

Department of Health and Human Services (DHHS)



Division of Health Service Regulation (DHSR)

Nurse Aide I *Nursing Homes*

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Nursing Homes

Covid-19 Waivers

- The Centers for Medicare & Medicaid Services (CMS) has terminated their COVID-19 blanket waivers regarding Nurse Aides (42 CFR §483.35).
- North Carolina has terminated COVID-19 waivers regarding Nurse Aides (10A NCAC 13D .2001(23) & 10A NCAC 13D .2304(a)).
- The COVID-19 Public Health Emergency and CMS 1135 waiver for Nurse Aide training and testing ended on May 11, 2023.

Nursing Homes

Temporary Nurse Aides

- In alignment with CMS guidance, Temporary Nurse Aides (TNAs), who were approved by DHSR to take the state-approved competency evaluation before October 7, 2022, can continue to take the state-approved competency evaluation to be listed on the North Carolina Nurse Aide I Registry until September 10, 2023.
- TNAs can no longer take the state-approved competency evaluation after September 10, 2023.
- Click [here](#) to review the CMS guidance.

Nursing Homes

NC General Statute 131E-255

- N.C.G.S. 131E-255 was amended on July 1, 2022, per North Carolina Session Law 2022-74 ([2022 Appropriations Act](#)).
- A nursing facility may employ or contract with health care personnel who are not listed on the Nurse Aide Registry to perform the duties of a nurse aide for a period of up to four months, consistent with subsection (d) of 42 C.F.R. § 483.35. As used in this subsection, "health care personnel" means unlicensed staff that have direct access to residents, clients, or their property. Direct access includes any unlicensed staff that, during the course of employment, have the opportunity for direct contact with an individual or an individual's property when that individual is a resident, client, or person to whom the nursing facility provides services.

Nursing Homes

Federal Law 42 CFR 483.35

Click [here](#) to review all the requirements in federal law 42 CFR 483.35.

Nursing Homes

Four Month Rule

- An individual cannot work as a Nurse Aide for more than a total of 4 months without having successfully passed a state-approved Nurse Aide I training and competency evaluation program (NATCEP) and/or competency evaluation program (CEP).
- An individual not listed on the North Carolina Nurse Aide I Registry at the end of the 4-month grace period, can no longer work in the capacity of a Nurse Aide at any nursing home.
- An individual employed as a Nurse Aide during the 4-month grace period must be actively working toward meeting the training and testing requirements.

Nursing Homes

Four Month Rule

- If an individual successfully passed a state-approved Nurse Aide I training program prior to employment as a Nurse Aide, then they must register and successfully pass the state-approved competency evaluation during the 4-month grace period.
- If an individual did not successfully pass a state-approved Nurse Aide I training program prior to employment as a Nurse Aide, then they must successfully pass a state-approved Nurse Aide I training and competency evaluation program (NATCEP) and/or competency evaluation program (CEP) during the 4-month grace period.

Nursing Homes

Four Month Rule

- A nursing home cannot terminate and rehire an individual to restart the duration of the 4 months.
- The duration of the 4 months does not start over if an individual completes additional training and testing sequences.
- Each nursing home must continue to complete the required background checks prior to an individual working as a Nurse Aide.
- Each nursing home is responsible for checking the prior work history of an individual that performs Nurse Aide duties. A facility must count any previous employment as a Nurse Aide, in any nursing home, toward the 4-month total.

Nursing Homes

Four Month Rule

- An individual cannot move from facility-to-facility and receive a full 4-month grace period each time they change employers and/or facilities.
- During the 4-month grace period, the Nurse Aide must be a full-time employee.
- Time spent providing Nurse Aide services, excluding meeting the requirements to complete a state-approved training program (clinicals), should count toward the 4-month total.

Chart Comparison:

COVID-19 Waivers, 4 Month Rule, 42 CFR 483.35

Time Period	Must Complete Training at a NC State-Approved Nurse Aide I Training Program	Must Be Listed on the NC Nurse Aide I Registry Prior to Providing Nursing or Nursing Related Services to Residents in SNFs/NFs	Does DHSR Accept the Temporary Nurse Aide Training Equivalency Application Due to Covid-19
Individuals Hired as Nurse Aides by SNFs/NFs Before April 2, 2020	Yes	Yes	No
Individuals Hired as Nurse Aides by SNFs/NFs Between April 2, 2020 – June 6, 2022	No	No ¹	Yes ⁴
Individuals Hired as Nurse Aides by SNFs/NFs Between June 7, 2022 – June 30, 2022	Yes	Yes ²	No
Individuals Hired as Nurse Aides by SNFs/NFs On or After July 1, 2022	Yes	Individuals Have Four Months From Date of Hire to be Listed on the NC Nurse Aide I Registry ³	No

Individuals must be deemed competent by a Registered Nurse prior to providing nursing or nursing-related services in a Nursing Home.

Chart Legend:

COVID-19 Waivers, 4 Month Rule, 42 CFR 483.35:

- 1** Individuals must be listed on the Nurse Aide I Registry by October 7, 2022, or they can no longer work in the capacity of a Nurse Aide providing nursing or nursing-related services.
- 2** The change to General Statute 131E-255 did not go into effect until July 1, 2022.
- 3** Other conditions and requirements apply. Please review all federal and state laws that are applicable to Nursing Homes. If you have employment questions, contact the [DHSR Nursing Home Licensure Section](#).
- 4** DHSR will no longer accept the application after October 7, 2022.

Nursing Homes

Employment

- An individual that works as a Nurse Aide must be listed on the North Carolina Nurse Aide I Registry. This applies to a Registered Nurse, a Licensed Practical Nurse, and a Nurse Aide II.
- Before allowing an individual to work as a Nurse Aide, the following activities must be completed:
 - Ensure that the individual is listed in active status on the North Carolina Nurse Aide I Registry. You must keep a record of accessing the registry in your business files (e.g., the date and confirmation number from the registry).
 - Ensure that the individual has no substantiated findings on the North Carolina Nurse Aide I Registry and the North Carolina Health Care Personnel Registry.
 - A clinical skills validation, conducted by a Registered Nurse, is required before the Nurse Aide performs nursing or nursing-related services in a facility.
 - Adhere to all state and federal laws and requirements regarding the hiring of Nurse Aides.

Nursing Homes

Employment

Per 42 CFR 483.12, Nursing homes may not employ an individual who:

- Has been found guilty of abuse, neglect, exploitation, misappropriation of property, or mistreatment by a court of law;
- Has a finding in the State nurse aide registry concerning abuse, neglect, exploitation, mistreatment of residents or misappropriation of their property; or
- Has a disciplinary action in effect against his or her professional license by a state licensure body as a result of a finding of abuse, neglect, exploitation, mistreatment of residents or misappropriation of resident property.