

Nurse Aides Working under 1135 Waiver during a Public Health Emergency

The Centers for Medicare and Medicare Service (CMS) issued a blanket waiver for the nurse aide training and certification requirements in response to staffing shortages in nursing homes and board and care homes due to the federally declared public health emergency (PHE). CMS implemented the Emergency Regulatory 1135 Waiver of Training and Certification of Nurse Aides, 42 CFR 483.35(d) on March 1, 2020. This emergency waiver suspended the nurse aide training and certification requirements in 42 CFR §483.35(d), except the requirement that the person employed as a nurse aide be competent to provide nursing and nursing-related services at 42 CFR §483.35(d)(1)(i).

On April 7, 2022, CMS provided notice this waiver would expire on June 6, 2022. For details see [QSO 22-15: Update to COVID-19 Emergency Declaration Blanket Waivers for Specific Providers \(https://www.cms.gov/medicareprovider-enrollment-and-certificationsurvey/certificationgeninfopolicy-and-memos-states-and/update-covid-19-emergency-declaration-blanket-waivers-specific-providers\)](https://www.cms.gov/medicareprovider-enrollment-and-certificationsurvey/certificationgeninfopolicy-and-memos-states-and/update-covid-19-emergency-declaration-blanket-waivers-specific-providers). Once the waiver has expired, nurse aides have the full 4-month time frame to come into compliance.

On October 5, 2022, CMS gave Minnesota an extension to this waiver which will end on May 11, 2023. Once the waiver extension has expired, nurse aides will have the full 4-month time frame (until September 10, 2023) to come into compliance.

Nurse aides who wish to continue working must pass the competency evaluation and be added to the Minnesota Nurse Aide Registry by September 10, 2023.

There are three options available:

1. **Waiver Checklist:** Have your employer complete the Skills Checklist for Nurse Aides Working under the 1135 Waiver and pass the competency evaluation by September 10, 2023.
2. **Challenge Exam:** Register for and pass the competency exam by September 10, 2023.
3. **Training Program:** Enroll in and complete a NATCEP training program and pass the competency evaluation by September 10, 2023.

Upon expiration of the waiver extension on May 11, 2023, the following requirements will be in place:

42 CFR §483.35(d) (F728) Requirement for facility hiring and use of nurse aides:

42 CFR §483.35(d)(1) General rule. A facility must not use any individual working in the facility as a nurse aide for more than 4 months, on a full-time basis, unless—

*(i) That individual is competent to provide nursing and nursing related services; **and***

*(A) That individual has completed a training and competency evaluation program, **or** a competency evaluation program approved by the State as meeting the requirements of §483.151 through §483.154; **or***

(B) That individual has been deemed or determined competent as provided in §483.150(a) and (b).

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Nurse aides have the full four-month period starting from the end of the waiver extension (September 10, 2023) to successfully complete the required training and certification. For purposes of meeting the 75-hour training requirement, § 483.152, people may count either training obtained through an approved program or training obtained in the nursing home setting through on-site observation and working as a nurse aide during the waiver.

The **Skills Checklist for Nurse Aides Working under the 1135 Waiver**, which follows below, may be used as documentation to demonstrate completion of training requirements.

Skills Checklist for Nurse Aides Working under the 1135 Waiver

MARCH 1, 2020, TO SEPTEMBER 10, 2023

Per QSO Memo 21-17, CMS recommended that states evaluate their NATCEP, and consider nurse aides' work time counted towards the 75-hour training requirement, which includes a total of 59 hours of training and 16 hours of supervised practical training. The required areas of training per 42 CFR §483.152(b) must be addressed, and any gaps in on-site training that are identified must be fulfilled through supplemental training. In addition, nurse aides must still successfully pass the state's competency exam per 42 CFR §483.154.

Minnesota is allowing credit for time worked as nurse aide during the public health emergency. The time worked will count towards the 75-hour training requirement for NATCEP. The facility must document the training and hours the person completed to qualify for this requirement. Even if the person has completed all training requirements during the public health emergency, the person must still enroll in a NATCEP program, which will verify that all training requirements are met before the competency examination is completed.

