

ASSEMBLY, No. 5037

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED NOVEMBER 19, 2020

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

SYNOPSIS

Requires Board of Nursing to establish dual certification for certified nurse aide and homemaker-home health aide; transfers certified nurse aide licensing authority from DOH to Board of Nursing.

CURRENT VERSION OF TEXT

As introduced.



A5037 VAINIERI HUTTLE

2

1 AN ACT certified nurse aide and homemaker-home health aide
2 certifications and amending, supplementing, and repealing
3 various sections of the statutory law.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. Section 2 of P.L.1947, c.262 (C.45:11-24) is amended to
9 read as follows:

10 2. a. The board; appointment; terms. In addition to the
11 members appointed to represent the interests of the public pursuant
12 to P.L.1971, c.60 (C.45:1-2.1 et seq.), the New Jersey Board of
13 Nursing shall consist of 12 members, six of whom shall be
14 registered professional nurses, two of whom shall be licensed
15 practical nurses, two of whom shall be nurse educators, one of
16 whom shall be an advanced practice nurse, and one of whom shall
17 be an additional public member, all to be appointed by the
18 Governor. Appointments to the board shall be for terms of five
19 years or for the unexpired portion of a term in the case of a vacancy
20 for any cause within a term, and until a successor shall be appointed
21 and qualified. In making appointments the Governor shall give due
22 consideration to, but shall not be bound by, recommendations
23 submitted by the various nurses' professional associations of this
24 State. Upon notice and hearing, the Governor may remove from
25 office any member of the board for neglect of duty, incompetency,
26 or unprofessional or dishonorable conduct.

27 b. Qualifications for appointment. The advanced practice nurse
28 member shall be a resident of this State, shall be a graduate of an
29 accredited advanced practice nurse program, shall have had at least
30 five years' experience in professional nursing, shall at the time of
31 appointment be actively working as an advanced practice nurse,
32 and, except for the member first appointed, shall hold a certification
33 as an advanced practice nurse pursuant to P.L.1991, c.377 (C.45:11-
34 45 et al.). Each registered professional nurse member of the board
35 shall be a citizen of the United States and a resident of this State;
36 shall be a graduate of an accredited school of nursing within the
37 United States; shall be a registered nurse in this State; shall have
38 had at least five years' experience in professional nursing following
39 graduation from an accredited school of nursing; and shall at the
40 time of appointment be actively engaged in nursing or work relating
41 thereto. The licensed practical nurse members of the board shall be
42 citizens of the United States and residents of this State; shall hold a
43 valid license to practice practical nursing in this State; shall have
44 had at least three years' experience in practical nursing; and shall at
45 the time of appointment be actively engaged in practical nursing or

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

A5037 VAINIERI HUTTLE

1 work related thereto. Each nurse educator member of the board
2 shall be a resident of this State, shall be a registered nurse in this
3 State, shall have at least five years' experience in professional
4 nursing, and shall have been active as an educator or administrator
5 in an approved program to train registered nurses.

6 c. Oath or affirmation of office. Within 30 days after receipt of
7 the commission, each appointee shall take, subscribe, and file in the
8 office of the Secretary of State the oath or affirmation prescribed by
9 law.

