

STATE OF NEW JERSEY

DEPARTMENT OF HEALTH

NOTICE OF RULE WAIVER/MODIFICATION/SUSPENSION

**PURSUANT TO EXECUTIVE ORDER NO. 103 (MURPHY) (MARCH 9, 2020) AND
SUBSEQUENT EXECUTIVE ORDERS EXTENDING THE COVID-19 STATE OF
EMERGENCY**

Temporary Rule **WAIVER/MODIFICATION OF N.J.A.C. 8:36-9.2 – Certified Medication Aides adopted by THE COMMISSIONER OF THE DEPARTMENT OF HEALTH.**

Date: January 12, 2021

Authority: N.J.S.A. App.A:9-45 & App. A:9-47; Executive Order No. 103 (Murphy) (“EO 103”) and subsequent Executive Orders extending the COVID-19 State of Emergency

Effective Date: January 12, 2021

Expiration Date: March 19, 2021

This is an emergency adoption of a temporary rule waiver/modification of the requirements governing the expiration and renewal of certificates for Certified Medication Aides (CMAs) at N.J.A.C. 8:36-9.2. Section 6 of EO 103, and subsequent Executive Orders issued in response to the COVID-19 pandemic, authorize agency heads to waive/suspend/modify any existing rule, where the enforcement of the rule would be detrimental to the public welfare during the emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary. Pursuant to that authority, and with the approval of the Governor and in consultation with the State Director of Emergency Management, the Commissioner of the Department of Health is waiving/modifying its rules as follows:

The public health emergency caused the temporary closure of several health care-adjacent organizations throughout the State, including PSI Services LLC, the company contracted by the Department of Health to process the certification and recertification of CMAs. In June 2020, PSI began reopening its sites on a limited basis, although it remains unclear when PSI will be able to resume full operations.

Under N.J.A.C. 8:36-9.2(b), a CMA certification is valid for two years from the date of issue. N.J.A.C. 8:36-9.2(d) requires a CMA to renew his or her certification prior to its expiration date if he or she wishes to continue working as a CMA. However, because PSI continues to operate at a limited capacity during this public health emergency, many CMAs whose certifications expired after March 1, 2020 were unable to renew their certifications in compliance with N.J.A.C. 8:36-9.2(d).

To address this, on March 26, 2020, the Department issued the following waiver:

1. CMAs with certifications expiring between March 1, 2020, and May 31, 2020, were extended for 90 days from the date of expiration; and

2. CMAs with certifications expiring between March 1, 2020, and May 31, 2020, were permitted to complete continuing education units (CEUs) required for recertification up to the new expiration date of their certification as set forth in paragraph 1 above.

However, because the COVID-19 pandemic remains ongoing and PSI continues to operate at a limited capacity, some CMAs whose certifications expire subsequent to May 31, 2020, will be unable to renew their certifications prior to their expiration in compliance with N.J.A.C. 8:36-9.2(d). Due to these limitations beyond the control of CMAs and in consideration of the need to ensure adequate staffing of CMAs in good standing at long-term care facilities throughout the State, it is necessary and appropriate to further modify the requirements in N.J.A.C. 8:36-9.2(b) and (d). Accordingly, the Department is modifying the expiration dates and recertification requirements for CMAs as follows:

1. CMA certifications that expire between March 1, 2020 and December 31, 2020, are automatically extended until March 19, 2021; and
2. Any CMA whose certification expires between March 1, 2020 and December 31, 2020, are permitted to renew his or her certification outside of the two-year renewal window, up to and including March 19, 2021; and
3. CMAs with certifications expiring between March 1, 2020 and December 31, 2020, are permitted to complete CEUs required for recertification up to March 19, 2021.

After March 19, 2021, all CMAs will be required to comply with all regular recertification requirements set forth in N.J.A.C. 8:36-9.2 (b) and (d).

Any questions concerning this temporary rule waiver/modification should be directed to Jean DeVitto, Executive Director, Certificate of Need and Healthcare Facility Licensure Program at CNL.InquiryWaiversIssued@doh.nj.gov.

Full Text of the affected regulations follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

N.J.A.C. 8:36-9.2 Certified Medication Aides

(a)-(k) (No Change.)

(l) Notwithstanding (b) and (d) above, certified medication aide certifications that expire between March 1, 2020 and December 31, 2020 are automatically extended until March 19, 2021.

- 1. Any Certified Medication Aide whose certification expires between March 1, 2020 and December 31, 2020, is permitted to renew his or her certification outside of the two-year renewal window, up to and including March 19, 2021; and**
- 2. Certified medication aides with certifications expiring between March 1, 2020 and December 31, 2020 are permitted to complete continuing education units required for recertification up to March 19, 2021.**

I find that waiver/modification of the rules above is necessary because enforcement of the existing rules would be detrimental to the public welfare during this emergency.

1/13/2021
DATE

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COMMISSIONER OF THE DEPARTMENT OF
HEALTH