DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF HEALTH CARE QUALITY

Statutory Authority: 16 Delaware Code, Chapter 30A (16 **Del.C.** Ch. 30A)
16 **DE Admin. Code** 3220

PROPOSED

PUBLIC NOTICE

3220 Training and Qualifications for Certified Nursing Assistants

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 16 of the Delaware Code, Chapter 30A, Delaware Health and Social Services (DHSS) / Division of Health Care Quality (DHCQ) is proposing regulations governing Training and Qualifications for Certified Nursing Assistants.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed regulatory amendments must submit same to, the Division of Health Care Quality, 263 Chapman Road, Cambridge Building, Suite 200, Newark, Delaware 19702, or by email to Corinna.Getchell@Delaware.gov or by fax to 302-421-7401 by 4:30 p.m. on July 1, 2022. Please identify in the subject line: Regulations Governing Training and Qualifications for Certified Nursing Assistants.

The action concerning the determination of whether to adopt the proposed regulations will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

SUMMARY OF PROPOSAL

The purpose of this notice is to advise the public that Delaware Health and Social Services / Division of Health Care Quality is proposing regulations governing Training and Qualifications for Certified Nursing Assistants.

Statutory Authority

16 **Del.C.** Ch.30A

Background

Newly enacted legislation affecting this regulation necessitates amendment.

Summary of Proposed Changes

The Division of Health Care Quality plans to publish the "proposed" amendments to the regulations governing Training and Qualifications of Certified Nursing Assistants and hold them out for public comment per Delaware law. The amendments update the regulatory language to incorporate legislative changes and updated standards of practice.

Public Notice

In accordance with the state public notice requirements of Title 29, Chapter 101 of the Delaware Code, Delaware Health and Social Services / Division of Health Care Quality gives public notice and provides an open comment period for thirty (30) days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments must be received by 4:30 p.m. on July 1, 2022.

Fiscal Impact

Not applicable

3220 Training and Qualifications for Certified Nursing Assistants

1.0 Definitions

"**Activities of Daily Living (ADLs)**" means normal daily activities including but not limited to ambulating, transferring, range of motion, grooming, bathing, dressing, eating and toileting.

"**Advanced Practice Nurse**" means an individual whose education and licensure meet the criteria outlined in 24 **Del.C.** Ch. 19.

"**Certified Nursing Assistant (CNA)**" means a duly certified individual under the supervision of a nurse, who provides care which does not require the judgment and skills of a nurse.

"**Chemical Restraint**" means psychopharmacologic drugs that are used for discipline or convenience and not required to treat medical symptoms.

"**Department**" means the Department of Health and Social Services.

"**Direct Supervision**" means actually observing students performing tasks.

~~"**Division**" means the Division of Long Term Care Residents Protection.~~

"**Facility**" means a Nursing Facility, Assisted Living Facility or Intermediate Care Facility for Persons with Intellectual Disabilities licensed pursuant to 16 **Del.C.** Ch. 11.

"**Full-Time**" means working a minimum of 35 clock hours per week.

"**General Supervision**" means providing necessary guidance for the program and maintaining ultimate responsibility.

"**Nurse**" means a licensed practical nurse (LPN), registered nurse (RN) and/or advanced practice nurse (APRN) whose education and licensure meet the criteria in 24 **Del.C.** Ch. 19.

"**Nursing Related Services**" means services that include but are not limited to the following: bathing, dressing, grooming, toileting, ambulating, transferring and feeding, observing and reporting the general well-being of the person(s) to whom a qualified person is providing care.

"**Physical Restraint**" means any manual method or physical or mechanical device, material or equipment attached or adjacent to the resident's/patient's body that the individual cannot remove easily which restricts freedom of movement or normal access to one's body.

"**Resident/Patient**" means a person residing in a facility licensed pursuant to 16 **Del.C.** Ch. 11 or a person receiving care in a licensed acute or outpatient healthcare setting.

"**Student**" means a person enrolled in a course offering certification as a CNA.

2.0 Requirements and Procedures for CNA Certification

2.1 Initial certification

2.1.1 To be eligible to take the examination for certification for CNA, the applicant must be a graduate of a Department approved program for CNA.

2.1.2 A certificate of completion must be issued from the approved program before filing an application for testing.

2.1.2.1 The certificate of completion must be dated within 24 months of the testing date.

2.1.2.2 Certificates of completion older than 24 months are no longer valid.

2.1.3 An application for testing shall be filed, along with a non-refundable fee, with the test vendor approved by the Department.

2.1.4 Students must take and pass both the written and clinical portions of the competency test to become certified.

2.1.5 ~~Students shall take the competency test within 30 days of completion of an approved program.~~ Students who fail to obtain a passing score may repeat the test two additional times.

2.1.5.1 ~~Students who fail to obtain a passing score may repeat the test two additional times.~~ Students who fail to obtain a passing score after testing three times must repeat the CNA training program before retaking the test.

