

SENATE, No. 3796

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED OCTOBER 10, 2024

Sponsored by:

Senator ANGELA V. MCKNIGHT

District 31 (Hudson)

SYNOPSIS

The “Certified Medication Aide in Nursing Homes Staffing Support Act;” authorizes certified medication aides to administer medications to nursing home residents.

CURRENT VERSION OF TEXT

As introduced.



S3796 MCKNIGHT

2

1 AN ACT concerning certified medication aides in nursing homes,
2 amending various parts of the statutory law, and supplementing
3 P.L.2020, c.112 (C.30:13 et al.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. (New section) Sections 10 through 17 of this act shall be
9 known and may be cited as the “Certified Medication Aide in
10 Nursing Homes Staffing Support Act.”
11

12 2. (New section) The Legislature finds and declares that:

13 a. Continued workforce competition and a shortage of qualified
14 health care professionals has made it difficult for health care
15 facilities licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) to
16 recruit and retain direct care staff.

17 b. Staffing shortages are especially severe for the State’s
18 licensed nursing homes, which continue to struggle to return to
19 workforce levels in existence before the coronavirus disease 2019
20 (COVID-19) pandemic.

21 c. The workforce challenges faced by licensed nursing homes
22 forces existing direct care staff to work additional hours in order to
23 ensure that the facility meets statutorily required staffing ratios and
24 the critical needs of its residents.

25 d. The State’s nursing home staffing shortages, and the burden
26 that these staffing challenges place on existing staff, can be
27 alleviated in part by permitting certified medication aides to
28 administer medications to nursing home residents, as is permitted
29 currently in 38 other states, and in State licensed assisted living
30 residences, comprehensive personal care homes, dementia care
31 homes, and assisted living programs.

32 e. It is therefore, altogether fitting and proper, that certified
33 medication aides be permitted to administer medications in all
34 nursing homes licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et
35 seq.).
36

37 3. Section 2 of P.L.1997, c.100 (C.26:2H-83) is amended to
38 read as follows:

39 2. a. The Department of Health shall not issue a nurse aide[or]
40 personal care assistant, or a medication aide certification to any
41 applicant, except on a conditional basis as provided for in
42 subsection d. of section 3 of P.L.1997, c.100 (C.26:2H-84), unless
43 the Commissioner of Health first determines, consistent with the
44 requirements of sections 2 through 6 of P.L.1997, c.100 (C.26:2H-
45 83 through 87), that no criminal history record information exists

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 on file in the Federal Bureau of Investigation, Identification
2 Division, or in the State Bureau of Identification in the Division of
3 State Police, which would disqualify that person from being
4 certified. A nurse aide [or] , personal care assistant , or medication
5 aide certified by the department prior to the effective date of
6 P.L.2000, c.20 upon whom a criminal history record background
7 check has not been conducted pursuant to sections 2 through 6 of
8 P.L.1997, c.100 (C.26:2H-83 through 87), shall be required to
9 undergo that criminal history record background check as a
10 condition of that individual's initial recertification following the
11 effective date of P.L.2000, c.20.

12 In addition, a follow-up criminal history record background
13 check of federal records shall be conducted at least once every two
14 years as a condition of recertification for every certified nurse aide
15 [and] , personal care assistant , and medication aide ; except that the
16 commissioner, in lieu of conducting follow-up criminal history
17 record background checks for purposes of recertification, may
18 provide for an alternative means of determining whether a certified
19 nurse aide [or] , personal care assistant , or medication aide has
20 been convicted of a crime or disorderly persons offense which
21 would disqualify that person from certification, including, but not
22 limited to, a match of a person's Social Security number or other
23 identifying information with records of criminal proceedings in this
24 and other states. If the commissioner elects to implement this
25 alternative means of determining whether a certified nurse aide [or]
26 , personal care assistant , or medication aide has been convicted of a
27 crime or disorderly persons offense which would disqualify that
28 person from certification, the commissioner shall report to the
29 Governor and the Legislature prior to its implementation on the
30 projected costs and procedures to be followed with respect to its
31 implementation and setting forth the rationale therefor.

32 A person shall be disqualified from certification if that person's
33 criminal history record background check reveals a record of
34 conviction of any of the following crimes and offenses:

35 (1) In New Jersey, any crime or disorderly persons offense:

36 (a) involving danger to the person, meaning those crimes and
37 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,
38 N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq.
39 or N.J.S.2C:15-1 et seq.; or

40 (b) against the family, children, or incompetents, meaning those
41 crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et
42 seq.; or

43 (c) involving theft as set forth in chapter 20 of Title 2C of the
44 New Jersey Statutes; or

45 (d) involving any controlled dangerous substance or controlled
46 substance analog as set forth in chapter 35 of Title 2C of the New
47 Jersey Statutes except paragraph (4) of subsection a. of
48 N.J.S.2C:35-10.

1 (2) In any other state or jurisdiction, of conduct which, if
2 committed in New Jersey, would constitute any of the crimes or
3 disorderly persons offenses described in paragraph (1) of this
4 subsection.

