

DEPARTMENT OF HEALTH

NOTICE OF SECOND PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in Section 302(14) of the District of Columbia Health Occupations Revision Act of 1985, effective March 15, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of a second proposed rulemaking action to adopt new Chapters 94 (Dialysis Technicians), 95 (Medication Aides), 96 (Certified Nursing Assistants), and 97 (Patient Care Technicians), of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

These regulations are required pursuant to the Practice of Nursing Amendment Act of 2009, effective July 7, 2009 (D.C. Law 18-18; D.C. Official Code § 3-1209.07(b) (2016 Repl.)), and Mayor's Order 98-140, dated August 20, 1998.

These regulations were previously published as a Proposed Rulemaking at 60 DCR 000788 on January 25, 2013. In response to the publication, the Board of Nursing (Board) received numerous comments and numerous changes have been made.

In some sections, numbering has changed between the Notice of Proposed Rulemaking published on January 25, 2013 and this Notice of Second Proposed Rulemaking. In this preamble, a single asterisk "*" denotes a numerical reference to the January 25, 2013 publication. Double asterisks "**" indicate a numerical reference to this Second Proposed Rulemaking.

"Patient Care Technician" was removed from Chapter 96* and assigned its own chapter – Chapter 97.** The Board determined that combining the two (2) professions made it difficult to establish a clear distinction between the two (2) professions.

MedStar Washington Hospital Center suggested that the language in § 9604.2(c)* (§ 9704.1(d)** be changed to read that a “Fundamentals of Nursing” course be “successfully passed” instead of “Completion...” of the course. The Board found no distinction between the two (2) terms. The Board noted that a student who receives a grade of less than “C” in the course has not “completed” or “successfully passed” the course.

MedStar also noted that the regulations do not address how long a nursing student or nurse who failed the national registered nursing examination may work as a patient care technician (PCT) without taking the national certification examination.

The Board did not specify a time limit but states that the nursing student or nurse may work indefinitely as a PCT.

MedStar requested clarification in § 9604.2(d)* as to whether a hospital corpsman must obtain certification as a certified nursing assistant. In addition, MedStar suggested adding experience as an emergency medical technician (EMT). The Board did not establish a certification requirement, but specified in § 9704.1(f)** that these personnel must have at least one thousand (1,000) hours of practice within the last thirty-six (36) months.

In addition, the Board dropped the term “hospital corpsman” and specifically named the military personnel who qualify as specified by the National Council of State Boards of Nursing.

Subsection 9604.2(b)* requires a PCT to complete a Board-approved PCT training program. MedStar suggested that the Board consider a phased-in approach for this new requirement due to the lack of available “Board-approved PCT programs in this area.” To address MedStar’s concerns, the Board notes that § 9705.1(b)** will continue to require an applicant to complete a Board-approved program; § 9705.2** will continue to provide a waiver for qualified applicants; and § 9720.2** will allow health care facilities to offer PCT training programs. The Board is of the opinion that these provisions should suffice in meeting MedStar’s suggestion for a phased-in approach and address the concerns about a lack of available programs.

MedStar suggested that § 9604.3(a),* which requires completion of a “Board-approved patient care training program” for persons certified by waiver, be deleted. In § 9705.2** the Board specifies that documentation by an employer will satisfy the requirements for certification by waiver.

MedStar suggested that § 9607.1* be amended to decrease the continuing education requirement from twenty-four (24) hours to sixteen (16) hours because it is burdensome in terms of payment and scheduled time off. The Board notes that the regulations require continuing education *or* in service training.

Thus, an employer can substitute in-service training for that which a certified nursing assistant (CNA) would be required to incur an out-of-pocket expense. MedStar also requested that the two (2) hours of a mandated topic be reconsidered. The Board did not drop the requirement. The Board notes that three (3) hours of continuing education are required pursuant to the “HIV/AIDS Continuing Education Requirements Amendment Act of 2012.” In addition, two (2) hours of continuing education are required pursuant to the “LGBTQ Cultural Competency Education Amendment Act of 2015.”

MedStar suggested that § 9616.1* be amended to allow a PCT to discontinue a Foley catheter. In § 9715.1(k)** the Board authorized PCTs to perform urinary catheterizations, which include insertion and discontinuation of urinary catheters.

MedStar also suggested that a PCT be allowed to apply and reapply sequential compression devices. This permissible function was added in § 9715.1(m).**

MedStar suggested that changes be made in the language in § 9617.1* as it relates to dialysis technicians (DT). The Board notes that the acronym “DT” was incorrect. The acronym “CNA” now appears in its place.

MedStar suggested that the language of § 9620.1(e)* be amended to allow hospitals or health care facilities to provide training for a CNA or PCT. In response to the recommendation, the Board provided for this training in §§ 9720.2(d) and (e).**

MedStar requested clarification of the competency evaluation mentioned in § 9625.5* that will be required for CNAs/PCTs, who may administer it, and the frequency in which it would have to be performed. The Board notes that § 9704.1** will require an applicant for certification to provide evidence of successfully passing a PCT examination offered by a PCT certification organization recognized by the National Commission for Certifying Agencies.

The DC Coalition on Long Term Care commented on the language in §§ 9425.6* and 9425.8* as it relate to the conditions under which the Board may grant conditional approval to training programs. The Board eliminated Section 9424* (Dialysis Technician Program Approval Procedures). The standards for DT training programs are now incorporated into § 9420,** which comply with federal requirements “Part 494: Conditions for Coverage for End-Stage Renal Disease Facilities” (V693) that require a training program to be managed by a medical director, who reports to the facility’s governing body, with the training program being under the direction of a registered nurse. The Department of Health will ensure compliance with the federal requirements.

The DC Coalition on Long Term Care commented that § 9527.1* seemed to indicate that medication aides should be trained to be DTs since that subsection referred to the skills list in § 9415.* The current language in § 9527.1** indicates that training should be according to a Board approved medication aide model curriculum, as it may be amended from time to time.

The DC Coalition on Long Term Care expressed the opinion that the word “schools” should not be a part of the definition of “facilities” in § 9599.1.* The word “schools” has been removed.

Finally, the DC Coalition on Long Term Care stated that section 9624,* entitled the “Training Program Approval Procedures,” does not include approval by the Educational Licensure Commission (ELC) as required for the medication aide program. The Board notes that § 9620.1** lists the types of institutions that are licensed by ELC that may apply for approval by the Board. In addition, ELC has specified the types of educational programs that must be licensed pursuant to D.C. Official Code §§ 38-1301, *et seq.*

Fresenius Medical Care expressed concerns about the ability of DTs to reactivate their registration for up to five (5) years without practicing during that time. Fresenius noted that a DT must be certified to work. To address the issue, the language in § 9408.3** was amended to require an individual in inactive status, who reactivates his or her registration, to submit proof of current certification from a program recognized by the Centers for Medicare & Medicaid Services, and the Board.

In addition, Fresenius expressed concern about the requirement in § 9411.1* for an employer to complete an annual performance review for DTs. Fresenius also expressed its concern about the requirement in § 9411.2* for an employer to provide regular continuing education. The Board has eliminated the “Performance Review” requirement for employers but will require DTs to complete three (3) hours of continuing education as required by the “HIV/AIDS Continuing Education Requirements Amendment Act of 2012” and two (2) hours of continuing education as required by the “LGBTQ Cultural Competency Continuing Education Amendment Act of 2015.”

Fresenius recommended changes to the language in § 9415.1(d) (1) and(2)* as it relates to the administration of drugs by DTs. These recommendations were followed and incorporated § 9415.1(e).**

Fresenius also raised concerns about the language in §§ 9420.2(d)* and 9420.3(c)* as they relate to standards for DT training programs. The language in § 9420** has been amended to comply with federal regulations, “Part 494: Conditions for Coverage for End-Stage Renal Disease Facilities” (V693) which require a medical director, who is accountable to the governing board of the dialysis facility, and working in conjunction with a nurse management, to have oversight of dialysis facilities. The medical director will be expected to ensure that DTs meet the training requirements as set forth in 42 CFR §§ 494.140(e)(1), (2), and (3).

Fresenius suggested eliminating the language in § 9424.1(b)(3)* which required a proposed training program to provide a description of the potential effect on existing DT training programs. In response, § 9424* has been eliminated in its entirety. The standards for DT training programs are now incorporated in § 9420,** which comply with federal requirements “Part 494 Conditions for Coverage for End-Stage Renal Disease Facilities” (V693). The Department of Health will ensure compliance with the federal requirements.

Fresenius suggested revisions to § 9427.15(a)* to allow a dialysis technician with one (1) year of full time experience to be a preceptor. It also opined that § 9427.15(b),* which required a clinical preceptor to have five (5) years of direct client care experience, was unnecessary. In response, § 9427* has been eliminated in its entirety. It will be the responsibility of the medical director, governing board, and a registered nurse who will operate the program in compliance with federal regulations, “Part 494: Conditions for Coverage for End-Stage Renal Disease Facilities” (V693), to ensure that the program has qualified instructional personnel.

Fresenius stated that the definition of “activities of daily living,” which appears in the Definitions Subsection 9499.1,* is not relevant to the dialysis patient population and thus should be deleted. This definition was removed.

Finally, Fresenius noted that the term “endorsement,” which also appears in the Definitions Subsection 9499.1,* is not relevant as certification is required by federal regulations. The Board chose not to eliminate the term, but amended it to read as follows; in addition to meeting federal certification, an applicant must satisfy the requirements of District law.

DC Appleaseed noted the incongruity between §§ 9425.5,* 9425.6,* and 9425.8.* It noted that those sections do not contain any mention of passage rates on the certification exam. To reiterate, Section 9424* has been eliminated. The standards for DT training programs are now incorporated in § 9420,** which comply with federal requirements “Part 494: Conditions for Coverage for End-Stage Renal Disease Facilities” (V693) that require a training program to be managed by a medical director, who reports to the facility’s governing body, with the training program being under the direction of a registered nurse. It will be the responsibility of the personnel operating the training program to ensure that the trainees have sufficient instruction to pass the certification examination.

DC Appleaseed also noted that § 9527.1* appears to require that medication aides should also be trained as DTs. The current language in § 9527.1** indicates that training should be according to a Board approved medication aide model curriculum, as it may be amended from time to time through rulemaking.

DC Appleaseed commented that in Section 9505* the specific relationship between medication aide and both CNA and home health aide is not sufficiently spelled out. For example, it is not clear that a candidate for “medication aide-certified (MA-C)” must also complete the requirements for home health aide and/or nursing assistant either prior to or while becoming a medication aide. Similarly, if it is intended that MA-Cs are home health aides or nursing assistants with additional authority and capacity (to dispense medicine, monitor for adverse reactions, etc.) it is not clear whether they need to register first as a home health aide, or pass the certification exam for nursing assistant or if the MA-C will authorize them to serve as a home health aide and/or

CNA. It appears that the MA-C exam is meant to be administered to CNAs and will therefore not cover the same material as the nursing assistant certification exams, so MA-Cs who have not previously achieved nursing assistant certification should be required to take the nursing assistant certification exam and the Medication Aide Certification Examination. In addition, training programs that are providing the full complement of hours, one hundred and forty, (140), should be required to specify which position their MA-C trainees will be eligible to fill, home health or nursing assistant, if not both. The Board addressed this concern in § 9528.2** by requiring a trainee to provide evidence of certification as a nursing assistant or home health aide, or evidence of one (1) year of experience as a direct support professional.

DC Appleseed also suggested that in § 9527.2(a)* the total number of hours for a medication aide should be raised from 140 to 175. The Board of Nursing notes that the amended regulations contain language in § 9527.1** that will require training programs to comply with the Board's model curriculum.

Specified hours that were enumerated in §§ 9527.2(a), (b), and (c)* have been eliminated, as they may need to be modified from time to time once the program is implemented.

Under § 9604.2(a),* DC Appleseed recommended that PCTs should be required to be MA-Cs, and not just CNAs, to enhance their career mobility. The Board did not adopt that suggestion, but amended the language to require passing a PCT examination, completing specific nursing coursework, or military or civilian training in the field.

Finally, DC Appleseed suggested using a different acronym for PCTs to distinguish them from PCTs who are DTs under federal guidelines. The Board did not adopt this suggestion and will continue to use the acronym PCT.

The DC Coalition of Disability Service Providers questioned whether "health care facilities" under § 9520.2(d)* includes

providers who support persons under the Department on Disability Services. In § 9599.1,** the Board added the term “Health care facility” which includes “homes of persons with physical and intellectual disabilities.”

The DC Coalition of Disability Service Providers also noted that § 9524.1(b)* lists requirements for a school/educational institution, but not for a “health facility” or other provider/training model. In response, the Board added Section 9523** which establishes approval procedures for health care facilities medication aide programs.

Finally, this rulemaking will require two (2) hours of continuing education instruction on cultural competency or specialized clinical training focusing on patients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression, as mandated by the “LGBTQ Cultural Competency Continuing Education Amendment Act of 2016.”

Title 17 DCMR, Business, Occupations, and Professionals, is amended as follows:

CHAPTER 94 DIALYSIS TECHNICIANS

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9418 [RESERVED]

9419 [RESERVED]

9420 STANDARDS FOR DIALYSIS TECHNICIAN
TRAINING PROGRAMS

9499 DEFINITIONS

9400 GENERAL PROVISIONS

9400.1 This chapter applies to applicants for, and holders of, a registration to practice as a dialysis technician (DT).

9400.2 Chapter 40 (Health Occupations: General Rules) and 41 (Health Occupations: Administrative Procedures) of this title apply to holders of a registration to practice as a DT.

9401 REGISTRATION

9401.1 No person shall practice as a DT in the District of Columbia longer than eighteen (18) months without being registered by the Board of Nursing (Board) as a DT.

9401.2 A DT shall be certified pursuant to § 9404.1(d) and registered by the Board within eighteen (18) months of his or her hire date. If a DT who is not certified changes employment from one dialysis facility to another, the time he or she was employed in the first facility shall count towards the eighteen (18) month period for certification unless he or she had a gap in employment as a DT of more than eighteen (18) months.