~~2.1.5.2 Students who fail to obtain a passing score after testing three times must repeat the CNA training program before retaking the test.~~

2.1.6 Nursing students who are currently enrolled in a nursing program will be deemed to meet the CNA educational requirements provided they have:

2.1.6.1 Satisfactorily completed a Fundamentals/Basic Nursing course and

2.1.6.2 Satisfactorily completed ~~75~~ a specific number of hours of supervised clinical practicum in ~~a long term care setting~~ either a facility or a hospital licensed pursuant to 16 **Del.C.** Ch. 10 setting, under

the direct supervision of a nurse. The total clock hours of clinical training required for certification shall be determined by the Department through written order signed by the Secretary. At no time may the number of clock hours be less than those required by the Centers for Medicare and Medicaid Services.

2.1.6.3 Nursing students will be approved to take the CNA competency test upon submission of a letter from their school of nursing attesting to current enrollment status and a transcript showing satisfactory course completion as described.

2.1.7 Individuals who have graduated from an RN or LPN program in the United ~~States within 24 months prior to application for certification are deemed qualified to meet the Department's nurse aide training and competency evaluation program requirements and are eligible for certification upon submission of a sealed copy of their diploma.~~ States:

2.1.7.1 Within 24 months prior to application for certification are deemed qualified to meet the Department's nurse aide training and competency evaluation program requirements and are eligible for certification upon submission of a sealed copy of their diploma.

2.1.7.2 More than 24 months prior to application for certification are deemed qualified to meet the Department's nurse aide training program requirements and are eligible to take the competency test upon submission of a sealed copy of their diploma.

~~2.1.8 Individuals who have graduated from an RN or LPN program in the United States more than 24 months prior to application for certification are deemed qualified to meet the Department's nurse aide training program requirements and are eligible to take the competency test upon submission of a sealed copy of their diploma.~~

~~2.1.9~~ 2.1.8 Foreign trained nurses are eligible to sit for the state competency test if they meet the following requirements:

~~2.1.9.1~~ 2.1.8.1 The nurse must have been issued a certificate of licensure by the licensing agency in the state, territory or country where the nursing program is located.

~~2.1.9.2~~ 2.1.8.2 The nurse must submit a certificate issued by the Commission on Graduates of Foreign Nursing Schools or other Board of Nursing approved agency as evidence of the educational requirements of a curriculum for the preparation of professional nurses which is equivalent to the approved professional schools in Delaware.

~~2.1.9.3~~ 2.1.8.3 The nurse must submit official English translations of all required credentials.

~~2.1.10~~ 2.1.9 CNA certification shall be granted, for a period of 2 years (24 months) to all CNAs who meet the requirements.

2.2 Reciprocity

2.2.1 Delaware CNA certification is required prior to being employed as a CNA in the State.

2.2.2 A CNA trained and certified in a State other than Delaware must have completed a program that equals or exceeds the federal nurse aide training program requirements in the Code of Federal Regulations §483.152.

2.2.3 The Department will grant reciprocity to the out-of-state applicant provided the CNA:

2.2.3.1 Has a current CNA certificate from the jurisdiction where he or she currently practices.

2.2.3.1.1 Applicants from the State of Maryland must hold a current Geriatric Nursing Assistant certificate.

2.2.3.2 Within the last 24 months, has completed 3 months of full-time experience, equal to 420 clock hours, as a CNA performing nursing related services for pay under the supervision of a nurse or physician, or has completed a training and competency evaluation program with the number of hours at least equal to that required by the State of Delaware.

2.2.3.3 Is in good standing in the jurisdiction where he/she is currently certified.

2.2.3.4 Has submitted the required reciprocity fee along with the application.

2.2.4 CNA certification shall be granted, for a period of 2 years (24 months) to all CNAs who meet the requirements.

2.3 Certification Renewal

2.3.1 CNA certification shall be effective for two (2) years following the date of issue and shall expire two (2) years following such date, unless it is suspended, revoked, or surrendered prior to the expiration date.

2.3.2 CNAs must apply for certification renewal at least 30 days prior to the expiration date of the certification.

2.3.2.1 The required renewal fee must accompany the application for renewal.

2.3.2.2 The CNA must be able to prove that he/she has completed the requirements outlined in subsection 2.3.4.

2.3.3 A certification renewal will not be issued to a CNA who has not completed the requirements for renewal as outlined in subsection 2.3.4 and/or has not submitted an application for renewal and/or has not submitted the renewal fee.

2.3.4 In order to qualify for recertification, a CNA must complete the following during each 24 month certification period and prior to certification expiration:

2.3.4.1 24 hours of Department approved continuing education which must include:

2.3.4.1.1 Six (6) hours of dementia training and

2.3.4.1.2 Two (2) hours of ~~resident/patient abuse~~ resident/patient abuse/neglect/maltreatment prevention training.

2.3.4.2 Perform at least 64 hours of nursing related services for pay under the supervision of a nurse.

2.3.5 A CNA who fails to complete the requirements outlined in subsection 2.3.4 must take and pass the competency test again.

2.3.5.1 Payment of the testing fee is required when applying to take the competency test.

2.3.6 A CNA who fails to renew the certification prior to the expiration date but has completed the requirements outlined in subsection 2.3.4 may still renew the certification up to 30 days past the certification's expiration.

