P.L.2021, c.326, s.5)

[1]⟦3.⟧ [3]⟦4.[1]⟧ 6.[3] This act shall take effect immediately [3]⟦[1], except that section 3 of this act shall take effect on the date that section 4 of P.L. , c. (pending before the Legislature as Assembly Bill No. 5353 (2R) of 2020/2021) takes effect[1]⟧[3] .

Extends temporary emergency licensure of certain health care professionals.