9402 TERM OF REGISTRATION

9402.1 Subject to § 9401.1, a registration issued pursuant to this chapter shall expire at 11:59 p.m. on October 31 of each even-numbered year.

9402.2 The Director may modify the renewal system pursuant to § 4006.3 of Chapter 40 of this title and may modify the date on which a registration expires.

9403 CRIMINAL BACKGROUND CHECK

9403.1 A person applying for registration (“an applicant”) as a DT shall undergo a criminal background check (CBC) prior to issuance of the registration.

9403.2 After issuance of an initial registration, the applicant shall undergo an additional CBC as determined by the Department of Health (DOH).

9403.3 The Board shall review the results of an applicant’s CBC if, within the seven (7) years preceding the CBC, the applicant has been arrested or convicted in the District of Columbia, or in any state or territory of the United States where the person has worked or resided, for any of the following offenses or their equivalent:

(a) Murder, attempted murder, or manslaughter;

(b) Arson;

(c) Assault, battery, assault and battery, assault with a dangerous weapon, mayhem or threats to do bodily harm;

(d) Burglary;

- (e) Robbery;
- (f) Kidnapping;
- (g) Theft, fraud, forgery, extortion or blackmail;
- (h) Illegal use or possession of a firearm;
- (i) Trespass or injury to property;
- (j) Rape, sexual assault, sexual battery, or sexual abuse;
- (k) Child abuse or cruelty to children;
- (l) Adult abuse, neglect or exploitation; or
- (m) Unlawful distribution or possession with intent to distribute a controlled substance.

9404 APPLICATION FOR REGISTRATION

9404.1 An applicant for registration as a DT shall:

- (a) Be at least eighteen (18) years of age;
 - (b) Have graduated from high school or have a graduate equivalency diploma;
 - (c) Submit an application and application fee;
- and
- (d) Submit evidence of current certification from one of the following:
 - (1) The Certified Clinical Hemodialysis Technician Examination offered by the Nephrology Nursing Certification Commission;

- (2) The Board of Nephrology Examiners for Nursing and Technology examination;
- (3) The National Nephrology Certification Organization examination; or
- (4) Another certification program recognized by the Centers for Medicare & Medicaid Services (CMS) and the Board.

9404.2 An application that remains incomplete for ninety (90) days or more from the date of submission shall be considered abandoned and may be closed by the Board. The applicant shall thereafter be required to reapply, comply with the current requirements for registration, and pay the required fees.

9405 [RESERVED]

9406 REGISTRATION BY ENDORSEMENT

9406.1 An applicant for registration by endorsement as a DT shall provide proof of the following:

- (a) That he or she has a current certification as a DT by a certifying body recognized by the Board; and
- (b) That he or she has an unencumbered certification, registration or licensure from another jurisdiction, if applicable.

9407 RENEWAL OF REGISTRATION

9407.1 An applicant for renewal shall:

- (a) Provide evidence of completion of twelve (12) hours per year, twenty-four (24) in total, of in-service or continuing education in the area of dialysis or areas relevant to practice during the renewal period;

- (b) Have completed continuing education which includes a minimum of three (3) hours of in HIV/AIDS and two (2) hours of continuing education in cultural competency or specialized clinical training on clients who identify as LGBTQ and any additional Board mandated topics;
- (c) Practiced for a minimum of one hundred (100) hours during the prior twenty-four (24) months as a dialysis technician under the supervision of a registered nurse;
- (d) Submit a current certification as a dialysis technician from a certification program recognized by the CMS and the Board; and
- (e) Completed a CBC as required by Section 9403.

9407.2 In-service programs or continuing education provided by a nursing organization, or health services organization that is recognized by the Board, shall be:

- (a) Current in subject matter;
- (b) Developed and taught by qualified individuals; and
- (c) Relevant to the role of a DT.

9407.3 Applications shall be subject to audit to assure compliance with §§ 9407.1 and 9407.2.

9408 INACTIVE STATUS; REACTIVATION OF REGISTRATION

9408.1 A DT with an active certification may request to be placed on inactive status.

9408.2 While on inactive status, the individual shall not be subject to the renewal fee and shall not practice as a DT in the District of Columbia.

9408.3 To reactivate an inactive status, the individual shall submit evidence of current certification from a certification program recognized by the CMS and the Board.

9409 REINSTATEMENT OF EXPIRED REGISTRATION

9409.1 If a DT fails to renew his or her registration, the Board shall reinstate the registration if the applicant:

- (a) Applies to the Board for reinstatement of the registration within five (5) years after the registration expires;
- (b) Provides evidence of current certification; and
- (c) Provides evidence of having completed twelve (12) continuing education hours within the year prior to submission of an application.

9409.2 If a DT does not hold a national certification and fails to apply for reinstatement within five (5) years after it expires, the applicant shall meet the requirements pursuant to § 9404.

9410 [RESERVED]

9411 [RESERVED]

9412 [RESERVED]

9413 ASSIGNMENT AND DELEGATION OF NURSING CARE TASKS TO DIALYSIS TECHNICIANS

9413.1 A registered nurse (RN) may delegate nursing care tasks to a DT.

9413.2 A DT shall not practice independently but shall work under the supervision of a RN.

9413.3 Dialysis tasks that may be delegated to a DT shall comply with the standards for delegation listed in 17 DCMR § 5415 and be determined by:

- (a) The knowledge and skills of the DT;
- (b) Verification of the clinical competence of the DT by the employing agency;
- (c) The stability of the patient's condition that involves predictability, absence of risk of complication, and rate of change;
- (d) The variables in each health care setting which include, but are not limited to:
 - (1) The accessible resources and established policies, procedures, practices and channels of communication that lend support to the type of dialysis tasks, functions, or activities being delegated to a DT;
 - (2) The complexity and frequency of care needed by a given client population;
 - (3) The proximity of clients to staff;
 - (4) The number and qualifications of staff;

and

(5) The accessibility of the RN or other licensed health professionals.

9413.4 Dialysis that inherently involves on-going assessment, interpretation or decision making that cannot be logically separated from the procedure(s) shall not be delegated to a DT.

9414 [RESERVED]

9415 DIALYSIS TECHNICIAN TASKS

9415.1 A DT may perform the following tasks under the supervision of a registered nurse, nurse practitioner, or physician:

- (a) Providing effective communication and interpersonal skills;
- (b) Preparing and cannulating peripheral access sites (arterial-venous fistulas and arterial-venous grafts);
- (c) Initiating, delivering or discontinuing dialysis care;
- (d) Measuring and recording temperature, pulse, respiration, and blood pressure when initiating, delivering, or discontinuing dialysis patient care;
- (e) Administering the following drugs only:
 - (1) Anticoagulants either to prime the extracorporeal system in preparation for initiation of treatment, or for administration throughout the treatment, in an amount prescribed by a licensed provider;

- (2) Normal saline via the extracorporeal system to correct dialysis induced hypotension based on the facility's medical protocol, provided that amounts beyond that established in the facility's medical protocol shall not be administered without the direction from a RN, nurse practitioner, physician, or physician assistant; and
- (3) Intradermal anesthetics in an amount prescribed by a physician, physician's assistant, or nurse practitioner;

(f) Assisting the RN in data collection;

(g) Obtaining a blood specimen via the extracorporeal system;

(h) Responding to complications that arise in conjunction with dialysis care;

(i) Initiating and discontinuing treatment via arterio-venous access; and

(j) Maintaining the central venous catheter.

(k) Performing other acts, as delegated by the RN, for which the dialysis technician is qualified.

9415.2 The scope of practice of a dialysis technician shall not include:

(a) Dialysis care for a patient whose condition is determined by the RN to be critical, fluctuating, or unpredictable; and

(b) The administration of blood and blood products.

9415.3 Dialysis technicians, where appropriate, shall provide care based upon standing treatment protocols.

9416 [RESERVED]

9417 DISCIPLINE

9417.1 The Board may revoke, suspend, or deny the registration of any DT who is convicted during a period of registration, of any of the crimes listed in § 9403.4 or any act specified in D.C. Official Code § 3-1205.14(a) (2016 Repl.).

9417.2 In addition to any other disciplinary action it may take, the Board may impose a civil penalty of not more than five thousand dollars (\$5,000) per violation as provided by D.C. Official Code § 3-1205.14(c)(5)) (2016 Repl.), or file a letter of concern if the Board believes there is insufficient evidence to support direct action against the DT.

9417.3 Grounds for denial, suspension, revocation or other discipline of a DT include the inability to function with reasonable skill and safety for the following reasons and for any additional acts as specified in D.C. Official Code § 3-1205.14 (2016 Repl.):

(a) Substance abuse or other chemical dependency;

(b) Client abandonment;

(c) Fraud or deceit, which may include but is not limited to:

(1) Filing false credentials;

(2) Falsely representing facts on an application for initial certification, reinstatement, or renewal; or

- (3) Giving or receiving assistance in taking the competency evaluation;
- (d) Client neglect, abuse, or misappropriation of funds;
- (e) Boundary violations;
- (f) Unsafe client care;
- (g) Performance of acts beyond the DT's range of functions or beyond those tasks delegated;
- (h) Misappropriation or misuse of property;
- (i) Criminal conviction;
- (j) Failure to conform to acceptable standards of practice as a DT;
- (k) Placement of clients at risk of harm; or
- (l) Violation of the privacy or failure to maintain the confidentiality of client information.

9417.4 The Board shall maintain and make available all public Board disciplinary actions.

9417.5 DT's who are unable to perform their duties due to drug or alcohol dependency or mental illness may utilize the services offered under the Nurse Rehabilitation Program pursuant to D.C. Official Code §§ 3-1251.01, *et seq.* (2016 Repl.)

9417.6 The Board may refer for criminal prosecution any violation of the Health Occupations Revision Act, D.C. Official Code §§ 3-1201.01, *et seq.* (2016 Repl.) that it deems appropriate.

9420 STANDARDS FOR DIALYSIS TECHNICIAN TRAINING PROGRAMS

9420.1 A medical director and nurse manager shall be responsible for patient care and outcomes in DT training programs.

9420.2 The medical director shall be accountable to the governing body of the dialysis facility for the quality of medical care provided to patients in DT training programs.

9420.3 Pursuant to 42 CFR § 494.140(a), the medical director shall be a physician in internal medicine or pediatrics, certified by a professional board, who has completed a board-approved training program in nephrology and has at least twelve (12) months of experience providing care to patients receiving dialysis.

9420.4 If a physician, as specified in § 9420.3, is not available to direct a dialysis training program, another physician may direct the program subject to the approval of the Department of Health pursuant to 42 CFR § 494.140(a)(2).

9420.5 Pursuant to 42 CFR § 494.140(b), the nurse manager shall meet the following qualifications:

- (a) Be a full-time employee of the training program;
- (b) Be an RN;
- (c) Have at least twelve (12) months experience in clinical nursing, and an additional six (6) months of experience in providing nursing care to patients on maintenance dialysis.

9499.1 As used in this chapter, the following terms shall have the meanings ascribed:

Abuse - any willful or reckless act or omission by a DT that causes or is likely to cause or contribute to, or which caused or is likely to have caused or contributed to, physical or emotional injury, death, or financial exploitation of a client.

Administer - the direct application of drugs to the human body only by insertion or via a dialysis tubing device as prescribed by a licensed provider.

Applicant - a person applying for a registration to practice as a DT.

Board - the Board of Nursing as established by § 204 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.04 (2016 Repl.)).

Continuing education - systematic learning experiences designed to augment the knowledge, skills, and attitudes of the DT.

Criminal background check - a report of a person's criminal history by the appropriate state and federal authorities, or approved vendor, to determine whether the person has been convicted of a crime in the District of Columbia or in any state or territory of the United States where such person has worked or resided.

Delegation - the transference from the RN to another individual within the scope of his or her practice, the authority to act on behalf of the RN in the performance of a nursing intervention, while the RN retains accountability and responsibility for the delegated act.

Director - the Director of the Department of Health, or his or her designee.

Endorsement - the process of issuing a certification to a DT applicant who is registered by a state Board and recognized by the Board as a qualified professional according to standards that were the substantial equivalent at the time of the certification to the standards for that profession set forth in this chapter and who has continually remained in good standing with the Board from the date of certification until the date of certification in the District.

In-service - learning experiences provided in the work setting for the purpose of assisting staff members in performing their assigned functions in that particular agency or institution.

Misappropriation - the application of another's property or money dishonestly to one's own use.

Neglect - any act or omission by a DT which causes or is likely to cause or contribute to, or which caused or is likely to have caused or contributed to the injury, death, or financial exploitation of a consumer.

Program - the planned series of instructions, didactic and clinical, designed so the student will acquire the requisite knowledge and skills.

Reinstatement - reissuance of an expired DT registration.

9499.2 The definitions in § 4099 of Chapter 40 of this title are incorporated by reference into and are applicable to this chapter.

CHAPTER 95 MEDICATION AIDES

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9500 GENERAL PROVISIONS

- 9500.1 This chapter applies to applicants for, and holders of, a certification to practice as a medication aide (MA-C).
- 9500.2 Chapter 40 (Health Occupations: General Rules) and 41 (Health Occupations: Administrative Procedures) of this title apply to holders of a certification to practice as a MA-C.

9501 CERTIFICATION

- 9501.1 No person shall practice as an MA-C in the District of Columbia without being certified by the Board of Nursing (Board).

9502 TERM OF CERTIFICATION

- 9502.1 Subject to § 9501.1, a certification issued pursuant to this chapter shall expire at 11:59 p.m. on October 31 of each odd-numbered year.
- 9502.2 The Director of the Department of Health (DOH) may modify the renewal system pursuant to § 4006.3 of Chapter 40 of this title and may modify the date on which a certification expires.

9503 CRIMINAL BACKGROUND CHECK

9503.1 An applicant for certification as an MA-C shall undergo a criminal background check (CBC) prior to issuance of the certification.