2.3.6.1 A late payment fee of $25.00 (in addition to the renewal fee) must be submitted with the renewal application.

2.3.7 The certification of any CNA who is on active military duty with the armed forces of the United States and serving in a theater of hostilities on the date that recertification is due shall be deemed to be current and in full compliance with this chapter until the expiration of 30 days after such CNA is no longer on active military duty in a theater of hostilities.

2.3.8 The certification of a CNA who fails to renew on time or during the 30-day late renewal period is considered lapsed.

2.3.8.1 A CNA with a lapsed certification is not permitted to work as a CNA in the State of Delaware.

2.3.8.2 The CNA must take and pass the CNA competency test in order to work as a CNA in the State of Delaware.

2.3.9 Individuals who fail to obtain a passing score on the written and/or clinical portions of the competency test after testing three times must repeat the CNA training program before additional testing will be permitted.

2.3.10 A CNA, who is certified in Delaware, may not use the certification from another State for the purpose of applying for reciprocity to avoid Delaware's continuing education requirements.

3.0 CNA Training Program Requirements

3.1 Program approval must be obtained from the ~~Division~~ Department prior to operating a CNA program.

3.2 All training must be done by or under the general supervision of an RN.

3.2.1 The RN must possess a minimum of two years of RN experience, at least 1 year of which must be in the provision of nursing home facility services that meets federal skilled nursing home requirements.

3.2.1.1 The required one year of full-time nursing facility experience can be met by work experience in, or supervision or teaching of students, in a Delaware licensed nursing facility.

3.2.1.2 The RN supervisor shall:

3.2.1.2.1 ~~be~~ Be available to all instructors;

3.2.1.2.2 ~~assist~~ Assist in developing lesson plans based on experience in taking care of nursing facility residents;

3.2.1.2.3 ~~ensure~~ Ensure that instructors are qualified and proficient in teaching the CNA curriculum;

3.2.1.2.4 ~~evaluate~~ Evaluate and document the proficiency of instructor every 6 months; and

3.2.1.2.5 ~~ensure~~ Ensure that the program is operating in accordance with all state and federal regulations.

3.3 All instructors (classroom and clinical) must have:

3.3.1 Completed a Department approved course in teaching ~~adults~~ adults; or

3.3.2 Experience teaching adults in a group classroom/clinical ~~setting~~ setting; or

3.3.3 In the case of high school programs, met the requirements for teaching as required by the Department of Education.

3.4 LPN instructors can assist the supervising RN instructors in laboratory skills, but are otherwise limited to instruction of students during the clinical phase of the CNA training program.

3.4.1 LPN instructors must have at least three years of LPN ~~experience,~~ experience; and

3.4.2 LPN instructors must work under the general supervision of an RN.

3.5 Clinical instructors shall provide general supervision of students at all times during clinical instruction.

3.5.1 Clinical instructors shall provide direct supervision to students in the clinical setting while the student is learning a competency until proficiency has been both demonstrated and documented.

3.6 Personnel from other health professions may ~~supplement~~ assist the nurse instructor as supplemental personnel.

3.6.1 Supplemental personnel must have at least 1 year of experience in their respective fields.

3.6.2 Supplemental personnel may include: RNs, LPNs, pharmacists, dieticians, social workers, sanitarians, fire safety experts, nursing home administrators, gerontologists, psychologists, physical and occupational therapists, activity specialist, speech/language/hearing therapists, resident/patient rights experts and others.

3.7 Programs must notify the ~~Division~~ Department in writing at least 30 days prior to implementing permanent and/or substantial changes to the program or the program's personnel.

3.7.1 Substantial changes include, but are not limited to: instructor(s), clinical or classroom site, major revision of course structure, change in textbook.

3.7.2 The program may request a waiver of the 30-day time period for good cause.

3.8 Classroom ratios of student to instructor shall not exceed 24:1.

3.9 Clinical and laboratory ratios of student to RN or LPN instructor shall not exceed 8:1.

3.10 Minimum equipment required:

3.10.1 Audio/Visual

3.10.2 Teaching Mannequin, Adult, for catheter and perineal care

3.10.3 Hospital Bed

3.10.4 Bedpan/Urinal

3.10.5 Bedside commode

3.10.6 Wheelchair

3.10.7 Scale

3.10.8 Overbed Table

3.10.9 Sphygmomanometer

3.10.10 Stethoscope

3.10.11 Resident/patient gowns, linens and at least four (4) pillows

3.10.12 Thermometers

3.10.13 Crutches

3.10.14 Canes (Variety)

3.10.15 Walker

3.10.16 Gait Belt

3.10.17 Miscellaneous supplies: i.e., bandages, compresses, heating pad, hearing aid, dentures, toothbrushes, razors, bath and emesis basins and compression stockings.

3.10.18 Foley Catheter and Drainage Bag

3.10.19 Mechanical lift

3.10.20 Adaptive eating utensils/equipment

3.10.21 Personal protective equipment

3.11 Curriculum Content and Competencies

3.11.1 The curriculum content for the CNA training programs shall meet each of the following requirements:

3.11.1.1 The material will provide a basic level of both knowledge and demonstrable skills for each individual completing the program.