5 b. Notwithstanding the provisions of subsection a. of this
6 section, no person shall be disqualified from certification on the
7 basis of any conviction disclosed by a criminal history record
8 background check performed pursuant to sections 2 through 6 and
9 section 14 of P.L.1997, c.100 (C.26:2H-83 through 87 and C.53:1-
10 20.9a) if the person has affirmatively demonstrated to the
11 Commissioner of Health clear and convincing evidence of the
12 person's rehabilitation. In determining whether a person has
13 affirmatively demonstrated rehabilitation, the following factors
14 shall be considered:

15 (1) the nature and responsibility of the position which the
16 convicted person would hold, has held or currently holds, as the
17 case may be;

18 (2) the nature and seriousness of the offense;

19 (3) the circumstances under which the offense occurred;

20 (4) the date of the offense;

21 (5) the age of the person when the offense was committed;

22 (6) whether the offense was an isolated or repeated incident;

23 (7) any social conditions which may have contributed to the
24 offense; and

25 (8) any evidence of rehabilitation, including good conduct in
26 prison or in the community, counseling or psychiatric treatment
27 received, acquisition of additional academic or vocational
28 schooling, successful participation in correctional work-release
29 programs, or the recommendation of those who have had the person
30 under their supervision.

31 c. If a person subject to the provisions of sections 2 through 6
32 of P.L.1997, c.100 (C.26:2H-83 through 87) refuses to consent to,
33 or cooperate in, the securing of a criminal history record
34 background check, the commissioner shall, as applicable:

35 (1) not issue a nurse aide [or] personal care assistant , or
36 medication aide certification and shall notify the applicant, and the
37 applicant's employer if the applicant is conditionally employed as
38 provided in subsection d. of section 3 of P.L.1997, c.100 (C.26:2H-
39 84) or the applicant's prospective employer if known, of that denial;
40 or

41 (2) revoke the person's current nurse aide [or] personal care
42 assistant , or medication aide certification and notify the person,
43 and the person's employer, if known, of that revocation.

44 (cf: P.L.2012, c.17, s.240)

1 4. Section 3 of P.L.1997, c.100 (C.26:2H-84) is amended to
2 read as follows:

3 3. a. An applicant for certification, or a certified nurse aide
4 [or] , personal care assistant , or medication aide who is required to
5 undergo a criminal history record background check pursuant to
6 section 2 of P.L.1997, c.100 (C.26:2H-83), shall submit to the
7 Commissioner of Health that individual's name, address, and
8 fingerprints taken on standard fingerprint cards by a State or
9 municipal law enforcement agency. The commissioner is
10 authorized to exchange fingerprint data with and receive criminal
11 history record information from the Federal Bureau of Investigation
12 and the Division of State Police for use in making the
13 determinations required by sections 2 through 6 of P.L.1997, c.100
14 (C.26:2H-83 through 87).

15 b. Upon receipt of the criminal history record information for a
16 person from the Federal Bureau of Investigation or the Division of
17 State Police, the commissioner shall immediately notify, in writing,
18 the applicant, and the applicant's employer if the applicant is
19 conditionally employed as provided in subsection d. of this section
20 or the applicant's prospective employer if known, or a certified
21 nurse aide [or] , personal care assistant , or medication aide who is
22 required to undergo a criminal history record background check
23 pursuant to section 2 of P.L.1997, c.100 (C.26:2H-83) and that
24 person's employer, as applicable, of the person's qualification or
25 disqualification for certification under sections 2 through 6 of
26 P.L.1997, c.100 (C.26:2H-83 through 87). If the person is
27 disqualified, the conviction or convictions which constitute the
28 basis for the disqualification shall be identified in the notice to the
29 person, but shall not be identified in the notice to the person's
30 employer or prospective employer.

31 c. The person who is the subject of the background check shall
32 have 30 days from the date of the written notice of disqualification
33 to petition the commissioner for a hearing on the accuracy of the
34 person's criminal history record information or to establish the
35 person's rehabilitation under subsection b. of section 2 of P.L.1997,
36 c.100 (C.26:2H-83). The commissioner shall notify the person's
37 employer or prospective employer of the person's petition for a
38 hearing within five days following the receipt of the petition from
39 the person. Upon the issuance of a final decision upon a petition to
40 the commissioner pursuant to this subsection, the commissioner
41 shall notify the person and the person's employer or prospective
42 employer as to whether the person remains disqualified from
43 certification under sections 2 through 6 of P.L.1997, c.100
44 (C.26:2H-83 through 87).

