

105 CMR 775.000: CERTIFIED MEDICATION AIDES IN LONG-TERM CARE FACILITIES

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775.001: Purpose

105 CMR 775.000 implements M.G.L. c. 111, 72W½ by setting forth the requirements for certification, training, scope of practice, and discipline for certified medication aides.

775.002: Definitions

Certified Medication Aide means an employee of a long-term care facility who satisfies eligibility criteria established by the Department and has successfully completed the required training and competency testing developed by the Department to administer medications to residents of long-term care facilities.

Certified Nurse Aide or CNA means a person who has successfully completed the training and competency evaluation required by 42 CFR s. 483.150 *et seq.* and holds a current certification as a CNA issued by the Department.

Commissioner means the Commissioner of Public Health or their designee.

Department means the Massachusetts Department of Public Health.

Long-Term Care Facility means a facility licensed pursuant to M.G.L. c. 111, § 71 and 105 CMR 153.000: *Licensure Procedure and Suitability Requirements for Long-term Care Facilities*.

Medication means any non-narcotic drug, prescription or non-prescription that may be administered *via* oral, sublingual, buccal, inhalation, spray on oral mucosa, topical, nasal, ocular, or otic route.

Narcotic or Narcotic Drug shall have the same meaning as the statutory definition of that term set out in M.G.L. c. 94C, § 1: *Definitions*.

Resident means any individual receiving care in a long-term care facility.

Training means online or in-person instruction approved by the Department for the education of certified medication aides regarding administration of medications.

775.003: Certification Requirements

- (1) Eligibility Requirements. To be eligible for certification as a certified medication aide, an applicant must:
 - (a) be at least 18 years old;
 - (b) have graduated from high school or hold a General Education Development (GED) certification;
 - (c) hold a current certification as a CNA;
 - (d) have successfully completed a training approved by the Department for the education of certified medication aides which includes theoretical education and practical skills, within one year of the application date; and
 - (e) have successfully passed an examination approved by the Department for the competency evaluation of certified medication aides within one year of the application date.

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(2) Application Requirements. An applicant for certification as a certified medication aide shall apply in the manner prescribed by the Department. The applicant shall submit the following:

- (a) training and application fee;
- (b) copy of government-issued photo identification that includes the applicant's full name;
- (c) copy of high school diploma or General Education Development (GED) certification;
- (d) copy of certification demonstrating successful completion of a training approved by the Department; and
- (e) copy of certification demonstrating passing score on examination approved by the Department.

(3) Certification by Reciprocity. The Department may issue a certificate to an applicant who holds a current, valid certification as a medication aide or technician in another state, the District of Columbia, a U.S. Territory or Canada wherein the standards for certification are deemed by the Department to be substantially the same as or to exceed those set forth herein. An applicant for certification by reciprocity shall apply in the manner prescribed by the Department and shall submit the following:

- (a) certification fee;
- (b) proof of certification or licensure as medication aide or technician in another state, the District of Columbia, a U.S. Territory, or Canada; and
- (c) proof the certification standards in the other jurisdiction are substantially the same as or exceed those required for certificated medication aides in Massachusetts.

775.004: Renewal Requirements

(1) A certified medication aide must renew their certification every other year by the anniversary of initial certification.

(2) An applicant for renewal shall apply in the manner prescribed by the Department. The applicant shall submit the following:

- (a) renewal fee;
- (b) proof of successful completion of the re-certification training and examination approved by the Department; and
- (c) proof of a current CNA certification.

(3) A renewal application will not be processed until it is complete, all necessary information and documentation has been provided, and the renewal fee has been received.

775.005: Practice Requirements for Certified Medication Aides

(1) A certified medication aide may administer medications to residents of long-term care facilities in accordance with 105 CMR 775.000.

(2) Certified medication aides may not administer medications unless they are supervised by:

- (a) a practical nurse licensed by the Board of Registration in Nursing pursuant to 244 CMR 3.00: *Registered Nurse and Licensed Practical Nurse*;
- (b) a registered nurse registered by the Board of Registration in Nursing pursuant to 244 CMR 3.00: *Registered Nurse and Licensed Practical Nurse*;
- (c) a certified nurse practitioner licensed by the Board of Registration in Nursing pursuant to 244 CMR 3.00: *Registered Nurse and Licensed Practical Nurse* and 244 CMR 4.00: *Advanced Practice Registered Nursing*; or
- (d) a physician licensed by the Board of Registration in Medicine pursuant to 243 CMR 2.00: *Licensing and the Practice of Medicine*.

(3) A certified medication aide shall be evaluated by a supervisor at least once every six months.

(4) When administering medications, a certified medication aide shall administer in accordance with a prescription or medication order.

(5) A certified medication aide may not administer any narcotic drug.

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- (6) A certified medication aide may not engage in prescriptive practice.
- (7) A certified medication aide shall document patient medical records in accordance with requirements established by the Department and the employing Long Term Care Facility.
- (8) A certified medication aide may not administer a medication unless they are employed by, or have a formal working relationship with, the Long Term Care Facility where the patient resides.
- (9) A certified medication aide shall update their addresses of record and email address with the Department within 30 days of any change. The address of record may not be a P.O. Box.