10 d. Duties and powers. The board shall have the following
11 duties and powers: (1) It shall hold annual meetings and such other
12 meetings as it may deem necessary at such times and places as the
13 board shall prescribe and a majority of the board including one
14 officer shall constitute a quorum. (2) It shall elect from its
15 members and prescribe the duties of a president and secretary-
16 treasurer, each of whom shall serve for one year and until a
17 successor is elected. (3) It shall appoint and prescribe the duties of
18 an executive secretary to the board who need not be a member
19 thereof but who shall be a citizen of the United States, a graduate of
20 a college or university with a major in nursing education, a
21 registered nurse of this State with at least five years' experience in
22 teaching or administration or both in an accredited school of
23 professional nursing, or have equivalent qualifications as
24 determined by the board. The executive secretary shall hold office
25 during the will and pleasure of the board. (4) It shall employ and
26 prescribe the duties of such persons as in its judgment shall be
27 necessary for the proper performance and execution of the duties
28 and powers of the board. (5) It shall determine and pay reasonable
29 compensation and necessary expenses of the executive secretary
30 and all employees of the board. (6) It shall pay to each member of
31 the board the compensation hereinafter provided. (7) It shall have a
32 common seal, keep an official record of all its meetings, and
33 through its secretary-treasurer report annually to the Governor the
34 work of the board. (8) It shall examine applicants for a license or
35 renewals thereof, issue, renew, revoke, and suspend licenses, as
36 hereinafter provided. (9) It shall in its discretion investigate and
37 prosecute all violations of provisions of this act. (10) It shall keep
38 an official record which shall show the name, age, nativity, and
39 permanent place of residence of each applicant and licensee and
40 such further information concerning each applicant and licensee as
41 the board shall deem advisable. The record shall show also whether
42 the applicant was examined, licensed, or rejected under this and any
43 prior act. Copies of any of the entries of the record or of any
44 certificate issued by the board may be authenticated by any member
45 of the board under its seal and when so authenticated shall be
46 evidence in all courts of this State of the same weight and force as
47 the original thereof. For authenticating a copy of any entry or
48 entries contained in its record the board shall be paid a fee of \$3.00,

A5037 VAINIERI HUTTLE

1 but such authentication, if made at the request of any public agency
2 of this or any other jurisdiction, may be without fee. (11) In its
3 discretion it may publish at such times as it shall determine a list of
4 nurses licensed under this act, a list of schools of nursing accredited
5 or approved under this act, and such other information as it shall
6 deem advisable. (12) It shall prescribe standards and curricula for
7 schools of nursing and evaluate and approve courses for affiliation.
8 (13) It shall hear and determine applications for accreditation of
9 schools of professional nursing, conduct investigations before and
10 after accreditation of such schools and institutions with which they
11 are affiliated, and issue, suspend, or revoke certificates of
12 accreditation as hereinafter provided. (14) It shall approve schools
13 of practical nursing which shall conform to the standards, curricula,
14 and requirements prescribed by the board, and suspend or revoke
15 approval for violations thereof; provided, that this power shall not
16 extend to schools operated by any board of education in this State.
17 (15) It may consult with the Medical Society of New Jersey and the
18 New Jersey Hospital Association with respect to any matter relating
19 to the administration of this act and shall consult with those
20 associations with respect to standards and curricula and any change
21 thereof for schools of nursing. (16) It shall issue subpoenas for the
22 attendance of witnesses and production of documents at any hearing
23 before the board authorized by this act and any member of the board
24 shall administer an oath or affirmation to persons appearing to give
25 testimony at such hearings. (17) It may conduct any investigations,
26 studies of nursing and nursing education and related matters, and
27 prepare and issue such publications as in the judgment of the board
28 will advance the profession of nursing and its service to the public.
29 (18) It shall perform all other functions which are provided in this
30 act to be performed by it or which in the judgment of the board are
31 necessary or proper for the administration of this act. (19) It shall
32 from time to time prescribe rules and regulations not inconsistent
33 with this act. (20) It shall prescribe standards and curricula for
34 homemaker-home health aide education and training programs
35 which a homemaker-home health aide shall complete in order to
36 work in this State. (21) It shall review applications to provide
37 homemaker-home health aide training programs and shall issue,
38 suspend or revoke program approval. (22) It shall establish and
39 maintain a registry of all individuals who have successfully
40 completed a homemaker-home health aide training and competency
41 evaluation program. The board shall provide for the inclusion in
42 the registry of information about the disqualification of any person
43 from certification as a homemaker-home health aide pursuant to
44 sections 7 through 13 of P.L.1997, c.100 (C.45:11-24.3 through
45 24.9), including the specific documented findings constituting the
46 basis for that disqualification; except that the information shall
47 indicate that the person was convicted of a crime or disorderly
48 persons offense as described in section 7 of P.L.1997, c.100