Facilities must maintain a copy of this form and timeframes of training in the nurse aide's personnel file for reference.

Facilities must maintain a copy of the competencies performed and evaluated as required under for people working under the waiver.

For a listing of required competency testing skills, see the Minnesota Candidate Handbook on the [D&S – Minnesota Nurse Aide \(https://hdmaster.com/testing/cnatesting/Minnesota/MN_CNA_Home.htm\)](https://hdmaster.com/testing/cnatesting/Minnesota/MN_CNA_Home.htm) website. Tested skills and corresponding steps are listed on pages 19-36 of the candidate handbook. Minnesota Mock Skills are also available for review.

Name of person working under 1135 waiver (print): _____

Date of hire: _____

Please identify one of the options below.

- Option 1:
 - Training by approved NATCEP (name, program code): _____
 - Training completion date: _____
- Option 2: Registration of person with approved NATCEP
 - Name of program: _____
 - Date of registration: _____

NURSE AIDES WORKING UNDER 1135 WAIVER DURING A PUBLIC HEALTH EMERGENCY

Skills and Knowledge (42 CFR § 483.152) Facilities need to maintain documentation of competency (by demonstration or knowledge test completed by the nurse aide) for all bolded areas.	Check if completed	RN/LPN Initials
1) At least a total of 16 hours of training in the following areas		
Communication and interpersonal skills <ul style="list-style-type: none"> ▪ Hearing aid placement 		
Infection control <ul style="list-style-type: none"> ▪ Handwashing ▪ Applying PPE 		
Safety/emergency procedures, including Heimlich maneuver <ul style="list-style-type: none"> ▪ Clear obstructed airway/abdominal thrusts 		
Promoting residents' independence		
Respecting residents' rights		
2) A total of 59 hours in the follow areas		
Basic nursing skills <ul style="list-style-type: none"> ▪ Standard pre-steps ▪ Standard post-steps ▪ Oxygen tubing safety 		
Taking and recording vital signs <ul style="list-style-type: none"> ▪ Temperature ▪ Radial pulse ▪ Respirations ▪ Blood pressure 		

Skills and Knowledge (42 CFR § 483.152) Facilities need to maintain documentation of competency (by demonstration or knowledge test completed by the nurse aide) for all bolded areas.	Check if completed	RN/LPN Initials
Measuring and recording <ul style="list-style-type: none"> ▪ Weight ▪ Height 		
Caring for residents' environment <ul style="list-style-type: none"> ▪ Resident room order ▪ Unoccupied bed making ▪ Occupied bed making 		
Recognizing abnormal changes in bodily functions and importance of reporting such changes to a supervisor		
Caring for residents when death is imminent		
3) Personal care skills		
Bathing <ul style="list-style-type: none"> ▪ Tub bath or shower ▪ Partial bath ▪ Bed bath 		
Grooming, including mouth care <ul style="list-style-type: none"> ▪ Bed shampoo ▪ Oral care ▪ Oral care (unconscious person) ▪ Denture care ▪ Fingernail care ▪ Foot care ▪ Shaving ▪ Peri-care (Female) ▪ Peri-care (Male) 		

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Skills and Knowledge (42 CFR § 483.152) Facilities need to maintain documentation of competency (by demonstration or knowledge test completed by the nurse aide) for all bolded areas.	Check if completed	RN/LPN Initials
Dressing <ul style="list-style-type: none"> ▪ Dressing a resident ▪ Dressing a resident (weak side) ▪ Support stocking application 		
Toileting <ul style="list-style-type: none"> ▪ Bathroom or commode assistance ▪ Urinal assist ▪ Bedpan assist ▪ Indwelling catheter care ▪ Indwelling catheter care tube safety ▪ Empty urine drainage bag ▪ Output 		
Assisting with eating and hydration <ul style="list-style-type: none"> ▪ Fluid intake ▪ Meal assistance ▪ Intravenous tube monitoring 		
Proper feeding techniques		
Skin care <ul style="list-style-type: none"> ▪ Back rub ▪ Gastrostomy skin care 		

