

**PUBLIC NOTICE**

**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 Instructor/Evaluators in Training Programs for Long-Term  
Care Facility Nurse Aides**

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

**Petitioners: Theresa Edelstein, Senior Vice President, Center for Partnerships  
Transforming Health, New Jersey Hospital Association, Princeton, NJ;**

**Andrew Aronson, President and CEO, Health Care Association of New Jersey,  
Hamilton, NJ;**

**James McCracken, President and CEO, LeadingAge New Jersey and Delaware,  
Hamilton, NJ;**

**Chrissy Buteas, Chief Government Affairs Officer, New Jersey Business and  
Industry Association, Trenton, NJ;**

**Aaron R. Fichtner, Ph.D., President, New Jersey Council of County Colleges,  
Trenton, NJ; and**

**Judy Savage, Executive Director, New Jersey Council of County Vocational-  
Technical Schools, Trenton, NJ.**

**Take notice** that on March 29, 2021, the Department of Health (Department)

received a petition for rulemaking from Theresa Edelstein, Senior Vice President, Center for Partnerships Transforming Health, New Jersey Hospital Association, Princeton, NJ; Andrew Aronson, President and CEO, Health Care Association of New Jersey, Hamilton, NJ; James McCracken, President and CEO, LeadingAge New Jersey and Delaware, Hamilton, NJ; Chrissy Buteas, Chief Government Affairs Officer, New Jersey Business and Industry Association, Trenton, NJ; Aaron R. Fichtner, Ph.D., President, New Jersey Council of County Colleges, Trenton, NJ; and Judy Savage, Executive Director, New Jersey Council of County Vocational-Technical Schools, Trenton, NJ.

**Substance or nature of the requested rulemaking action:**

The petitioners request that the Department make certain amendments to N.J.A.C. 8:39 Long-Term Care Facilities Licensing Standards, at Subchapter 43 Certification of Nurse Aides in Long-Term Care Facilities, specifically N.J.A.C. 8:39-43.10(m).

**Problem or purpose of the request:**

N.J.A.C. 8:39-43.10(m) sets forth the minimum qualifications for registered nurses to provide Department-approved training to candidates for certification as nurse aides. Certification is a condition of employment in licensed long-term care facilities in New Jersey.

The petitioners state that the criteria for eligibility of instructors/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 483.152(a)(5). The petitioners request,

essentially, that the Department relax the requirements at N.J.A.C. 8:39-43.10(m) to mirror the nurse aide instructor requirements in the referenced Federal regulation.

The petitioners state that county colleges and vocational schools with Department-approved certified nurse aide training programs “have approximately twice the number of applicants for available seats in their programs due to the difficulty of finding instructors who meet the Department’s criteria.” The petitioners state that N.J.A.C. 8:39-43.10(m) makes the operation of the nurse aide training programs 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 petitioners state that “the shortage of qualified CNAs is a predominant concern, [and that they] want to collaborate with the Department to remove as many impediments to training more CNAs as [they] possibly can.” The petitioners provide suggested changes to the text at existing N.J.A.C. 8:39-43.10(m).

**Full text** of the petitioners’ 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)-(l) (No change.)

(m) Each nurse aide training program instructor/evaluator shall:

1. (No change.)

2. Possess at least [three] **two** years of [full-time or full-time equivalent] **nursing** 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 instructor/evaluator resume to the Certification Program of the Department for approval; [and]

4. Have successfully completed a training workshop [offered by the Department for instructors/evaluators] **in teaching adults or have experience in teaching adults or supervising nurse aides;**

**5. In a facility-based program, the training of nurse aides may be performed under the general supervision of the director of nursing for the facility who is prohibited from performing the actual training; and**

**6. Other personnel from the health professions may supplement the instructor, including, but not limited to, registered nurses, licensed practical nurses, pharmacists, dietitians, social workers, sanitarians, fire safety experts, nursing home administrators, gerontologists, psychologists, physical and occupational therapists, activities specialists, speech language pathologists, audiologists, and resident rights experts. Supplemental personnel must have at least one year of experience in their fields.**

(n)-(q) (No change.)