

# ADMINISTRATIVE RULES FOR NURSE AIDE, TRAINER AND TRAINING PROGRAM RULES

March 22, 2022

Prepared by



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STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
BUREAU OF COMMUNITY AND HEALTH SYSTEMS

PUBLIC HEARING  
ADMINISTRATIVE RULES FOR NURSE AIDE, TRAINER AND TRAINING PROGRAM  
RULES

525 West Ottawa Street, Lansing, Michigan  
Tuesday, March 22, 2022, 9:00 a.m.

APPEARANCES:

For the Department: MS. TAMMY BAGBY  
Bureau of Community Health and Health  
Systems  
PO Box 30664  
Lansing, Michigan 48909  
(517) 243-9351

Also Present: Heather Hosey, Jim Wiggins

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1                   Lansing, Michigan

2                   Tuesday, March 22, 2022 - 9:04 a.m.

3                   MS. BAGBY: Good morning. My name is Tammy Bagby  
4 and I am an analyst for the Bureau of Community and Health  
5 Systems in the Department of Licensing and Regulatory  
6 Affairs.

7                   This hearing, regarding the Administrative Rules  
8 for Nurse Aide, Nurse Aide Trainer and Nurse Aide Training  
9 Program Certificate of Registration and Permit Program, is  
10 being called to order at 9:04 on March 22nd, 2022, at the G.  
11 Mennen Williams Building Auditorium located at 525 West  
12 Ottawa Street in Lansing, Michigan. The hearing is being  
13 conducted under the authority of the Administrative  
14 Procedures Act, Public Act 306 of 1969.

15                   The notice of public hearing was published in  
16 three newspapers: on March 8 in the Marquette Mining  
17 Journal and on March 9th it was published in the Jackson  
18 Citizen Patriot and Grand Rapids Press. The same notice was  
19 published in the Michigan Register on March 15th, 2022.

20                   As stated in the notice, the proposed new rules  
21 establish eligibility requirements to receive and renew a  
22 registration or permit, competency requirements and  
23 examination requirements for registration. In addition, the  
24 proposed rules clarify conducting inspections of training  
25 programs, conducting investigations of nurse aides, training

1 programs, and trainers, and enforcement action for  
2 noncompliance with those proposed rules and Part 219 of the  
3 Public Health Code.

4 Regulatory impact statements are available for  
5 further explanation of these rule sets. Copies are  
6 available at the back or they can be found on the web site  
7 for the Michigan Office of Administrative Hearings and  
8 Rules.

9 Pursuant to section 45 of the Administrative  
10 Procedure Act, the public hearing is an opportunity for the  
11 public to present data, views, questions and arguments  
12 regarding these proposed rules.

13 The Department will use the testimony and  
14 documents presented at this hearing to determine if any  
15 changes should be made to the proposed rules before they are  
16 adopted.

17 If you have comments, please make sure they relate  
18 directly to the proposed rules. If you have questions  
19 regarding the rules, please submit your questions as part of  
20 your testimony for the Department's review. If you have  
21 suggested changes to the proposed rules, please include the  
22 specific reason why the changes would be in the public  
23 interest.

24 If you wish to comment, please complete a white  
25 card, available when you came in, and then submit to me.

1 This will help the Department prepare the hearing record.  
2 When you testify please identify yourself by your name and  
3 organization, if any, that you may be speaking for today.

4           Written statements can be submitted directly to  
5 me. The Department will also accept written statements  
6 e-mailed or postmarked until 5:00 p.m. on today, Tuesday,  
7 March 22nd, 2022. Address information can be found in the  
8 notice of the public hearing that we have made available in  
9 the back.

10           The Department staff from the Bureau of Community  
11 and Health Systems include myself, Heather Hosey, director  
12 of the Health Facility Licensing, Permit and Support  
13 Division, and Jim Wiggins, manager of the Health Facility  
14 Professional & Nurse Aide Section.