775.006: Grounds for Discipline and Refusal to Certify or Renew a Certification

- (1) The Department may take action against the certification of a certified medication aide, or refuse to issue or renew a certification, based on one or more of the following grounds:
 - (a) Failure to meet certification requirements.
 - (b) The certified medication aide fails to comply with any provision of this regulation or 105 CMR 700.000: *Implementation of M.G.L. c. 94C*.
 - (c) The certified medication aide fails to comply with any rule, advisory ruling, or policy adopted by the Department with regard to medication administration or certified medication aides.
 - (d) The certified medication aide fails to maintain a current CNA certification.
 - (e) The certified medication aide engages in conduct outside the approved scope of practice for their certification.
 - (f) The certified medication aide engages in conduct that violates recognized standards of practice.
 - (g) The certified medication aide continues to practice after the expiration, revocation, suspension, surrender, or retirement of their certification or after they have entered into a consent agreement in which they agree to refrain from performing activities requiring certification.
 - (h) The certified medication aide knowingly permits, aids, or abets an unlicensed or uncertified person to perform activities that require a license or certification.
 - (i) The certified medication aide fraudulently procures a certification or renewal of a certification authorized by this regulation.
 - (j) In connection with any examination related to certification under this regulation, the certified medication aide:
 - 1. impersonates or acts as proxy for another individual;
 - 2. discloses the contents of any examination;
 - 3. compromises the integrity of any such examination;
 - 4. cheats, or assists another person to cheat, on any such examination.
 - (k) The certified medication aide knowingly provides false information to the Department, either directly or through another person acting on their behalf.
 - (l) The certified medication aide fails to comply with an order of the Department, including but not limited to an order of the Commissioner of the Department pursuant to a Declaration of Emergency Detrimental to Public Health made in accordance with M.G.L. c. 17, § 2A or pursuant to such other authority as may be vested in the Commissioner.
 - (m) The certified medication aide fails to comply with the terms of any consent agreement entered into with the Department.
 - (n) The certified medication aide fails, without cause, to appear before the Department when so requested as part of the Department's review of a matter concerning the certified medication aide, including but not limited to an investigation, complaint or application.
 - (o) The certified medication aide fails, without cause, to provide a written response to a Department investigation or complaint or to provide documents or other evidence in the certified medication aide's possession or control that may be relevant to the matter.
 - (p) Another government licensing or authorizing agency, within or outside the Commonwealth, imposes discipline against any certificate, registration, license, or authorization held by the certified medication aide for reasons substantially similar to any of the bases for discipline stated in 105 CMR 775.006.

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- (q) The certified medication aide falsifies, alters, or willfully makes incorrect entries or fails to make essential entries in patient records.
- (r) The certified medication aide has been convicted of a crime.
- (s) The certified medication aide practices or presents to work in a long-term care facility while their ability to practice is impaired by alcohol, drugs, physical disability, or mental instability, or by any combination of the foregoing.
- (t) The certified medication aide engages in behavior that is likely to have an adverse effect upon the health, safety, or welfare of the public.
- (u) The certified medication aide engages in conduct that undermines public confidence in the integrity of the profession.

(2) Nothing in 105 CMR 775.006 shall limit the Department's adoption of additional grounds for discipline through adjudication or rulemaking.

775.007: Discipline

(1) Actions on Complaints

The Department may take the following actions on complaints against a certified medication aide:

- (a) Dismissal of the complaint. Dismissal of a complaint does not constitute formal disciplinary action.
- (b) Advisory Letter. An official written document retained in the Department's files delineating the Department's concerns with the certified medication aide's professional activities. An advisory letter does not constitute formal disciplinary action.
- (c) Reprimand or Censure. A reprimand constitutes formal disciplinary action. A censure is a severe reprimand.
- (d) Probation. Probation constitutes disciplinary action against the certified medication aide and consists of a period of time during which the certified medication aide may conduct activities which require certification only under conditions imposed by the Department pursuant to an order or consent agreement.
- (e) Suspension/Revocation of Certification. The Department may suspend or revoke a certification pursuant to a final decision and order of the Department following a formal adjudicatory hearing or the execution of a consent agreement.
- (f) Surrender. A certified medication aide may voluntarily surrender their certification pursuant to a consent agreement. A consent agreement for voluntary surrender constitutes disciplinary action.

(2) Disciplinary Proceedings

- (a) If the Department commences disciplinary action against a certified medication aide, or refuses to issue or renew a certification, the affected person shall be notified in writing of the reasons for the Department's action and of their right to an adjudicatory proceeding.
- (b) Where denial, refusal to issue, or refusal to renew is based solely on the failure of the licensee to file timely an application, pay prescribed fees, or maintain certification as a CNA, the Department may act without first granting the applicant or certified medication aide a hearing.
- (c) Unless otherwise provided, the certified medication aide must submit a written request for a hearing within 21 days of receipt of notification of Department action. Failure to timely submit such request will result in waiver of a hearing. The Department may, in its discretion, require a written request for a hearing within five business days in the event the certified medication aide's conduct presents an immediate and serious threat to public health, safety, or welfare.
- (d) After hearing or waiver thereof, the Department may modify, suspend, revoke, or refuse to renew a certification.
- (e) If the Department requires a suspension of a certification, the Department must indicate the term of the suspension.
- (f) If the Department requires a revocation or refusal to renew a certification, the Department shall indicate whether or not the certified medication aide may, at a future date, reapply for certification.

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(g) All adjudicatory proceedings will be conducted in accordance with M.G.L. c. 30A and 801 CMR 1.01: *Formal Rules*.

775.008: Severability

The provisions of 105 CMR 775.000 are severable, and if any provision shall be in violation of any Federal rule or regulation or any Federal or Massachusetts law, such provision shall be null and void, and such violation shall not affect or impair any of the remaining provisions.

REGULATORY AUTHORITY

105 CMR 775.000: M.G.L. c. 30A; M.G.L. c. 111, § 72W½.