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NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

172 NAC 108

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 108 APPROVAL OF TRAINING PROGRAMS AND QUALIFICATIONS FOR
NURSING ASSISTANTS IN NURSING HOMES

108-001 SCOPE AND AUTHORITY: These regulations govern the qualifications and training requirements for nursing assistants employed in nursing homes. Statutory authority for these regulations is Neb. Rev. Stat. §§ 71-6038, 71-6039, and 71-6040 to 71-6042. These regulations are also consistent with federal requirements developed by the United States Department of Health and Human Services in 42 CFR § 483, Subpart D, as it existed on the effective date of these regulations.

108-002 DEFINITIONS

Administrator means the operating officer for the health care facility and may be titled as administrator, manager, superintendent, or director, or may have a similar designation. The administrator of a licensed intermediate care facility, nursing facility, skilled nursing facility, or intermediate care facility for the mentally retarded must be licensed by the State of Nebraska.

Curriculum means a detailed course outline, description, or syllabus submitted to the Department as part of the approval process by an association, hospital, nursing home, educational institution, or health care facility sponsoring a nursing assistant training course.

Department means the Department of Health and Human Services.

Employee means an individual under hire to a nursing home to perform any duty required to be performed regularly on the premises, whether on a full-time or part-time basis.

Intermediate care facility means a facility where shelter, food, and nursing care or related services are provided for a period of more than 24 consecutive hours to persons residing at such facility who are ill, injured, or disabled and do not require hospital or skilled nursing care.

Intermediate care facility for the mentally retarded or ICF/MR means a facility where shelter, food, and training or habilitation services, advice, counseling, diagnosis, treatment, nursing care, or related services are provided for a period of more than 24 consecutive hours to four or more persons residing at such facility who have mental retardation or related conditions, including epilepsy, cerebral palsy, or other developmental disabilities.

Long-term care hospital means a hospital or any distinct part of a hospital that provides the care and services of an intermediate care facility, a nursing facility, or a skilled nursing facility.

Nursing assistant means any person, other than a paid dining assistant or a licensed registered or practical nurse, employed by a nursing home for the purpose of aiding a licensed registered or practical nurse through the performance of nonspecialized tasks related to the personal care and comfort of residents. Federal regulations in 42 CFR § 483, Subpart D, refer to these nursing home employees as “nurse aides”.

Nursing facility means a facility where medical care, nursing care, rehabilitation, or related services and associated treatment are provided for a period of more than 24 consecutive hours to persons residing at such facility who are ill, injured, or disabled.

Nursing home means any facility or distinct part of any facility that provides care as defined in Neb. Rev. Stat. § 71-420 (intermediate care facility), § 71-421 (ICF/MR), § 71-422 (long-term care hospital), § 71-424 (nursing facility), and § 71-429 (skilled nursing facility).

Registered nurse means an individual who has a current active Nebraska license, issued by the Department upon the recommendation of the State Board of Nursing, to practice professional nursing and to use the title "Registered Nurse" and the abbreviation "R.N." or has the authority to practice in this state as a registered nurse under the provisions of the Nurse Licensure Compact.

Registry means the central data bank established by 471 NAC 12-002.04 of individuals who have met the training and competency evaluation requirements established in 172 NAC 108-003.

Resident means any person domiciled, residing, or receiving care and treatment, for a period in excess of 24 hours, in a nursing home.

Skilled nursing facility means a facility where medical care, skilled nursing care, rehabilitation, or related services and associated treatment are provided for a period of more than 24 consecutive hours to persons residing at such facility who are ill, injured, or disabled.

108-003 NURSING ASSISTANT TRAINING PROGRAMS

108-003.01 Courses of training for all nursing homes except ICF/MR's must be given by a single sponsor or organization and include, at a minimum, 75 clock hours of instruction including at least 16 hours of supervised practical training. In addition, the course must include at least one hour of instruction on the responsibility of each nursing assistant to report suspected abuse or neglect pursuant to Neb. Rev. Stat. §§ 28-372 and 28-711. The curriculum for a nursing assistant training course must include, at a minimum, the following:

1. At least 16 hours of training in the following areas prior to any direct contact with a resident:
 - a. Communication and interpersonal skills;
 - b. Infection control;
 - c. Safety/emergency procedures, including emergency measures for choking;
 - d. Promoting residents' independence; and
 - e. Respecting residents' rights.
2. Basic nursing skills:
 - a. Taking and recording vital signs;