9503.2 After issuance of an initial certification, the applicant shall undergo an additional CBC determined by the DOH.

9503.3 The Board shall review the applicant's CBC results if, within the seven (7) years preceding the CBC, the applicant has been arrested or convicted in the District of Columbia, or in any state or territory of the United States where the applicant has worked or resided, for any of the following offenses or their equivalent:

- (a) Murder, attempted murder, or manslaughter;
- (b) Arson;
- (c) Assault, battery, assault and battery, assault with a dangerous weapon, mayhem or threats to do bodily harm;
- (d) Burglary;
- (e) Robbery;
- (f) Kidnapping;
- (g) Theft, fraud, forgery, extortion or blackmail;
- (h) Illegal use or possession of a firearm;
- (i) Trespass or injury to property;
- (j) Rape, sexual assault, sexual battery, or sexual abuse;
- (k) Child abuse or cruelty to children;

(l) Adult abuse, neglect or exploitation; or

(m) Unlawful distribution or possession with intent to distribute a controlled substance.

9504 APPLICATION FOR CERTIFICATION

9504.1 An applicant for certification as an MA-C shall:

(a) Be at least eighteen (18) years of age;

(b) Provide evidence of having passed the National Council of Boards of Nursing (NCSBN) Medication Aide Certification Examination (MACE) and of satisfactory performance of nursing related services for a minimum of one (1) year;

(c) Meet the requirements of § 9503;

(d) Submit a completed application and application fee to the Board; and

(e) Submit any other documents that may be required by the Board.

9504.2 An application that remains incomplete for ninety (90) days or more from the date of submission shall be considered abandoned and may be closed by the Board. The applicant shall thereafter be required to reapply, comply with the current requirements for certification, and pay the required fees.

9505 CERTIFICATION BY EXAMINATION

9505.1 To apply for authorization to take a MA-C examination, an applicant shall provide proof of one (1) of the following:

(a) Successful completion of a medication aide course approved by the Board;

(b) Completion of a practical nursing or registered nursing fundamentals course in the United States and a minimum of forty (40) hours of practice in a clinical setting that includes administration of drugs; or

(c) An evaluation by the Commission on Graduates of Foreign Nursing Schools (CGFNS), indicating equivalent education as an registered nurse (RN) or licensed practical nurse (LPN) outside the United States.

9505.2 To request special accommodations for an examination, an applicant shall submit in writing, the following information:

(a) A letter from the appropriate health professional that confirms the applicant's disability and provides information describing the accommodations required; and

(b) A letter from the applicant's education program, indicating what accommodations were granted by the program.

9505.3 If an applicant has not taken or passed the medication aide examination more than twenty four (24) months after the date the applicant becomes eligible to apply to take the examination, the applicant shall comply with requirements set forth in § 9505.1(a).

9506 CERTIFIED MEDICATION AIDE ENDORSEMENT

9506.1 An applicant for MA-C endorsement shall submit proof of:

(a) Current registration as an MA-C in another jurisdiction;

(b) Having passed the NCSBN-MACE or other medication aide examination approved by the Board; and

(c) Having met the requirements of § 9504.

9507 RENEWAL OF CERTIFICATION

9507.1 An applicant for renewal shall:

(a) Provide evidence of completion of twelve (12) hours per year, twenty-four (24) in total, of in-service training or continuing education;

(1) Six (6) hours in pharmacology or administration of drugs;

(2) Three (3) hours of in HIV/AIDS;

(3) Two (2) hours of cultural competency or specialized clinical training on clients who identify as LGBTQ; and

(4) Any additional subject matter that may be mandated by the Board.

(b) Submit evidence of performance of drug administration related services for compensation during the prior twenty four (24) months; and

(c) Complete a CBC as required.

9507.2 MA-Cs who have another active District of Columbia certification as nursing assistive personnel may apply continuing education hours for that to renewal requirements here.

9507.3 Applicants shall be subject to audit to assure compliance with § 9507.1.

9508 INACTIVE STATUS; REACTIVATION OF CERTIFICATION

- 9508.1 An MA-C with an active certification may request to be placed on inactive status.
- 9508.2 While on inactive status, an MA-C shall not be subject to the renewal fee and shall not practice, attempt to practice, or offer to practice as an MA-C in the District of Columbia.
- 9508.3 To reactivate an inactive status, an applicant shall meet the requirements of § 9507.

9509 REINSTATEMENT OF EXPIRED CERTIFICATION

- 9509.1 If an MA-C fails to renew his or her certification, the Board shall reinstate the certification if the applicant:
- (a) Applies to the Board for reinstatement of the certification within five (5) years after the certification expires; and
 - (b) Provides evidence of having completed twenty-four (24) continuing education hours within the two (2) years prior to submission of an application;
- 9509.2 If an MA-C does not hold a certification in another jurisdiction and fails to apply for reinstatement within five (5) years after his or her certification expires, the MA-C shall meet the requirements for certification pursuant to § 9505, Certification by Examination.

9510 [RESERVED]

9511 [RESERVED]

9512 [RESERVED]

9513 ASSIGNMENT AND DELEGATION OF NURSING CARE TASKS TO MEDICATION AIDES

9513.1 A registered nurse (RN) or licensed practical nurse (LPN) may assign or delegate tasks to an MA-C if the task is appropriate to the level of knowledge and skill of the MA-C and is within the scope of authorized tasks of the MA-C listed in § 9515.1.

9513.2 MA-Cs shall not practice independently but shall work under the supervision of an RN or LPN.

9513.3 The delegation or assignment of a task shall comply with the standards for delegation and assignment listed in 17 DCMR § 5415 (registered nurse) and delegation and assignment listed in 17 DCMR § 5515 (licensed practical nurse). Nursing care tasks that may be delegated or assigned shall be determined by:

- (a) The knowledge and skills of the MA-C;
- (b) Verification of the clinical competence of the MA-C by the employing agency;
- (c) The stability of the client's condition, including factors such as predictability, absence of risk of complication, and rate of change; and
- (d) The variables in each health care setting which include, but are not limited to:
 - (1) The accessible resources and established policies, procedures, practices, and channels of communication that lend support to the type of nursing tasks being delegated to the MA-C;

(2) The complexity and frequency of care needed by a given client population; and

(3) The accessibility of an RN or LPN.

9513.4 The MA-C shall not perform a task involving the administration of drugs if:

- (a) The administration of drugs requires a calculation of the dosage of the drug or the conversion of the dosage;
- (b) The supervising nurse is unavailable either in person or by telephone to monitor the progress of the client and the effect of the drug on the client;
- (c) The client is not stable or has changing health care needs; or
- (d) The MA-C has not been prepared by training to perform the delegated or assigned task. Upon such delegation or assignment, the MA-C shall immediately inform the supervising nurse of his or her inability by training to perform the delegated task.

9514 [RESERVED]

9515 MEDICATION AIDE TASKS

9515.1 The MA-C may perform the following tasks under the supervision of the RN or LPN:

- (a) Performing personal care including bathing, grooming, and assistance with toileting or bedpan use;

- (b) Assisting the patient with transfer, ambulation, and exercise as prescribed;
- (c) Observing, recording, and reporting the client's physical condition, behavior, or appearance;
- (d) Assisting with eating;
- (e) Measuring and recording height and weight;
- (f) Implementing universal precautions to assure infection control;
- (g) Performing tasks related to keeping the patient's living area in a condition that promotes the client's health and comfort;
- (h) Assisting the patient with activities that are directly supportive of skilled therapy services; and
- (i) Communicating with patients who have cognitive impairment, sensory deficits or impairments, communication limitations, agitation or combativeness.

9515.2 In addition to the tasks in § 9515.1, the MA-C may perform the following under the supervision of an RN or LPN:

- (a) Provide effective communication and interpersonal skills;
- (b) Administering epinephrine via an auto injector to treat severe allergic reactions to insect stings, bite and foods;

- (c) Performing finger stick blood glucose test with a physician's, nurse practitioner's or physician assistant's order which shall indicate:
 - (1) The frequency for finger sticks;
 - (2) The normal blood sugar range;
 - (3) The range outside of the indicated range and when to notify the nurse for readings; and
 - (4) The parameters for when to contact emergency services;
- (d) Reporting of symptoms or side effects;
- (e) Administering insulin or any other subcutaneous injection as specified by the Board, via a prefilled syringe;
- (f) Administering oral drugs;
- (g) Administering drugs via eye, ear, or nose;
- (h) Administering drugs via suppository;
- (i) Administering topical drugs and medicated shampoos;
- (j) Reporting symptoms or side effects; and
- (k) Documenting drug administration or omissions, on medication administration record.

9516.1 Based on agency or facility policies, the MA-C shall document which drugs have been administered and shall document whether drugs have been taken by the patient as ordered.

9516.2 The MA-C shall:

- (a) Report the following to the supervising nurse:
 - (1) Signs or symptoms that appear life threatening;
 - (2) Events that appear health threatening; and
 - (3) Drugs that produced no results or undesirable effects as reported by the patient;
- (b) Notify a nurse prior to each administration of prescribed PRN (as needed) drugs;
- (c) Be personally responsible and accountable for all actions taken when implementing delegated tasks;
- (d) Comply with laws, policies and procedures applicable to the setting in which the MA-C is administering drugs; and
- (e) Be employed only in situations where RN or LPN supervision is available.

9517 DISCIPLINE

9517.1 The Board may revoke, suspend, or deny registration of any MA-C who is convicted during a period of registration, of any of the crimes listed in § 9503.4 or any act specified in D.C. Official Code § 3-1205.14 (2016 Repl.).

9517.2 In addition to any other disciplinary action it may take, the Board may impose a civil penalty of not more than five thousand dollars (\$5,000) per violation as provided by D.C. Official Code § 3-1205.14(c)(5), or file a letter of concern if the Board believes there is insufficient evidence to support direct action against the MA-C.

9517.3 Grounds for denial, suspension, revocation or other discipline of an MA-C include the inability to function with reasonable skill and safety for the following reasons and for any additional acts as specified in D.C. Official Code § 3-1205.14:

(a) Substance abuse or other chemical dependency;

(b) Client abandonment;

(c) Fraud or deceit, which may include but is not limited to:

(1) Filing false credentials;

(2) Falsely representing facts on an application for initial certification, reinstatement or renewal; or

(3) Giving or receiving assistance in taking the competency evaluation;

(d) Client neglect, abuse or misappropriation of funds;

(e) Boundary violations;

(f) Unsafe client care;

(g) Performing acts beyond the MA-C range of functions or beyond those tasks delegated;

- (h) Misappropriating or misusing property;
- (i) A criminal conviction;
- (j) Failing to conform to acceptable standards of practice as an MA-C;
- (k) Putting clients at risk of harm; or
- (l) Violating the privacy or failing to maintain the confidentiality of client information.

9517.4 The Board shall maintain and make available all records of disciplinary actions.

9517.5 An MA-C who is unable to perform his or her duties due to drug or alcohol dependency or mental illness may utilize the services offered under the Nurse's Rehabilitation Program pursuant to D.C. Official Code §§ 3-1251.01, *et seq.*

9517.6 The Board may refer for criminal prosecution any violation of the Health Occupations Revision Act, D.C. Official Code §§ 3-1201.01, *et seq.* (2016 Repl.) that it deems appropriate.

9518 [RESERVED]

9519 [RESERVED]

9520 STANDARDS FOR MEDICATION AIDE TRAINING PROGRAMS

9520.1 No institution shall provide MA-C training in the District of Columbia unless its training program has been approved by the Board.

9520.2 The following types of institutions may apply for approval to provide MA-C training:

- (a) Private, degree-granting educational institutions operating or incorporated in the District of Columbia which are licensed by the Higher Education Licensure Commission (HELIC) pursuant to the Educational Institution Licensure Act of 1976 (D.C. Law 1-104; D.C. Official Code §§ 38-1301, *et seq.* (2012 Repl.));
- (b) Private, non-degree post-secondary schools operating in the District of Columbia which are licensed by the Education Licensure Commission;
- (c) District public universities or colleges; and
- (d) Department on Disability Services facilities and health care facilities licensed and operating in the District of Columbia, that have received no adverse actions during the preceding two (2) years.

9520.3 The Board shall consider any one of the following as an adverse action which would preclude a facility from providing MA-C training:

- (a) A facility's participation in the Medicaid or Medicare Program is terminated, restricted or revoked;
- (b) A facility, other than a new facility, has received a provisional or restricted license; or
- (c) A facility is given a provider agreement of less than one (1) year.

9520.4 All MA-C training programs shall have adequate faculty and clinical facilities to provide supervised clinical experience with early, realistic exposure to job requirements. The clinical experience shall include the full range of skills needed in the workplace.

9521 SUPERVISED PRACTICE OF MEDICATION AIDE TRAINEES

9521.1 A medication aide trainee may practice only in accordance with the Act and this chapter.

9521.2 A trainee who is fulfilling educational requirements under this chapter may engage in supervised practice without a District of Columbia certification.

9521.3 All supervised practice of a trainee shall take place under the general or immediate supervision of an RN or LPN.

9521.4 A trainee shall identify himself or herself as a trainee before practicing.

9521.5 A trainee shall not receive compensation of any nature, directly or indirectly, from a client or client's family member.

9521.6 The nurse supervising the trainee shall be responsible for practice by a trainee during the period of supervision and may be subject to disciplinary action for trainee violations of the District of Columbia Health Occupations Revision Act of 1985, effective March 15, 1986 ("Act") (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01, *et seq.* (2016 Repl.)) or this chapter.

9521.7 The Board may deny an application for certification by, or take other disciplinary action against, a trainee who is found to have violated the Act or this chapter. The Board may, in addition to any other disciplinary actions permitted by the Act, revoke, suspend, or restrict the privilege of the trainee.

9522 [RESERVED]

9523 MEDICATION AIDE PROGRAM APPROVAL PROCEDURES FOR HEALTH CARE FACILITIES

9523.1 Each facility applying for approval to provide MA-C training shall submit an application for approval which contains the following information:

- (a) A certificate of exemption or approval from the Higher Education Licensure Commission (HELIC);
- (b) A certificate of exemption or approval by the HELIC, if coursework is offered to persons not employed by the facility;
- (c) A list of qualified instructors with resumes attached; and
- (d) A description of the trainee population and the tentative training schedule.