3.11.1.2 ~~The program shall be a minimum of 150 clock hours in length,~~ The total, minimum clock hours of classroom instruction and clinical training required for certification shall be determined by the Department through written order signed by the Department Secretary. At no time may the number of clock hours be less than those required by the Centers for Medicare and Medicaid Services.

3.11.1.2.1 ~~75 clock hours of classroom instruction including laboratory time, and;~~ Additional hours may be added by the training program in either or both of the classroom instruction or clinical training components.

~~3.11.1.2.2 75 clock hours of clinical skills training in a Department approved Delaware licensed nursing facility.~~

~~3.11.1.2.3 Additional hours may be added in either of these areas or both.~~

3.11.2 Specific curriculum content and expected competencies are outlined in APPENDIX A.

3.12 Students must master each skill competency as observed by the RN instructor prior to performing the skill on a resident/patient in a nursing facility. All demonstrable competencies for each student must be documented by the RN instructor as the competency is mastered by the student in order for a student to qualify as successfully having completed that section of programming.

3.13 A student may not work in a facility as a CNA until he/she has completed a CNA training program and passed the CNA competency test.

3.14 Immunizations requirements

3.14.1 The provisions of the State of Delaware, Department of Education, 14 **DE Admin. Code** 804, are hereby adopted as the regulatory requirements for CNA Training programs in Delaware and are hereby referred to, and made part of this regulation, as if full set out herein.

3.14.2 The provisions of the State of Delaware, Department of Health and Social Services, Division of Public Health, 16 **DE Admin. Code** 4202 are hereby adopted as the regulatory requirements for CNA Training programs in Delaware and are hereby referred to, and made part of this regulation, as if fully set out herein.

3.14.3 Students that do not meet the minimum vaccination requirements shall not be permitted to participate in clinical training.

3.15 Minimum requirements for tuberculosis (TB) testing of clinical instructors and students are those currently recommended by the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services:

3.15.1 A baseline testing must be completed before providing clinical services and, thereafter, as determined by a TB risk assessment.

3.15.2 No person found to have active TB in an infectious stage shall be permitted to participate in clinical training.

3.15.3 Any person having a positive skin test, but a negative chest X-ray must complete a statement annually attesting that they have experienced no symptoms which may indicate active TB infection.

4.0 Mandatory Orientation Period

4.1 Nursing Facilities General Requirements

4.1.1 All CNAs hired to work in a facility shall undergo a minimum ~~of 80~~ number of clock hours of orientation~~, at least 40 of which shall be clinical~~. The requirements for certified nursing assistant orientation shall be specified by the Department in a written order signed by the Secretary.

4.1.2 Any CNA undergoing orientation may be considered a facility employee for purposes of satisfying the minimum facility staffing requirements. Orientation may also be considered as part of the 64 hour work requirement for certification renewal.

4.1.3 If a CNA who is not employed, or does not have an offer to be employed as a CNA, becomes employed by, or receives an offer of employment from a federally certified nursing facility not later than 12 months after completing a nurse aide training and competency evaluation program, the federally certified nursing facility shall reimburse all documented personally incurred costs in completing the CNA Training program.

4.1.3.1 Facilities shall accept as documentation: canceled checks, paid receipts, written verification from a training program or other written evidence which reasonably establishes the CNA's personally incurred costs.

4.1.3.2 Such costs include tuition, tests taken and fees for textbooks or other required course materials.

4.1.3.3 Such costs shall be reimbursed in equal quarterly payments with full reimbursement to coincide with the CNA's completion of one year of employment including the orientation period.

4.1.3.4 Any nursing facility which reimburses a CNA for documented personally incurred costs of a nurse aide training and competency evaluation program shall notify the ~~Division~~ Department of such reimbursement.

4.1.3.5 Notice of such reimbursement shall be entered in the CNA Registry database and information regarding such reimbursement shall be available to facilities upon request.

4.2 Orientation Program Requirements

4.2.1 The mandatory orientation program shall be under the supervision of a nurse and must include:

4.2.1.1 Tour of the facility and assigned residents' rooms
4.2.1.2 Fire and disaster plans
4.2.1.3 Emergency equipment and supplies
4.2.1.4 Communication (including the facility chain of command) and documentation requirements
4.2.1.5 Process for reporting emergencies, change of condition and shift report
4.2.1.6 Operation of facility equipment and supplies, including scales, lifts, special beds and tubs
4.2.1.7 Review of the plan of care for each assigned resident/patient including:
4.2.1.7.1 ADL/personal care needs
4.2.1.7.2 nutrition, hydration and feeding techniques and time schedules
4.2.1.7.3 bowel and bladder training programs
4.2.1.7.4 infection control procedures
4.2.1.7.5 safety needs
4.2.1.8 Role and function of the CNA
4.2.1.9 Resident/patient rights; abuse reporting
4.2.1.10 Safety and body mechanics; transfer techniques
4.2.1.11 Vital signs
4.2.1.12 Psychosocial needs
4.2.1.13 Facility policies and procedures

4.3 Temporary Agency Requirements

4.3.1 All CNAs employed by temporary agencies and placed in a facility in which they have not worked within the previous six (6) months shall undergo a minimum of two (2) hours of orientation prior to beginning their first shift at the facility.

