

CHAPTER 129
FORMERLY
SENATE BILL NO. 145

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO HEALTH AND SAFETY, NURSING ASSISTANTS AND CERTIFIED NURSING ASSISTANTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend Chapter 30A, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3001A Definitions.

As used in this chapter:

(1) "Certified nursing assistant" means a duly-certified individual under the supervision of a licensed nurse, who provides care that does not require the judgment and skills of a licensed nurse. The care may include, but is not limited to, the following: bathing, dressing, grooming, toileting, ambulating, transferring and feeding, observing and reporting the general well-being of the person or persons to whom they are providing care.

(2) "Department" means the Department of Health and Social Services.

(3) "Nursing assistant" means an individual who has completed the requisite training to become a Certified Nursing Assistant but is awaiting certification.

(4) "Senior certified nursing assistant" means a certified nursing assistant who has met the requirements of § 3005A of this title.

§ 3002A Certified nursing assistant training.

To obtain certification as a certified nursing assistant, all trainees must complete a total of 150 clock hours of training, 75 of which are in the classroom and 75 of which include clinical training.

§ 3003A Composition of certified nursing assistant training course and curriculum.

All courses in this State offering certification to individuals as certified nursing assistants must meet the requirements of 42 C.F.R. Ch. IV § 483.152 and have the following:

(1) A student to teacher ratio of no greater than 24 students to 1 registered nurse instructor for the classroom portion of the training;

(2) A student to teacher ratio of no greater than 8 students to 1 registered nurse instructor or 8 students to 1 licensed practical nurse having at least 3 years experience and working under the supervision of a registered nurse for all clinical phases of the program; and

(3) A curriculum complying with requirements mandated by the Department through regulations promulgated pursuant to this chapter.

§ 3004A Mandatory orientation period.

~~(a)~~ A nursing assistant who has undergone 150 clock hours of training in a training program sponsored by the facility where the nursing assistant will be employed immediately thereafter shall be required to complete additional facility specific orientation of 40 hours in a skilled nursing facility or 32 hours in an assisted living facility. Nursing assistants shall have direct physical contact with residents only while under the visual observation of a certified nursing assistant or licensed nurse employed by the facility. Nursing assistants must receive certification within 90 calendar days of completion of the training program. Nursing assistants who do not receive certification within 90 calendar days may not work as a nursing assistant. The guidelines for nursing assistant orientation shall be promulgated by the Department.

~~(b)~~ All certified nursing assistants hired to work in a skilled care or intermediate care facility shall undergo a minimum 80 hours of orientation, at least 40 of which shall be clinical. Certified nursing assistants hired to work in an assisted living facility shall undergo a minimum 64 hours of orientation at least 24 of which shall be clinical. Any certified nursing assistant undergoing orientation and completing clinical tasks may be considered a facility employee for purposes of satisfying the minimum facility staffing requirements set by this chapter and the Department. The guidelines for certified nursing assistant orientation shall be promulgated by the Department.

(e3) All certified nursing assistants employed by temporary agencies and placed in a facility in which they have not worked within the previous 6 months shall undergo a minimum of 2 hours of orientation prior to beginning their first shift at that facility, the guidelines for which shall be promulgated by the Department. Any certified nursing assistant employed by a temporary agency and undergoing orientation shall not be considered a facility employee for purposes of satisfying the minimum facility staffing requirements set by the Department.

§ 3005A Senior certified nursing assistant certification.

Any certified nursing assistant may pursue designation as a senior certified nursing assistant, and shall be so designated if such individual meets the following requirements:

- (1) Has been a certified nursing assistant in good standing for a minimum of 3 years;
- (2) Has successfully completed an additional 50 hours of instruction in an approved program featuring a curriculum specified by the Department; and
- (3) Has passed a competency test issued pursuant to the guidelines delineated by the Department.

§ 3006A Renewal of certification; late renewal; and penalties.

(a1) Every certified nursing assistant shall recertify biennially by filing an application; provided however, that the certification of any certified nursing assistant who is on active military duty with the armed forces of the United States and serving in a theater of hostilities on the date such application or recertification is due shall be deemed to be current and in full compliance with this chapter until the expiration of 30 days after such certified nursing assistant is no longer on active military duty in a theater of hostilities.

(b2) Upon receipt of ~~the~~ an application and fee, the Department shall verify the accuracy of the information set forth in the application and issue to the applicant a certificate of renewal for 2 years, provided that the applicant has successfully completed continuing education requirements as established by the Department.

(a) Such certificate shall entitle the holder to engage in work as a certified nursing assistant for the period stated therein.

(b) The amount charged for the renewal fee imposed under this chapter shall approximate and reasonably reflect all costs necessary to defray the expenses of maintaining an educational website from which certified nursing assistants will receive the required educational credits.

1. The application fee shall not be combined with any other fee or charge.

2. At the beginning of each biennial calendar year, the Department or any other state agency acting on its behalf, shall compute the appropriate fee for the coming 2 years.

(e3) A certification may be renewed up to 30 days past the certification's expiration date by submitting, to the Department, payment of a \$25 penalty fee along with an application and proof of completion of continuing education requirements during the previous certification period. The certification of a certified nursing assistant who fails to renew on time or during the 30-day late renewal period is considered lapsed and the certified nursing assistant is not permitted to work until the certified nursing assistant submits an application and takes and passes the certified nursing assistant test.

§ 3007A Promulgation of regulation.

The Department shall promulgate rules and regulations to implement this chapter.

Approved July 28, 2015