9523.2 A training program shall not admit trainees to the program before the program has been approved by the Board.

9523.3 The Board shall withdraw approval of training if the facility loses its licensure status.

9524 MEDICATION AIDE PROGRAM APPROVAL PROCEDURES FOR SCHOOLS

9524.1 Each institution applying for approval to provide MA-C training shall do the following:

- (a) At least one hundred eighty (180) days in advance of the scheduled starting date, submit an application for approval to the Board which contains the following information:
 - (1) A statement of purpose;

- (2) A statement of need for the training program in the District of Columbia;
- (3) A description of the proposed program's potential effect on existing medication aide training programs in the area;
- (4) The organizational structure of the institution showing the relationship of the proposed training program within the organization;
- (5) Evidence of financial resources, adequate planning, implementation, and continuation of the program;
- (6) Licensure status of the proposed training facility;
- (7) The qualifications of proposed instructors;
- (8) The number of fulltime equivalent budgeted instructor positions;
- (9) Evidence of the availability of adequate clinical facilities;

- (10) A description of the anticipated trainee population, including admission and graduation criteria, a copy of the admissions examination, and health requirements;
- (11) A tentative time schedule for planning and initiating the program; and
- (12) A fee schedule.

(b) Submit the one thousand dollar (\$1000) application fee.

9524.2 Schools currently non-compliant with the Board's regulatory requirements for existent programs are not eligible to submit an application to establish an additional program.

9524.3 After reviewing the application, based on the applicant's compliance with § 9527, a decision shall be made by the Board to:

- (a) Approve the application;
- (b) Defer approval if additional information is needed; or
- (c) Deny approval of the application.

9524.4 If an application approval has been granted, a site visit may be conducted.

9524.5 After reviewing the site visit report and applicant's compliance with § 9532, the Board shall vote to approve, deny, or defer program approval for resource, facility, or service concerns.

9524.6 The nurse coordinator for each facility or institution approved to provide training shall attend a Board sponsored orientation.

9524.7 A training program shall not admit trainees to the program before the program has been approved by the Board.

9524.8 If the application is denied, the applicant shall not resubmit an application until one (1) year has passed from the last submission.

9525 PERIODIC REVIEW OF APPROVED PROGRAMS

9525.1 Programs approved by the Board to train MA-Cs shall submit to the Board an annual report and the five hundred dollar (\$500) fee in accordance with procedures established by the Board.

9525.2 The Board shall annually re-evaluate the medication aide training programs.

9525.3 The Board may make unannounced visits to review and assess each nursing medication aide training program to ensure that the program is in compliance with §§ 9527, 9528, 9531 and 9532.

9525.4 The Board shall assess each training program on the basis of visits to the facility, the progress of the training program, and any other information deemed appropriate by the Board.

9525.5 The program must meet the seventy-five percent (75%) pass rate on the District of Columbia's competency evaluation each year.

9525.6 The training program deficiencies sufficient to warrant withdrawal of approval shall include, but are not limited to the following:

- (a) Failure to effectively utilize the District of Columbia's approved curriculum for the training program;
- (b) Failure to maintain an adequate number of instructors with required qualifications;
- (c) Failure to meet the seventy five percent (75%) pass rate of the District of Columbia's approved competency evaluation for a period of two (2) years or more;
- (d) Failure of trainees to demonstrate minimal competencies upon employment;
- (e) Failure to adhere to training program's stated objectives, and policies;
- (f) Failure to maintain adequate resources, facilities, and services required to meet training objectives; and
- (g) Failure to correct other deficiencies outlined by the Board.

9525.7 If the training program does not meet the requirements for continued approval:

- (a) The Board may grant conditional approval, not to exceed to one (1) year, pending correction of the deficiencies; and
- (b) The Board may restrict admissions of trainees to programs in conditional status.

9525.8 The Board shall withdraw approval of a training program if:

- (a) It determines that the program is not in compliance with the regulatory requirements set forth in this chapter; or
- (b) The education institution loses its licensure; or
- (c) The program has failed to correct deficiencies within time period specified by the Board.

9525.9 Schools or facilities whose program approval status has been withdrawn may apply for approval pursuant to § 9524.1.

9525.10 The Board may investigate complaints made against a program and may conduct hearings in connection with such complaints.

9525.11 Any Board action for suspension or withdrawal of a training program's approval shall take place only upon notice to the program and the opportunity for a hearing in accordance with D.C. Official Code § 3-1205.14 (2016 Repl.).

9526 [RESERVED]

9527 MEDICATION AIDE TRAINING PROGRAM REQUIREMENTS

9527.1 Training programs shall use Board approved MA-C model curriculum, as it may be amended from time to time.

9527.2 Each training program shall have a sufficient number of qualified instructors to meet the purposes and objectives of the program.

9527.3 The training program shall be coordinated by an RN or LPN, who:

- (a) Has a current, unencumbered District of Columbia license; and
- (b) Has at least two (2) years of full-time or full-time equivalent experience as an RN or LPN with clinical experience in the clinical practice setting he or she is coordinating; and
- (c) Has not been disciplined by the Board pursuant to D.C. Official Code § 3-1205.14 (2012 Repl.).

9527.4 The MA-C program coordinator shall be a qualified RN with institutional authority and administrative responsibility for the program.

9527.5 The program coordinator's responsibilities shall include, but are not limited to:

- (a) Ensuring that the curriculum is coordinated and implemented in accordance with the chapter;
- (b) Establishing the responsibilities of the instructors;
- (c) Ensuring that each instructor meets the qualifications as specified in this chapter;
- (d) Ensuring that each student is properly supervised during the student's clinical experience; and
- (e) Reporting annually and respond upon request to the Board.

9527.6 Each instructor shall have the following minimum qualifications:

- (a) Be currently licensed or registered in good standing, in the jurisdiction in which he or she is providing the preceptorship;
- (b) Have completed a course in teaching adults or have experience in teaching adults; and
- (c) Have a minimum of two (2) years of experience as an RN or licensed practical nurse providing direct patient care, during the five (5) years immediately preceding the date of the written agreement.

9527.7 The ratio of instructors to trainees in clinical areas involving direct care and medication administration to clients shall be based upon client acuity level, skill level of the trainee, and the clinical setting.

9527.8 Each training program shall have a record or attestation that trainees received information in writing on the policies governing admission, retention, dismissal, and the course requirements of the training program.

9527.9 Each training program shall have records of vaccinations of applicants for communicable diseases prior to admission.

9528 MINIMUM QUALIFICATIONS FOR MEDICATION AIDE TRAINEES

9528.1 Each trainee shall be a high school graduate or have completed a general education diploma.

9528.2 Each trainee shall provide evidence of certification as a nursing assistant or home health aide, or evidence of at least one (1) year experience as a direct support professional.

9528.3 Each trainee shall provide evidence of satisfactory performance of nursing related services for a minimum of one (1) year.

9528.4 Each trainee shall be required to take a pre-admission examination to assess reading, writing, and math skills prior to enrollment in a training program.

9528.5 Each trainee shall provide evidence of vaccination or immunity to communicable diseases prior to admission.

9528.6 Each trainee shall attest in writing to receiving information on:

- (a) The policies governing admission, retention, dismissal, and the course requirements of the training program, in writing; and
- (b) Certification requirements including CBC and examination.

9529 [RESERVED]

9530 CLOSING OF TRAINING PROGRAMS

9530.1 Each MA-C program that voluntarily discontinues shall:

- (a) Notify the Board, in writing, as early as possible of the intended discontinuance, stating the reason(s) and planned date of the intended closing;
- (b) Continue the training program until the committed class scheduled for currently enrolled trainees is completed; and

- (c) Notify the Board of the final closing date at least thirty (30) days before the final closing.

9530.2 Before the Board may withdraw approval of a program the Board shall:

- (a) Issue a notice of intended action to the program notifying the program that:
 - (1) The Board intends to withdraw approval of the program and the reasons for the action;
 - (2) The institution has a right to a hearing; and
- (b) Send notice to the Higher Education Licensure Commission (HELC) of the Board's intention to withdraw program approval.

9530.3 If the Board denies or withdraws approval of a training program, the institution shall:

- (a) Close the program on the date provided by the Board; and
- (b) Comply with the requirements of all applicable rules and notify the Board that the requirements have been fulfilled.

9531 RECORDS RETENTION

9531.1 Each MA-C training program shall maintain an accurate and appropriate system of record keeping.

9531.2 Each training program shall ensure that administrative and personnel records are protected against loss, destruction, and unauthorized review.

9531.3 A record for each trainee shall be maintained by the facility and shall include the trainee's evaluation, health information, and items required in § 9528.

9531.4 Each instructor's personnel records shall be maintained by the facility and shall include application data, qualifications, and position description, and shall be available for review by the Board.

9531.5 All records shall be maintained by the training program for a minimum of seven (7) years.

9532 RESOURCES, FACILITIES, AND SERVICES

9532.1 Each MA-C training program shall maintain resources, facilities, and services which are adequate to accommodate the training program. The resources, facilities, and services shall include, but are not limited to:

(a) Adequate temperature controls in each training facility;

(b) Clean and safe conditions of the facility's premises;

(c) Adequate space for private faculty-student conferencing;

(d) Adequate lighting in each facility; and

(e) Sufficient and adequate equipment for the program's needs, including audio-visual equipment and equipment needed for simulating client care.

9532.2 Each classroom, conference room, skills laboratory, and office shall be adequate to meet the needs of the training program.

9532.3 Each cooperative agreement between a training program and a healthcare facility shall be in writing. The training program shall maintain a copy of the agreement in its records.

9599 **DEFINITIONS**

9599.1 As used in this chapter, the following terms shall have the meanings ascribed:

Abuse - the infliction of physical or mental harm, injury, or death, or financial exploitation of a client.

Administer - the direct application of drugs to the human body whether by ingestion, inhalation, insertion, sublingual, or topical means; or the application of drugs by an epinephrine autoinjector device for emergency purposes only.

Applicant - a person applying for certification as a medication aide employee under this chapter.

Board - the Board of Nursing as established by Section 204 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Code § 3-1202.04 (2016 Repl.)).

Clinical - faculty planned and guided learning activities designed to assist preceptors in meeting course objectives and to apply nursing knowledge and skills in the direct care of clients, including clinical conferences and planned learning activities in acute care facilities, and other community resources. Clinical shall not include skills lab activities.

Conditional approval - the approval status that is granted for a time period specified by the Board to an MA-C training program to correct deficiencies when the training program has failed to meet or maintain the requirements and standards of this chapter.

Continuing education - systematic learning experiences designed to augment the knowledge, skills, and attitudes of the medication aide.

Criminal background check - a report of a person's criminal history by the appropriate state and federal authorities, or approved vendor, to determine whether the person has been convicted of a crime in the District of Columbia or in any state or territory of the United States where such person has worked or resided.

Delegation - the transference from the RN or LPN to another individual within the scope of his or her practice, the authority to act on behalf of the RN or LPN in the performance of a nursing intervention, while the RN or LPN retains accountability and responsibility for the delegated act.

Direct support professional - any person employed by, under contract with, sub-contracted with, through a provider Medicaid Agreement, or serving in a volunteer capacity with or for a public or private agency that provides services and supports to and for individuals with intellectual and developmental disabilities.

Director - the Director of the Department of Health, or his or her designee.

Drug -

- (a) Any substance recognized as a drug, medicine, or medicinal chemical in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia, or official Veterinary Medicine Compendium or other official drug compendium or any supplement to any of them;
- (b) Any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animal;
- (c) Any chemical substance (other than food) intended to affect the structure or any function of the body of man or other animal; and
- (d) Any substance intended for use as a component of any items specified in subparagraph (a), (b), or (c) of this paragraph, but does not include medical devices or their components, parts, or accessories.

Endorsement - the process of issuing a certification to an applicant who is registered by a state Board and recognized by the Board as a qualified professional according to standards that were the substantial equivalent at the time of the certification to the standards for that profession set forth in this chapter and who has continually remained in good standing with the Board from the date of certification until the date of certification in the District.

Fingerstick - sticking of the finger to get a blood sample to use in a glucometer to measure the amount of glucose in blood.

Health care facility – a facility and agency that provide long-term care such as an assisted living residence, group homes for persons with physical and intellectual disabilities, and skilled home care agencies.

Higher Education Licensure Commission – a Mayoral appointed regulatory, consumer protection authority responsible for public protection with regard to legitimate quality education in the District of Columbia.

In-service - activities provided by the employer intended to assist the medication aide in acquiring, maintaining, or increasing competence in fulfilling the assigned responsibilities specific to the expectations of the employer.

Immediate supervision - supervision in which the supervisor is on the premises and within vocal communication, either directly or by communication device.

Medication aide certified – an individual who has successfully completed training and a certification examination to administer drugs and has been certified by the Board.

Misappropriation – the application of another’s property or money dishonestly to one’s own use.

Neglect - any act or omission by an MA-C which causes or is likely to cause or contribute to, or which caused or is likely to have caused or contributed to the injury, death, or financial exploitation of a patient.

Nursing assistive personnel - an individual who has received appropriate training or instruction to function in a complementary or assistant role to a RN or LPN, in providing direct patient care or in carrying out delegated nursing tasks.

Pass rate - the percentage of candidates who receive a passing score on the competency evaluation out of the total number of examinations administered for the review period.

Program - the planned series of instruction, didactic and clinical, designed so that the student will acquire the requisite knowledge and skills.

Reinstatement - reissuance of an expired medication aide certification.

Skills laboratory – faculty guided activities planned for students in a school/campus laboratory that simulates the activities provided by the CNA. The activities include demonstrations and return demonstrations using equipment and supplies that are used for the purpose of attaining required psychomotor skills.

CHAPTER 96: CERTIFIED NURSING ASSISTANTS

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9600 GENERAL PROVISIONS

9600.1 This chapter applies to applicants for, and holders of, a certification to practice as a certified nursing assistant (CNA).

9600.2 Chapters 40 (Health Occupations: General Rules) and 41 (Health Occupations: Administrative Procedures) of this title apply to holders of a certification to practice as a CNA.

9601 NURSING ASSISTANT CERTIFICATION

9601.1 No person shall practice as a CNA in the District of Columbia longer than four (4) months without first being registered by the Board of Nursing (Board).

