

441—81.13(249A) Nurse aide requirements and training and testing programs.

81.13(1) *Deemed meeting of requirements.* A nurse aide is deemed to satisfy the requirement of completing a nurse aide training and competency evaluation approved by the department of inspections, appeals, and licensing if:

a. The nurse aide successfully completed a nurse aide training and competency evaluation program before July 1, 1989, and

(1) At least 60 clock hours were substituted for 75 clock hours, and the person has made up at least the difference in the number of clock hours in the program the person completed and 75 clock hours in supervised practical nurse aide training or in regular in-service nurse aide education, or

(2) The person was found to be competent (whether or not by the state) after completion of a nurse aide training of at least 100 clock hours' duration, or

(3) The person can demonstrate that the person served as a nurse aide at one or more facilities of the same employer in Iowa for at least 24 consecutive months before December 19, 1989, or

(4) The person completed, before July 1, 1989, a nurse aide training and competency evaluation program that the department of inspections, appeals, and licensing determines would have met the requirements for approval at the time it was offered; or

b. The person is a veteran, an active duty service member, or a member of the reserve forces, who has:

(1) Successfully completed a U.S. military training program that includes a curriculum comparable to the nurse aide training program required by this rule and has documented successful completion of that program with either a diploma, certifications, or Form DD 214 showing completion of hospital corpsman or medical service specialist or equivalent training, and

(2) Provided documentation showing that the person has 75 clock hours of practical experience in a nurse aide role, which may include classroom instruction, prior equivalent experience, or a combination of the two, and

(3) Successfully completed the nurse aide training and competency examination.

81.13(2) *State review and approval of nurse aide training and competency evaluation programs or competency evaluation programs.*

a. The department of inspections, appeals, and licensing will, in the course of all surveys, determine whether the nurse aide training and evaluation requirements of paragraph 81.11(19)"*b*" and subrule 81.13(1) are met.

b. Requirements for approval of programs.

(1) Before the department of inspections, appeals, and licensing approves a nurse aide training and competency evaluation program or competency evaluation program, the department of inspections, appeals, and licensing will determine whether:

1. A nurse aide training and competency evaluation program meets the course requirements of subrule 81.13(3).

2. A nurse aide competency evaluation program meets the requirements of subrule 81.13(4).

(2) Except as provided by paragraph 81.13(2)"*f*," the department of inspections, appeals, and licensing will not approve a nurse aide training and competency evaluation program or competency evaluation program offered by or in a facility that, in the previous two years:

1. Has operated under a nurse staffing waiver for a period in excess of 48 hours per week; or

2. Has been subject to an extended or partial extended survey; or

3. Has been assessed a civil money penalty of not less than \$5,000; or

4. Has operated under temporary management appointed to oversee the operation of the facility and to ensure the health and safety of the facility's residents; or

5. Pursuant to state action, was closed or had its residents transferred; or

6. Has been terminated from participation in the Medicaid or Medicare program; or

7. Has been denied payment.

c. Application process. Applications shall be submitted to the department of inspections, appeals, and licensing before a new program begins and every two years thereafter on a form prescribed by the

department. The department of inspections, appeals, and licensing will, within 90 days of the date of a request or receipt of additional information from the requester:

- (1) Advise the requester whether or not the program has been approved; or
- (2) Request additional information from the requesting entity.

d. Duration of approval. The department of inspections, appeals, and licensing will not grant approval of a nurse aide training and competency evaluation program for a period longer than two years. A program shall notify the department of inspections, appeals, and licensing and the department of inspections, appeals, and licensing will review that program when there are substantive changes made to that program within the two-year period.

e. Withdrawal of approval. The department of inspection, appeals, and licensing will follow the provision of 42 CFR 483.151(e) (as amended to August 1, 2024) regarding withdrawals of approvals.

f. An exception to subparagraph 81.13(2)“b”(2) may be granted by the department of inspections, appeals, and licensing for 75-hour nurse aide training courses offered in (but not by) a facility under the following conditions:

(1) The facility has submitted a Nurse Aide Education Program Waiver Request, to the department of inspections, appeals, and licensing to request a waiver for each 75-hour nurse aide training course to be offered in (but not by) the facility.

(2) The 75-hour nurse aide training is offered in a facility by an approved NATCEP.

(3) No other NATCEP is offered within ten minutes' travel from the facility, unless the facility can demonstrate the distance or program would create a hardship for program participants.

(4) The facility is in substantial compliance with the federal requirements related to nursing care and services.

(5) The facility is not a poor performing facility.

(6) Employees of the facility do not function as instructors for the program unless specifically approved by the department of inspections, appeals, and licensing.

(7) The NATCEP sponsoring the 75-hour nursing aide training course is responsible for program administration and for ensuring that program requirements are met.

(8) The NATCEP has submitted an evaluation to the department of inspections, appeals, and licensing indicating that an adequate teaching and learning environment exists for conducting the course.

(9) The NATCEP has developed policies for communicating and resolving problems encountered during the course, including notice by the facility to the program instructor and students on how to contact the department of inspections, appeals, and licensing to register any concerns encountered during the course.

(10) The NATCEP shall require the program instructor and students to complete an evaluation of the course. The instructor shall return the completed evaluations to the NATCEP that shall return the evaluations to department of inspections, appeals, and licensing.

