

CHAPTER 318  
FORMERLY  
SENATE BILL NO. 211

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO CERTIFIED NURSING ASSISTANTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

WHEREAS: certified nursing assistants are required to renew their certification biennially; and

WHEREAS, a small percentage of certified nursing assistants fail to renew their certification by the date required; and

WHEREAS, a certified nursing assistant who fails to renew the certification by the expiration date may not work with an expired certification; and

WHEREAS, once the certified nursing assistant certification has expired, the certified nursing assistant must retake the initial certified nursing assistant exam; and

WHEREAS, the certified nursing assistant exam currently costs \$108.00 creating a financial hardship for the certified nursing assistant; and

WHEREAS, it takes approximately 3 – 4 weeks to schedule the test, creating further financial hardship for the certified nursing assistant; and

WHEREAS, the certified nursing assistant must be taken off of the schedule in the facility(ies) in which (s)he works; and

WHEREAS, this creates a hardship for the facility which must find a replacement for the certified nursing assistant; and

WHEREAS, this loss of a staff member negatively impacts resident care; and

WHEREAS, permitting a late renewal period would allow the certified nursing assistant to continue to work, benefiting the certified nursing assistant, the facility(ies) and the residents; and

WHEREAS, requiring a minimal late fee (\$25.00) for renewal would decrease the financial burden for the certified nursing assistant by reducing the cost of late renewal; and

WHEREAS, the healthcare continuum workforce will be negatively impacted if the change is not enacted; and

NOW, THEREFORE:

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

CHAPTER 30A. TRAINING AND QUALIFICATIONS FOR NURSING ASSISTANTS  
AND CERTIFIED NURSING ASSISTANTS

§ 3001A. Definitions.

(4) "Senior certified nursing assistant" means a ~~Certified Nursing Assistant~~ 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. ~~For the purpose of calculating minimum levels of staffing required at a facility pursuant to statute or regulation, an individual who has completed 75 hours of classroom and 37.5 hours of clinical training in a facility sponsored training program may be considered as a member of such facility's staff while undergoing the last 37.5 hours of clinical training at such facility.~~

§ 3003A. Composition of ~~CNA~~ 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:

§ 3004A. Mandatory orientation period.

(a) ~~All nursing assistants hired to work in a skilled care or intermediate care facility, after completing 150 clock hours of instruction under this chapter, shall undergo a minimum 80 hours of orientation at least 40 of which shall be clinical. Nursing assistants hired to work in an assisted living facility, after completing 150 clock hours of~~

~~instruction under this chapter, shall undergo a minimum 64 hours of orientation, at least 24 of which shall be clinical. While undergoing orientation, 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. Any nursing assistant undergoing orientation may be considered a facility employee for purposes of satisfying the minimum facility staffing requirements set by the Department.~~ 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 that 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.

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

(a) Every certified nursing assistant shall re-certify 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.

(b) Upon receipt of the application, 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. Such certificate shall entitle the holder to engage in work as a certified nursing assistant for the period stated therein.

(c) A certification may be renewed up to 30 days past the certification's expiration date by submitting, to the Department, payment of a \$25.00 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.

§ 30067A. Promulgation of regulation.

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

Approved July 15, 2014