Skills and Knowledge (42 CFR § 483.152) Facilities need to maintain documentation of competency (by demonstration or knowledge test completed by the nurse aide) for all bolded areas.	Check if completed	RN/LPN Initials
Transfers, positioning and turning <ul style="list-style-type: none"> ▪ Wheelchair transfer (one-person) ▪ Wheelchair transfer (two-person) ▪ Mechanical lift ▪ Wheelchair transport ▪ PROM (knee, ankle) ▪ PROM (shoulder, elbow) ▪ Supine position placement ▪ Side-lying position ▪ Move-up in bed ▪ Move-up in bed (draw sheet) 		
4) Mental health and social service needs		
Modifying aide’s behavior in response to residents’ behavior		
Awareness of developmental tasks associated with the aging process		
How to respond to resident behavior		
Allowing the resident to make personal choices, providing and reinforcing other behavior consistent with the resident’s dignity		
Using the resident’s family as a source of emotional support		
5) Care of cognitively impaired residents		
Techniques for addressing the unique needs and behaviors of person with dementia (Alzheimer’s and other dementias)		

Skills and Knowledge (42 CFR § 483.152) Facilities need to maintain documentation of competency (by demonstration or knowledge test completed by the nurse aide) for all bolded areas.	Check if completed	RN/LPN Initials
Communicating with cognitively impaired residents		
Understanding the behavior of cognitively impaired residents		
Appropriate responses to the behavior of cognitively impaired residents		
Methods of reducing the effects of cognitive impairments		
6) Basic restorative services		
Training the resident in self-care according to the residents' abilities		
Use of assistive devices in transferring, ambulation, eating and dressing <ul style="list-style-type: none"> ▪ Apply transfer belt and ambulation ▪ Ambulation with cane ▪ Ambulation with walker 		
Maintenance of range of motion		
Proper turning and positioning in bed and chair		
Bowel and bladder training		
Care and use of prosthetic and orthotic devices		
7) Residents' rights and abuse prevention		
Providing privacy and maintenance of confidentiality		
Promoting the residents' right to make personal choices to accommodate their needs		

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Skills and Knowledge (42 CFR § 483.152) Facilities need to maintain documentation of competency (by demonstration or knowledge test completed by the nurse aide) for all bolded areas.	Check if completed	RN/LPN Initials
Giving assistance in resolving grievances and disputes		
Providing needed assistance in getting to and participating in resident and family groups and other activities		
Maintaining care and security of residents' personal possessions		
Promoting the residents' right to be free from abuse, mistreatment, and neglect and the need to report any instance of such treatment to appropriate facility staff		
Avoiding the need for restraints in accordance with current professional standards		

Notes/Comments:

Attestation

Person working under 1135 waiver: _____

Date signed: _____

Instructor/verifying authority: _____

Date signed: _____

By submitting this checklist, I attest that the person named on this form **has successfully completed** a minimum of 75 hours of nurse aide training, including a minimum of 16 hours of supervised practical training, and has demonstrated competency in all skills identified above. I further attest the person named on this form is eligible to complete the competency and skills testing through the NATCEP program.

SIGNATURE – Supervising RN

Name (print or type) –
Supervising RN:

Date signed:

OR

By submitting this checklist, I attest the person named on this form **has NOT completed** all required areas as identified per 42 CFR §483.152(b).

Portions of the above checklist are not completed and training by approved training program is required.

AND/OR

The person named on this form has not completed the required hours per 42 CFR §483.152 (59 hours curriculum instruction and 16 hours supervised practical training). Please identify the completed hours below.

Hours of nurse aide training completed _____ Hours of supervised practical training _____

SIGNATURE – Supervising RN

Name (print or type) –
Supervising RN

Date signed

Facilities may not charge nurse aides for training and competency evaluation programs.

§483.152 Requirements for approval of a nurse aide training and competency evaluation program.

(c)Prohibition of charges. (1) No nurse aide who is employed by, or who has received an offer of employment from, a facility on the date on which the aide begins a nurse aide training and competency evaluation program may be charged for any portion of the program (including any fees for textbooks or other required course materials).

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To obtain this information in a different format, call: 651-201-4200.