81.13(3) *Requirements for approval of a nurse aide training and competency evaluation program.*

The department has designated the department of inspections, appeals, and licensing to approve required nurse aide training and competency evaluation programs. Policies and procedures governing approval of the programs are set forth in 42 CFR 483.152 (as amended to August 1, 2024).

a. If a person 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 no later than 12 months after completing a nurse aide training and competency evaluation program or competency evaluation program, the facility shall reimburse the nurse aide for costs incurred in completing the program or competency evaluation on a pro rata basis during the period in which the person is employed as a nurse aide. The formula for paying the nurse aides on a pro rata basis shall be as follows:

(1) Add all costs incurred by the nurse aide for the course, books, and competency evaluations.

(2) Divide the total arrived at in subparagraph (1) above by 12 to prorate the costs over a one-year period and establish a monthly rate.

(3) The nurse aide shall be reimbursed the monthly rate each month the nurse aide works at the facility until one year from the time the nurse aide completed the course.

b. Setting and equipment. The classroom shall have appropriate equipment, be of adequate size, and not interfere with resident activities.

c. Records and reports. Nurse aide education programs approved by the department of inspections, appeals, and licensing shall:

- (1) Notify the department of inspections, appeals, and licensing:
 1. Of dates of classroom and clinical sessions as well as location of classrooms and clinical practice sites before each course begins and if the course is canceled.
 2. When a facility or other training entity will no longer be offering nurse aide training courses.
 3. Whenever the person coordinating the training program is hired or terminates employment.
- (2) Keep a list of faculty members and their qualifications available for department review.
- (3) Provide each nurse aide a record of skills for which the nurse aide has been found competent during the course and which may be performed before completion of the competency evaluation.
- (4) Complete a lesson plan for each unit that includes behavioral objectives, a topic outline and student activities and experiences.
- (5) Provide the student, within 30 days of the last class period, evidence of having successfully completed the course.

81.13(4) Nurse aide competency evaluation. Nurse aide competency evaluation program shall be administered in accordance with 42 CFR 483.154 (as amended to August 1, 2024).

a. Successful completion of the competency evaluation program.

- (1) A score of 70 percent or above is passing for both the written or oral and skills demonstration parts of the test.
- (2) A record of successful completion of the competency evaluation shall be included in the nurse aide registry within 30 days of the date the person is found to be competent.
- (3) The competency testing entity shall inform the nurse aide of the test score within 30 calendar days of the completion of the test and shall inform the nurse aide registry of the nurse aide's scores within 20 calendar days after the test is administered.

b. Unsuccessful completion of the competency evaluation program.

- (1) If the person does not complete the evaluation satisfactorily, the person shall be advised in writing within ten working days after the test is scored:
 1. Of the areas that the person did not pass.
 2. That the person has three opportunities to take the evaluation.
- (2) Each person shall have three opportunities to pass each part of the test. If one part of the test is failed, only that part need be taken a second or third time. If either part of the test is failed three times, the 75-hour course shall be taken or retaken before the test can be taken again.

c. Storage of evaluation instrument. The person responsible for administering a competency evaluation shall provide secure storage of the evaluation instruments when they are not being administered or processed.

d. Application process. Entities wishing to secure approval for a competency evaluation program shall submit a copy of the evaluation plan and procedures to the department of inspections, appeals, and licensing. The department of inspections, appeals, and licensing shall notify the applicant of its decision within 90 days of receipt of the application. The notification shall include the reason for not giving approval if approval is denied and the applicable rule citation.

81.13(5) Registry of nurse aides.

a. Establishment of registry. The department of inspections, appeals, and licensing shall establish and maintain a registry of nurse aides in accordance with 42 CFR 483.156 (as amended to August 1, 2024). In addition, the registry shall contain a record of known convictions by a court of law of a person convicted of abuse, neglect, mistreatment, or misappropriation of resident property.

b. Placement of names on nurse aide registry. The facility shall ensure that the name of each person employed as a nurse aide in a Medicare- or Medicaid-certified nursing facility in Iowa is submitted to the registry.

(1) Persons employed as nurse aides shall complete the Nurse Aide Registry Application within the first 30 days of employment. This form shall be submitted to the department of inspections, appeals, and

licensing. The application may be obtained by telephone or by electronic request from the nurse aide registry.

(2) A nurse aide who is not employed may apply for inclusion on the registry by submitting a copy of completed application to the nurse aide registry.

(3) When the registry has received a signed application and entered the required training and testing information on the registry, an electronic notification will be sent to the nurse aide that includes the registry ID number for the nurse aide to use when accessing the online registry. A nurse aide may obtain a copy of the information on the registry by accessing the information on the registry database.

81.13(6) *Hearing.* When there is an allegation of abuse against a nurse aide, the department of inspections, appeals, and licensing will investigate that allegation. When the investigation makes a finding of an act of abuse, the nurse aide named will be notified of this finding and the right to a hearing. The nurse aide shall have 30 days to request a hearing. The request shall be in writing and shall be sent to the department of inspections, appeals, and licensing. The hearing shall be held pursuant to 481—Chapter 10. After 30 days, if the nurse aide fails to appeal, or when all appeals are exhausted, the nurse aide registry will include a notation that the nurse aide has a founded abuse report on record if the final decision indicates the nurse aide performed an abusive act.

81.13(7) *Appeals.* Adverse decisions made by the department of inspections, appeals, and licensing in administering these rules may be appealed pursuant to 481—Chapter 10.

This rule is intended to implement Iowa Code section 249A.4.

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