A5037 VAINIERI HUTTLE

1 (C.45:11-24.3), but shall not identify the conviction or convictions
2 which constitute the basis for the disqualification. (23) It shall
3 prescribe standards and requirements for a competency evaluation
4 program resulting in certification of the homemaker-home health
5 aide, and the renewal, revocation, and suspension of that
6 certification. (24) It shall review applications for homemaker home-
7 health aide certification and shall issue, suspend, revoke, or fail to
8 renew certifications and conduct investigations pursuant to the
9 provisions of P.L.1978, c.73 (C.45:1-14 et seq.). (25) It shall
10 require that nursing school curricula include, and shall prescribe
11 standards for, the training of registered professional nurses in the
12 supervision of, and the delegation of nursing tasks to, unlicensed
13 assistive personnel, and shall further prescribe standards
14 establishing the criteria for determining those tasks which registered
15 professional nurses may delegate to unlicensed assistive personnel
16 working under their supervision and the type of supervision
17 required with respect to those personnel. (26) It shall prescribe
18 standards and requirements for unlicensed assistive personnel,
19 including initial education and continuing education and a
20 competency evaluation program, which these personnel shall satisfy
21 in order to work in this State. As used in this paragraph and in
22 paragraph (25) of this subsection, "unlicensed assistive personnel"
23 means any unlicensed or uncertified personnel employed by a
24 licensed health care facility that perform nursing tasks which do not
25 require the skill or judgment of a registered professional nurse and
26 which are assigned to them by, and carried out under the
27 supervision of, a registered professional nurse. (27) It may require
28 licensees to meet continuing education requirements as a condition
29 of relicensure. (28) It shall prescribe application, education, and
30 training standards and other requirements as necessary for obtaining
31 a dual certification as a certified nurse aide and homemaker-home
32 health aide. The requirements for obtaining a dual certification as a
33 certified nurse aide and a homemaker-home health aide shall be
34 lessened for an individual who is certified either as a certified nurse
35 aide or as a homemaker-health aide at the time he or she applies for
36 dual certification.

37 e. Compensation. Each member of the board shall receive
38 \$15.00 per day for each day in which such member is actually
39 engaged in the discharge of duties and traveling and other expenses
40 necessarily incurred in the discharge of duties.
41 (cf: P.L.2017, c.125, s.1)

42
43 2. Section 7 of P.L.1997, c.100 (C.45:11-24.3) is amended to
44 read as follows:

45 7. a. The New Jersey Board of Nursing in the Division of
46 Consumer Affairs in the Department of Law and Public Safety shall
47 not issue a homemaker-home health aide, nurse aide, or personal
48 care assistant certification to any applicant, except on a conditional

A5037 VAINIERI HUTTLE

1 basis as provided for in subsection d. of section 8 of
2 P.L.1997, c.100 (C.45:11-24.4), unless the board first determines,
3 consistent with the requirements of sections 7 through 13 of
4 P.L.1997, c.100 (C.45:11-24.3 through 24.9), that no criminal
5 history record information exists on file in the Federal Bureau of
6 Investigation, Identification Division, or in the State Bureau of
7 Identification in the Division of State Police, which would
8 disqualify that person from being certified. A homemaker-home
9 health aide, nurse aide, or personal care assistant certified by the
10 board prior to the effective date of P.L.2000, c.20 and upon whom a
11 criminal history record background check has not been conducted
12 pursuant to sections 7 through 13 of P.L.1997, c.100 (C.45:11-24.3
13 through 24.9), shall be required to undergo that criminal history
14 record background check as a condition of that individual's initial
15 recertification following the effective date of P.L.2000, c.20.