45 d. An applicant for certification may be issued conditional
46 certification and may be employed as a nurse aide [or] , a personal
47 care assistant , or a medication aide conditionally for a period not to
48 exceed 60 days, pending completion of a criminal history record

1 background check required under sections 2 through 6 of P.L.1997,
2 c.100 (C.26:2H-83 through 87) by the Division of State Police in
3 the Department of Law and Public Safety based upon an
4 examination of its own files in accordance with section 14 of
5 P.L.1997, c.100 (C.53:1-20.9a), and for an additional period not to
6 exceed 60 days pending completion of a criminal history record
7 background check by federal authorities as arranged for by the
8 Division of State Police pursuant to section 14 of P.L.1997, c.100
9 (C.53:1-20.9a), if the person submits to the commissioner a sworn
10 statement attesting that the person has not been convicted of any
11 crime or disorderly persons offense as described in section 2 of
12 P.L.1997, c.100 (C.26:2H-83). A person who submits a false sworn
13 statement shall be disqualified from certification as a nurse aide [or]
14 a personal care assistant, or a medication aide, as the case may be,
15 and shall not have an opportunity to establish rehabilitation
16 pursuant to subsection b. of section 2 of P.L.1997, c.100 (C.26:2H-
17 83).

18 A conditionally employed person, or an employed person
19 certified as a nurse aide [or] a personal care assistant or a
20 medication aide, who disputes the accuracy of the criminal history
21 record information and who files a petition requesting a hearing
22 pursuant to subsection c. of this section may remain employed by
23 that person's employer until the commissioner rules on the person's
24 petition but, pending the commissioner's ruling, the employer shall
25 not permit the person to have unsupervised contact with patients,
26 residents, or clients, as the case may be, who are 60 years of age or
27 older.

28 e. (1) A licensed health care facility or other entity that has
29 received an application from or conditionally employs an applicant
30 for nurse aide [or] a personal care assistant or medication aide
31 certification, or employs a certified nurse aide [or] a personal care
32 assistant, or medication aide, and:

33 (a) receives notice from the Commissioner of Health that the
34 applicant or certified nurse aide [or] a personal care assistant, or
35 medication aide, as applicable, has been determined by the
36 commissioner to be disqualified from certification as a nurse aide
37 [or] a personal care assistant or medication aide pursuant to
38 sections 2 through 6 of P.L.1997, c.100 (C.26:2H-83 through 87);
39 or

40 (b) terminates its employment of a conditionally employed
41 applicant for nurse aide [or] a personal care assistant or medication
42 aide certification or a certified nurse aide [or] a personal care
43 assistant or medication aide because the person was disqualified
44 from employment at the health care facility or other entity on the
45 basis of a conviction of a crime or disorderly persons offense as
46 described in section 2 of P.L.1997, c.100 (C.26:2H-83) after
47 commencing employment at the health care facility or other entity;

1 shall be immune from liability for disclosing that disqualification or
2 termination in good faith to another licensed health care facility or
3 other entity that is qualified by statute or regulation to employ the
4 person as a nurse aide [or] , personal care assistant , or medication
5 aide.

6 (2) A licensed health care facility or other entity which discloses
7 information pursuant to paragraph (1) of this subsection shall be
8 presumed to be acting in good faith unless it is shown by clear and
9 convincing evidence that the health care facility or other entity
10 acted with actual malice toward the person who is the subject of the
11 information.

12 f. (1) A licensed health care facility or other entity, upon
13 receiving notice from the Commissioner of Health that a person
14 employed by it as a nurse aide [or] , personal care assistant, or
15 medication aide, including a conditionally employed person, has
16 been convicted of a crime or disorderly persons offense as
17 described in section 2 of P.L.1997, c.100 (C.26:2H-83) after
18 commencing employment at the health care facility or other entity,
19 shall:

20 (a) immediately terminate the person's employment as a nurse
21 aide [or] , personal care assistant , or medication aide ; and

22 (b) report information about the termination to the
23 Commissioner of Health in a manner prescribed by the
24 commissioner, who shall thereupon deem the person to be
25 disqualified from certification as a nurse aide [or] , personal care
26 assistant, or medication aide, subject to the provisions of paragraph
27 (3) of this subsection.

28 (2) A licensed health care facility or other entity shall be
29 immune from liability for any actions taken in good faith pursuant
30 to paragraph (1) of this subsection and shall be presumed to be
31 acting in good faith unless it is shown by clear and convincing
32 evidence that the health care facility or other entity acted with
33 actual malice toward the employee.

34 (3) The person terminated from employment pursuant to
35 paragraph (1) of this subsection shall have 30 days from the date of
36 the termination to petition the commissioner for a hearing on the
37 accuracy of the information about the conviction reported to the
38 commissioner or to establish why the person should not be
39 terminated from employment, and disqualified from certification, as
40 a nurse aide [or] , personal care assistant , or medication aide. The
41 commissioner shall notify the person's employer of the person's
42 petition for a hearing within five days following the receipt of the
43 petition from the person. Upon the issuance of a final decision
44 upon a petition to the commissioner pursuant to this paragraph, the
45 commissioner shall notify the person and the person's employer as
46 to whether:

1 (a) the person is to be reinstated in the person's employment as a
2 nurse aide [or] , personal care assistant , or medication aide and
3 retain the person's certification; or

4 (b) the person's termination from employment as a nurse aide
5 [or] , personal care assistant , or medication aide stands and the
6 person remains disqualified from certification.