15           Before we start the public comments, I invite  
16 Heather Hosey.

17           MS. HOSEY: Good morning, everyone. Thank you for  
18 coming out today. My name is Heather Hosey. I am the  
19 division director for Health Facilities Licensing, Permits  
20 and Supports Division and that's in the Bureau of Community  
21 and Health Systems, within Licensing and Regulatory Affairs.

22           So today's hearing is on the proposed new rule set  
23 that Tammy mentioned for Nurse Aides, Trainers and Training  
24 Programs and it's a result of a project that was initiated  
25 by the Department as in accordance with Part 291, Article

1 17, of the Public Health Code.

2           The new proposed rule set establishes eligibility  
3 requirements to receive and renew a registration or permit,  
4 competency requirements and examination requirements for  
5 registration. In addition, the proposed new rules outline  
6 conducting inspections of training programs, nurse aides,  
7 and trainers, and enforcement action for noncompliance with  
8 these rules which are part of 219 of the Public Health Code  
9 like we mentioned.

10           So the project was designed to gather input from  
11 stakeholders internal and external from the very beginning  
12 of this process. So what we did in the beginning is we put  
13 together a stakeholder group and formed that and included  
14 the long term care associations, representatives from there;  
15 nurse aides; trainers; and training program representatives.  
16 We also included our Bureau personnel who had expertise in  
17 training programs, trainers, investigations, enforcement and  
18 registration functions and all of those individuals  
19 participated in that group from the very beginning.

20           The rules apply to approximately 42,000 nurse  
21 aides in the state of Michigan, 450 trainers and 250  
22 training programs. The Department held four in-person  
23 meetings and two virtual meetings with stakeholders to  
24 gather input and then two versions of the draft rules were  
25 circulated to stakeholders for review and comment and those



1 have the trainers in our program to teach the nurse  
2 assistants and with that rule, having that long-term care,  
3 their applications are all being rejected. And we talking  
4 about people who worked psych, step down, emergency nursing,  
5 medical -- I mean, have all this experience but you  
6 disqualify them because they didn't work at a long-term care  
7 nursing facility. And I just think that need to be  
8 addressed because I don't think -- maybe the person who  
9 making this decision may not be a nurse? I'm just -- just  
10 stating because they would understand that person in the  
11 hospital experience is definitely qualified to teach and  
12 they taking care of the same patient that's in the long-term  
13 care facilities. So I do think that that need to be  
14 addressed before disqualifying a nurse because she didn't  
15 decide to work in a long-term care facility.

16 History, a long-term care facility used to be  
17 primarily LPNs. They were not RNs. And that's what  
18 eliminated a lot of the RNs from working in that area.  
19 Because now they hiring more and more which are DON and  
20 management positions, but as far as working with the nurse  
21 assistants, a lot of registered nurses went to hospitals and  
22 home care. They didn't necessarily work in long-term care.  
23 And I just think that rule to disqualify them should  
24 definitely be addressed and looked at again to say this  
25 person is not qualified. It's just one of my concerns.

1 MS. BAGBY: Thank you. Thank you for bringing  
2 that to our attention and our staff will certainly take that  
3 back with us. Next I have Mary Smyth from Washtenaw  
4 Community College.

5 MARY SMYTH

6 MS. MARY SMYTH: Hello. I just wanted to ask if  
7 it would be possible to have the auditing scheduled and not  
8 a surprise visit because our building is closed when there's  
9 not sessions happening.

10 MS. BAGBY: Okay. Thank you. Appreciate that  
11 comment. And I see Heather is taking a couple more. Do we  
12 have any other? Okay. Heather can -- if you just want to  
13 come up at the same time, that's fine.

14 SUSAN LYTWYN

15 MS. SUSAN LYTWYN: My name is Susan Lytwyn. I'm  
16 with Health Career Pathways. And I just wanted to support  
17 Deborah's concern about hiring and I did want to let you  
18 know that the LARA, Jim in particular, has directed me to  
19 work with trying to change the language with Upton's office.  
20 I started that a year ago, February 14th, and have made zero  
21 impact. So I'm -- I found a few more avenues to go around  
22 that trying to get the language changed for the one year of  
23 long-term care, but it has been a difficult process. I've  
24 made multiple attempts. If there's any way to get around  
25 that, I will continue to see if I can find a way.