16 In addition, a follow-up criminal history record background
17 check of federal records shall be conducted at least once every two
18 years as a condition of recertification for every certified
19 homemaker-home health aide, nurse aide, and personal care
20 assistant; except that the board, in lieu of conducting follow-up
21 criminal history record background checks for purposes of
22 recertification, may provide for an alternative means of determining
23 whether a certified homemaker-home health aide, nurse aide, or
24 personal care assistant has been convicted of a crime or disorderly
25 persons offense which would disqualify that person from
26 certification, including, but not limited to, a match of a person's
27 Social Security number or other identifying information with
28 records of criminal proceedings in this and other states. If the board
29 elects to implement this alternative means of determining whether a
30 certified homemaker-home health aide, nurse aide, or personal care
31 assistant has been convicted of a crime or disorderly persons
32 offense which would disqualify that person from certification, the
33 board shall report to the Governor and the Legislature prior to its
34 implementation on the projected costs and procedures to be
35 followed with respect to its implementation and setting forth the
36 rationale therefor.

37 A person shall be disqualified from certification if that person's
38 criminal history record background check reveals a record of
39 conviction of any of the following crimes and offenses:

40 (1) In New Jersey, any crime or disorderly persons offense:

41 (a) involving danger to the person, meaning those crimes and
42 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,
43 N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq.
44 or N.J.S.2C:15-1 et seq.; or

45 (b) against the family, children or incompetents, meaning those
46 crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et
47 seq.; or

A5037 VAINIERI HUTTLE

1 (c) involving theft as set forth in chapter 20 of Title 2C of the
2 New Jersey Statutes; or

3 (d) involving any controlled dangerous substance or controlled
4 substance analog as set forth in chapter 35 of Title 2C of the New
5 Jersey Statutes except paragraph (4) of subsection a. of
6 N.J.S.2C:35-10.

7 (2) In any other state or jurisdiction, of conduct which, if
8 committed in New Jersey, would constitute any of the crimes or
9 disorderly persons offenses described in paragraph (1) of this
10 subsection.

11 b. Notwithstanding the provisions of subsection a. of this
12 section, no person shall be disqualified from certification on the
13 basis of any conviction disclosed by a criminal history record
14 background check performed pursuant to sections 7 through 13 and
15 section 14 of P.L.1997, c.100 (C.45:11-24.3 through 24.9 and
16 C.53:1-20.9a) if the person has affirmatively demonstrated to the
17 New Jersey Board of Nursing in the Division of Consumer Affairs
18 clear and convincing evidence of the person's rehabilitation. In
19 determining whether a person has affirmatively demonstrated
20 rehabilitation, the following factors shall be considered:

21 (1) the nature and responsibility of the position which the
22 convicted person would hold, has held or currently holds, as the
23 case may be;

24 (2) the nature and seriousness of the offense;

25 (3) the circumstances under which the offense occurred;

26 (4) the date of the offense;

27 (5) the age of the person when the offense was committed;

28 (6) whether the offense was an isolated or repeated incident;

29 (7) any social conditions which may have contributed to the
30 offense; and

31 (8) any evidence of rehabilitation, including good conduct in
32 prison or in the community, counseling or psychiatric treatment
33 received, acquisition of additional academic or vocational
34 schooling, successful participation in correctional work-release
35 programs, or the recommendation of those who have had the person
36 under their supervision.

37 c. If a person subject to the provisions of sections 7 through 13
38 of P.L.1997, c.100 (C.45:11-24.3 through 24.9) refuses to consent
39 to, or cooperate in, the securing of a criminal history record
40 background check, the New Jersey Board of Nursing shall, as
41 applicable:

42 (1) not issue a homemaker-home health aide, nurse aide, or
43 personal care assistant certification, as applicable, and shall notify
44 the applicant, and the applicant's employer if the applicant is
45 conditionally employed as provided in subsection d. of section 8 of
46 P.L.1997, c.100 (C.45:11-24.4) or the applicant's prospective
47 employer if known, of that denial; or

A5037 VAINIERI HUTTLE

8

1 (2) revoke the person's current homemaker-home health aide,
2 nurse aide, or personal care assistant certification, as applicable,
3 and notify the person, and the person's employer, if known, of that
4 revocation.