7 g. The commissioner shall provide for a registry of all persons
8 who have successfully completed all training and competency
9 evaluation requirements for certification as a nurse aide [or] ,
10 personal care assistant , or medication aide and shall provide for the
11 inclusion in the registry of information about the disqualification of
12 any person from certification pursuant to sections 2 through 6 of
13 P.L.1997, c.100 (C.26:2H-83 through 87); for which purposes, the
14 commissioner may use an existing registry established pursuant to
15 statute or regulation, subject to the requirements of federal law.
16 The registry shall include the specific documented findings
17 constituting the basis for that disqualification, except that the
18 information shall indicate that the person was convicted of a crime
19 or disorderly persons offense as described in section 2 of P.L.1997,
20 c.100 (C.26:2H-83), but shall not identify the conviction or
21 convictions which constitute the basis for the disqualification.

22 (cf: P.L.2012, c.17, s.241)

23

24 5. Section 4 of P.L. 1997, c.100 (C.26:2H-85) is amended to
25 read as follows:

26 4. The Department of Health shall assume the cost of the
27 criminal history record background check conducted on an
28 applicant for nurse aide [or] , personal care assistant , or medication
29 aide certification, or a certified nurse aide [or] , personal care
30 assistant, or medication aide, as the case may be, pursuant to
31 sections 2 through 6 and section 14 of P.L.1997, c.100 (C.26:2H-83
32 through 87 and C.53:1-20.9a).

33 (cf: P.L.2012, c.17, s.242)

34

35 6. Section 14 of P.L.1997, c.100 (C.53:1-20.9a) is amended to
36 read as follows:

37 14. a. In accordance with the provisions of sections 2 through 6
38 and sections 7 through 13 of P.L.1997, c.100 (C.26:2H-83 through
39 87 and C.45:11-24.3 through 24.9) and P.L.2002, c.104 (C.45:1-28
40 et al.), the Division of State Police in the Department of Law and
41 Public Safety shall conduct a criminal history record background
42 check, including a name and fingerprint identification check, of:

43 (1) each applicant for nurse aide [or] , personal care assistant ,
44 or medication aide certification submitted to the Department of
45 Health [and Senior Services] and of each applicant for homemaker-
46 home health aide certification submitted to the New Jersey Board of
47 Nursing in the Division of Consumer Affairs;

1 (2) each nurse aide [or] , personal care assistant , or medication
2 aide certified by the Department of Health [and Senior Services]
3 and each homemaker-home health aide certified by the New Jersey
4 Board of Nursing, as required pursuant to P.L.1997, c.100
5 (C.26:2H-83 et al.); and

6 (3) each applicant for licensure or other authorization to engage
7 in a health care profession who is required to undergo a criminal
8 history record background check pursuant to P.L.2002, c.104
9 (C.45:1-28 et al.).

10 b. For the purpose of conducting a criminal history record
11 background check pursuant to subsection a. of this section, the
12 Division of State Police shall examine its own files and arrange for
13 a similar examination by federal authorities. The division shall
14 immediately forward the information obtained as a result of
15 conducting the check to: the Commissioner of Health [and Senior
16 Services], in the case of an applicant for nurse aide [or] , personal
17 care assistant , or medication aide certification or a certified nurse
18 aide [or] , personal care assistant , or medication aide; the New
19 Jersey Board of Nursing in the Division of Consumer Affairs in the
20 Department of Law and Public Safety, in the case of an applicant
21 for homemaker-home health aide certification or a certified
22 homemaker-home health aide; and the Director of the Division of
23 Consumer Affairs in the Department of Law and Public Safety, in
24 the case of an applicant for licensure or other authorization to
25 practice as a health care professional as defined in section 1 of
26 P.L.2002, c.104 (C.45:1-28).

27 (cf: P.L.2002, c.104, s.5)

28

29 7. Section 1 of P.L.2002, c.104 (C.45:1-28) is amended to read
30 as follows:

31 1. As used in this act:

32 "Applicant" means an applicant for the licensure or other
33 authorization to engage in a health care profession.

34 "Board" means a professional and occupational licensing board
35 within the Division of Consumer Affairs in the Department of Law
36 and Public Safety.

37 "Director" means the Director of the Division of Consumer
38 Affairs in the Department of Law and Public Safety.

39 "Division" means the Division of Consumer Affairs in the
40 Department of Law and Public Safety.

41 "Health care professional" means a health care professional who
42 is licensed or otherwise authorized, pursuant to Title 45 or Title 52
43 of the Revised Statutes, to practice a health care profession that is
44 regulated by one of the following boards or by the Director of the
45 Division of Consumer Affairs: the State Board of Medical
46 Examiners, the New Jersey Board of Nursing, the New Jersey State
47 Board of Dentistry, the New Jersey State Board of Optometrists, the
48 New Jersey State Board of Pharmacy, the State Board of

1 Chiropractic Examiners, the Acupuncture Examining Board, the
2 State Board of Physical Therapy, the State Board of Respiratory
3 Care, the Orthotics and Prosthetics Board of Examiners, the State
4 Board of Psychological Examiners, the State Board of Social Work
5 Examiners, the State Board of Veterinary Medical Examiners, the
6 State Board of Examiners of Ophthalmic Dispensers and
7 Ophthalmic Technicians, the Audiology and Speech-Language
8 Pathology Advisory Committee, the State Board of Marriage and
9 Family Therapy Examiners, the Occupational Therapy Advisory
10 Council, the Certified Psychoanalysts Advisory Committee or the
11 State Board of Polysomnography.