4.3.2 Any CNA employed by a temporary agency and undergoing orientation shall not be considered a facility employee for purposes of satisfying the minimum facility staffing requirements.

4.3.3 The mandatory two-hour orientation program shall be under the supervision of a nurse and must include:
4.3.3.1 Tour of the facility and assigned resident/patient rooms
4.3.3.2 Fire and disaster plans
4.3.3.3 Emergency equipment and supplies
4.3.3.4 Communication and documentation requirements
4.3.3.5 Process for reporting emergencies, change of condition and shift report
4.3.3.6 Operation of facility equipment and supplies including but not limited to scales, lifts, special beds and tubs
4.3.3.7 Review of the plan of care for each assigned resident/patient including:
4.3.3.7.1 ADL/personal care needs
4.3.3.7.2 Nutrition, hydration and feeding techniques and time schedules
4.3.3.7.3 Bowel and bladder training programs
4.3.3.7.4 Infection control procedures
4.3.3.7.5 Safety needs

5.0 Discipline

5.1 Reasons for Disciplinary Action Include but are not limited to:

5.1.1 A conviction or substantiation of a crime or offense relating to the provision of care/services in a court of law.

5.1.2 Behavior that fails to conform to legal and accepted healthcare standards and thus may adversely affect the health and welfare of a resident/patient.

5.1.3 Performing acts beyond the authorized scope of the CNA.

5.1.4 Inaccurately and willfully recording, falsifying, or altering a resident/patient or agency/facility record related to care provision.

5.1.5 Abuse, neglect, mistreatment or financial exploitation of a resident/patient.

5.1.6 Leaving a resident/patient assignment except in documented emergency situations.

5.1.7 Failing to safeguard resident/patient dignity and right to privacy when providing services.

5.1.8 Violating the confidentiality of information concerning residents/patients.

5.1.9 Performing CNA duties when unfit to perform procedures and make decisions because of physical or mental impairment or dependence on alcohol or drugs.

5.1.10 Practicing as a CNA with an expired certification.

5.1.11 Allowing another person to use her/his CNA certification or impersonating another person holding a certificate,

5.1.12 Committing fraud, misrepresentation or deceit in taking the CNA test or in obtaining certification.

5.1.13 Failing to comply with the requirements for mandatory continuing education.

5.1.14 Failing to take appropriate action or follow policies and procedures designed to safeguard the resident/ patient.

5.1.15 Having a certificate revoked or suspended in another state for reasons which would preclude certification in this state.

5.1.16 Failing to report abuse, neglect, mistreatment or financial exploitation of a resident/patient.

5.2 Types of Disciplinary Action

5.2.1 Refusal to issue a certification.

5.2.2 Revocation or suspension of a certification.

5.2.3 Issuance of a letter of reprimand.

5.2.4 Refusal to renew a certification.

5.2.5 Placement on the Adult Abuse Registry.

5.2.6 Flag on the CNA Registry.

5.3 Administrative Hearings

5.3.1 All hearings shall be conducted in accordance with the Administrative Procedures Act, 29 **Del.C.** Ch. 101.

5.3.2 A CNA for whom disciplinary action is recommended shall be notified by certified mail at his/her home address of the disciplinary action that shall be imposed.

5.3.3 A CNA for whom disciplinary action is recommended shall be offered a right to an administrative hearing.

5.3.4 All requests for an administrative hearing must be received in writing, postmarked within 20 calendar days of the date of the notice of disciplinary action.

5.3.5 Failure to request an administrative hearing within the appropriate timeframe will lead to imposition of the disciplinary action.

5.3.6 Procedural rights. The parties shall be given the opportunity to:

5.3.6.1 Examine, at a reasonable time before the date of the hearing and during the hearing, all documents and records to be used by either party at the hearing;

5.3.6.2 Bring witnesses;

5.3.6.3 Establish all pertinent facts and circumstances;

5.3.6.4 Present an argument without undue interference;

5.3.6.5 Question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses; and

5.3.6.6 Be represented by an attorney of the individual’s choice.

5.3.7 Hearing decisions must be based exclusively on evidence introduced at the hearing.

5.3.8 The record must consist only of:

5.3.8.1 The transcript or recording of testimony and exhibits;

5.3.8.2 All papers and requests filed in the proceeding; and

5.3.8.3 The decision of the hearing officer.

5.3.9 The impartial decision must:

5.3.9.1 Summarize the facts;

5.3.9.2 Identify the regulations pertinent to the decision; and

5.3.9.3 Specify the reasons for the decisions.

5.3.10 The hearing officer shall:

5.3.10.1 Render a written decision within thirty business days of the hearing and notify the individual and the ~~Division~~ Department.

5.3.10.2 Notify the parties that this is the final decision of the Department with the right to an appeal pursuant to the Administrative Procedures Act, 29 **Del.C.** Ch. 101.

