



Memo

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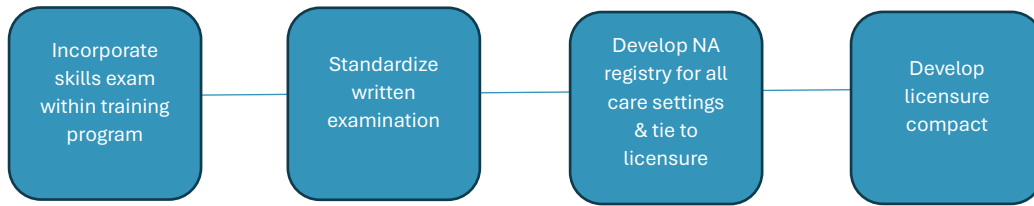
Re: Regulatory Challenges Impacting the Nurse Aide/Nursing Assistant Workforce

Nurse Aides/Nursing Assistants (NAs) represent the foundational workforce across long-term care, hospitals, and community settings. This entry level healthcare profession provides the most direct care to patients and clients, requiring standardized training and licensure to provide adequate protection of public safety and streamline entry into the workforce. Current workforce projections indicate a deficit of over 73,000 NAs by 2028 (Mercer, 2024), which includes a 14% projected increase in nursing assistant positions in long-term care alone (Workforce Data Center (phinational.org)).

As the aging population grows and overall healthcare care needs increase, it will become even more paramount to address barriers to training and licensure—challenges that are worsening already well-documented shortages in nursing and other healthcare professions. Shortages impair access to long-term care beds, delay hospital discharges, impact individual health outcomes related to deconditioning and risk for hospital-acquired, adverse events, and limit access to skilled help allowing individuals to receive care in their homes.

Although there has been progress in expanding the availability of NA training programs and testing options, federal regulations continue to significantly hinder entry into this vital workforce. As the role of NAs expand into different healthcare settings, regulations must be updated to match current healthcare models and actively plan for future care needs. Revising current regulations and addressing the unique needs of the NA workforce across various healthcare settings will support greater license portability across state lines while still ensuring the protection of public safety regardless of care settings. This workforce would greatly benefit from a licensure compact provided that key elements are in place, namely standardized training, a uniform licensure examination, and visibility of NA disciplinary actions and license encumbrances.

Process Overview to Support Nursing Assistant Workforce Growth



The summary of recommendations below outlines potential strategies to uphold safety standards while appropriately increasing the availability of the NA workforce in line with the Office of the Inspector General's report of February 2024.

Priority

Background: NA Skills Testing as Part of Licensure (42 CFR 483.154): NA competency evaluation is comprised of two elements: skills testing and a written examination. Skills testing aims to ensure competency in entry-level patient care interactions in addition to a written examination. Removing the skills component from licensure requirements would also be consistent with skills testing practices for similar professions such as medical assistants, emergency medical technicians, and nurses (LPN/RN), which is overseen and administered at the state level.

Concern: Skills are thoroughly tested, practiced, and assessed throughout the education program, ensuring consistent student performance. Repeating this assessment as a high-stakes, stand-alone examination does not improve safety or provider competency. Instead, it creates unnecessary delays in workforce entry and increases costs for both students and the testing process.

Recommendation: Defer enforcement and immediately initiate rulemaking (see appendix for draft language). Define the competency exam requirement as a written examination only. Allow states to oversee the administration of the skills examination within training programs prior to program completion, including skilled facilities. Skills testing would continue to ensure competency and would be monitored as part of the routine training program approval process. Removing this component from licensure requirements would mitigate licensure process delays for students and licensing authorities without compromising safety. It would also align with practices in other health professions that integrate skills proficiency into standard educational programs.

Additional Concerns

Background: NA Written examination and coursework varies across states. The current minimum requirement is 75 hours though there is not a standard curriculum, clinical requirement, or written examination.

Concern: NA Written Testing as Part of Licensure (42 CFR 483.154): Written examination varies by exam provider, lacking standardization across states though required elements are detailed in [§ 483.152\(b\)](#). Variability of testing providers and exam content may limit the

portability of NA credentials and introduce bottlenecks to testing availability, failing to prepare NAs in an efficient manner and creating delays to enter the workforce.

Recommendation: Encourage standardization of the NA written examination, in accordance with 42 CFR 483.154(b), to be administered nationwide with a defined passing threshold. (See appendix for recommended amendments.)

Background: Omnibus Budget Reconciliation Act (OBRA) Registry (42 CFR 483.156): Created in 1987, OBRA aims to ensure training competencies are met and that disciplinary actions are visible to employers and licensing bodies. This registry only requires enrollment when working in long-term care settings.