- b. Measuring and recording height and weight;
 - c. Caring for the residents' environment;
 - d. Recognizing abnormal changes in body functioning and the importance of reporting such changes to a supervisor; and
 - e. Caring for residents when death is imminent.
3. Personal care skills, including, but not limited to:
- a. Bathing;
 - b. Grooming, including mouth care;
 - c. Dressing;
 - d. Toileting;
 - e. Assisting with eating and hydration;
 - f. Proper feeding techniques;
 - g. Skin care; and
 - h. Transfers, positioning, and turning.
4. Mental health and social service needs:
- a. Modifying nursing assistant's behavior in response to residents' behavior;
 - b. Awareness of developmental tasks associated with the aging process;
 - c. How to respond to resident behavior;
 - d. Allowing the resident to make personal choices, providing and reinforcing other behavior consistent with the resident's dignity; and
 - e. Using the resident's family as a source of emotional support.
5. Care of cognitively impaired residents:
- a. Techniques for addressing the unique needs and behaviors of individual with dementia (Alzheimer's and others);
 - b. Communicating with cognitively impaired residents;
 - c. Understanding the behavior of cognitively impaired residents;
 - d. Appropriate responses to the behavior of cognitively impaired residents; and
 - e. Methods of reducing the effects of cognitive impairments.
6. Basic restorative services:
- a. Training the resident in self-care according to the resident's abilities;
 - b. Use of assistive devices in transferring, ambulation, eating and dressing;
 - c. Maintenance of range of motion;
 - d. Proper turning and positioning in bed and chair;
 - e. Bowel and bladder training; and
 - f. Care and use of prosthetic and orthotic devices.
7. Resident rights:
- a. Providing privacy and maintenance of confidentiality;
 - b. Promoting the resident's right to make personal choices to accommodate his/her needs;
 - c. Giving assistance in resolving grievances and disputes;
 - d. Providing needed assistance in getting to and participating in resident and family groups and other activities;
 - e. Maintaining care and security of resident personal possessions;

- f. Promoting the resident's right to be free from abuse, mistreatment, and neglect and the need to report any instances of such treatment to appropriate facility staff; and
- g. Avoiding the need for restraints in accordance with current professional standards.

108-003.02 Courses of training for nursing assistants employed by ICF/MR's must be given by a single sponsor or organization and include, at a minimum, 15 hours of classroom instruction in basic personal care and five hours of classroom instruction in basic therapeutic and emergency procedures. In addition, the course must include at least one hour of instruction on the responsibility of each nursing assistant to report suspected abuse or neglect pursuant to Neb. Rev. Stat. §§ 28-372 and 28-711. The curriculum for the course must include, at a minimum, the following components of classroom instruction including appropriate practical training:

108-003.02A At least 15 hours of basic personal care training in the following areas:

- 1. Personal care:
 - a. Bathing;
 - b. Oral hygiene;
 - c. Backrubs;
 - d. Nail care;
 - e. Shaving;
 - f. Hair care;
 - g. Dressing; and
 - h. Bed-making (both occupied and unoccupied).
- 2. Active range of motion:
 - a. Ambulation;
 - b. Positioning;
 - c. Transfer techniques; and
 - d. Use of physical restraints.
- 3. Foods and fluids:
 - a. Basic nutrition;
 - b. Diet descriptions;
 - c. Preparation of residents for meals;
 - d. Feeding techniques;
 - e. Reporting intake and output; and
 - f. Weighing techniques.
- 4. Elimination:
 - a. Appropriate use of urinal and bedpan;
 - b. Bowel and bladder retraining;
 - c. Incontinent care; and
 - d. Enemas.

5. Safety and accident prevention:
 - a. Lighting;
 - b. Siderails;
 - c. Call lights;
 - d. Wheelchairs; and
 - e. Smoking.
6. Infection prevention techniques:
 - a. Handwashing;
 - b. Care of linen and equipment; and
 - c. Introduction to isolation techniques.
7. Aging process:
 - a. Basic principles;
 - b. Psychosocial needs; and
 - c. Communication skills.

