

SENATE, No. 3137

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED NOVEMBER 5, 2020

Sponsored by:

Senator JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

SYNOPSIS

Requires suspension of certification of homemaker-home health aides under certain circumstances; designated as “Maria’s Law.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the certification of homemaker-home health
2 aides, designated as Maria's Law, and amending P.L.1947,
3 c.262.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 2 of P.L.1947, c.262 (C.45:11-24) is amended to
9 read as follows:

10 2. a. The board; appointment; terms. In addition to the
11 members appointed to represent the interests of the public pursuant
12 to P.L.1971, c.60 (C.45:1-2.1 et seq.), the New Jersey Board of
13 Nursing shall consist of 12 members, six of whom shall be
14 registered professional nurses, two of whom shall be licensed
15 practical nurses, two of whom shall be nurse educators, one of
16 whom shall be an advanced practice nurse, and one of whom shall
17 be an additional public member, all to be appointed by the
18 Governor. Appointments to the board shall be for terms of five
19 years or for the unexpired portion of a term in the case of a vacancy
20 for any cause within a term, and until a successor shall be appointed
21 and qualified. In making appointments the Governor shall give due
22 consideration to, but shall not be bound by, recommendations
23 submitted by the various nurses' professional associations of this
24 State. Upon notice and hearing, the Governor may remove from
25 office any member of the board for neglect of duty, incompetency,
26 unprofessional or dishonorable conduct.

27 b. Qualifications for appointment. The advanced practice
28 nurse member shall be a resident of this State, shall be a graduate of
29 an accredited advanced practice nurse program, shall have had at
30 least five years' experience in professional nursing, shall at the time
31 of appointment be actively working as an advanced practice nurse,
32 and, except for the member first appointed, shall hold a certification
33 as an advanced practice nurse pursuant to P.L.1991, c.377 (C.45:11-
34 45 et al.). Each registered professional nurse member of the board
35 shall be a citizen of the United States and a resident of this State;
36 shall be a graduate of an accredited school of nursing within the
37 United States; shall be a registered nurse in this State; shall have
38 had at least five years' experience in professional nursing following
39 graduation from an accredited school of nursing; and shall at the
40 time of appointment be actively engaged in nursing or work relating
41 thereto. The licensed practical nurse members of the board shall be
42 citizens of the United States and residents of this State; shall hold a
43 valid license to practice practical nursing in this State; shall have
44 had at least three years' experience in practical nursing; and shall at
45 the time of appointment be actively engaged in practical nursing or

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.

1 work related thereto. Each nurse educator member of the board
2 shall be a resident of this State, shall be a registered nurse in this
3 State, shall have at least five years' experience in professional
4 nursing, and shall have been active as an educator or administrator
5 in an approved program to train registered nurses.

6 c. Oath or affirmation of office. Within 30 days after receipt
7 of the commission, each appointee shall take, subscribe and file in
8 the office of the Secretary of State the oath or affirmation
9 prescribed by law.

10 d. Duties and powers. The board shall have the following
11 duties and powers: (1) It shall hold annual meetings and such other
12 meetings as it may deem necessary at such times and places as the
13 board shall prescribe and a majority of the board including one
14 officer shall constitute a quorum. (2) It shall elect from its members
15 and prescribe the duties of a president and secretary-treasurer, each
16 of whom shall serve for one year and until a successor is elected.
17 (3) It shall appoint and prescribe the duties of an executive
18 secretary to the board who need not be a member thereof but who
19 shall be a citizen of the United States, a graduate of a college or
20 university with a major in nursing education, a registered nurse of
21 this State with at least five years' experience in teaching or
22 administration or both in an accredited school of professional
23 nursing, or have equivalent qualifications as determined by the
24 board. The executive secretary shall hold office during the will and
25 pleasure of the board. (4) It shall employ and prescribe the duties of
26 such persons as in its judgment shall be necessary for the proper
27 performance and execution of the duties and powers of the board.
28 (5) It shall determine and pay reasonable compensation and
29 necessary expenses of the executive secretary and all employees of
30 the board. (6) It shall pay to each member of the board the
31 compensation hereinafter provided. (7) It shall have a common seal,
32 keep an official record of all its meetings, and through its secretary-
33 treasurer report annually to the Governor the work of the board. (8)
34 It shall examine applicants for a license or renewals thereof, issue,
35 renew, revoke and suspend licenses, as hereinafter provided. (9) It
36 shall in its discretion investigate and prosecute all violations of
37 provisions of this act. (10) It shall keep an official record which
38 shall show the name, age, nativity and permanent place of residence
39 of each applicant and licensee and such further information
40 concerning each applicant and licensee as the board shall deem
41 advisable. The record shall show also whether the applicant was
42 examined, licensed or rejected under this and any prior act. Copies
43 of any of the entries of the record or of any certificate issued by the
44 board may be authenticated by any member of the board under its
45 seal and when so authenticated shall be evidence in all courts of this
46 State of the same weight and force as the original thereof. For
47 authenticating a copy of any entry or entries contained in its record
48 the board shall be paid a fee of \$3.00, but such authentication, if

