

## **HEALTH**

### **HEALTH SYSTEMS BRANCH**

#### **DIVISION OF CERTIFICATE OF NEED AND LICENSING**

##### **Standards for Licensure of Long-Term Care Facilities**

##### **Certification of Nurse Aides in Long-Term Care Facilities**

##### **Adopted Amendment: N.J.A.C. 8:39-43.10**

Proposed: December 5, 2022, at 54 N.J.R. 2197(a).

Adopted: September 21, 2023, by Kaitlan Baston, MD, MSc, DFASAM, Acting Commissioner, Department of Health, with the approval of the Health Care Administration Board.

Filed: September 21, 2023, as R.2023 d.123, **without change**.

Authority: N.J.S.A. 26:2H-1 et seq., particularly 26:2H-5.

Effective Date: November 6, 2023.

Expiration Date: November 22, 2028.

##### **Summary of Public Comments and Agency Response:**

The Department of Health (Department) received comments from the following:

1. Theresa Edelstein, Senior Vice President, Center for Partnerships Transforming Health, New Jersey Hospital Association, Princeton, New Jersey; and
2. Alexis Bailey, New Jersey Business and Industry Association, Trenton, New Jersey.

The numbers in parentheses following each comment below correspond to the commenter numbers above.

1. COMMENT: A commenter expressed strong support for the proposed amendment because it would align New Jersey's rule at N.J.A.C. 8:39-43.10(m) with the rules of the Centers for Medicare and Medicaid Service (CMS), and stated that increasing the number of qualified nurse aide instructors is important, especially at this time, when the field is working to attract new individuals to the nursing assistant role in long-term care and other settings. (1)

2. COMMENT: A commenter reiterated what the rulemaking petition stated: that New Jersey's nurse aide instructor requirements are more stringent than CMS's standards; that the existing rule makes the operation of nurse aide training programs more difficult in New Jersey, without adding any value or benefit to the nursing homes, training programs, or nurse aide candidates; and that the existing rule has led to schools across the State having more applicants than available seats for CNA training programs due to the difficulty the schools face finding certified instructors. The commenter stated that the proposed amendment would remove these challenges while maintaining high-quality instruction for nurse aide candidates by bringing New Jersey rules in line with CMS standards; be extremely helpful in combating some of the workforce challenges employers in direct care are experiencing; and expand access to care for the residents of New Jersey's long-term care facilities. (2)

RESPONSE TO COMMENTS 1 AND 2: The Department acknowledges the commenters' support for the proposed amendment.

### **Federal Standards Statement**

The adopted amendment would not impose standards on long-term care facilities (LTCFs) in New Jersey that exceed those contained in applicable Federal standards,

which may be found at 42 CFR 483.152(a)(5), for long-term care facilities. In fact, the adopted amendment would track closely those standards set forth at the Federal regulation. Therefore, a Federal standards analysis is not required.

**Full text** of the adoption follows:

TEXT