

Staffing Resources for Nursing Care Facilities During the COVID-19 Pandemic Frequently Asked Questions

The Department of Health (Department) has received questions and requests for guidance from nursing care facilities on what staffing measures can be implemented or contemplated during the 2019 novel Coronavirus (COVID-19) pandemic while meeting statutory and regulatory requirements within the jurisdiction of the Department. On March 6, 2020, the Governor issued a Proclamation of Disaster Emergency to enable agencies to respond promptly to the pandemic. The Department is providing the below questions and answers to assist facilities as they plan for staffing needs while the proclamation is in effect. The Department encourages you to utilize [PA CareerLink®](#) and other recruiting outlets to recruit staff and assist in employing staff that may have lost their job due to this crisis.

What options are available to assist with staffing levels at nursing care facilities?

28 Pa Code 211.12(i) requires a minimum number of general nursing care hours to be provided for each 24-hour period. The total number of hours of general nursing care provided in each 24-hour period must, when totaled for the entire facility, be a minimum of 2.7 hours of direct resident care for each resident.

The Department understands that during the COVID-19 pandemic nursing care facilities may not be able to maintain the 2.7 Per Patient Day (PPD) requirement. Facilities must ensure resident quality of care continues despite shortfalls in the 2.7 PPD. Please document on a monthly report when your facility drops below the 2.7 PPD, the reason behind the decrease, and how your facility is maintaining quality of care. Forward the report to the appropriate Department field office by the 10th of each month or until otherwise instructed by the Department.

What federal regulations or statutory provisions are suspended to assist in hiring Nurse Aides?

Training and Certification of Nurse Aides. To assist in potential staffing shortages caused by the COVID-19 pandemic, the Centers for Medicare and Medicaid Services (CMS) has issued a blanket waiver of the requirements at 42 CFR 483.35(d) (with the exception of 42 CFR 483.35(d)(1)(i)), which prohibits a nursing care facility from employing anyone for longer than four months unless they meet the training and certification requirements in subsection (d). These waivers were issued under the authority of the federal emergency declaration dated March 13, 2020.

However, to ensure the health and safety of nursing home residents, CMS has not waived § 483.35(d)(1)(i), which prohibits a facility from employing any individual 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. Note that § 483.35(c) has also not been waived. The facility must continue 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 indicated that **anyone can be hired to perform nurse aide work**. An individual does not need to be on the registry or have taken a nurse aide training program. Since CMS has waived § 483.35(d) with the exception of § 483.35(d)(1)(i), completion of a training and competency evaluation program and registry

are not required while this waiver remains in place. The federal waiver still requires the facility to ensure skill competency for nurse aides.

- Individuals seeking to be hired as nurse aides should complete the 8-hour online training by the American Health Care Association (AHCA) or a comparable program, and successfully pass the 50-question test (correctly answering at least 40 out of 50 questions). There is a competency skill list on the AHCA website and the training is free. Information can be found at the [AHCA link](#).
- Any individuals who were trained or in midst of training and have not yet tested may continue to be employed beyond the 120 days.
- Student nurses are permitted to work as aides if they provide a document to the potential employer showing evidence of completion of any nursing school course work.
- 28 Pa Code 201.20(b) requires the facility to provide an employee with appropriate orientation to the facility, the facility's policies, the position and the duties of the position. The orientation must include training on the prevention of resident abuse and the reporting of abuse.

NOTE: The facility must track any nurse aides that are employed based on the guidance above during the COVID-19 pandemic and be prepared to provide the documentation to the Department, if requested.

What happens if a Nurse Aide lapses enrollment in the Pennsylvania Nurse Aide Registry?

Federal regulations at § 483.156(b)(3) require that to remain on the registry, an individual must have performed nursing-related services during the 24-month registry period. To be eligible for continued enrollment, an individual is required to work as a nurse aide for at least one documented day (i.e., eight consecutive hours) for pay in an approved facility (such as a nursing home, personal care home, hospital, home health setting or intermediate care facility) during the previous 24 months. *Self-employment, private-duty, or employment in doctors' offices are not acceptable forms of work experience for continued enrollment.*

- **To reactivate a lapsed registry under normal circumstances.** It is important for the individual to update all information on the [Pennsylvania Nurse Aide Registry](#). If an individual was a formerly active member of the registry, that individual has to take and successfully pass the National Nurse Aide Assessment Program (NNAAP) Examination. If the individual successfully passes the NNAAP Examination, the Nurse Aide Registry status will indicate renewed. If the individual does not pass the examination, the individual is required to re-train before re-testing. The individual may not be employed as a nurse aide until they have official notification of enrollment or a renewed active status. Employers are **NOT** required to pay the "renewal" examination fee; however, employers **MUST** pay when a reimbursement letter is presented.
- **To reactivate a lapsed registry during the COVID-19 Pandemic.** During this time of crisis, the renewal requirement is waived as long as an individual was active on the registry within the last ten years, with no substantiated findings of abuse, neglect or misappropriation on the registry,



and competencies are indicated. The individual may work as a nurse aide in a nursing care facility since the test that is normally offered is currently unavailable due to the pandemic.

What licensing requirements have been suspended or waived due to the COVID-19 pandemic that could assist facilities in hiring licensed nursing staff?

Governor Wolf and the Pennsylvania Department of State (DOS) have suspended various provisions of the Professional Nursing Law and the Practical Nurse Law as well as certain State Board of Nursing regulations, enabling applicants and licensees to practice during the COVID-19 Emergency Disaster Declaration. Information on those provisions is available on the DOS website at the links below:

- Temporary permits for nurses licensed in other states. [Click here](#) for more information.
- Practice permits and fees are waived or extended. [Click here](#) for more information.
- Retired registered nurses, CRNPs and clinical nurse specialists can apply to have their license reactivated. [Click here](#) for more information.
- License renewal deadlines are extended for nursing professionals. [Click here](#) for more information.

With the Governor's authorization as conferred in the proclamation, those DOS suspended provisions will remain in place while the proclamation of disaster emergency remains in effect.

Other nursing care facility non-health care staffing needs:

Dietary

Other than the dietician, there are no special requirements for dietary workers, except that they are competent to perform the duties. It is expected that dietary employees would be provided with training upon hire to ensure adequate understanding of the policies and procedures.

Laundry

There are no special requirements for laundry workers. It is expected that laundry employees would be provided with training upon hire to ensure adequate understanding of the policies and procedures.

What child care options are available to support nursing care facility staff continuing to work during the COVID-19 pandemic?

Certain child care providers are approved to operate during the COVID-19 pandemic to support employees of life-sustaining businesses, including nursing care facilities. A list of approved child care providers is available on the Department of Human Services website:

<https://www.dhs.pa.gov/providers/Providers/Pages/Coronavirus-Child-Care.aspx>

RESOURCES:

COVID-19 Pennsylvania Career Link® Opportunities:

<https://www.pacareerlink.pa.gov/jponline/JobSeeker/COVID19Employment>

DOS Waived and Suspended Licensing Regulations: <https://www.dos.pa.gov/Pages/COVID-19-Waivers.aspx>