1 made at the request of any public agency of this or any other
2 jurisdiction, may be without fee. (11) In its discretion it may
3 publish at such times as it shall determine a list of nurses licensed
4 under this act, a list of schools of nursing accredited or approved
5 under this act, and such other information as it shall deem
6 advisable. (12) It shall prescribe standards and curricula for schools
7 of nursing and evaluate and approve courses for affiliation. (13) It
8 shall hear and determine applications for accreditation of schools of
9 professional nursing, conduct investigations before and after
10 accreditation of such schools and institutions with which they are
11 affiliated, and issue, suspend or revoke certificates of accreditation
12 as hereinafter provided. (14) It shall approve schools of practical
13 nursing which shall conform to the standards, curricula, and
14 requirements prescribed by the board, and suspend or revoke
15 approval for violations thereof; provided, that this power shall not
16 extend to schools operated by any board of education in this State.
17 (15) It may consult with the Medical Society of New Jersey and the
18 New Jersey Hospital Association with respect to any matter relating
19 to the administration of this act and shall consult with those
20 associations with respect to standards and curricula and any change
21 thereof for schools of nursing. (16) It shall issue subpoenas for the
22 attendance of witnesses and production of documents at any hearing
23 before the board authorized by this act and any member of the board
24 shall administer an oath or affirmation to persons appearing to give
25 testimony at such hearings. (17) It may conduct any investigations,
26 studies of nursing and nursing education and related matters, and
27 prepare and issue such publications as in the judgment of the board
28 will advance the profession of nursing and its service to the public.
29 (18) It shall perform all other functions which are provided in this
30 act to be performed by it or which in the judgment of the board are
31 necessary or proper for the administration of this act. (19) It shall
32 from time to time prescribe rules and regulations not inconsistent
33 with this act. (20) It shall prescribe standards and curricula for
34 homemaker-home health aide education and training programs
35 which a homemaker-home health aide shall complete in order to
36 work in this State. (21) It shall review applications to provide
37 homemaker-home health aide training programs and shall issue,
38 suspend or revoke program approval. (22) It shall establish and
39 maintain a registry of all individuals who have successfully
40 completed a homemaker-home health aide training and competency
41 evaluation program. The board shall provide for the inclusion in the
42 registry of information about the disqualification of any person
43 from certification as a homemaker-home health aide pursuant to
44 sections 7 through 13 of P.L.1997, c.100 (C.45:11-24.3 through
45 24.9), including the specific documented findings constituting the
46 basis for that disqualification; except that the information shall
47 indicate that the person was convicted of a crime or disorderly
48 persons offense as described in section 7 of P.L.1997, c.100