9601.2 A nursing assistant shall be certified pursuant to § 9604.1 and registered by the Board within four (4) months of his or her hire date. If a nursing assistant who is not certified changes employment from one (1) long-term care facility to another, the time he or she was employed in the first facility shall count towards the four (4) month period for employment.

9602 TERM OF CERTIFICATION

9602.1 Subject to § 9601.1, a certification issued pursuant to this chapter shall expire at 11:59 p.m. on October 31 of each odd-numbered year.

9602.2 The Director may modify the renewal system pursuant to § 4006.3 of Chapter 40 of this title and may modify the date on which a certification expires.

9603 CRIMINAL BACKGROUND CHECK

9603.1 A person applying for certification as a CNA shall undergo a criminal background check (CBC) prior to issuance of the certification.

9603.2 After issuance of an initial certification, the applicant shall undergo an additional CBC or as determined by the Department of Health (DOH).

9603.3 The applicant shall pay a fee for the CBC as established by the DOH.

9603.4 The Board shall review the results of a CBC of a person if, within the seven (7) years preceding the CBC, the person has been arrested or convicted in the District of Columbia, or in any state or territory of the United States where the person has worked or resided, for any of the following offenses or their equivalent:

- (a) Murder, attempted murder, or manslaughter;
- (b) Arson;
- (c) Assault, battery, assault and battery, assault with a dangerous weapon, mayhem or threats to do bodily harm;
- (d) Burglary;
- (e) Robbery;
- (f) Kidnapping;
- (g) Theft, fraud, forgery, extortion or blackmail;
- (h) Illegal use or possession of a firearm;
- (i) Trespass or injury to property;
- (j) Rape, sexual assault, sexual battery, or sexual abuse;
- (k) Child abuse or cruelty to children;
- (l) Adult abuse, neglect or exploitation; or
- (m) Unlawful distribution or possession with intent to distribute a controlled substance.

9604.1 An applicant for certification as a CNA shall:

- (a) Be at least eighteen (18) years of age;
- (b) Meet the requirements of § 9603.1;
- (c) Submit evidence of successfully passing a certification examination offered by one (1) of the following:
 - (1) Pearson VUE National Nurse Aide Assessment Program; or
 - (2) Other certification program recognized by the Centers for Medicare and Medicaid Services (CMS) and the Board.
- (d) Submit a completed application to the Board along with any other documents that may be required by the Board.

9604.2 An application that remains incomplete for ninety (90) days or more from the date of submission shall be considered abandoned and closed by the Board. The applicant shall thereafter be required to reapply, comply with the current requirements for certification, and pay the required fees.

9605.1 To qualify to become a CNA by examination, an applicant shall be a high school graduate or possess a general education diploma, and provide proof of one (1) of the following:

- (a) Successful completion of a CNA program or bridge to nursing assistant program, within the past twenty-four (24) months, approved by the Board or by a nursing Board in the United States with standards determined by the Board to be substantially equivalent to the standards in the District of Columbia; or
- (b) Evidence of completion of a practical nursing or registered nursing “Fundamentals of Nursing” course with a minimum forty (40) hours clinical component which includes skills as specified in § 9615; or
- (c) Evidence of Commission on Graduates of Foreign Nursing Schools certificate, indicating equivalent education as a registered nurse (RN) or licensed practical nurse (LPN) outside the United States.

9605.2 To request special accommodations for an examination, an applicant shall submit in writing, the following information:

- (a) A letter from the appropriate health professional which confirms the applicant’s disability and provides information describing the accommodations required; and
- (b) A letter from the applicant’s education program, indicating what accommodations were granted by the program.

9605.3 If an applicant has not taken or passed the nursing assistant certification examination for more than twenty four (24) months after the date the applicant becomes eligible to apply to take the examination, the applicant shall comply with requirements set forth in § 9605.1(a).

9606.1 An applicant for endorsement as a CNA shall provide proof of the following:

- (a) Current registration and certification as a CNA in another jurisdiction; and
- (b) Meeting the requirements of § 9604.

9607**RENEWAL OF CERTIFICATION**

9607.1 An applicant for renewal shall:

- (a) Provide evidence of completion of twelve (12) hours per year, twenty-four (24) in total, of continuing education or in-service training in the area of health or nursing needs, of an assigned client population during the certification period. Continuing education shall include a minimum of three (3) hours of HIV/AIDS, two (2) hours of continuing education in cultural competency or specialized clinical training on clients who identify as LGBTQ, and any additional Board mandated subject matter;
- (b) Provide evidence of the performance of a minimum of eight (8) hours of nursing related services for compensation during the prior twenty-four (24) months; and
- (c) Complete a CBC as required.

9607.2 Applicants who have another active District of Columbia certification as a nursing assistive personnel (NAP) may apply continuing education hours to NAP renewal requirements.

9607.3 Applications will be subject to audit to assure compliance with § 9607.1.

9608 INACTIVE STATUS; REACTIVATION

9608.1 A nursing assistant with an active certification may request to be placed on inactive status.

9608.2 While on inactive status, the individual shall not be subject to the renewal fee and shall not practice, attempt to practice, or offer to practice as a CNA in the District of Columbia.

9608.3 To reactivate an inactive status, an individual shall:

- (a) Apply to the Board for reactivation of the certification;
- (b) Provide evidence of having completed twenty-four (24) hours of in-service training or continuing education within the past two (2) years prior to submission of an application;
- (c) Provide evidence of current CNA certification or registration in another jurisdiction; and
- (d) Provide evidence of having worked, providing nursing services a minimum of eight (8) hours within the past two (2) years prior to submission of an application.

9609 REINSTATEMENT OF EXPIRED CERTIFICATION

9609.1 If a CNA fails to renew his or her certification, the Board shall reinstate the certification if the applicant:

- (a) Applies to the Board for reinstatement of the certification within five (5) years after the certification expires;
- (b) Provides evidence of having completed twenty-four (24) hours of in-service training or continuing education within the past two (2) years prior to submission of an application;
- (c) Provides evidence of current CNA certification or registration; and
- (d) Provides evidence of having worked for a minimum of eight (8) hours within the last twenty-four (24) months as a CNA.

9609.2 If a CNA does meet the requirements specified in § 9609.1 and fails to apply for reinstatement within five (5) years after his or her certification expires, the applicant shall meet the requirements for certification pursuant to § 9604.

9610 [RESERVED]

9611 [RESERVED]

9612 [RESERVED]

9613 ASSIGNMENT AND DELEGATION OF NURSING CARE TASKS

9613.1 A registered nurse (RN) or licensed practical nurse (LPN) or other authorized health care professional may assign or delegate tasks to a CNA that are among the authorized tasks listed in § 9615.1.

9613.2 A CNA shall not practice independently but shall work under the supervision of an RN or LPN or other authorized licensed health care professional.

9613.3 The delegation or assignment shall comply with the standards for delegation listed in 17 DCMR § 5415 (registered nurse) and assignments listed in 17 DCMR § 5515 (licensed practical nurse). Nursing care tasks that may be delegated or assigned shall be determined by:

- (a) The knowledge and skills of the CNA;
- (b) Verification of the clinical competence of the CNA by the employing agency;
- (c) The stability of the client's condition, including factors such as predictability, absence of risk of complication, and rate of change in health status; and
- (d) The variables in each health care setting which include, but are not limited to:
 - (1) The accessible resources and established policies, procedures, practices, and channels of communication that lend support to the type of nursing tasks being delegated;
 - (2) The complexity and frequency of care needed by a given client population; and
 - (3) The accessibility of an RN or LPN.

9613.4 Nursing tasks that inherently involve on-going assessment, interpretation, or decision making that cannot be logically separated from one or more procedures shall not be delegated to the CNA.

9614 [RESERVED]

9615 CERTIFIED NURSING ASSISTANT TASKS

9615.1 Under the supervision of an RN or LPN or other authorized licensed health professional, a CNA may perform the following tasks:

- (a) Provide effective communication and interpersonal skills;
- (b) Maintain infection control;
- (c) Provide safety and emergency procedures;
- (d) Promote a patient's independence;
- (e) Recognize and report abuse;
- (f) Basic nursing skills which include:
 - (1) Measuring and recording vital signs;
 - (2) Measuring and recording height and weight;
 - (3) Observing and reporting pain;
 - (4) Recognizing abnormal signs and symptoms of common diseases and conditions;
 - (5) Applying clean bandages;
 - (6) Assisting with admitting, transferring, or discharging patients; and
 - (7) Applying and removing elastic stockings;
- (g) Personal care skills, including but not limited to:
 - (1) Bathing, skin care, and dressing;
 - (2) Oral and denture care;

(3) Shampoo and hair care;

(4) Fingernail care;

(5) Toileting, perineal and ostomy care;
and

(6) Feeding and hydration, including proper feeding techniques and use of assistive devices in feeding;

(h) Mental health and social welfare care
such as:

(1) Responding appropriately to behavior;

(2) Providing care, sensitive to religion, national origin, gender identity, and sexual orientation; and

(3) Providing care to dying patients;

(i) Basic restorative services such as:

(1) Transferring, ambulation, eating, and dressing changes;

(2) Range of motion exercises;

(3) Proper turning and positioning in bed and chair;

(4) Bowel and bladder training;

(5) Care and use of prosthetic and orthotic devices; and

(6) Changing dry dressings; and

(j) Patient's rights such as:

(1) Providing privacy and maintaining confidentiality;

(2) Promoting the patient's rights to make personal choices to accommodate his or her needs;

(3) Giving assistance in resolving grievances and disputes;

(4) Providing needed assistance in getting to and participating in patient and family groups and other activities;

(5) Maintaining care and security of a patient's personal possessions;

(6) Providing care which ensures that the patient is free from abuse, mistreatment, and neglect and the need to report any such instances to appropriate facility staff; and

(7) Maintaining the patient's environment and care to avoid the need for restraints.

9616 [RESERVED]

9617 DISCIPLINE

9617.1 The Board may revoke, suspend, or deny registration of any CNA who is convicted during a period of registration, of any of the crimes listed in § 9603.3 or any act specified in D.C. Official Code § 3-1205.14 (2016 Repl.).

9617.2 In addition to any other disciplinary action it may take, it may impose a civil penalty of not more than five thousand dollars (\$5,000) per violation as provided by D.C. Official Code § 3-1205.14(c) (5) (2016 Repl.), or file a letter of concern if the Board believes there is insufficient evidence to support direct action against a CNA.

9617.3 Grounds for denial, suspension, revocation or other discipline of a CNA include the inability to function with reasonable skill and safety for the following reasons and for any additional acts as specified in D.C. Official Code § 3-1205.14 (2016 Repl.):

- (a) Substance abuse or other chemical dependency;
- (b) Client or patient abandonment;
- (c) Fraud or deceit, which may include but is not limited to:
 - (1) Filing false credentials;
 - (2) Falsely representing facts on an application for initial certification, reinstatement or renewal; or
 - (3) Giving or receiving assistance in taking the competency evaluation;
- (d) Client or patient neglect, abuse or misappropriation of funds;
- (e) Boundary violations;
- (f) Unsafe client care;

- (g) Performing acts beyond the CNA's range of functions or beyond those tasks delegated;
- (h) Misappropriation or misuse of property;
- (i) A criminal conviction;
- (j) Failure to conform to acceptable standards of practice as a CNA;
- (k) Putting clients or patients at risk of harm; or
- (l) Violating the privacy or failing to maintain the confidentiality of client information.

9617.4 A CNA who is unable to perform his or her duties due to drug or alcohol dependency or mental illness may utilize the services offered under the Nurse's Rehabilitation Program pursuant to D.C. Official Code §§ 3-1251.01, *et seq.* (2016 Repl.).

9617.5 The Board may refer for criminal prosecution any violation of the Health Occupations Revision Act, effective March 15, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)) that it deems appropriate.

9618 ACTION ON COMPLAINTS OF RESIDENT NEGLECT AND ABUSE, AND MISAPPROPRIATION OF RESIDENT PROPERTY

9618.1 The Board will review all allegations of resident neglect and abuse, and misappropriation of resident property.

9618.2 The Board shall not make a finding that an individual has neglected a resident if the individual demonstrates that the neglect was caused by factors beyond the control of the individual.

9618.3 If there is reason to believe, either through oral or written evidence that an individual used by a facility to provide services to residents could have abused or neglected a resident or misappropriated a resident's property, the Board will investigate the allegation.

9618.4 If the Board makes a preliminary determination, based on oral or written evidence and its investigation, that the abuse, neglect or misappropriation of property occurred, within ten (10) working days of the Board's findings, it shall notify:

- (a) The individual(s) implicated in the findings;
- (b) The individual(s) of a right to a hearing;
- (c) The current administrator of the facility in which the incident occurred; and
- (d) The administrator of the facility that currently employs the individual, if different from the facility in which the incident occurred.

9618.5 Pursuant to § 9618.4(b), the hearing notice shall include:

- (a) A description of the allegations made against the CNA;
- (b) The proposed findings from the investigation;
- (c) A statement that the CNA may challenge the charges against him or her, by submitting a written request within twenty (20) days from the date of service of the notice on a prescribed form;

- (d) Notification that his or her name will be listed in the CNA Abuse Registry, as having knowingly abused or neglected a resident or misappropriated a resident's property while providing services in a facility, unless the CNA requests a hearing and disproves the charges against him or her;
- (e) The consequences to the CNA of being listed in the CNA Abuse Registry; and
- (f) The fact that the individual has a right to be represented by an attorney at the individual's own expense.

9618.6 The Board shall complete the hearing and the hearing record within one hundred twenty (120) days from the day it receives the request for a hearing.

9618.7 If, following a hearing, neglect, abuse, or misappropriation of a resident's property has been substantiated, or if an individual waives the right to a hearing after a complaint alleging neglect, abuse, or misappropriation has been substantiated, the Board shall report the findings to the CAN Abuse Registry within ten (10) working days.

9618.8 The following information on any substantiated finding by the Board, of abuse, neglect, or misappropriation of property of an individual shall be placed on the nurse aide abuse registry:

- (a) Documentation of the Board's investigation, including the nature of the allegation and the evidence that led the Board to conclude that the allegation was valid;
- (b) The date of the hearing, if the individual chose to have one, and its outcome; and

- (c) A statement by the individual disputing the allegation, if he or she chooses to make one.

