

Department of Disabilities, Aging and Independent Living
Division of Licensing and Protection
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Memorandum

To: All State Licensed and all Certified Health Care Providers

From: Suzanne Leavitt, RN MS, Assistant Director, Division of Licensing and Protection, State Survey Agency Director

Date: June 21, 2021

Subject: Nurse Aide Training Waiver and a Path to Licensure

This memorandum addresses the CMS waiver currently in effect and a path to licensure for unlicensed nurse aides working in certified facilities or agencies beyond four months. This memorandum also applies to Vermont state licensed facilities as well. This waiver will expire with the CMS waiver.

The CMS waiver below is still in effect:

Training and Certification of Nurse Aides. CMS is waiving the requirements at 42 CFR 483.35(d) (with the exception of 42 CFR 483.35(d)(1)(i)), which require that a SNF and NF may not employ anyone for longer than four months unless they met the training and certification requirements under § 483.35(d). CMS is waiving these requirements to assist in potential staffing shortages seen with the COVID-19 pandemic. To ensure the health and safety of nursing home residents, CMS is not waiving 42 CFR § 483.35(d)(1)(i), which requires facilities to not use any individual working as a nurse aide for more than four months, on a full-time basis, unless that individual is competent to provide nursing and nursing related services. We further note that we are not waiving § 483.35(c), which requires facilities to ensure that nurse aides are able to demonstrate competency in skills and techniques necessary to care for residents' needs, as identified through resident assessments, and described in the plan of care.

CMS has assured states that when this waiver is rescinded, States will be given an additional four months for unlicensed nurse aides working in facilities or agencies to become licensed. The Vermont Licensing Agency is extending this additional four months to state licensed facilities as well.

In the interim, you can follow the steps below for licensure of your nurse assistants. We are allowing for time spent working to meet some of the clinical hours of instruction required for licensure.

To qualify to sit for the Nurse Aide Licensing exam, a nurse assistant must:

1. Enroll in a state approved nurse aide training program.
 - a. Assure your nurse assistant is enrolled in a state approved nurse assistant training program. The nurse assistant cannot sit for the licensing exam unless they are enrolled in an approved program.
2. Successfully complete the 75 hours of instruction to include 16 hours of clinical instruction.
 - a. A portion of the clinical instruction may be met by the nurse assistant's work in your facility. In order to use work hours as instruction, please complete the steps below:
 1. A Registered Nurse responsible for the oversight of the nurse aide performance must attest to the aide's competency in performing clinical tasks. The Registered nurse must sign and date the task on the Nursing Skills Checklist (attached). The registered nurse must also provide a cover letter with his/her signature attesting that they have observed the aide correctly performing the task.
 2. Classroom Instruction. The classroom instruction is not waived. However, the training the LNA has been provided during orientation can be counted towards classroom training. A Registered Nurse responsible for the oversight of the nurse aide training and performance must attest to the aide's competency and knowledge of these tasks. The Registered nurse must sign and date the task on the Nursing Skills Checklist (attached). The registered nurse must also provide a cover letter with his/her signature attesting that they have instructed aide correctly in the subjects in the curriculum.
 - a. Curriculum must include:
 - i. Basic Nursing Care;
 - ii. Personal Care;
 - iii. Basic Restorative Care;
 - iv. Psychosocial Skills;
 - v. Care of the Cognitively Impaired;
 - vi. Communication Skills;
 - vii. Ethics and legal responsibilities;
 - viii. Teamwork; and
 - ix. Patient Safety.

The records of attestation for each student must be kept on file by the Approved Program and be readily available to the State Licensing Agency.

It is the facilities responsibility to assure the nurse aides are trained properly in order to allow the student to sit for the LNA licensure exam.