Concern: Registry requirements are not currently aligned with licensure processes, allowing individuals with disciplinary action to move across state lines and practice in other settings, potentially putting patients at risk.

Recommendation: Broaden the registry to include all certified NAs and documentation of all disciplinary action (adjust 42 CFR 483.156 (a)(4) to findings only), in connection with state licensure functions (remove (b)(2)). Align registry requirements with licensure to best protect public safety from misconduct. Adjust (c)(iv) to be complaint-based discipline of any nature and remove (A-D), (2). Eliminate language that requires retraining and retesting for NAs following a two-year work hiatus (USC 1819 (5)(d), USC 1919 (B)(5)). Facility requirements (F940 R211SOMA.pdf (hhs.gov)) already include competency validation and training upon hire to ensure resident safety; additionally, the ability to challenge the NA test in this scenario lacks transparency and accessibility.

We appreciate your efforts to maintain public safety and appropriately increase the availability of the NA workforce. Allowing states to oversee entry into the NA workforce and ensuring transparency of disciplinary actions across all care settings will significantly improve both access to employment and patient safety. Supportive facility requirements offer additional safeguards in ensuring education, training, and misconduct reporting standards are met.

If you'd like to discuss this further, please contact any of us by phone or email.

Sincerely,




Dr. Alison Bradywood



Elena Madrid



Chelene Whiteaker



Alyssa Odegaard

Appendix: Recommended edits to 42 CFR 483.154

§ 483.154 Nurse aide competency evaluation.

(a) **Notification to Individual.** The State must advise in advance any individual who takes the competency evaluation that a record of the successful completion of the evaluation will be included in the State's nurse aid registry.

(b) **Content of the competency evaluation program —**

(1) ~~Written or oral examinations.~~ The competency evaluation must—

(i) Allow an aide to choose between a written and an oral examination;

(ii) Address each course requirement specified in [§ 483.152\(b\)](#);

(iii) The examination must be **administered and evaluated only by a national provider of the nurse aide written examination**

(iv) Be developed from a pool of test questions, only a portion of which is used in any one examination;

(v) Use a system that prevents disclosure of both the pool of questions and the individual competency evaluations; and

(vi) If oral, must be read from a prepared text in a neutral manner.

(vii) The **national exam provider** must establish a standard for satisfactory completion of the competency evaluation. To complete the competency evaluation successfully an individual must pass both the written or oral examination. ~~and the skills demonstration.~~

(viii) A record of successful completion of the written examination ~~competency evaluation~~ must be included in the nurse aide registry provided in [§ 483.156](#) within 30 days of the date if the individual is found to be competent.

(c) **Demonstration of skills.** A skills demonstration **must occur within the state approved training program as part of the certificate of completion.** ~~must consist of a demonstration of randomly selected items drawn from a pool consisting of the tasks generally performed by nurse aides. This pool of skills must include all of the personal care skills listed in [§ 483.152\(b\)\(3\).](#)~~

(c) ~~Administration of the competency evaluation.~~

(1) ~~The competency examination must be administered and evaluated only by a national provider of the nursing assistant written examination~~

(i) ~~The State directly; or~~

(ii) ~~A State approved entity which is neither a skilled nursing facility that participates in Medicare nor a nursing facility that participates in Medicaid.~~

(2) ~~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 competency evaluation program may be charged for any portion of the program.~~

(3) ~~If an individual who is not employed, or does not have an offer to be employed, as a nurse aide becomes employed by, or receives an offer of employment from, a facility not later than 12 months after completing a nurse aide competency evaluation program, the State must provide for the reimbursement of costs incurred in completing the program on a pro rata basis during the period in which the individual is employed as a nurse aide.~~

(4) ~~The skills demonstration part of the evaluation must be—~~

- (i) Performed in a facility or laboratory setting comparable to the setting in which the individual will function as a nurse aide; and
- (ii) Administered and evaluated by a registered nurse with at least one year's experience in providing care for the elderly or the chronically ill of any age.

~~(d) Facility proctoring of the competency evaluation.~~

~~(1) The competency evaluation may, at the nurse aide's option, be conducted at the facility in which the nurse aide is or will be employed unless the facility is described in [§ 483.151\(b\)\(2\)](#).~~

~~(2) The State may permit the competency evaluation to be proctored by facility personnel if the State finds that the procedure adopted by the facility assures that the competency evaluation program—~~

- ~~(i) Is secure from tampering;~~
- ~~(ii) Is standardized and scored by a testing, educational, or other organization approved by the State; and~~
- ~~(iii) Requires no scoring by facility personnel.~~

~~(3) The State must retract the right to proctor nurse aide competency evaluations from facilities in which the State finds any evidence of impropriety, including evidence of tampering by facility staff.~~

(e) Successful completion of the written examination competency evaluation program.