108-003.02B At least five hours of therapeutic and emergency procedures training in at least the following areas:

1. Fire and disaster safety and procedures;
2. Basic emergency care:
 - a. Recognition of signs and symptoms of emergencies including bleeding, burns, convulsions, fainting, falls, and choking; and
 - b. Procedures for reporting; and
3. Measuring vital signs:
 - a. Temperature;
 - b. Pulse;
 - c. Respirations; and
 - d. Blood pressure.

108-003.02C At least one hour of training in procedures for reporting suspected abuse or neglect, including:

1. The requirements of Neb. Rev. Stat. §§ 28-372 and 28-711; and
2. Resident rights as set forth in 175 NAC 12 and 175 NAC 17.

108-003.03 Individuals completing a nursing assistant training course must demonstrate at least the minimum acceptable proficiency in tasks or duties connected with each unit of the components set forth in 172 NAC 108-003. This minimum acceptable proficiency must be determined by the registered nurse administering the course and the instructor for the course.

108-003.04 Individuals completing a 75-hour nursing assistant training course must successfully complete an approved competency evaluation program consisting of a written or oral examination and a demonstration of skills. The competency evaluation program will be administered by the Department or a Department-approved entity that is not a nursing home that participates in Medicare or Medicaid.

108-003.05 Courses may exceed the minimum hour or training requirements set forth in these regulations.

108-003.06 Courses must be administered by registered nurses who hold a current license to practice as a registered nurse in this state or have the authority to practice in this state as a registered nurse under the provisions of the Nurse Licensure Compact.

108-003.07 The registered nurse administering the nursing assistant course must document an individual's successful completion of the course in a certificate or letter, the original of which must be given to the individual, containing the following information:

1. The individual's name;
2. The individual's date of birth;
3. The date of successful completion of the course;
4. The course sponsor; and
5. The course instructor.

108-003.08 The information required by 108-003.07 must also be submitted to the Department in form or letter signed by the administrator, and must also include the individual's Social Security Number.

108-004 APPROVAL OF TRAINING PROGRAMS

108-004.01 Applications for Nursing Assistant Training Course: Any association, educational institution, or health care facility, including a skilled or intermediate care facility or ICF/MR may apply to the Department for approval to conduct a training course for nursing assistants.

108-004.01A Applications for approval of a nursing assistant training course must be made on a form provided by the Department, together with the curriculum for the course as defined in 108-003. The application must include the following information:

1. The title of the course;
2. The sponsor's name;
3. The names and authors of all textbooks to be used, if any, including the publisher and edition, or if no textbook is to be used, a list of written materials to be used, including the source of such materials;
4. The specific objectives for the course;
5. The units to be covered in the course, as determined by the components required by 108-003.01, items 1-7, and 108-003.02A-C;
6. The hours to be spent on each unit within the components required by 108-003.01, items 1-7, and 108-003.02A-C;

7. The method(s) of instruction for each unit listed in 108-004.01, item 5 (for example, lecture, demonstration, simulation, slide presentation, film strip, etc.);
8. A description of the practical training to be provided for each unit listed in 108-004.01A, item 5;
9. The reading assignment in the text or in other materials, if any, for each unit;
10. The evaluation method for each unit (for example, written examination, student presentation or demonstration, competency check-off, etc.);
11. An explanation of when students will be evaluated (for example, after each unit, comprehensively at the end of the course);
12. An explanation of the grading system to be used for written examinations and proficiency evaluations; and
13. A list of tasks and duties connected with each unit listed in 108-003.01, items 1-7, or 108-003.02A-C on which students will be evaluated for competency, and guidelines for examinations to be used, which must include, at a minimum:
 - a. Procedures to be followed in administering examinations;
 - b. Procedures to be followed to ensure security of examinations, both during administration and otherwise, including but not limited to the number of times a particular examination will be used;
 - c. Procedures to be followed to validate the examinations as testing competency in the unit being tested; and
 - d. Procedures to be followed in reporting the grades to the sponsor and the Department.

108-004.01B The application and curriculum must be submitted at least 30 days prior to the date on which the course is to be given.

108-004.01C The application must be submitted by the administrator or operating officer for the entity conducting the course.

108-004.01D Only applications which are complete will be considered. In order to be considered complete, an application must include:

1. All of the information requested on the application;
2. A complete curriculum as defined in 108-002.02; and
3. The signature of the administrator or operating officer of the entity making application.