9618.9 This information shall remain in the registry permanently, unless the finding was made in error, the individual was found not guilty in a court of law, or the District is notified of the individual's death.

9619 [RESERVED]

9620 STANDARDS FOR TRAINING PROGRAMS

9620.1 No institution shall provide CNA training in the District of Columbia unless its training program has been approved by the Board.

9620.2 The following types of institutions may apply for approval to provide CNA training:

- (a) Private, degree-granting educational institutions operating or incorporated in the District of Columbia which are licensed by the Higher Education Licensure Commission (HELC) pursuant to the Institution Licensure Act of 1976 (D.C. Law 1-104; D.C. Official Code §§ 38-1301 *et seq.*(2012 Repl.);

- (b) Private, non-degree post-secondary schools operating in the District of Columbia which are licensed by the HELC;

- (c) District of Columbia public vocational or trade schools;

- (d) District of Columbia public universities or colleges; and

- (e) Hospitals, and health care facilities licensed as training facilities by the HELC and operating in the District of Columbia that have received no adverse action during the preceding two (2) years.

9620.3 The Board shall consider any one (1) of the following as an adverse action which shall preclude a health care facility from providing CNA training:

- (a) The termination, restriction, or revocation of the facility's participation or enrollment in the Medicaid or Medicare program;
- (b) Provisional or restricted licensure of the facility, provided it is not a new facility; or
- (c) If the facility has a provider agreement of less than one (1) year.

9621 SUPERVISED PRACTICE OF TRAINEES

9621.1 A nursing assistant trainee may practice only in accordance with the District of Columbia Health Occupations Revision Act of 1985, effective March 15, 1986 (Act) (D.C. Law 6-99; D.C. Official Code §§ 3-1203.01, *et seq.* (2016 Repl.) and this chapter.

9621.2 A trainee who is fulfilling educational requirements of this chapter may engage in supervised practice without a District of Columbia certification.

9621.3 All supervised practice of a trainee shall take place under the general or immediate supervision of an RN or LPN.

9621.4 A trainee shall identify himself or herself as a trainee before practicing.

9621.5 A trainee shall not receive compensation of any nature, directly or indirectly, from a client or a client's family member.

9621.6 The nurse supervising the trainee shall be responsible for all practice by a trainee during the period of supervision and may be subject to disciplinary action for trainee violations of the Act or this chapter.

9621.7 The Board may deny an application for certification by, or take other disciplinary action against, a trainee who is found to have violated the Act or this chapter. The Board may, in addition to any other disciplinary actions permitted by the Act, revoke, suspend, or restrict the privilege of the trainee.

9622 [RESERVED]

9623 [RESERVED]

9624 TRAINING PROGRAM APPROVAL PROCEDURES

9624.1 Each institution applying for a certificate of approval to provide nursing assistant training shall do the following:

- (a) Submit to the Board, at least one hundred eighty (180) days in advance of the scheduled starting date, a statement of intent to establish a CNA training program;
- (b) Submit to the Board an application for a certificate of approval which contains the following information:
 - (1) A statement of purpose;
 - (2) A statement of need for the training program in the District of Columbia;

- (3) A description of the proposed program's potential effect on existing nursing assistant training programs in the area;
 - (4) The organizational structure of the institution showing the relationship of the proposed training program within the organization;
 - (5) Evidence of financial resources adequate for planning, implementation, and continuation of the program;
 - (6) Licensure status of the proposed training facility;
 - (7) The qualification of proposed instructors;
 - (8) The number of full-time equivalent budgeted instructor positions;
 - (9) Evidence of the availability of adequate clinical facilities for the training program;
 - (10) A description of the anticipated trainee population including admission and graduation criteria, health requirements, and copy of entrance examination;
 - (11) Tentative time schedule for planning and initiating the program;
 - (12) Fee schedules; and
- (c) Submit to the Board the one thousand dollar (\$1000) application fee.

9624.2 Schools currently non-compliant with the Board's regulatory requirements for existent programs are not eligible to submit an application to establish an additional program.

9624.3 After reviewing the application, based on the applicant's compliance with § 9627, a decision shall be made to:

- (a) Approve the application;
- (b) Defer approval if additional information is needed; or
- (c) Deny approval of the application.

9624.4 If an application approval has been granted, a site visit may be conducted.

9624.5 After reviewing the site visit report and the applicant's compliance with § 9632, the Board shall vote to approve, deny, or defer program approval for resource, facility, or service concerns.

9624.6 The nurse coordinator for each facility or institution approved to provide training shall attend a Board sponsored orientation.

9624.7 A training program shall not admit trainees to the program before the program has been approved by the Board.

9624.8 If the application is denied, the applicant may not resubmit an application until one (1) year has passed from the last submission.

9625 PERIODIC REVIEW OF APPROVED PROGRAMS

9625.1 Programs approved by the Board to train CNAs shall submit to the Board an annual report and five hundred dollar (\$500) fee in accordance with procedures established by the Board.

9625.2 The Board shall re-evaluate CNA training programs once a year.

9625.3 The Board shall make unannounced visits to review and assess each CAN training program to ensure that the program is in compliance with §§ 9627, 9628, 9631, and 9632.

9625.4 The Board shall assess each training program on the basis of visits to the facility, the progress of the training program, and any other information deemed appropriate by the Board.

9625.5 The program must meet the seventy-five percent (75%) pass rate on the District's competency evaluation each year.

9625.6 The training program deficiencies sufficient to warrant withdrawal of approval shall include, but are not limited to the following:

(a) Failure to effectively utilize the District's approved curriculum for the training program;

(b) Failure to maintain an adequate number of instructors with required qualifications;

(c) Failure to meet the seventy five percent (75%) pass rate on the District's approved competency evaluation for a period of two (2) consecutive years;

- (d) Failure of trainees to demonstrate minimal competencies upon employment;
- (e) Failure to adhere to training program's stated objectives, and policies;
- (f) Failure to maintain adequate resources, facilities, and services required to meet training objectives; and
- (g) Failure to correct other deficiencies outlined by the Board.

9625.7 If the training program does not meet the requirements for continued approval:

(a) The Board may grant conditional approval, not to exceed to one (1) year, pending correction of the deficiencies; and

(b) The Board may restrict admissions of trainees to programs in conditional status.

9625.8 The Board shall withdraw approval of a training program if:

- (a) It determines that the program is not in compliance with the regulatory requirements set forth in this chapter;
- (b) The education institution loses its licensure; or
- (c) The program has failed to correct deficiencies within one (1) year.

9625.9 The Board may consider reinstatement or approval of a training program upon submission of satisfactory evidence that the program meets the standards set forth in this chapter.

9625.10 The Board may investigate complaints made against a program and may conduct hearings in connection with such complaints.

9625.11 Any Board action for suspension or withdrawal of a training program's approval shall take place only upon notice to the program and the opportunity for a hearing in accordance with D.C. Official Code § 3-1205.14 (2016 Repl.).

9626 [RESERVED]

9627 NURSING ASSISTANT TRAINING PROGRAM REQUIREMENTS

9627.1 Training programs shall use the Board approved CNA model curriculum, as it may be amended from time to time.

9627.2 Each training program shall have a sufficient number of qualified instructors to meet the purposes and objectives of the program.

9627.3 The training program shall be coordinated by an RN who:

(a) Has a current, unencumbered District of Columbia license;

(b) Has at least two (2) years of full-time or full-time equivalent experience as an RN or LPN with at least one (1) year of clinical experience in a long-term care setting; and

(c) Has not been disciplined by the Board pursuant to D.C. Official Code § 3-1205.14 (2016 Repl.).

9627.4 The CNA program coordinator shall be a qualified RN with institutional authority and administrative responsibility for the program.

9627.5 The program coordinator's supervision and responsibility for the training of CNAs shall include, but not be limited to:

- (a) Ensuring that the curriculum is coordinated and implemented in accordance with the chapter;
- (b) Establishing the responsibilities of the instructors;
- (c) Ensuring that each instructor meets the qualifications as specified in this chapter;
- (d) Ensuring that each student is properly supervised during the student's clinical experience;
- (e) Ensuring that each clinical preceptor provides the evaluation of the student's performance to the clinical instructor; and
- (f) Reporting annually, and responding upon request, to the Board.

9627.6 The clinical preceptor shall have the following minimum qualifications:

- (a) Be currently licensed or registered in good standing in the jurisdiction in which he or she is providing the preceptorship; and
- (b) Have a minimum of two (2) years of experience as an RN or LPN providing direct patient care, during the five (5) years immediately preceding the date of the written agreement.

9627.7 The ratio of preceptor to trainees in a clinical setting shall not exceed one (1) preceptor to two (2) trainees.

9627.8 Each instructor shall have the following minimum qualifications:

- (a) Be licensed or certified in his or her profession in the District of Columbia; and
- (b) Have completed a course in teaching adults or have experience in supervising nurse aides.

9627.9 The ratio of instructor to trainees in a clinical setting shall not exceed one (1) instructor to eight (8) trainees.

9627.10 Each training program shall have a record or attestation that trainees received information on the policies governing admission, retention, dismissal, and the course requirements of the training program, in writing.

9627.11 Each training program shall have records of vaccinations of applicants for communicable diseases prior to admission.

9628 MINIMUM QUALIFICATIONS FOR NURSING ASSISTANT TRAINEES

9628.1 Each trainee shall be required to take a pre-admission examination to assess reading, writing, and math skills prior to enrollment in a training program.

9628.2 Each trainee for the home health aide to nursing assistant bridge program shall provide evidence of home health aide certification by the Board's approved written and skills examination.

9628.3 Each trainee shall be required to provide evidence of vaccinations or immunity to communicable diseases prior to admission.

9628.4 Each trainee shall attest in writing to receiving information on:

- (a) The policies governing admission, retention, dismissal, and the course requirements of the training program, in writing; and
- (b) Certification requirements including CBC and examination.

9629 [RESERVED]

9630 CLOSING OF EDUCATION AND TRAINING PROGRAMS

9630.1 Each CNA program that voluntarily closes shall:

- (a) Notify the Board, as early as possible, in writing, of the intended closing, stating the reason(s) and planned date of the intended closing;
- (b) Continue the training program until the committed class scheduled for currently enrolled trainees is completed; and
- (c) Notify the Board of the final closing date at least thirty (30) days before the final closing.

9630.2 Before the Board may withdraw approval of a program, the Board shall:

- (a) Issue a notice of intended action to the program notifying the program that:
 - (1) The Board intends to withdraw approval of the program and the reasons for the action; and

(2) The program has a right to a hearing.

(b) Send notice to the HELC of the Board's intention to withdraw program approval.

9630.3 If the Board denies or withdraws approval of a training program, the institution shall:

(a) Close the program on the date provided by the Board; and

(b) Comply with the requirements of all applicable rules and notify the Board that the requirements have been fulfilled.

9631 RECORDS RETENTION

9631.1 Each CNA training program shall maintain an accurate and appropriate system of record keeping.

9631.2 Each training program shall ensure that administrative and personnel records are protected against loss, destruction, and unauthorized review.

9631.3 A record for each trainee shall be maintained by the facility and shall include the trainee's evaluation, health information, and items set forth in § 9628.

9631.4 Each instructor's personnel records shall be maintained by the facility and shall include application data, qualifications, and a position description, and shall be available for review by the Board.

9631.5 All records shall be maintained by the training program for a minimum of seven (7) years.

9632 RESOURCES, FACILITIES, AND SERVICES

9632.1 Each CNA training program shall maintain resources, facilities, and services which are adequate to accommodate the training program. The resources, facilities, and services shall include, but are not limited to:

(a) Adequate temperature controls in each training facility;

(b) Clean and safe conditions of the facility's premises;

(c) Adequate space for private faculty-student conferencing;

(d) Adequate lighting in each facility; and

(e) Sufficient and adequate equipment for the program's needs, including audio-visual equipment and equipment needed for simulating client care.

9632.2 Each classroom, conference room, skills laboratory, and office shall be adequate to meet the needs of the training program.

9632.3 Each cooperative agreement between a training program and a healthcare facility shall be in writing. The training program shall maintain a copy of the agreement in its records.

9699 DEFINITIONS

9699.1 When used in this chapter, the following terms shall have the meanings ascribed:

Abuse - the infliction of physical or mental harm, or injury to, or death or financial exploitation of a client.

Board - the Board of Nursing as established by § 204 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.04 (2016 Repl.)).

Certified nursing assistant - nursing assistive personnel who are certified to assist with the delivery of direct nursing care to patients, and work under the supervision of a nurse or other health professional.

Clinical - faculty planned and guided learning activities designed to assist in meeting course objectives and to apply nursing knowledge and skills in the direct care of clients, including clinical conferences and planned learning activities in acute care facilities, and other community resources. Clinical shall not include skills lab activities.

Conditional approval - the approval status that is granted for a time period specified by the Board to an CNA training program to correct deficiencies when the training program has failed to meet or maintain the requirements and standards of this chapter.

Continuing education - systematic learning experiences designed to augment the knowledge, skills, and attitudes of the CNA.

Criminal background check - a report of a person's criminal history by the appropriate state and federal authorities, or approved vendor, to determine whether the person has been convicted of a crime in the District of Columbia or in any state or territory of the United States where such person has worked or resided.

Delegation - the transference from the RN or LPN to another individual within the scope of his or her practice, the authority to act on behalf of the RN or LPN in the performance of a nursing intervention, while the RN or LPN retains accountability and responsibility for the delegated act.

Director - the Director of the Department of Health, or his or her designee.

Endorsement - the process of issuing a certification to an applicant who is registered by a state Board and recognized by the Board as a qualified professional according to standards that were the substantial equivalent at the time of the certification to the standards for that profession set forth in this chapter and who has continually remained in good standing with the Board from the date of certification until the date of certification in the District.

Health care facility - a facility or agency that provide long-term care services such as an assisted living residence, group home for persons with physical and intellectual disabilities, and a skilled home care agency.