1 (C.45:11-24.3), but shall not identify the conviction or convictions
2 which constitute the basis for the disqualification. (23) It shall
3 prescribe standards and requirements for a competency evaluation
4 program resulting in certification of the homemaker-home health
5 aide, and the renewal, revocation, and suspension of that
6 certification. (24) It shall review applications for **homemaker**
7 **home-health** homemaker-home health aide certification and shall
8 issue, suspend, revoke, or fail to renew certifications and conduct
9 investigations pursuant to the provisions of P.L.1978, c.73 (C.45:1-
10 14 et seq.). Notwithstanding any provision of section 8 of P.L.1978,
11 c.73 (C.45:1-21) to the contrary, it shall defer consideration of an
12 application for a certification, or withhold the approval of an
13 application for or renewal of a certification pursuant to the
14 provisions of P.L.1978, c.73 (C.45:1-14 et seq.), with respect to any
15 person who is a certified homemaker-home health aide, or is an
16 applicant for certification, and for whom the board has received the
17 following: (a) notification of a charge or complaint filed against the
18 person by a law enforcement agency that alleges abuse, neglect, or
19 violence inflicted by the person on a patient; or (b) credible
20 evidence supporting an allegation of abuse, neglect, or violence
21 inflicted by the person on a patient, if the board determines based
22 on the nature of the allegation that certification or renewal of that
23 person's certification would be inconsistent with the public's
24 health, safety or welfare. The deferral of consideration or
25 withholding of approval based on subparagraph (a) or (b) of this
26 paragraph shall remain in effect pending the final disposition of any
27 inquiry or investigation conducted by the board, or pending the
28 final disposition of any civil or criminal proceedings resulting from
29 a court action, except that in no case shall the deferral of
30 consideration or withholding of approval exceed 120 days unless
31 the charge or complaint as to which the board received notification
32 as described in subparagraph (a) remains pending or is extended for
33 other good cause shown. (25) It shall require that nursing school
34 curricula include, and shall prescribe standards for, the training of
35 registered professional nurses in the supervision of, and the
36 delegation of nursing tasks to, unlicensed assistive personnel, and
37 shall further prescribe standards establishing the criteria for
38 determining those tasks which registered professional nurses may
39 delegate to unlicensed assistive personnel working under their
40 supervision and the type of supervision required with respect to
41 those personnel. (26) It shall prescribe standards and requirements
42 for unlicensed assistive personnel, including initial education and
43 continuing education and a competency evaluation program, which
44 these personnel shall satisfy in order to work in this State. As used
45 in this paragraph and in paragraph (25) of this subsection,
46 "unlicensed assistive personnel" means any unlicensed or
47 uncertified personnel employed by a licensed health care facility
48 that perform nursing tasks which do not require the skill or

1 judgment of a registered professional nurse and which are assigned
2 to them by, and carried out under the supervision of, a registered
3 professional nurse. (27) It may require licensees to meet continuing
4 education requirements as a condition of relicensure.

5 e. Compensation. Each member of the board shall receive
6 \$15.00 per day for each day in which such member is actually
7 engaged in the discharge of duties and traveling and other expenses
8 necessarily incurred in the discharge of duties.

9 (cf: P.L.2017, c.125, s.1)

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11 2. This act shall take effect immediately.

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14 STATEMENT

15
16 This bill, designated as “Maria’s Law,” requires the New Jersey
17 Board of Nursing to defer consideration or withhold the
18 certification of a homemaker-home health aide under certain
19 circumstances.

20 Homemaker-home health aides are persons certified by the board
21 who perform certain nursing tasks delegated through the authority
22 of a duly licensed registered professional nurse and are employed
23 by a home care services agency. Homemaker-home health aides
24 work in a variety of assisted living residences, as well as the homes
25 of individual patients. Current law requires criminal history record
26 background checks for all certified homemaker-home health aides
27 and disqualifies any certified person, or any applicant for
28 certification, if the person is found to have been convicted of
29 certain crimes and offenses.

30 The bill requires the board to defer consideration or withhold the
31 approval of a certification or conditional certification with respect
32 to any person who is a certified homemaker-home health aide or is
33 an applicant for certification and for whom the board has received
34 the following:

35 (1) notification of a charge or complaint filed against the person
36 by a law enforcement agency that alleges abuse, neglect, or
37 violence inflicted by the person on a patient; or

38 (2) credible evidence supporting an allegation of abuse, neglect,
39 or violence inflicted by the person on a patient.

40 The deferred consideration or withholding of approval of a
41 certification or conditional certification pursuant to the provisions
42 of this bill must remain in effect pending the final disposition of
43 any inquiry or investigation conducted by the board, or pending the
44 final disposition of any civil or criminal proceedings resulting from
45 a court action, except that the deferred consideration or withholding
46 of approval shall not exceed 120 days unless the charge or
47 complaint remains pending or is extended for other good cause
48 shown.