12 Health care professional shall not include a nurse aide [or] ,
13 personal care assistant , or medication aide who is required to
14 undergo a criminal history record background check pursuant to
15 section 2 of P.L.1997, c.100 (C.26:2H-83) or a homemaker-home
16 health aide who is required to undergo a criminal history record
17 background check pursuant to section 7 of P.L.1997, c.100
18 (C.45:11-24.3).

19 "Licensee" means an individual who has been issued a license or
20 other authorization to practice a health care profession.
21 (cf: P.L.2005, c.244, s.17)

22

23 8. Section 2 of P.L.2005, c.83 (C.26:2H-12.2b) is amended to
24 read as follows:

25 2. a. A health care entity shall notify the division in writing if
26 a health care professional who is employed by, under contract to
27 render professional services to, or has privileges granted by, that
28 health care entity, or who provides such services pursuant to an
29 agreement with a health care services firm or staffing registry:

30 (1) for reasons relating to the health care professional's
31 impairment, incompetency, or professional misconduct, which
32 incompetency or professional misconduct relates adversely to
33 patient care or safety: (a) has full or partial privileges summarily or
34 temporarily revoked or suspended, or permanently reduced,
35 suspended, or revoked; (b) has been removed from the list of
36 eligible employees of a health services firm or staffing registry; (c)
37 has been discharged from the staff; or (d) has had a contract to
38 render professional services terminated or rescinded;

39 (2) has conditions or limitations placed on the exercise of
40 clinical privileges or practice within the health care entity for
41 reasons relating to the health care professional's impairment,
42 incompetency, or professional misconduct or, which incompetency
43 or professional misconduct relates adversely to patient care or
44 safety, including, but not limited to, second opinion requirements,
45 non-routine concurrent or retrospective review of admissions or
46 care, non-routine supervision by one or more members of the staff,
47 or the completion of remedial education or training;

1 (3) voluntarily resigns from the staff if: (a) the health care entity
2 is reviewing the health care professional's patient care or reviewing
3 whether, based upon its reasonable belief, the health care
4 professional's conduct demonstrates an impairment or incompetence
5 or is unprofessional, which incompetence or unprofessional conduct
6 relates adversely to patient care or safety; or (b) the health care
7 entity, through any member of the medical or administrative staff,
8 has expressed an intention to do such a review;

9 (4) voluntarily relinquishes any partial privilege or authorization
10 to perform a specific procedure if: (a) the health care entity is
11 reviewing the health care professional's patient care or reviewing
12 whether, based upon its reasonable belief, the health care
13 professional's conduct demonstrates an impairment or incompetence
14 or is unprofessional, which incompetence or unprofessional conduct
15 relates adversely to patient care or safety; or (b) the health care
16 entity, through any member of the medical or administrative staff,
17 has expressed an intention to do such a review;

18 (5) while under, or subsequent to, a review by the health care
19 entity of the health care professional's patient care or professional
20 conduct is granted a leave of absence for reasons relating to a
21 physical, mental, or emotional condition or drug or alcohol use
22 which impairs the health care professional's ability to practice with
23 reasonable skill and safety, except that no report is required for
24 pregnancy-related leaves of absence or if the health care
25 professional has sought assistance from a professional assistance or
26 intervention program approved or designated by the division or a
27 board to provide confidential oversight of the health care
28 professional and is following the treatment regimen or monitoring
29 as that program requires; or

30 (6) is a party to a medical malpractice liability suit, to which the
31 health care entity is also a party, and in which there is a settlement,
32 judgment, or arbitration award.

33 As used in this subsection, incompetence, professional
34 misconduct, and unprofessional conduct shall not include personal
35 conduct, such as tardiness, insubordination, or other similar
36 behavior, which does not relate to patient care or safety.

37 b. A health care entity shall notify the division in writing if it is
38 in possession of information that indicates that a health care
39 professional has failed to comply with a request to seek assistance
40 from a professional assistance or intervention program approved or
41 designated by the division or a board to provide confidential
42 oversight of the health care professional, or has failed to follow the
43 treatment regimen or monitoring program required by that program
44 to assure that the health care professional's physical, mental, or
45 emotional condition or drug or alcohol use does not impair the
46 health care professional's ability to practice with reasonable skill
47 and safety.

