

2022 -- H 7398

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N A C T

RELATING TO HEALTH AND SAFETY -- REGISTRATION OF NURSING ASSISTANTS

Introduced By: Representative Patricia A. Serpa

Date Introduced: February 09, 2022

Referred To: House Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 23-17.9-2, 23-17.9-3 and 23-17.9-5 of the General Laws in Chapter
2 23-17.9 entitled "Registration of Nursing Assistants" are hereby amended to read as follows:

3 **23-17.9-2. Definitions -- Supervision of nursing assistants -- Inapplicability of chapter.**

4 (a) As used in this chapter:

5 (1) "Certifying agency" means the state department of health.

6 (2) "Director" means the director of the state department of health, or his or her designee.

7 (3) "Home care nursing assistant" means a paraprofessional trained as an aide to a nurse
8 exclusively in a home care setting to give personal care and related health care and assistance based
9 on his or her level of preparation to homebound individuals who are sick, disabled, dependent, or
10 infirm. The director of the department of health shall, by regulation, license these paraprofessionals
11 as a separate licensure pursuant to chapter 17 of this title as opposed to those licensed under § 23-
12 17.9-2(3).

13 ~~(3)~~(4) "Nursing assistant" ~~is defined as~~ means a nurses' aide, orderly, or home health aide
14 who is a paraprofessional trained to give personal care and related health care and assistance based
15 on his or her level of preparation to individuals who are sick, disabled, dependent, or infirmed and
16 who are residents of or who receive services from healthcare facilities licensed pursuant to chapter
17 17 of this title or receiving services from agencies licensed pursuant to chapter 17.7 of this title.
18 The director of the department of health may, by regulation, establish different levels of nursing
19 assistants.

1 (b) Nursing assistants shall be supervised by professional (registered nurses) and other
2 appropriate professional members of a healthcare facility or physician.

3 (c) Notwithstanding any provision of this chapter, nothing in this section shall apply to
4 those persons designated solely as personal-care attendants, or programs established and
5 administered for the purpose of providing personal-care-attendant service, established by chapter
6 8.1 of title 40.

7 (d) No provision of this chapter shall apply to those persons who are actively matriculated
8 in a bachelor of science in nursing, associate degree program in nursing, an accredited licensed
9 practical nursing program, or registered nurse course of study in a national league for nursing
10 accredited nursing program, provided those persons have completed a minimum of two (2) clinical
11 courses and provided those individuals are supervised by a R.N.

12 (e) No provision of this chapter or of the rules and regulations pertaining to Rhode Island
13 certificates of registration for nursing assistants, medication aides, and the approval of nursing
14 assistant and medication aide training programs, including the provisions related to medication
15 aides, shall apply to those persons who are actively matriculated in a bachelor of science in nursing,
16 associate degree program in nursing, an accredited licensed practical nursing program, or registered
17 nurse course of study in a national league for nursing accredited nursing program; provided, those
18 persons have completed a minimum of two (2) clinical courses and appropriate training in
19 medication administration and provided those individuals are supervised by a registered nurse.

20 **23-17.9-3. Training and competency evaluation program for levels of nursing**
21 **assistants.**

22 Standards for training and/or competency evaluation programs for nursing assistants and
23 exemptions for applicants from the requirements of training programs shall be consistent with
24 federal statutory and regulatory requirements and shall be defined according to the rules and
25 regulations promulgated by the department of health. The national standards pertaining to nursing
26 assistants, ~~nurse aides home health aides, and the national home caring council or its succeeding~~
27 ~~agency, (model curriculum and teaching guide for the instruction of homemaker home health aide)~~
28 and any other appropriate standards shall serve as guidelines in the development of regulatory
29 standards for other levels of nursing assistants as determined by the director. The department may
30 require a fee as set forth in § 23-1-54 as an application fee for biennial training and competency
31 evaluation program certification.

32 **23-17.9-5. Qualifying examination.**

33 Nursing assistants as defined in § 23-17.9-2 who are employed or have had experience as
34 a nursing assistant prior to the enactment of this chapter, and the effective date of the regulations

1 promulgated in relation to this chapter, shall pass the appropriate level of examination administered
2 by the department approved by the director in lieu of the training program. ~~Exempt from the~~
3 ~~qualifying examination are home health aides/homemakers who have successfully passed the~~
4 ~~qualifying examination and/or successfully completed an approved home health aide/homemaker~~
5 ~~program under the provisions of chapter 17.7 of this title and the regulations promulgated in relation~~
6 ~~to that chapter. Also exempt~~ Exempt from the qualifying examination are classes of individuals,
7 regardless of employment setting, who are exempted from examination by federal statute or
8 regulations and these exemptions shall be defined according to rules and regulations promulgated
9 by the department of health. Successful completion of the qualifying examination and the
10 provisions of this section shall be deemed satisfactory for employment as a nursing assistant. Unless
11 exempted by rules and regulations promulgated by the department of health, each application must
12 be submitted with a processing fee as set forth in § 23-1-54 to be paid by the employing facility or
13 agency if the applicant has been continuously employed by the facility for six (6) months prior to
14 the application or by another responsible party as defined in rules and regulations promulgated by
15 the department of health consistent with federal statutory and/or regulatory requirements; but, if
16 the applicant is unemployed, to be submitted by the applicant. If the applicant shall be continuously
17 employed by the same facility for six (6) months after the application, then the fee shall be directly
18 refunded to the applicant by the facility or agency. If federal statutory or regulatory requirements
19 mandate that the certifying agency conduct an examination of manual skills proficiency as a
20 component of the examination process to meet minimal federal compliance, a manual skills
21 proficiency examination may be required by rules and regulations promulgated by the department
22 of health for all applicants not otherwise exempted from the examination requirements. If a manual
23 skills proficiency examination is required to be conducted by the certifying agency as a component
24 of the certifying examination, each application shall be accompanied by a fee as set forth in § 23-
25 1-54 to be paid by the employing facility or agency if the applicant has been continuously employed
26 by the facility for six (6) months prior to the application or by another responsible party as defined
27 in rules and regulations promulgated by the department of health consistent with federal statutory
28 and/or regulatory requirements; but, if the applicant is unemployed, to be submitted by the
29 applicant. If the applicant shall be continuously employed by the same facility for six (6) months
30 after the application, then the fee shall be directly refunded on a pro rata basis between months six
31 (6) and twelve (12) to the applicant by the facility or agency.

32 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would establish the category of home care nursing assistants, who would be
2 paraprofessionals licensed by the department of health to work exclusively in home care; require
3 training specific to home-based care for vulnerable homebound patients; and allow greater
4 opportunities for home care agencies to compete in the labor market in order to reduce long wait
5 lists for activities of daily living services and supports at home.

6 This act would take effect upon passage.

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