1 MS. BAGBY: Okay. Thank you.

2 MS. SUSAN LYTWYN: But I would like to say that  
3 the expansion of the language that allowed us to use  
4 assisted living and hospice nurses was a big improvement  
5 because it took one of my supplemental instructors on one  
6 day doing the same thing she's done as a supplemental to now  
7 she had hospice background and she was able to be, ta da, a  
8 primary instructor when actually she was doing the same  
9 roles like what all nurses are trained to be. So I'm  
10 willing to hear from anybody else if they would like to  
11 support getting that bill change officially if that's what  
12 it's going to take. So I would just like to throw that out,  
13 anybody who wants to be added maybe to a petition of some  
14 sorts once I get that far. So, thank you.

15 MS. BAGBY: Perfect. Thank you. Thank you for  
16 speaking. Okay. We're just going to have people come up to  
17 this microphone and speak since those other ones aren't  
18 working. And the next person I have is Diane.

19 DIANE COTTLE

20 MS. DIANE COTTLE: Good morning. My name is Diane  
21 Cottle and I represent Genanscot Services as well as the  
22 nursing, the registered nursing profession.

23 My concern -- and I'll get right to it -- it's in  
24 regards to the challenge of the OBRA Law in which I have saw  
25 that there was some concerns about, you know, sure we had

1 the pandemic and there's lack of staff but, however, we're  
2 bringing in these resident -- the resident aides over the  
3 certified nursing assistants who has to be trained up under  
4 the OBRA Law. I have been in that area -- that era of the  
5 abuse. I think that it should be well looked at because I  
6 see that they have an emergent rule for the resident  
7 assistants and then within four months they have to become  
8 certified. But what stops them from going from one facility  
9 to another facility, another facility and they're being  
10 substituted as certified nursing assistants? We're going to  
11 have some big problems because, sure, they said that they  
12 would be trained competencies in their skills. It's much  
13 more than just skills with this abuse, you know, you got  
14 attitudes and so forth. And that's as instructors and  
15 trainers we kind of, like, see some of these things before  
16 they get to our patients. They need to be trained on more  
17 than just skills. I came out in the era where they were  
18 giving baths and by the time we got in the room as nurses  
19 our patient had gone into anaphylactic shock because they  
20 did not even know the signs and symptoms.

21           The resident assistants have limited training.  
22 It's also a safety problem. There's a safety because we  
23 should know as to whether signs and symptoms of a patient  
24 just choking. Although it might not seem to be so  
25 detrimental to some, but it's extremely important. Just a

1 little bit of skills and without the knowledge behind it is  
2 detrimental to the safety of the health and the welfare of  
3 all of our residents. Sure you put a emergency room in  
4 there, but it has to stop somewhere. Give us a deadline.  
5 Sure we need the help, but give us a deadline. We need more  
6 trained people. Our patients are not the happy grandmama  
7 and grandpapa. We're taking patients strictly from the  
8 hospital and they are in acute need and our programs had to  
9 be adjusted so to be able to take care of these patients in  
10 these chronic as well as these acute disease process. So my  
11 concern is the resident aide versus a certified nursing  
12 assistant is not acceptable.

13 MS. BAGBY: Okay. Next I have Brenda Dalski.

14 BRENDA DALSKI

15 MS. BRENDA DALSKI: Hello there. Hi, Jim. Our  
16 question is about virtual learning and what if we -- we live  
17 in Michigan. Do we have to make online requests every time  
18 we do a virtual learning if there's snow day to make up for  
19 that? Or if we have to make up for a COVID-related issue?  
20 So I also am in support of the first lady who said we need  
21 to not discount our nurses that work in the hospital and  
22 that work in home care and hospice. I think that experience  
23 also needs to be able to qualify them for train the trainer,  
24 so --

25 MS. BAGBY: Okay. Do we have anybody else who

1 would like to speak on public record? Okay. Come on up.