Higher Education Licensure Commission - the Mayoral appointed regulatory, consumer protection authority responsible for public protection with regard to legitimate quality education in the District of Columbia.

Immediate supervision - supervision in which the supervisor is on the premises and within vocal communication, either directly or by communication device.

In-service - activities provided by the employer intended to assist the CNA in acquiring, maintaining, or increasing competence in fulfilling the assigned responsibilities specific to the expectations of the employer.

Misappropriation - the application of another's property or money dishonestly to one's own use.

Neglect - any act or omission by a CAN which causes or is likely to cause or contribute to, or which caused or is likely to have caused or contributed to the injury, death, or financial exploitation of a consumer.

Nursing assistive personnel - individuals who have received appropriate training or instruction to function in a complementary or assistant role to an RN or LPN, in providing direct patient care or in carrying out delegated nursing tasks. The term includes, but is not limited to, nursing students, graduate nurses, home health aides, personal care aides, medication aides, dialysis technicians, CNAs, patient care technicians, or others as specified by the Board of Nursing.

Pass rate - the percentage of candidates who receive a passing score on the competency evaluation out of the total exams administered for the review period.

Program - the planned series of instruction, didactic and clinical, designed so that the student will acquire the requisite knowledge and skills.

Reinstatement - reissuance of an expired nursing assistant certification.

Skills laboratory - faculty guided activities planned for students in a school/campus laboratory that simulates the activities provided by the CNA. The activities include demonstrations and return demonstrations using equipment and supplies that are used for the purpose of attaining required psychomotor skills.

CHAPTER 97 PATIENT CARE TECHNICIAN

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9700 GENERAL PROVISIONS

9700.1 This chapter applies to applicants for, and holders of, a certification to practice as a patient care technician (PCT).

9700.2 This chapter shall apply to persons who, regardless of job title, are employed in an acute care service agency or facility for the purpose of providing PCT activities as specified in this chapter

9700.3 Chapters 40 (Health Occupations: General Rules) and 41 (Health Occupations Administrative Procedures) of this title apply to holders of a certification to practice as a PCT.

9701 PATIENT CARE TECHNICIAN CERTIFICATION

9701.1 No person shall practice as a PCT in the District of Columbia without first being certified by the Board of Nursing (Board).

9702 TERM OF CERTIFICATION

9702.1 Subject to § 9701.1, a certification issued pursuant to this chapter shall expire at 11:59 p.m. on October 31 of each odd-numbered year.

9702.2 The Director of the Department of Health may modify the renewal system pursuant to § 4006.3 of Chapter 40 of this title and may modify the date on which a certification expires.

9703 CRIMINAL BACKGROUND CHECK

9703.1 A person applying for certification as a PCT shall undergo a criminal background check (CBC) prior to issuance of the certification.

9703.2 After issuance of an initial certification, the applicant shall undergo an additional CBC as determined by the DOH.

9703.3 The Board of Nursing shall review the results of a person's CBC if, within the seven (7) years preceding the CBC, the person has been arrested or convicted in the District of Columbia, or in any state or territory of the United States where the person has worked or resided, for any of the following offenses or their equivalent:

(a) Murder, attempted murder, or manslaughter;

(b) Arson;

(c) Assault, battery, assault and battery, assault with a dangerous weapon, mayhem or threats to do bodily harm;

(d) Burglary;

- (e) Robbery;
- (f) Kidnapping;
- (g) Theft, fraud, forgery, extortion or blackmail;
- (h) Illegal use or possession of a firearm;
- (i) Trespass or injury to property;
- (j) Rape, sexual assault, sexual battery, or sexual abuse;
- (k) Child abuse or cruelty to children;
- (l) Adult abuse, neglect or exploitation; or
- (m) Unlawful distribution or possession with intent to distribute a controlled substance.

9704 APPLICATION FOR CERTIFICATION

9704.1 An applicant for certification as a PCT shall:

- (a) Be at least eighteen (18) years of age;
- (b) Meet the requirements of § 9703;
- (c) Submit evidence of successfully passing a PCT examination offered by a PCT certification organization recognized by the National Commission for Certifying Agencies; or
- (d) Provide proof of completion of a practical nursing (LPN) or registered nursing (RN) “Fundamentals of Nursing” course and acute care clinical which include skills specified in § 9715.1; or

- (e) Submit a Commission on Graduates of Foreign Nursing Schools certificate, indicating equivalent education as an RN or LPN for nurses educated outside the United States; or
- (f) Submit proof of practice for at least one thousand (1,000) hours within the last thirty-six (36) months as a:
 - (1) Navy or Air Force basic medical technician corpsman; or
 - (2) Air Force independent duty medical technician; or
 - (3) Army health care specialist; or
 - (4) Emergency medical technician; or
 - (5) Paramedic;
- (g) Submit a completed application to the Board;
- (h) Submit any other documents that may be required by the Board; and
- (i) Pay all required fees.

9704.2 An application that remains incomplete for ninety (90) days or more from the date of submission shall be considered abandoned and closed by the Board. The applicant shall thereafter be required to reapply, comply with the current requirements for certification, and pay the required fees.

9705 CERTIFICATION BY EXAMINATION

9705.1 To qualify for PCT certification by examination, an applicant shall:

- (a) Have passed the National Nurse Aide Assessment Program examination or other certification program recognized by the Centers for Medicare & Medicaid Services (CMS) and the Board, and
- (b) Have successfully completed a PCT program within the past twenty-four (24) months, approved by the Board or by a nursing Board in the United States with standards determined by the Board to be equivalent to the standards in the District of Columbia.

9705.2 The Board shall waive the examination requirements for any person currently practicing as a PCT provided that the applicant:

- (a) Demonstrates, to the satisfaction of the Board, that he or she has been performing the functions of a PCT on a full-time or substantially full-time (a minimum of five hundred (500) hours per year) basis for the past twenty four (24) months;
- (b) Submits documentation from a supervising nurse, indicating the applicant's continued competence to provide care;
- (c) Submits documentation from an employer certifying the applicant's ability to perform skills as listed in § 9715; and
- (d) Submits an application by a date specified by the Board.

9706 CERTIFICATION BY ENDORSEMENT

9706.1 An applicant for endorsement as a PCT shall provide proof of the following:

- (a) Current state certification as a PCT;

- (b) Verification from a supervising RN or LPN or employer certifying the applicant's ability to perform skills listed in § 9715; and
- (c) Completion of the requirements as listed in § 9704, Application for Certification.

9707 RENEWAL OF CERTIFICATION

9707.1 An applicant for renewal shall:

- (a) Provide verification of completion of twelve (12) hours per year (twenty four (24) in total) of in-service training or continuing education which shall include a minimum of three (3) hours of HIV/AIDS, two (2) hours of continuing education in cultural competency or specialized clinical training on clients who identify as LGBTQ, and any additional Board mandated subject matter;
- (b) Submit evidence of performance of nursing related services for compensation during the prior twenty four (24) months; and
- (c) Complete a CBC as required.

9707.2 PCTs who have another active District of Columbia certification as nursing assistive personnel (NAP) may apply continuing education hours to NAP renewal requirements.

9708 INACTIVE STATUS; REACTIVATION OF CERTIFICATION

9708.1 A PCT with an active certification may request to be placed on inactive status.

9708.2 While on inactive status, the PCT shall not be subject to the renewal fee and shall not practice, attempt to practice, or offer to practice as a PCT in the District of Columbia.

9708.3 To reactivate an inactive status of § 9704, Renewal of Certification.

9709 REINSTATEMENT OF EXPIRED CERTIFICATION

9709.1 If a PCT fails to renew his or her PCT certification, the Board shall reinstate the certification if the applicant:

- (a) Applies to the Board for reinstatement of the certification within five (5) years after the certification expires;
- (b) Provides evidence of having completed twenty four (24) hours of in-service training or continuing education within the past two (2) years prior to submission of an application;
- (c) Provides evidence of current PCT certification; and
- (d) Meets any other Board requirements.

9709.2 If a PCT fails to apply for reinstatement within five (5) years after his or her certification expires, the applicant shall meet the requirements for certification pursuant to § 9704, Renewal of Certification.

9710 [RESERVED]

9711 [RESERVED]

9713 ASSIGNMENT AND DELEGATION OF NURSING CARE TASKS

9713.1 A registered nurse (RN) or licensed practical nurse (LPN) or licensed health care professional may assign or delegate tasks to PCTs that are among the authorized tasks listed in § 9715.

9713.2 PCTs shall not practice independently but shall work under the supervision of an RN, LPN or other licensed health care professional.

9713.3 The delegation or assignment of tasks shall comply with the standards for delegation listed in 17 DCMR § 5415 (registered nurse) and assignment listed in 17 DCMR § 5515 (licensed practical nurse). Nursing care tasks that may be delegated or assigned shall be determined by:

- (a) The knowledge and skills of the PCT;
- (b) Verification of the clinical competence of the PCT by the employing agency;
- (c) The stability of the client's condition, including factors such as predictability, absence of risk of complication, and rate of change in health status; and
- (d) The variables in each health care setting which include, but are not limited to:
 - (1) The accessible resources and established policies, procedures, practices, and channels of communication that lend support to the type of nursing tasks being delegated;

(2) The complexity and frequency of care needed by a given client population; and

(3) The accessibility of an RN or LPN.

9713.4 Nursing tasks that inherently involve on-going assessment, interpretation, or decision making that cannot be logically separated from one (1) or more procedures shall not be delegated to the PCT.

9713.5 Each PCT shall be trained to address the specific health care needs of his or her assigned population.

9714 [RESERVED]

9715 PATIENT CARE TECHNICIAN TASKS

9715.1 Under the supervision of an RN, LPN or licensed health professional, a PCT may perform the following tasks in addition to the tasks specified in § 9615:

(a) Monitoring the administration of oxygen equipment by observing settings, tubing and equipment;

(b) Inserting a peripheral intravenous catheter;

(c) Discontinuing a peripheral IV catheter;

(d) Elimination procedures, including enemas, fleets, and soap suds enemas;

(e) Administering an electrocardiogram;

(f) Fingertstick blood glucose testing;

(g) Specimen collection;

(h) Incentive spirometry;

(i) Phlebotomy;

(j) Pulse oximetry;

(k) Inserting and discontinuing urinary catheters;

(l) Applying elastic stockings; and

(m) Applying and removing sequential compression devices.

9716 [RESERVED]

9717 DISCIPLINE

9717.1 After a hearing, pursuant to D.C. Official Code § 3-120.14(a) (2016 Repl.), the Board may revoke, suspend, or deny registration of any PCT who has been convicted during a period of registration, of any of the crimes listed in § 9703.4 or any act specified in D.C. Official Code § 3-1205.14(a)(4)(A)-(C) (2016 Repl.).

9717.2 In addition to any other disciplinary action it may take, the Board may impose a civil penalty of not more than five thousand dollars (\$5,000) per violation as provided by D.C. Official Code § 3-1205.14(c)(5) (2016 Repl.), or file a letter of concern if the Board believes there is insufficient evidence to support direct action against a PCT.

9717.3 Grounds for denial, suspension, revocation or other discipline of a PCT include inability to function with reasonable skill and safety for the following reasons and for any additional acts as specified in D.C. Official Code § 3-1205.14 (2016 Repl.):

- (a) Substance abuse or other chemical dependency;
- (b) Client or patient abandonment;
- (c) Fraud or deceit, which may include but is not limited to:
 - (1) Filing false credentials;
 - (2) Falsely representing facts on an application for initial certification reinstatement or renewal; or
 - (3) Giving or receiving assistance in taking the competency evaluation.
- (d) Client or patient neglect, abuse or misappropriation of funds;
- (e) Boundary violations;
- (f) Unsafe client care;
- (g) Performing acts beyond the PCT range of functions or beyond those tasks delegated;
- (h) Misappropriation or misuse of property;
- (i) A criminal conviction;
- (j) Failing to conform to acceptable standards of practice as a PCT;
- (k) Putting clients or patients at risk of harm; or
- (l) Violating the privacy or failing to maintain the confidentiality of client information.

9717.4 PCTs who are unable to perform their duties due to drug or alcohol dependency or mental illness may utilize the services offered under the Nurse's Rehabilitation Program pursuant to D.C. Official Code §§ 3-1251.01, *et seq.* (2016 Repl.).

9717.5 The Board may refer for criminal prosecution any violation of the Health Occupations Revision Act ("Act"), D.C. Official Code §§ 3-1201.01, *et seq.* (2016 Repl.) that it deems appropriate.

9718 [RESERVED]

9719 [RESERVED]

9720 STANDARDS FOR TRAINING PROGRAMS

9720.1 No institution shall provide PCT training in the District of Columbia unless its training program has been approved by the Board.

9720.2 The following types of institutions may apply for approval to provide PCT training:

- (a) Private, degree-granting educational institutions operating or incorporated in the District of Columbia which are licensed by the Higher Education Licensure Commission (HELC) pursuant to the Educational Institution Licensure Act of 1976 (D.C. Law 1-104; D.C. Official Code §§ 38-1301, *et seq.* (2012 Repl.));
- (b) Private, non-degree, post-secondary schools operating in the District of Columbia which are licensed by the HELC;
- (c) District of Columbia public universities or colleges;
- (d) Hospitals; and

- (e) Nursing facilities licensed and operating in the District of Columbia that have received no adverse actions during the preceding two (2) years.

9720.3 The Board shall consider any one of the following as an adverse action which preclude a facility from providing training:

- (a) Termination, restriction, or revocation of a facility's participation in the Medicaid or Medicare program;

- (b) Provisional or restricted licensure of the facility, provided it is not a new facility; or

- (c) A facility is given a provider agreement of less than one (1) year.

9721 SUPERVISED PRACTICE OF TRAINEES

9721.1 A PCT trainee may practice only in accordance with the Act and this chapter.

9721.2 A trainee who is fulfilling educational requirements of this chapter may engage in supervised practice without a District of Columbia certification.

9721.3 All supervised practice of a trainee shall take place under the general or immediate supervision of an RN or LPN.

9721.4 A trainee shall identify himself or herself as a trainee before practicing.

9721.5 A trainee shall not receive compensation of any nature, directly or indirectly, from a client or client's family member.