- 1 c. A health care entity shall notify the division in writing if any
2 health care professional who has been the subject of a report
3 pursuant to this section, has had conditions or limitations on the
4 exercise of clinical privileges or practice within the health care
5 entity altered, or privileges restored, or has resumed exercising
6 clinical privileges that had been voluntarily relinquished.
- 7 d. In the case of a health care professional who is providing
8 services at a health care entity pursuant to an agreement with a
9 health care services firm or staffing agency and is the subject of a
10 notice pursuant to this section, the health care entity shall, when it
11 submits a notice to the division concerning that health care
12 professional, provide a copy of the notice to the health care services
13 firm or staffing agency.
- 14 e. The form of notification shall be prescribed by the
15 Commissioner of Health, in consultation with the Commissioner of
16 Human Services in the case of [psychiatric facilities and]
17 developmental centers, and shall contain such information as may
18 be required by the division and shall be made within seven days of
19 the date of the action, settlement, judgment, or award.
- 20 f. A health care entity which fails to provide such notice to the
21 division or fails to cooperate with a request for information by the
22 division, the board or the Medical Practitioner Review Panel
23 established pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8)
24 shall be subject to such penalties as the Department of Health may
25 determine pursuant to sections 13 and 14 of P.L.1971, c.136
26 (C.26:2H-13 and 26:2H-14).
- 27 g. A health care entity, or any employee thereof, which
28 provides information to the division, the board, the Medical
29 Practitioner Review Panel, a health care services firm or staffing
30 agency, or the Department of Health, in good faith and without
31 malice, regarding a health care professional pursuant to the
32 provisions of this section or section 3 of P.L.1989, c.300 (C.26:2H-
33 12.2a), is not liable for civil damages in any cause of action arising
34 out of the provision or reporting of the information.
- 35 h. A health care entity shall provide the health care
36 professional who is the subject of a notice pursuant to paragraphs
37 (1), (2), (4), and (5) of subsection a. of this section and subsection
38 c. of this section with a copy of the notice provided to the division,
39 when the health care entity submits the notice to the division.
- 40 i. For the purposes of this section, section 3 of P.L.1989, c.300
41 (C.26:2H-12.2a) and section 15 of P.L.2005, c.83 (C.26:2H-12.2c):
- 42 "Board" means a professional and occupational licensing board
43 within the Division of Consumer Affairs in the Department of Law
44 and Public Safety which licenses or otherwise authorizes a health
45 care professional to practice a health care profession.
- 46 "Division" means the Division of Consumer Affairs in the
47 Department of Law and Public Safety.

1 "Health care entity" means a health care facility licensed
2 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), a health
3 maintenance organization authorized to operate pursuant to
4 P.L.1973, c.337 (C.26:2J-1 et seq.), a carrier which offers a
5 managed care plan regulated pursuant to P.L.1997, c.192 (C.26:2S-
6 1 et seq.), a State or county psychiatric hospital, a State
7 developmental center, a staffing registry, and a home care services
8 agency as defined in section 1 of P.L.1947, c.262 (C.45:11-23).

9 "Health care professional" means a person licensed or otherwise
10 authorized pursuant to Title 45 or Title 52 of the Revised Statutes to
11 practice a health care profession that is regulated by the Director of
12 the Division of Consumer Affairs or by one of the following boards:
13 the State Board of Medical Examiners, the New Jersey Board of
14 Nursing, the New Jersey State Board of Dentistry, the New Jersey
15 State Board of Optometrists, the New Jersey State Board of
16 Pharmacy, the State Board of Chiropractic Examiners, the
17 Acupuncture Examining Board, the State Board of Physical
18 Therapy, the State Board of Respiratory Care, the Orthotics and
19 Prosthetics Board of Examiners, the State Board of Psychological
20 Examiners, the State Board of Social Work Examiners, the State
21 Board of Veterinary Medical Examiners, the State Board of
22 Examiners of Ophthalmic Dispensers and Ophthalmic Technicians,
23 the Audiology and Speech-Language Pathology Advisory
24 Committee, the State Board of Marriage and Family Therapy
25 Examiners, the Occupational Therapy Advisory Council and the
26 Certified Psychoanalysts Advisory Committee. "Health care
27 professional" also includes a nurse aide [and] a personal care
28 assistant , and a medication aide certified by the Department of
29 Health.

30 (cf: P.L.2012, c.17, s.179)

31

32 9. Section 2 of P.L.2020, c.112 (C.26:2H-12.96) is amended to
33 read as follows:

34 2. A long-term care facility licensed pursuant to P.L.1971,
35 c.136 (C.26:2H-1 et seq.) may employ certified homemaker-home
36 health aides and medication aides certified by the Department of
37 Health, to work as certified nurse aides, provided that the
38 homemaker-home health aide or the certified medication aide is
39 enrolled in a qualified certified nurse aide program and is working
40 toward certification as a certified nurse aide.

