

Placement on Minnesota's Nursing Assistant Registry for Nurse Aides Working during the 1135 Waiver

Effective March 1, 2020, under the Training and Certification of Nurse Aides 1135 Waiver, the Center for Medicare and Medicaid Services (CMS) waived some requirements to help with potential staffing shortages during the COVID-19 pandemic. CMS allowed people to work as nurse aides without active status on the registry. [COVID-19 Emergency Declaration Blanket Waivers for Health Care Providers \(https://www.cms.gov/files/document/summary-covid-19-emergency-declaration-waivers.pdf\)](https://www.cms.gov/files/document/summary-covid-19-emergency-declaration-waivers.pdf)

CMS waived the requirements at 42 CFR 483.35(d) (with the exception of 42 CFR 483.35(d) (1) (i)), which states that a skilled nursing facility and nursing facility may not employ any individual working in the facility as a nurse aide for more than four months unless they met the training and certification requirements under § 483.35(d).

To ensure the health and safety of nursing home residents, CMS did not waive 42 CFR § 483.35(d)(1)(i), which requires facilities to not use any nurse aide for more than four months on a full-time basis, unless that person is competent to provide nursing and nursing-related services. We further note that CMS did not waive §483.35(c), which requires facilities to ensure that nurse aides are able to demonstrate competency in skills and techniques necessary to care for residents' needs, as identified through resident assessments and described in the plan of care.

CMS 1135 Waiver

Currently, nurse aides working in a Minnesota long-term care facility under the Training and Certification of Nurse Aides 1135 Waiver do not need evidence of being current or being on the Minnesota Nursing Assistant Registry for the duration of the waiver. In anticipation of the waiver being lifted, this guidance provides direction and available options to long-term care facilities and the nurse aides working under the waiver. MDH also offers an option for nurse aides working under the waiver who want to be placed on the registry, but do not want to complete an approved training program.

Options to Work as a Nurse Aide/Nursing Assistant When the Waiver Ends

- Option A: Nurse Aide Waiver Checklist for Long-term Care
- Option B: Competency Evaluation Challenge

If option A or B are not completed, the person is unable to work as a nurse aide.

Option A: Nurse Aide Waiver Checklist for Long-term Care

When CMS ends the 1135 waiver (no confirmed date yet), all nurse aides in a nursing home or certified boarding care home must be enrolled in an approved training program. They must complete training and pass the competency evaluation exam within four months of the waiver expiration date per [§ 483.35 - Nursing services](#)

www.govregs.com/regulations/expand/title42_chapterIV-i3_part483_subpartB_section483.35#regulation_10) and [QSO-21-17: Updates to Long-Term Care \(LTC\) Emergency Regulatory Waivers issued in response to COVID-19](#) (<https://www.cms.gov/medicareprovider-enrollment-and-certificationsurveycertificationgeninfopolicy-and-memos-states-and/updates-long-term-care-ltc-emergency-regulatory-waivers-issued-response-covid-19>).

Minnesota is allowing credit for time worked as nurse aide during the public health emergency. The time worked will count towards the 75 hours 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, they must still enroll in a NATCEP program, which will verify that all training requirements are met before the competency examination is completed. Refer to [Nurse Aides Working under 1135 Waiver during a Public Health Emergency](#) (<https://www.health.state.mn.us/facilities/providers/nursingassistant/docs/1135checklist.pdf>) for additional information.

Option B: Competency Evaluation Challenge

Minnesota allows people to take, or “challenge,” competency evaluation tests without completing a Minnesota-approved training program. The “challenge” requires the person to complete the competency evaluation – a written and skills exam – administered at an approved testing site.

Candidates are allowed three chances to pass the written test and three chances to pass the skills demonstration test to be placed on the Minnesota Nursing Assistant Registry. Anyone who does not successfully pass these tests must complete an approved Nursing Assistant Training Program or may complete the Nurse Aide Waiver Checklist for Long-term Care through their employer during the public health emergency.

Candidate handbooks, which include tested skill steps, and a practice written exam are available on the [Pearson VUE website \(https://home.pearsonvue.com/mn/nurseaides\)](https://home.pearsonvue.com/mn/nurseaides). Tested skills and corresponding steps are listed on pages 24 to 37 of the candidate handbook.