(1) The State must establish a standard for satisfactory completion of the competency evaluation. To complete the competency evaluation successfully an individual must pass both the written or oral examination and the skills demonstration.

(2) A record of successful completion of the competency evaluation must be included in the nurse aide registry provided in [§ 483.156](#) within 30 days of the date if the individual is found to be competent.

(f) Unsuccessful completion of the ~~written examination~~ competency evaluation program.

(1) If the individual does not complete the ~~examination~~ satisfactorily, the individual must be advised—

- ~~(i) Of the areas which he or she; did not pass; and~~
- ~~(ii) That he or she has at least three opportunities to take the evaluation.~~

(2) The State may impose a maximum upon the number of times an individual upon the number of times an individual may attempt to complete the competency evaluation successfully, but the maximum may be no less than three.

Suggested option: Appendix: Recommended edits to 42 CFR 483.154

(All changes highlighted. Stricken language to be removed. New language is underlined.)

§ 483.154 Nurse aide competency evaluation.

(a) **Notification to Individual.** The State must advise in advance any individual who takes the competency evaluation that a record of the successful completion of the evaluation will be included in the State's nurse aid registry.

(b) **Content of the competency evaluation program** —

(1) **Written or oral examinations.** The competency ~~evaluation examination~~ must—

(i) Allow an aide to choose between a written and an oral examination;

(ii) Address each course requirement specified in [§ 483.152\(b\)](#);

(iii) Be developed from a pool of test questions, only a portion of which is used in any one examination;

(iv) Use a system that prevents disclosure of both the pool of questions and the individual competency evaluations; and

(v) If oral, must be read from a prepared text in a neutral manner.

(2) **Demonstration of skills.** The skills demonstration must consist of a demonstration of randomly selected items drawn from a pool consisting of the tasks generally performed by nurse aides. This pool of skills must include all of the personal care skills listed in [§ 483.152\(b\)\(3\)](#).

(c) **Administration of the competency evaluation.**

(1) The competency examination must be administered and evaluated only by a national provider of the nursing assistant written examination. —

(2) The skills demonstration must occur within the state approved nursing assistant training program as part of the nurse aide's certificate of completion.

(i) The State directly; or

(ii) A State approved entity which is neither a skilled nursing facility that participates in Medicare nor a nursing facility that participates in Medicaid.

(2) 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 competency evaluation program may be charged for any portion of the program.

(3) If an individual who is not employed, or does not have an offer to be employed, as a nurse aide becomes employed by, or receives an offer of employment from, a facility not later than 12 months after completing a nurse aide competency evaluation program, the State must provide for the reimbursement of costs incurred in completing the program on a pro rata basis during the period in which the individual is employed as a nurse aide.

(4) The skills demonstration part of the evaluation must be—

(i) Performed in a facility or laboratory setting comparable to the setting in which the individual will function as a nurse aide; and

(ii) Administered and evaluated by a registered nurse with at least one year's experience in providing care for the elderly or the chronically ill of any age.

(d) Facility proctoring of the competency evaluation.

(1) The competency evaluation may, at the nurse aide's option, be conducted at the facility in which the nurse aide is or will be employed unless the facility is described in [§ 483.151\(b\)\(2\)](#).

(2) The State may permit the competency evaluation to be proctored by facility personnel if the State finds that the procedure adopted by the facility assures that the competency evaluation program—

(i) Is secure from tampering;

(ii) Is standardized and scored by a testing, educational, or other organization approved by the State; and

(iii) Requires no scoring by facility personnel.

(3) The State must retract the right to proctor nurse aide competency evaluations from facilities in which the State finds any evidence of impropriety, including evidence of tampering by facility staff.

(d)(e) Successful completion of the competency evaluation program.

(1) The national exam provider State must establish a standard for satisfactory passing completion of the written or oral examination competency evaluation.

(2) To complete the competency evaluation successfully, an individual must pass both the written or oral examination and the skills demonstration. An individual who has obtained a certificate of program completion is considered to have satisfied the skills demonstration requirement.

(3)(2) A record of successful completion of the written or oral examination competency evaluation must be included in the nurse aide registry provided in [§ 483.156](#) within 30 days of the date if the individual is found to be competent.

(e)(f) Unsuccessful passing completion of the competency examination evaluation program.

(1) If the individual does not complete the written or oral examination evaluation satisfactorily, the individual must be advised—

(i) Of the areas which he or she; did not pass; and

(ii) That he or she has at least three opportunities to take the examination evaluation.

(2) The State may impose a maximum upon the number of times an individual upon the number of times an individual may attempt to complete the competency written or oral examination evaluation successfully, but the maximum may be no less than three.