41 (cf: P.L.2020, c.112, s.2)

42

43 10. (New section) A certified medication aide shall be
44 authorized to administer medications, as delegated by and under the
45 authority of a registered nurse, to residents of assisted living
46 facilities, comprehensive personal care homes, dementia care
47 homes, assisted living programs, and nursing homes licensed

1 pursuant to P.L. P.L.1971, c.136 (C.26:2H-1 et seq.), provided the
2 certified medication aide is also:

3 a. certified as a nurse aide by the Department of Health for
4 employment in a long-term care facility, as promulgated under
5 N.J.A.C. 8:39-43.1 through N.J.A.C. 8:39-43.9;

6 b. certified as a homemaker home health aide by the Board of
7 Nursing in the Division of Consumer Affairs of the Department of
8 Law and Public Safety, pursuant to P.L.1947, c.262 (C.45:11-23 et
9 seq.), and who also meets the requirements for employment as a
10 certified nurse aide in a long-term care facility, as provided in
11 section 2 of P.L.2020, c.112 (C.26:2H-12.96); or

12 c. certified as a personal care assistant by the Department of
13 Health pursuant to N.J.A.C. 8:36-9.1.

14

15 11. (New section) An individual applying to the Department of
16 Health for certification as a medication aide in a nursing home, and
17 who has satisfied the conditions provided in section 10 of P.L. , c.
18 (C.) (pending before the Legislature as this bill), must also:

19 a. successfully complete a department approved training course
20 on medication administration in a long term care setting; and

21 b. within six months of completing the medication
22 administration training course, attain a passing score on a
23 standardized examination, as designated by the department,
24 regarding the administration of medication for personal care
25 assistants.

26

27 12. (New section) a. Initial certification for a medication aide
28 shall be valid for a period of two years from the date of issue by the
29 Department of Health.

30 b. Once every two years, on a schedule to be determined by the
31 department, a medication aide shall apply to the department for
32 renewal of the medication aide's current certification.

33 c. Candidates for renewal of an existing medication aide
34 certification are required to successfully complete, and submit
35 documentation for, a minimum of 10 hours of continuing education
36 courses, seminars, or in-service training taken over the current
37 certification period.

38 d. The continuing education requirement shall include five
39 hours on the fundamental principles of medication administration
40 and the skills and knowledge necessary for the task of medication
41 administration, and five hours of continuing education and in-
42 service training on current topics in medication use relevant to the
43 elderly.

44 e. The continuing education requirement, established pursuant
45 to this section, shall be in addition to any continuing education
46 requirements for individuals who are also certified by the
47 Department of Health as a personal care assistant, as provided in
48 N.J.A.C. 8:36-9.1(e), or who are also certified by the Board of

1 Nursing under the Division of Consumer Affairs in the Department
2 of Law and Public Safety, as provided in section 2 of P.L.1947,
3 c.262 (C.45:11-24).

4 e. The facility employing the certified medication aide shall
5 maintain records sufficient to verify the continuing education record
6 of all current and former staff employed as a certified medication
7 aide for at least one certification renewal period.

8

9 13. (New section) a. An individual whose name has been
10 removed from the New Jersey medication aide registry for a period
11 of more than one year shall be required to retrain and retest, in
12 accordance with the rules for medication aide certification in effect
13 at the time of retraining and retesting, in order to be reentered on
14 the registry.

15 b. Registry confirmation of a medication aide certification shall
16 not be sufficient to satisfy the requirement for reference checks
17 identified at N.J.A.C. 8:43I.

18

19 14. a. (New section) A certificate issued to a medication aide in
20 accordance with this section shall be suspended, denied, or revoked
21 under the following circumstances:

22 (1) substantiated findings that the medication aide has abused or
23 neglected, or has misappropriated the property of a resident in an
24 assisted living facility, comprehensive personal care home,
25 dementia care home, assisted living program, or nursing home;

26 (2) revocation of the medication aide's certification as a nurse
27 aide, a homemaker-home health aide, or a personal care assistant as
28 a result of the criminal history background check pursuant to
29 section 2 of P.L.1997, c.100 (C.26:2H-83);

30 (3) the sale, purchase, or alteration of a certificate; use of
31 fraudulent means to secure the certificate, including filing false
32 information on the application for certification; or forgery,
33 imposture, dishonesty, or cheating on the standardized medication
34 aide examination required by the Department of Health as part of
35 the certification process; or

36 (4) documented and verified incompetence or negligence in the
37 performance of duties which fall within the scope of practice of the
38 certified medication aide, as determined by the department.

39 b. (1) If the department proposes to suspend, deny, or revoke
40 the certification of a medication aide in an assisted living residence,
41 comprehensive personal care home, dementia care home, assisted
42 living program, or nursing home, the aggrieved person may request
43 a hearing which shall be conducted pursuant to the procedure
44 specified in section 4 of P.L. , c. (C.) (pending before the
45 Legislature as this bill).

46 (2) Prior to entering the finding into the certified medication
47 aide abuse registry, the department shall provide notice to the
48 certified medication aide, which notice shall identify the intended

1 action, the factual basis and source of the finding, and the
2 individual's right to a hearing under the "Administrative Procedure
3 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and the Uniform
4 Administrative Procedure Rules at N.J.A.C. 1:1.

5 (3). The notice provided in paragraph (2) of this subsection shall
6 be transmitted to the individual so as to provide at least 30 days for
7 the individual to request an administrative hearing prior to
8 placement on the certified medication aide abuse registry.