APPENDIX A

MODULE: The Nursing Assistant Role and Function

- Introduces the characteristics of an effective nursing assistant including but not limited to: personal attributes, on-the-job conduct, appearance, grooming, health and ethical behavior.
- Presents the responsibilities of the nursing assistant as a member of the resident/patient care team.
- Teaches legal aspects of resident/patient care and rights.
- Relevant Federal and State statutes are reviewed.

COMPETENCIES:

- Define the role and functions of the nursing assistant and provide awareness of the legal limitations of being a nursing assistant.
- Recognize the responsibilities of the nursing assistant as a member of the health care team. Understand the relevant State and Federal regulations for long term care and legalities of reporting and documenting incidents and accidents.
- Understand the role of long term care advocates, investigators and surveyors.
- Identify the "chain of command" in the organizational structure of the health care agency.
- Maintain personal hygiene and exhibit dress practices which meet professional standards.
- Recognize the importance of punctuality and commitment to the job.
- Differentiate between ethical and unethical behavior on the job.
- Understand the role, responsibility and functional limitations of the nursing assistant.
- Demonstrate behavior that maintains resident/patient rights.
- Provide privacy and maintenance of confidentiality.
- Promote the resident/patient right to make personal choices to accommodate individual needs.
- Give assistance in resolving grievances.
- Provide needed assistance in going to and participating in resident/patient and family groups and other activities.
- Maintain care and security of resident/patient personal possessions as per the resident/patient desires.
- Provide care which ensures that the residents/patients are free from abuse, mistreatment, neglect or financial exploitation and report any instances of same to the ~~Division~~ Department.
- Discuss the psychological impact of abuse, neglect, mistreatment, misappropriation of property and/or financial exploitation of residents/patients.
- Maintain the resident/patient environment and care through appropriate nursing assistant behavior so as to keep the resident/patient free from physical and chemical restraints.
- Discuss the potential negative outcomes of physical restraints, including side rails.

MODULE: Environmental Needs of the Resident/Patient

- Introduces the nursing assistant to the need to keep residents/patients safe from injury and infection in the long term care setting.
- The nursing assistant is taught why and how to use infection control and isolation techniques.
- Safety through prevention of fires and accidents, and emergency procedures for fire and other disasters are presented.

COMPETENCIES:

- Apply the basic principles of infection control.
- Identify how diseases are transmitted and understand concepts of infection prevention.
- Demonstrate proper hand washing technique.
- Demonstrate appropriate aseptic techniques in the performance of normal duties and understand the role of basic cleaning, disinfecting, and sterilization tasks.
- Demonstrate proper isolation and safety techniques in the care of the infectious resident/patient and proper handling and disposal of contaminated materials.
- Assist with basic emergency procedures.
- Follow safety and emergency procedures.
- Identify safety measures that prevent accidents to residents/patients.
- Recognize signs when a resident/patient is choking or may have an obstructed airway.
- Assist with clearing obstructed airway.
- Call for help when encountering convulsive disorders, loss of consciousness, shock, hemorrhage, and assist the resident/patient until professional help arrives.
- Follow disaster procedures.
- Report emergencies accurately and immediately.
- Identify potential fire hazards.
- Provide a safe, clean environment.

- Identify the resident's/patient's need for a clean and comfortable environment.
- Describe types of common accidents in the nursing home and their preventive measures.
- Be aware of the impact of environmental factors on the resident/patient in all areas including but not limited to light and noise levels.
- Report unsafe conditions to appropriate supervisor. Use the nurse call system effectively.
- Report evidence of pests to appropriate supervisory personnel.
- Report nonfunctioning equipment to appropriate supervisory/charge personnel.
- Prepare soiled linen for laundry.
- Make arrangement of furniture and equipment for the resident's/patient's convenience and to keep environment safe.

MODULE: Psychosocial Needs of the Resident/Patient

- Focus is placed on the diverse social, emotional, recreational and spiritual needs of residents/patients in a long term care setting.
- The curriculum shall describe some of the physical, mental, and emotional changes associated with aging and institutionalization, and present ways in which the nursing assistant may effectively communicate with residents/patients and their families.

COMPETENCIES:

- Demonstrate basic skills by identifying the psychosocial characteristics of the populations being served in the nursing facility including persons with intellectual/developmental disabilities, mental illness, dementia and other related disorders.
- Indicate the ways to meet the resident's/patient's essential needs for physical and psycho-social well-being.
- Modify his/her own behavior in response to resident's/patient's behavior.
- Respect the resident's/patient's beliefs recognizing cultural differences in holidays, spirituality, sexual orientation, gender identification, clothing, foods and medical treatments.
- Identify methods to ensure that the resident/patient may fulfill his/her maximum potential within the normal aging process.
- Provide training in, and the opportunity for, self-care according to the resident's/patient's capabilities.
- Demonstrate principles of behavior management by reinforcing appropriate behavior and reducing or eliminating inappropriate behavior.
- For persons with dementia, recognize that cognitive functions are impaired, determine what the resident/patient is trying to communicate and respond appropriately.
- Demonstrate skills which allow the resident/patient to make personal choices and promote the resident's/patient's dignity.
- Utilize resident's/patient's family as a source of emotional support and recognize the family's need for emotional support.
- Recognize how age, illness and disability affect memory, sexuality, mood and behavior, including wandering.
- Recognize aggressive behavior and learn management techniques.
- Recognize that certain behaviors, such as wandering, are a form of communication.
- Learn to apply strategies to promote safe behaviors.
- Discuss how appropriate activities are beneficial to residents/patients with cognitive impairments.
- Recognize and utilize augmentative communication devices and methods of nonverbal communication.
- Demonstrate appropriate and effective communication skills.
- Demonstrate effective verbal and nonverbal communications in keeping with the nursing assistant's role with residents/patients, their families and staff.
- Observe by using the senses of sight, hearing, touch and smell to report resident/patient behavior to the nurse.
- Document observations using appropriate terms and participate in the care planning process.
- Recognize the importance of maintaining the resident's/patient's record accurately and completely.
- Communicate with residents/patients according to their state of development.
- Identify barriers to effective communication.
- Recognize the importance of listening to residents/patients.
- Participate in sensitivity training in order to understand needs of residents/patients with physical or cognitive impairments.
- The CNAs dementia specific training shall include:
    - Communicating with persons diagnosed as having Alzheimer's disease or other forms of dementia; the psychological, social, and physical needs of those persons;
    - Safety measures which need to be taken with those persons; and
    - Prevention of patient abuse that shall include: definitions and signs and symptoms of abuse and neglect, reporting requirements and prevention strategies.

MODULE: Physical Needs of the Resident/Patient

- Presents the basic skills which nursing assistants use in the physical care of residents/patients.
- The nursing assistant will learn basic facts about body systems and what is needed to promote good functioning.
- The nursing assistant will learn to provide physical care to residents/patients safely and to keep the residents/patients nourished, hydrated, clean, dry and comfortable.
- The nursing assistant will also learn to make observations regarding residents/patients and to record and/or report observations.
- The nursing assistant will be introduced to the basics of range of motion and learn to integrate range of motion into routine personal care activities.

COMPETENCIES:

- Apply the principles of basic nutrition in the preparation and serving of meals.
- Incorporate principles of nutrition and hydration in assisting residents/patients at meals.
- Understand basic physiology of nutrition and hydration.
- Understand basic physiology of malnutrition and dehydration.
- Identify risk factors for poor nutritional status in the elderly:
  - Compromised skin integrity
  - Underweight or overweight
  - Therapeutic or mechanically altered diet
  - Poor dental status
  - Drug-nutrient interactions
  - Acute/chronic disease
  - Depression or confusion
  - Decreased appetite
- Recognize how the aging process affects digestion.
- Accurately calculate and document meal intake and report inadequate intake or changes in normal intake.
- Accurately calculate and document fluid intake and report inadequate intake or changes in normal intake.
- Recognize and report signs and symptoms of malnutrition and dehydration.
- Understand concepts of therapeutic diets including dysphagia diets and the related risks associated with dysphagia including aspiration and aspiration pneumonia.
- Incorporate food service principles into meal delivery including:
  - Distributing meals as quickly as possible when they arrive from the kitchen to maintain food temperature.
  - Assisting residents/patients with meal set-up if needed (i.e. opening packets or cartons, buttering bread if desired).
  - Serving meals to all residents/patients seated together at the same time.
  - Offering appropriate substitutions if the residents/patients don't like what they have received.
  - Utilize tray card or other mechanism to ensure the resident/patient is served his/her prescribed diet and identify who to notify if a resident/patient receives the wrong diet.
  - Demonstrate understanding of how to read menus.
  - Assist residents/patients who are unable to feed themselves.
- Demonstrate techniques for feeding someone who:
  - Bites down on utensils
  - Can't or won't chew
  - Holds food in mouth
  - Pockets food in cheek
  - Has poor lip closure
  - Has missing or no teeth
  - Has ill-fitting dentures
  - Has a protruding tongue or tongue thrust
  - Will not open mouth
- Demonstrate proper positioning of residents/patients at mealtime.
- Demonstrate skills for feeding residents/patients who:
  - Are cognitively impaired
  - Have swallowing difficulty
  - Have sensory problems
  - Have physical deformities
- Demonstrate positioning techniques for residents who:
  - Have poor sitting balance
  - Must take meals in bed