2 Did you fill out a white card?

3 MS. PHYLLIS HELM: I didn't have one.

4 MS. BAGBY: Okay. Heather, can you grab her a  
5 white card?

6 MS. HOSEY: Yes.

7 MS. BAGBY: And then we can fill it out after  
8 you're done. Just make sure that you say your name and  
9 organization. Yeah, we can't get the batteries to work on  
10 the other one, so if you just want to come up here and  
11 speak?

12 PHYLLIS HELM

13 MS. PHYLLIS HELM: Good morning. I am Phyllis  
14 Helm. I do nurse aide instruction for the Eastern Upper  
15 Peninsula, for Mackinac Straits at St. Ignace and Medilodge  
16 up in Sault Ste. Marie, and I am now setting up a program  
17 over in Bay Mills Community College. And I quite often run  
18 into -- well, I've been doing this for over 30-some years.  
19 And the 75 hours, I just cannot get through material and get  
20 competent nurse aides. They don't have time to practice as  
21 much as I'd like them to for that. And I know a lot of  
22 other states do require more hours for training. Myself,  
23 being limited to even 90 at Bay Mills College, but I say 96  
24 is the minimum I can get through. And a lot of times when  
25 I'm filling out those SARS things or their logs when they

1 log in their hours, 102 hours sometimes is what it's taking  
2 and more if it's someone who's not been in the health care  
3 field, these people are at entry level, nursing 101. And I  
4 just really think for us to have competent nurse aides, we  
5 need to think about the hours that -- minimum hours that  
6 we're requiring for nurse aide training. Thank you.

7 MS. HOSEY: So just a reminder, if you came in,  
8 there's a sign-in sheet at the back and there's also extra  
9 rule sets. I had that question asked. So there are a  
10 couple extra sets there.

11 MS. BAGBY: Okay. Thank you. Do we have any  
12 other public comments? Anybody else would like to be on  
13 record? Okay. Seeing none, I want to thank everybody for  
14 coming and thank you for commenting. Each comment will be  
15 reviewed and evaluated by the Bureau as well as the comments  
16 that we received electronically during the open comment time  
17 that ends today at 5:00. I am officially going to end this  
18 public hearing at 9:25. Thank you all for coming.

19 (Proceedings concluded at 9:25 a.m.)

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<p style="text-align: center;"><b>A</b></p> <p><b>a.m</b> 1:9 3:2 14:19  <b>able</b> 10:7 12:9,23  <b>abuse</b> 11:5,13  <b>accept</b> 5:5  <b>acceptable</b> 12:12  <b>Act</b> 3:14,14 4:10  <b>action</b> 4:1 6:7  <b>acute</b> 12:8,10  <b>add</b> 7:8  <b>added</b> 10:13  <b>addition</b> 3:23 6:5  <b>Address</b> 5:7  <b>addressed</b> 8:8,14,24  <b>adjusted</b> 12:9  <b>Administrative</b> 1:6 3:7,13 4:7,9  <b>adopted</b> 4:16  <b>Affairs</b> 1:2 3:6 5:21  <b>ago</b> 9:20  <b>aide</b> 1:6 3:8,8,8 5:14 12:11 13:14 14:6  <b>aides</b> 3:25 5:23 6:6 6:15,21 11:2 13:20 14:4  <b>allowed</b> 10:3  <b>analyst</b> 3:4  <b>anaphylactic</b> 11:19  <b>anybody</b> 7:21 10:10 10:13 12:25 14:12  <b>APPEARANCES</b> 1:10  <b>applications</b> 8:3  <b>apply</b> 6:20  <b>Appreciate</b> 9:10  <b>approximately</b> 6:20  <b>area</b> 8:18 11:4  <b>arguments</b> 4:11  <b>Article</b> 5:25  <b>asked</b> 14:9  <b>asking</b> 7:18  <b>assistant</b> 12:12  <b>assistants</b> 8:2,21 11:3,7,10,21  <b>assisted</b> 10:4  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