



STATE OF DELAWARE  
**STATE COUNCIL FOR PERSONS WITH DISABILITIES**  
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The Honorable John Carney  
Governor

John McNeal  
SCPD Director

## MEMORANDUM

DATE: June 29, 2022

TO: Ms. Corinna Getchell, DHSS-DHCQ  
Division of Health Care Quality

FROM: Terri Hancharick – Chairperson *TH*  
State Council for Persons with Disabilities

RE: 25 DE Reg. 1102 [Proposed DHSS DHCQ Training and Qualifications  
for CNA Regulations (June 1, 2022)]

The State Council for Persons with Disabilities (SCPD) has reviewed the Division of Health Care Quality's (DHCQs) regulations to implement House Bill 280 which was signed by the Governor on January 24, 2022. HB 280 amended Title 16 of the Chapter 30A, Training and Qualifications for Nursing Assistants and Certified Nursing Assistants. Specifically, the law amended sections 3002A and 3004A by eliminating the mandatory training hours (150 hours, 75 hours of classroom instruction and 75 hours of clinical training) and the mandatory orientation hours (between 32 and 80, depending on the type of facility where the nursing assistant will work) required to obtain certification as a certified nursing assistant. The major purpose of the law was to streamline the procedure to become a certified nursing assistant to help understaffed hospitals and long-term care facilities and to enhance the State's response during the COVID-19 pandemic and similar emergencies.<sup>1</sup> The proposed regulation was published as 25 DE Reg. 1102 in the June 1, 2022 Register of Regulations issue. SCPD has the following observations.

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<sup>1</sup> The original synopsis states: "This Act commits discretion over the length of certified nursing assistant training and orientation programs to the Secretary of the Department of Health and Human Services. This change will facilitate the rapid certification of National Guard members as certified nursing assistants

Under the current regulations, to take the exam for certification as a Certified Nursing Assistant (CNA), an applicant must be a graduate of a CNA program approved by DHSS. 16 DE Reg 2.1.1. Applicants must pass “the written and clinical portions of the competency test to become certified.” 16 DE Reg 2.4. The proposed regulations allow the applicant to take the test three (3) times to obtain a passing score (16 DE Reg 2.1.5) before having to “repeat the CNA training program before retaking the test.” 16 DE Reg 2.1.5.1.

Under the current regulations, courses for CNA programs must “provide a basic level of both knowledge and demonstrable skill for each individual completing the program” (16 DE Reg 3.11.1.1). The curriculum must meet certain specified content and competencies as specified in the regulations. (16 DE Reg 3.11.2). Under the proposed regulations, the number of hours of classroom instruction and clinical training required is to be determined by the Secretary of DHSS by a written order. However, the classroom and training hours cannot be less than the number prescribed by the Centers for Medicare and Medicaid Services (CMS). 16 DE Reg 3.11.1.2.

Under the current regulations, nursing students currently enrolled in a nursing program are deemed to meet the education requirements if they “[s]atisfactorily completed a Fundamentals/Basic Nursing course” (16 DE Reg 2.1.6.1) and under the proposed regulations, competently completed “a supervised clinical practicum in either a facility or a hospital . . . setting, under the direct supervision of a nurse.” 16 DE Reg 2.1.6.2. The number of hours of clinical training required is to be determined by the Secretary of DHSS by a written order. However, the training hours cannot be less than the number prescribed by the Centers for Medicare and Medicaid Services (CMS). Id.

Before a CNA can work in a nursing facility, he or she has to go through orientation, and under the proposed regulations, the orientation requirements shall be enumerated by the Secretary of DHSS by a written order. 16 DE Reg 4.1.1.

For renewal of a CNA certification, the proposed regulations expand on the two (2) hours of resident/patient abuse to include “resident/patient abuse/neglect/maltreatment prevention training.” 16 DE Reg 2.3.4 1 2.

The proposed regulations also add immunization requirements for CNA training programs and CNAs. The provisions of the State of Delaware, Department of Education pertaining to immunizations are incorporated into the proposed regulations. In addition, the provisions of DHSS Division of Public Health pertaining to the control of communicable and other diseases are incorporated into the proposed regulations.

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(CNAs) by allowing the Department of Health and Social Services to establish the total required classroom and clinical training and mandatory facility-specific orientation hours. Modeled after a Minnesota initiative, eligible guard members will participate in rapid certification programs through DelTech and be deployed to provide temporary staffing in long term care facilities experiencing staffing shortages under MOUs entered with the facilities. National Guard members have served as a critical part of the state’s response efforts throughout the COVID-19 pandemic. Training and deploying National Guard soldiers to work as CNAs will help relieve staffing shortages in health care settings and facilitate the transfer of patients out of Delaware’s hospitals to free up in-patient bed space.”

Students that do not meet the vaccination requirement in the proposed regulations will not be able to do their clinical training. 16 DE Reg 3.14.3.

SCPD endorses the proposed regulations. The classroom and clinical hours cannot be less than the number prescribed by the Centers for Medicare and Medicaid Services (CMS). As a result, there is a built-in safeguard. These regulations implement the changes in the law, which was directed to help staff hospitals and nursing homes. SCPD also recommends increased compensation for CNAs and PDN as well as expanding the duties and responsibilities of the CNAs in order to make this field a more attractive profession.

Thank you for your consideration and please contact SCPD if you have any questions regarding our observations or position on the proposed regulation.

cc: The Honorable Molly Magarik, Secretary, DHSS  
Ms. Laura Waterland, Esq.  
Governor's Advisory Council for Exceptional Citizens  
Developmental Disabilities Council

25 reg 1102 - DHSS-DHCQ Certified Nursing Assistants 06-21-22