9 (4) If a hearing is requested, it shall be conducted by the Office
10 of Administrative Law or by a Department of Health hearing
11 officer, in accordance with the procedures established by the
12 Administrative Procedure Act, P.L.1968, c.410 (C.52:14B-1 et seq.)
13 and the Uniform Administrative Procedure Rules pursuant to
14 N.J.A.C. 1:1.

15 (5) No further right to an administrative hearing shall be offered
16 to a certified medication aide who has been given the opportunity
17 for a hearing before a State or local administrative agency, or in a
18 court of law, for which the certified medication aide received
19 adequate notice and an opportunity to testify and to confront
20 witnesses, and where there was an impartial hearing officer who
21 issued a written decision verifying the findings of abuse, neglect, or
22 misappropriation of resident property, or negligence or
23 incompetence on the part of the certified medication aide.

24 (6) Following a finding of abuse, neglect, or misappropriation of
25 property on the part of a certified medication aide, the aide shall
26 have the right to enter a statement to be included in the abuse
27 registry contesting such finding.

28 (7) An order of suspension, denial, or revocation of a
29 medication aide's certification may contain such provisions
30 regarding reinstatement of the certification as the Department of
31 Health shall recommend; in the absence of any provisions regarding
32 reinstatement, the action shall be deemed to be permanent.

33

34 15. (New section) The Commissioner of Human Services shall
35 apply for any federal Medicaid waivers or State plan amendments
36 as may be necessary to implement the provisions of this act and
37 ensure continued federal reimbursement for State expenditures for
38 nursing home services under the federal Medicaid program.

39

40 16. (New section) Notwithstanding any provision of the
41 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
42 seq.), to the contrary, the Commissioner of Health, the
43 [Commissioner of Law and Public Safety] Attorney General, and
44 the Commissioner of Human Services are authorized to adopt
45 immediately upon filing with the Office of Administrative Law
46 rules and regulations necessary to implement this act. The rules and
47 regulations adopted pursuant to this section shall be effective for a
48 period not to exceed 18 months following the date of filing and may

1 thereafter be amended, adopted, or readopted by the director in
2 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
3 et seq.).
4

5 17. This act shall take effect on the first day of the sixth month
6 next following the date of enactment.
7

8

9

STATEMENT

10

11 The bill authorizes medication aides, who are certified by the
12 Department of Health (DOH), to administer medications, as
13 delegated by and under the authority of a registered professional
14 nurse, in State licensed nursing homes. Current law and regulations
15 authorize certified medication aides to practice in assisted living
16 facilities, comprehensive personal care homes, dementia care
17 homes, and assisted living programs.

18 Under the bill, an individual seeking certification from the DOH
19 as a medication aide, must first be a nurse aide certified by the
20 DOH for employment in a long-term care facility, as provided
21 under regulations found at N.J.A.C. 8:39-43.1 through N.J.A.C.
22 8:39-43.9; a homemaker home health aide certified by the Board of
23 Nursing in the Division of Consumer Affairs, who also meets
24 statutory requirements for employment as a certified nurse aide in a
25 long-term care facility; or a personal care assistant certified by the
26 DOH.

27 Individuals seeking certification as a medication aide in a
28 nursing home will also be required to successfully complete a DOH
29 approved training course on medication administration in a long
30 term care setting, and within six months of completing the training
31 course, attain a passing score on a DOH designated standardized
32 examination on the administration of medication for personal care
33 assistants.

34 DOH certification for medication aides will be valid for two
35 years, under the bill. Medication aides seeking to renew their
36 certification must complete at least 10 hours of continuing
37 education courses, seminars, or in-service training.

38 The bill provides that the continuing education requirement will
39 be in addition to any continuing education requirements for
40 certified personal care assistants or certified nurse aides, as
41 provided by the DOH, or for certified homemaker home health
42 aides, as required by the Board of Nursing. The facility employing
43 the certified medication aide, additionally, will maintain the
44 continuing education records for all current and former certified
45 medication aides for at least a two year period.

46 The bill provides for the suspension, denial, or revocation of a
47 medication aide's certification under circumstances outlined in the
48 bill. The bill additionally establishes a process by which the DOH

1 will notify the certified medication aide of any pending disciplinary
2 action, and a process by which the medication aide may request an
3 administrative hearing to appeal the department's determination.

4 The bill amends section 2 of P.L.1997, c.100 (C.26:2H-83),
5 which requires the DOH to conduct criminal history record
6 background checks on applicants for initial and renewal
7 certification as nurse aides and personal care assistants, to now
8 require background checks for applicants for initial and renewal
9 certification as medication aides. The bill additionally establish
10 certain crimes for which a medication aide will be disqualified from
11 certification.

12 The bill further amends section 3 of P.L.1997, c.100 (C.26:2H-
13 84) to include provisions for establishing a process by which a
14 medication aide may be temporarily employed by a facility while
15 the criminal history record background check on the medication
16 aide is pending. The bill, finally, amends this statute to require the
17 DOH to establish a registry of certified medication aides, in
18 addition to the existing registries for DOH certified nurse aides and
19 personal care assistants.