9721.6 The nurse supervising the trainee shall be responsible for all practice by a trainee during the period of supervision and may be subject to disciplinary action for trainee violations of the Act or this chapter.

9721.7 The Board may deny an application for certification by, or take other disciplinary action against, a trainee who is found to have violated the Act or this chapter. The Board may, in addition to any other disciplinary actions permitted by the Act, revoke, suspend, or restrict the privilege of the trainee in accordance with the hearing provision of D.C. Official Code § 3-1205.14(a) (2012 Repl.).

9722 [RESERVED]

9723 PROGRAM APPROVAL PROCEDURES FOR HEALTH CARE FACILITIES

9723.1 Each facility applying for approval to provide PCT training shall submit an application for approval which contains the following information:

- (a) A statement of intent to establish a training program;
- (b) A certificate of exemption or approval by HELC, if coursework is offered to persons not employed by the facility;
- (c) A list of qualified instructors with resumes attached; and
- (d) A description of the trainee population and tentative curriculum implementation schedule.

9723.2 A training program shall not admit trainees to the program before the program has been approved by the Board.

9723.3 The Board shall withdraw approval of training if the facility loses its licensure status.

9724 TRAINING PROGRAM APPROVAL PROCEDURES

9724.1 Each institution applying for a certificate of approval to provide PCT training shall do the following:

- (a) Submit to the Board of Nursing (Board), at least one hundred eighty (180) days in advance of the scheduled starting date, a statement of intent to establish a PCT training program; and
- (b) Submit to the Board an application for a certificate of approval which contains the following information:
 - (1) A statement of need for the training program in the District of Columbia;
 - (2) A description of the proposed program's potential effect on existing PCT training programs in the area;
 - (3) The organizational structure of the institution showing the relationship of the proposed training program within the organization;
 - (4) Evidence of financial resources adequate for planning, implementation, and continuation of the program;
 - (5) Licensure status of the proposed training facility;

(6) The qualification of the proposed instructors;

(7) The number of fulltime equivalent budgeted instructor positions;

(8) Evidence of the availability of adequate clinical facilities for the training program;

(9) A description of the anticipated trainee population including admission and graduation criteria; a copy of the entrance exam and health requirements.

(10) A tentative time schedule for planning and initiating the program;

(11) Fee schedules; and

(c) Submit to the Board the one thousand dollar (\$1000) application fee.

9724.2 Schools currently non-compliant with the Board's regulatory requirements are not eligible to submit an application to establish an additional program.

9724.3 After reviewing the application, based on the applicant's compliance with § 9727, a decision shall be made to:

(a) Approve the application;

(b) Defer approval if additional information is needed; or

(c) Deny approval of the application.

9724.4 If an application approval has been granted, a site visit may be conducted.

- 9724.5 After reviewing the site visit report and compliance with § 9732, the Board shall vote to approve, deny, or defer program approval for resource, facility, or service concerns.
- 9724.6 The nurse coordinator for each facility or institution approved to provide training shall attend a Board sponsored orientation.
- 9724.7 A training program shall not admit trainees to the program before the program has been approved by the Board.
- 9724.8 If the application is denied, the applicant may not resubmit an application until one (1) year has passed from the last submission.

9725 PERIODIC REVIEW OF APPROVED PROGRAMS

- 9725.1 Programs approved by the Board to train PCTs shall submit to the Board an annual report and five hundred dollar (\$500) fee in accordance with procedures established by the Board.
- 9725.2 The Board shall re-evaluate PCT training programs once a year.
- 9725.3 The Board may make unannounced visits to review and assess each PCT training program to ensure that the program is in compliance with §§ 9727, 9728, 9731, and 9732.
- 9725.4 The Board shall assess each training program on the basis of visits to the facility, the progress of the training program, and any other information deemed appropriate by the Board.

9725.5 The program shall meet the seventy-five percent (75%) pass rate on the District's competency evaluation each year.

9725.6 The training program deficiencies sufficient to warrant withdrawal of approval shall include, but are not limited to the following:

- (a) Failure to effectively utilize the District's approved curriculum for the training program;
- (b) Failure to maintain an adequate number of instructors with required qualifications;
- (c) Failure to meet the seventy-five percent (75%) pass rate on the District of Columbia's approved competency evaluation for a period of two (2) consecutive years;
- (d) Failure of trainees to demonstrate minimal competencies upon employment;
- (e) Failure to adhere to training program's stated objectives, and policies;
- (f) Failure to maintain adequate resources, facilities, and services required to meet training objectives; and
- (g) Failure to correct other deficiencies outlined by the Board.

9725.7 If the training program does not meet the requirements for continued approval, the Board may grant conditional approval, not to exceed to one (1) year, pending correction of the deficiencies.

9725.8 The Board may restrict admissions of trainees to programs in conditional status.

9725.9 The Board shall withdraw approval of a training program if:

(a) It determines that the program is not in compliance with the regulatory requirements set forth in this chapter;

(b) The education institution loses its licensure; or

(c) The program has failed to correct deficiencies within one (1) year.

9725.10 The Board may consider reinstatement or approval of training upon submission of satisfactory evidence that the program meets the standards set forth in this chapter.

9725.11 The Board may investigate complaints made against a program and may conduct hearings in connection with such complaints.

9725.12 Any Board action for suspension or withdrawal of a training program's approval shall take place only upon notice to the program and the opportunity for a hearing in accordance with D.C. Official Code § 3-1205.14 (2012 Repl.).

9726 [RESERVED]

9727 PATIENT CARE TECHNICIAN TRAINING PROGRAM REQUIREMENTS

9727.1 Training programs shall use Board approved PCT model curriculum as it may be amended from time to time.

9727.2 Each training program shall have a sufficient number of qualified instructors to meet the purposes and objectives of the program.

9727.3 The training program shall be coordinated by an RN or LPN with:

(a) A current, unencumbered District of Columbia license; and

(b) At least two (2) years of full-time or full-time equivalent experience as an RN or LPN with clinical experience in the clinical practice setting he or she is coordinating.

9727.4 The PCT program coordinator shall be a qualified RN with institutional authority and administrative responsibility for the program.

9727.5 The program coordinator's responsibilities shall include, but not be limited to:

(a) Ensuring that the curriculum is coordinated and implemented in accordance with the chapter;

(b) Establishing the responsibilities of the instructors;

(c) Ensuring that each instructor meets the qualifications as specified in this chapter;

(d) Ensuring that each student is properly supervised during the student's clinical experience;

(e) Ensuring that each clinical preceptor evaluates the student's performance and provides the evaluation results to clinical instructor.

(f) Reporting annually, and responding upon request, to the Board.

9727.6 The clinical preceptor shall have the following minimum qualifications:

- (a) Be currently licensed or registered in good standing, in the jurisdiction in which he or she is providing the preceptorship; and
- (b) Have a minimum of two (2) years of experience as an RN or LPN providing direct patient care, during the five (5) years immediately preceding the date of the written agreement.

9727.7 The ratio of preceptor to trainees in a clinical setting shall not exceed one (1) preceptor to two (2) trainees.

9727.8 Each instructor shall be, where applicable, licensed, registered, or certified in his or her profession in the District of Columbia.

9727.9 The ratio of instructors to trainees in clinical areas involving direct care of clients shall be based upon client acuity level, skill level of the trainee, and the clinical setting.

9727.10 The ratio of instructor to trainees in a clinical setting shall not exceed one (1) instructor to eight (8) trainees.

9727.11 Each training program shall have a record or attestation that trainees received information on the policies governing admission, retention, dismissal, and the course requirements of the training program, in writing.

9727.12 Each training program shall have records of vaccinations of applicants for communicable diseases prior to admission.

9728 MINIMUM QUALIFICATIONS FOR PATIENT CARE TECHNICIAN TRAINEES

9728.1 Each PCT trainee shall be a high school graduate or possess a general education diploma.

9728.2 Each trainee shall have successfully passed a National Nurse Aide Assessment Program examination or other certification program recognized by the Centers for Medicare & Medicaid Services and the Board.

9728.3 Each trainee shall be required to provide evidence of vaccinations or immunity to communicable diseases prior to admission.

9728.4 Each trainee shall attest in writing to receiving information on:

(a) The policies governing admission, retention, dismissal, and the course requirements of the training program, in writing; and

(b) Certification requirements including CBC and examination.

9729 [RESERVED]

9730 CLOSING OF EDUCATION AND TRAINING PROGRAMS

9730.1 Each PCT program that voluntarily closes shall:

(a) Notify the Board, as early as possible, in writing, of the intended closing, stating the reason(s) and planned date of the intended closing;

- (b) Continue the training program until the committed class scheduled for currently enrolled trainees is completed; and
- (c) Notify the Board of the final closing date at least thirty (30) days before the final closing.

9730.2 Before the Board may withdraw approval of a program the Board shall:

- (a) Issue a notice of intended action to the program notifying the program that:
 - (1) The Board intends to withdraw approval of the program and the reasons for the action; and
 - (2) The program has a right to a hearing.
- (b) Send notice to the HELC of the Board's intention to withdraw program approval.

9730.3 If the Board denies or withdraws approval of a training program, the institution shall:

- (a) Close the program on the date provided by the Board; and
- (b) Comply with the requirements of all applicable rules and notify the Board that the requirements have been fulfilled.

9731 RECORDS RETENTION

9731.1 Each PCT training program shall maintain an accurate and appropriate system of record keeping.

9731.2 Each training program shall ensure that administrative and personnel records are protected against loss, destruction, and unauthorized review.

9731.3 A record for each trainee shall be maintained by the facility and shall include the trainee's evaluation, health information, and items stipulated in § 9728.

9731.4 Each instructor's personnel records shall be maintained by the facility and shall include application data, qualifications, and a position description, and shall be available for review by the Board.

9731.5 All records shall be maintained by the training program for a minimum of seven (7) years.

9732 RESOURCES, FACILITIES, AND SERVICES

9732.1 Each PCT training program shall maintain resources, facilities, and services which are adequate to accommodate the training program. The resources, facilities, and services shall include, but are not limited to:

(a) Adequate temperature controls in each training facility;

(b) Clean and safe conditions of the facility's premises;

(c) Adequate space for private faculty-student conferencing;

(d) Adequate lighting in each facility; and

(e) Sufficient and adequate equipment for the program's needs, including audio-visual equipment and equipment needed for simulating client care.

9732.2 Each classroom, conference room, skills laboratory, and office shall be adequate to meet the needs of the training program.

9732.3 Each cooperative agreement between a training program and agency healthcare facility shall be in writing. The training program shall maintain a copy of the agreement in its records.

9799 DEFINITIONS

9799.1 When used in this chapter, the following terms shall have the meanings ascribed:

Abuse - the infliction of physical or mental harm, injury, death, or financial exploitation of a client.

Applicant - a person applying for certification as a patient care technician.

Board - the Board of Nursing as established by § 204 of the Act.

Clinical - faculty planned and guided learning activities designed to assist in meeting course objectives and to apply nursing knowledge and skills in the direct care of clients, including clinical conferences and planned learning activities in acute care facilities, and other community resources.

Conditional approval - the approval status that is granted for a time period specified by the Board to an home health aide training program to correct deficiencies when the training program has failed to meet or maintain the requirements and standards of this chapter.

Continuing education - systematic learning experiences designed to augment the knowledge, skills, and attitudes of the patient care technician.

Criminal background check - a report of a person's criminal history by the appropriate state and federal authorities, or approved vendor, to determine whether the person has been convicted of a crime in the District of Columbia or in any state or territory of the United States where such person has worked or resided.

Delegation - the transference from the RN or LPN to another individual within the scope of his or her practice, of the authority to act on behalf of the RN or LPN in the performance of a nursing intervention, while the RN or LPN retains accountability and responsibility for the act.

Director - the Director of the Department of Health, or his or her designee.

District - the District of Columbia.

Emergency medical technician - a person who is trained to give emergency medical care at the scene of an accident or in an ambulance.

Endorsement - the process of issuing a certification to an applicant who is registered by a state Board and recognized by the Board as a qualified professional according to standards that were the substantial equivalent at the time of the certification to the standards for that profession set forth in this chapter and who has continually remained in good standing with the Board from the date of certification until the date of certification in the District.

Fingerstick - a sticking of the finger to get a blood sample to use in a glucometer to measure the amount of glucose in blood.

Health care facility - an acute care facility or agency that provides long-term care services such as an assisted living residence, group home for persons with physical and intellectual disabilities, and skilled home care agency.

Higher Education Licensure Commission a Mayoral appointed regulatory, consumer protection authority responsible for public protection with regard to legitimate quality education in the District of Columbia.

Immediate supervision - supervision in which the supervisor is on the premises and within vocal communication with the person being supervised, either directly or by communication device.

Misappropriation - the application of another's property or money dishonestly to one's own use.

Neglect - any act or omission by a patient care technician which causes or is likely to cause or contribute to, or which has caused or is likely to have caused or contributed to the injury, death, or financial exploitation of a consumer.

Nursing assistive personnel - an individual who has received appropriate training or instruction to function in a complementary or assistant role to an RN or LPN, in providing direct patient care or in carrying out delegated nursing tasks.

Paramedic - A specially trained medical technician licensed to provide a wide range of emergency services before or during transportation to a hospital.

Pass rate - means the percentage of candidates who

receive a passing score on the competency evaluation out of the total exams administered for the review period.

Patient care technician - nursing assistive personnel with specialized knowledge and training to provide patient care beyond the role of the certified nursing assistant in the acute care setting.

Program - the planned series of instruction, didactic and clinical, designed so that the student will acquire the requisite knowledge and skills.

Reinstatement - reissuance of an expired patient care technician certification.

Skills laboratory - faculty guided activities planned for students in a school/campus laboratory that simulates the activities provided by the CNA. The activities include demonstrations and return demonstrations using equipment and supplies that are used for the purpose of attaining required psychomotor skills.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be sent to the Department of Health, Office of the General Counsel, 899 North Capitol Street, N.E., 5th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained from DOH at the same address during the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays. In addition, comments may be forwarded via e-mail to Van.Brathwaite@dc.gov.