    - Fall forward when seated
    - Lean to one side
    - Have poor neck control
    - Have physical deformities
- Demonstrate use of assistive devices.
- Identify signs and symptoms that require alerting a nurse, including:
    - Difficulty swallowing or chewing
    - Coughing when swallowing liquids
    - Refusal of meal
    - Choking on food or fluids
    - Excessive drooling
    - Vomiting while eating
- Incorporate principles of a pleasant dining environment when assisting residents/patients at mealtime including, but not limited to:
    - Ensuring adequate lighting
    - Eliminating background noise
    - Sitting at the resident/patient level
    - Being engaged with the resident/patient
- Demonstrate positive interaction with residents/patients recognizing individual resident/patient needs.
- Ensure residents/patients are dressed appropriately.
- Allow residents/patients to eat at their own pace.
- Encourage independence and assist as needed.
- Recognize and report, as appropriate, the risk factors and signs and symptoms of malnutrition, dehydration and fluid overload.
- Accurately calculate and document intake and output including meal percentages and fluids.
- Demonstrate understanding of basic anatomy and physiology in the following areas:
    - Respiratory system
    - Circulatory system
    - Digestive system
    - Urinary system
    - Musculoskeletal system
    - Endocrine system
    - Nervous system
    - Integumentary system
    - Sensory system
    - Reproductive system
- Recognize abnormal signs and symptoms of common illness and conditions. Examples are:
    - Respiratory infection - Report coughing, sneezing, elevated temperatures.
    - Diabetes - Report excessive thirst, frequent urination, change in urine output, drowsiness, excessive perspiration and headache. Understand the healing process as it relates to diabetes.
    - Urinary tract infection - Report frequent urination, burning or pain on urination, elevated temperature, change in amount and color of urine, blood or sediment in urine and strong odors.
    - Cardiovascular conditions - Report shortness of breath, chest pain, blue color to lips, indigestion, sweating, change in pulse, edema of the feet or legs.
    - Cerebral vascular conditions - Report dizziness, changes in vision such as seeing double, change in blood pressure, numbness in any part of the body, or inability to move arm or leg.
    - Skin conditions - Report break in skin, discoloration such as redness, bruising, rash, itching.
    - Gastrointestinal conditions - Report nausea, vomiting, pain, inability to swallow, bowel movement changes such as color, diarrhea, and constipation.
    - Infectious diseases.
- Provide personal care and basic nursing skills as directed by the nurse in the appropriate licensed entity.
- Provide for resident/patient privacy and dignity when providing personal care.
- Assist the resident/patient to dress and undress.
- Assist the resident/patient with bathing and personal grooming.
- Observe and report condition of the skin.
- Assist the resident/patient with oral hygiene, including prosthetic devices.
- Administer oral hygiene for the unconscious resident/patient.
- Demonstrate measures to prevent decubitus ulcers, including, but not limited to positioning, turning and applying heel and elbow protectors.

- Assist the resident/patient in using the bathroom. Understand consequences of not assisting resident/patient to the bathroom.
- Assist the resident/patient in using a bedside commode, urinal and bedpan.
- Demonstrate proper bed making procedures for occupied and unoccupied beds.
- Feed resident/patient oral table foods in an appropriate manner. Demonstrate proper positioning of resident/patient who receives tube feeding.
- Distribute nourishment and water.
- Accurately measure and record with a variety of commonly used devices:
  - Blood pressure
  - Height and weight
  - Temperature, pulse, respiration
- Report significant change in vital signs.
- Assist the resident/patient with shaving.
- Shampoo and groom hair.
- Provide basic care of toenails unless medically contraindicated.
- Provide basic care of fingernails unless medically contraindicated.
- Demonstrate proper catheter care.
- Demonstrate proper perineal care.
- Assist the nurse with a physical examination.
- Apply a non-sterile dressing properly.
- Apply non-sterile compresses and soaks properly and safely.
- Apply cold and/or heat applications properly and safely.
- Demonstrate how to properly apply compression stockings.
- Demonstrate proper application of physical restraints including side rails.
- Demonstrate skills which incorporate principles of restorative care under the direction of a nurse.
- Assist the resident/patient in bowel and bladder training.
- Assist the resident/patient in activities of daily living and encourage self-help activities.
- Assist the resident/patient with ambulation aids, including, but not limited to cane, quad-cane, walker, crutches, wheelchair and transfer aids, such as a mechanical lift.
- Perform range of motion exercise as instructed by the physical therapist or the nurse.
- Assist in care and use of prosthetic devices.
- Assist the resident/patient while using proper body mechanics.
- Assist the resident/patient with sitting on the side of the bed, standing and walking.
- Demonstrate proper turning and/or positioning both in bed and in a chair.
- Demonstrate proper technique of transferring resident/patient from low and high bed to chair.
- Demonstrate safety and emergency procedures including proficiency in the Heimlich maneuver and certification in cardiopulmonary resuscitation (CPR).
- Provide care to resident/patient when death is imminent.
- Discuss own feelings and attitude about death.
- Explain how culture and religion influence a person's attitude toward death.
- Discuss the role of the CNA, the resident's/patient's family and significant others involved in the dying process.
- Discuss the stages of death and dying and the role of the nurse assistant.
- Provide care, if appropriate, to the resident's/patient's body after death.

5 DE Reg. 1908 (04/01/02)
6 DE Reg. 1505 (05/01/03)
8 DE Reg. 1014 (01/01/05)
14 DE Reg. 169 (09/01/10)
15 DE Reg. 192 (08/01/11)
15 DE Reg. 1010 (01/01/12)
16 DE Reg. 632 (12/01/12)
20 DE Reg. 901 (05/01/17)
25 DE Reg. 1102 (06/01/22) (Prop.)