



Proposed Amendments to 105 CMR 156.000: *The Training of Nurses' Aides in Long-Term Care Facilities*

Sherman Lohnes, JD

**Director of the Division of Health Care Facility Licensure and Certification
Bureau of Health Care Safety and Quality**

Lauren B. Nelson, Esq.

**Director of Policy and Quality Improvement
Bureau of Health Care Safety and Quality**

Public Health Council

November 9, 2016



Background

- This regulation, 105 CMR 156.000, *The Training of Nurses' Aides in Long-Term Care Facilities*, sets out standards for the training of nurse aides in long-term care facilities pursuant to M.G.L. c. 111 § 72W.
- These regulations ensure a high quality of care, industry standardization and strong consumer protection for residents receiving care in a long-term care facility.
- These amendments are proposed as part of the regulatory review process, mandated by Executive Order 562, which requires all state agencies to undertake a review of each regulation under its jurisdiction currently published in the Code of Massachusetts Regulations.



Background: Regulatory Alignment

- M.G.L. c. 111 § 72W, under which these regulations were originally promulgated, was passed in 1986, prior to the federal government establishing standards for nurse aide training, and provided minimum guidance as to the requirements for nurse aide training.
- The amended regulation aligns the state and federal regulations by achieving the following:
 - Including provisions for approving, or renewing or withdrawing approval from, nurse aide training programs;
 - Reconciling training and testing deadlines; and
 - Maintaining the Nurse Aide registry and certification process.
- DPH retains involvement in the oversight of CNAs through the reporting and investigation of allegations of abuse against patients and residents.



Proposed Amendment

The proposed amendments will achieve the following:

- Include consistent terminology and definitions for regulated parties, including using the term “Nurse Aide” in the title and throughout the regulation;
- Provide clarity throughout the regulation and consistency between this regulation and other long-term care regulations;
- Remove outdated or unnecessary provisions and correct several technical errors; and



Proposed Amendment Highlights: Eliminated Provisions

Elimination of Outdated Equivalency Provisions

- The proposed amendments eliminate outdated provisions which allowed aides working at the time the regulations were adopted to substitute experience working in a nursing home for training.

Elimination of Provisions Conflicting with Federal Requirements

- The proposed amendments eliminate conflicting provisions which allowed the Commissioner or a designee to waive training requirements beyond the 2 year limit established in federal regulations.



Proposed Amendment Highlights: Training Programs

Current regulation:

- Contains no provisions for approving, renewing approval or withdrawing approval from nurse aide training programs.

Proposed amendment:

- Requires a training provider to obtain approval from DPH; and
- Includes provisions consistent with federal regulations establishing discretionary and mandatory standards for withdrawing approval of a training program.

Rationale:

- Improves DPH oversight and administration; and
- Eliminates confusion; and
- Required to maintain federal funding.



Proposed Amendment Highlights: Training and Testing

Current regulation:

- Requires completion of training within 90 days of commencing employment.

Proposed amendment:

- Maintains 90-day training requirement;
- Includes federal prohibition against a facility retaining a nurse aide who does not pass competency testing within 4 months of beginning employment.

Rationale:

- Reconciles training and testing deadlines by retaining state training deadlines and incorporating federal testing deadlines.



Next Steps:

- The Department intends to conduct a public hearing to solicit comments on the proposed amendment.
- Following the public comment period, the Department will return to the Public Health Council to report on testimony and any recommended changes to this amendment, and seek final promulgation.



- Thank you for the opportunity to present this information today.
- For more information on 105 CMR 156.000, *The Training of Nurses' Aides in Long-Term Care Facilities*, please find the relevant statutory language and the full current regulation here:

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVI/Chapter111/Section72W>

<http://www.mass.gov/courts/docs/lawlib/104-105cmr/105cmr156.pdf>