An applicant may submit such additional documents or information as the applicant may consider relevant to the application and compliance with the provisions of these regulations. In the event that an application is determined to be incomplete, the Department will notify the applicant of the information necessary to complete the application and retain the application submitted pending receipt of the additional information.

108-004.02 Continuing Approval: Once an application for approval for a nursing assistant course has been granted by the Department, reapproval is not required for each occasion on which the course is administered so long as the course is not changed, or so long as the course requirements are not changed by law. If the course, or any portion of a course is changed, reapplication must be made in accordance with 108-004.01A. In cases where only a portion of a course is changed, the applicant may submit documentation and information only as to the changes made, but must clearly indicate those portions that are unchanged by so stating on the application.

108-004.03 Applications to Conduct Approved Courses Developed by Others: Associations, educational institutions, and health care facilities may, with the consent of the developer(s), conduct nursing assistant training courses developed by others which have received approval from the Department. Such facilities must apply for approval in accordance with 108-004.01A, but need not submit curriculum materials required by 108-003.01 or 108-003.02 except to the extent that the course will be varied in any manner from the approved course. Applicants must indicate on the application the title of the approved course to be used, name of the entity whose approved course will be used, and the date on which such course was approved.

108-004.04 Any changes in approved courses must be submitted to the Department for prior approval.

108-004.05 All nursing assistant training courses are subject to on-site periodic review by the Department. Sponsors of approved courses must provide written notice to the Department of the date(s) and location that a basic course will be held at least five working days before each occasion on which an approved course is scheduled to begin.

108-004.06 The approved course sponsor must maintain attendance records for such courses for a minimum of two years from the date of completion of each course.

108-004.07 Attendance records are subject to review by the Department upon request.

108-004.08 Denial, Suspension, or Revocation of Approval: The Department will deny, suspend, or revoke approval of a nursing assistant training course for failure to meet the requirements of Neb. Rev. Stat. §§ 71-6038 to 71-6042 as applicable, or the provisions of these regulations. If the Department determines to deny, suspend, or revoke approval of a nursing assistant training course, the Department will send the applicant a notice identifying the reasons for the determination. The notice will be sent by either registered or certified mail. The denial, suspension, or revocation will become final 30 days after the mailing of the notice unless the applicant, within that 30-day period, gives written notice of a request for a hearing. Hearings will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1.

108-005 NURSING ASSISTANT ELIGIBILITY AND REQUIREMENTS

108-005.01 In order for an individual to be eligible for employment as a nursing assistant in a nursing home, the individual:

1. Must be at least 16 years of age;
2. Cannot have been convicted of a crime involving moral turpitude rationally related to his or her practice;
3. Must be able to speak and understand the English language or a language understood by a substantial portion of the facility's residents; and
4. Must successfully complete, within 120 days of employment, a nursing assistant training course approved by the Department.

108-005.02 A registered nurse or licensed practical nurse whose license has been revoked, suspended, or voluntarily suspended in lieu of discipline may not act as a nursing assistant in a nursing home.

108-005.03 If a person registered as a nursing assistant becomes licensed as a registered nurse or licensed practical nurse, his or her registration as a nursing assistant becomes null and void as of the date of licensure.

108-006 FINDINGS OF CONVICTION

108-006.01 The Department will document convictions of crimes involving moral turpitude rationally related to the practice of a nursing assistant by placing a finding of conviction on the Registry. A finding of conviction will make the nursing assistant ineligible for employment in a nursing home.

108-006.02 A person listed on the Registry for whom a finding of conviction has been placed on the Registry may petition the Department to have the finding removed at any time after one year has elapsed since the date the finding was placed on the Registry.

108-006.03 If the Department proposes to place a finding in accordance with 108-006.01 or to deny a petition made in accordance with 108-006.02, the Department will send the nursing assistant or petitioner written notice identifying the reasons for the proposed finding. The Department will place the finding on the Registry 30 days after receipt of the notice unless the petitioner, within that 30-day period, gives written notice of a request for a hearing. Hearings will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1.

108-007 DISCIPLINARY ACTION: Pursuant to Neb. Rev. Stat. §§ 71-6042, a nursing home is subject to disciplinary action against its license for violations of Neb. Rev. Stat. §§ 71-6038 to 71-6042 or these regulations.