Approved [training and testing sites](#) (<https://www.health.state.mn.us/facilities/regulation/directory/natrainingsites.html>) are posted on the Nursing Assistant Registry website.

Example Scenarios

Example A: Passing the Competency Evaluation Tests

Employee A was hired under the waiver for employment in a nursing home. Employee A wants to continue employment as a nurse aide but does not want to register with a Nurse Aide Training Competency Evaluation Program (NATCEP).

- Employee A challenges the written and skills exam on June 1, 2021, and passes both exams.
- Employee A is placed on the registry.

Employee A may continue working as a nurse aide during the duration of the waiver and after it expires. No further action is needed.

Example B: Failing the Competency Evaluation Tests

Employee B was hired under the waiver for employment in a nursing home. Employee B wants to continue employment as a nurse aide but does not want register with NATCEP.

- Employee B challenges the written and skills exam on July 1, 2021, but fails skills.
- Employee B tests for skills again on July 15, 2021, and fails for a second time.

Employee B cannot be employed as a nurse aide until they pass the skills test. Employee B may also decide not to challenge the test for the third time and enroll in an approved nurse aide training program before retaking the competency test.

Example C: Fails the Competency Evaluation Tests While Waiver is Still in Effect

Employee C was hired under the waiver for employment in a nursing home. Employee C wants to continue employment as a nurse aide but does not want to register with NATCEP.

- Employee C challenges the written and skills exam but fails the skills test three consecutive times.
- The waiver is still in effect. The nursing home chooses to allow Employee C to work as a nurse aide and ensures he or she is competent to safely perform assigned tasks, as required by the waiver.

When the waiver expires, Employee C must be enrolled in an approved training program, complete training, and pass the written and skills competency exam to be eligible to work as a nurse aide.

Issuance of Nursing Assistant Certificate

MDH Nursing Assistant Registry issues a nursing assistant certificate when someone successfully completes the competency evaluation tests. The certificate does not indicate if a person has completed a Minnesota-approved training program or has challenged the exam.

[42 CFR §483.156 - Registry of nurse aides](#)

https://www.govregs.com/regulations/expand/title42_chapterIV-i3_part483_subpartD_section483.154#regulation_4

Items to Consider when Challenging the Test

- In Minnesota, to obtain a Trained Medication Aide certificate, the candidate must show completion of a Minnesota-approved training program although they do not have to be on the registry to take the class. Minnesota Rule for Trained Medication Aide: [4658.1360 ADMINISTRATION OF MEDICATIONS BY UNLICENSED PERSONNEL](#). (<https://www.revisor.mn.gov/rules/?id=4658.1360>)
- Nursing programs have varied prerequisites related to nurse aide training programs and registry placement. It is the responsibility of the nursing student to reach out to the desired nursing program to determine if this is a requirement for their program.

Posted Test Data

Pearson VUE first time test data is available for all training programs and challenge testers in the previous quarter and is posted on the MDH Nursing Assistant Registry website. Posted information includes data only, no candidate names.

[Nursing Assistant Approved Training Program Test Data](#)

<https://www.health.state.mn.us/facilities/providers/nursingassistant/nartestdata.html>

Information Related to Reimbursement

Nurse aides who complete an approved training program and/or pass the nurse aide competency exam and are hired by a nursing facility are eligible for reimbursement of training and testing costs in accordance with Minnesota Statutes 144A.611:

[144A.611 REIMBURSABLE EXPENSES FOR NURSING ASSISTANT TRAINING AND COMPETENCY EVALUATIONS](#). (<https://www.revisor.mn.gov/statutes/cite/144A.611>)

Check the Registry

All persons on the Minnesota Nursing Assistant Registry, active and inactive status, are listed in the online verification database. (Search using name at the time of registry placement.)

[How to Check the Nursing Assistant Registry](#)

<https://www.health.state.mn.us/facilities/providers/nursingassistant/checkregistry.html>

PLACEMENT ON MINNESOTA'S NURSING ASSISTANT REGISTRY FOR NURSE AIDES
WORKING DURING THE 1135 WAIVER

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