5 (cf: P.L.2000, c.20, s.5)

6

7 3. Section 8 of P.L.1997, c.100 (C.45:11-24.4) is amended to
8 read as follows:

9 8. a. An applicant for homemaker-home health aide, nurse
10 aide, or personal care assistant certification, or a certified person
11 who is required to undergo a criminal history record background
12 check pursuant to section 7 of P.L.1997, c.100 (C.45:11-24.3), shall
13 submit to the New Jersey Board of Nursing that individual's name,
14 address and fingerprints taken on standard fingerprint cards by a
15 State or municipal law enforcement agency. The board is
16 authorized to exchange fingerprint data with and receive criminal
17 history record information from the Federal Bureau of Investigation
18 and the Division of State Police for use in making the
19 determinations required by sections 7 through 13 of P.L.1997, c.100
20 (C.45:11-24.3 through 24.9).

21 b. Upon receipt of the criminal history record information for a
22 person from the Federal Bureau of Investigation or the Division of
23 State Police, the New Jersey Board of Nursing shall immediately
24 notify, in writing, the applicant, and the applicant's employer if the
25 applicant is conditionally employed as provided in subsection d. of
26 this section or the applicant's prospective employer, if known, or
27 the certified person who is required to undergo a criminal history
28 record background check pursuant to section 7 of P.L.1997, c.100
29 (C.45:11-24.3) and that person's employer, as applicable, of the
30 person's qualification or disqualification for homemaker-home
31 health aide, nurse aide, or personal care assistant certification under
32 sections 7 through 13 of P.L.1997, c.100 (C.45:11-24.3 through
33 24.9). If the person is disqualified, the conviction or convictions
34 which constitute the basis for the disqualification shall be identified
35 in the notice to the person, but shall not be identified in the notice
36 to the person's employer or prospective employer.

37 c. The person who is the subject of the background check shall
38 have 30 days from the date of the written notice of disqualification
39 to petition the New Jersey Board of Nursing for a hearing on the
40 accuracy of the person's criminal history record information or to
41 establish the person's rehabilitation under subsection b. of section 7
42 of P.L.1997, c.100 (C.45:11-24.3). The board shall notify the
43 person's employer or prospective employer of the person's petition
44 for a hearing within five days following the receipt of the petition
45 from the person. Upon the issuance of a final decision upon a
46 petition to the board pursuant to this subsection, the board shall
47 notify the person and the person's employer or prospective
48 employer as to whether the person remains disqualified from

1 certification under sections 7 through 13 of P.L.1997, c.100
2 (C.45:11-24.3 through 24.9).

3 d. An applicant for certification may be issued conditional
4 certification and may be employed as a homemaker-home health
5 aide, nurse aide, or personal care assistant, as applicable,
6 conditionally for a period not to exceed 60 days, pending
7 completion of a criminal history record background check required
8 under sections 7 through 13 of P.L.1997, c.100 (C.45:11-24.3
9 through 24.9) by the Division of State Police in the Department of
10 Law and Public Safety based upon an examination of its own files
11 in accordance with section 14 of P.L.1997, c.100 (C.53:1-20.9a),
12 and for an additional period not to exceed 60 days pending
13 completion of a criminal history record background check by
14 federal authorities as arranged for by the Division of State Police
15 pursuant to section 14 of P.L.1997, c.100 (C.53:1-20.9a), if the
16 person submits to the New Jersey Board of Nursing a sworn
17 statement attesting that the person has not been convicted of any
18 crime or disorderly persons offense as described in section 7 of
19 P.L.1997, c.100 (C.45:11-24.3). A person who submits a false
20 sworn statement shall be disqualified from certification as a
21 homemaker-home health aide, nurse aide, or personal care assistant,
22 and shall not have an opportunity to establish rehabilitation
23 pursuant to subsection b. of section 7 of P.L.1997, c.100 (C.45:11-
24 24.3).

25 A conditionally employed person, or an employed person
26 certified as a homemaker-home health aide, nurse aide, or personal
27 care assistant, who disputes the accuracy of the criminal history
28 record information and who files a petition requesting a hearing
29 pursuant to subsection c. of this section may remain employed by
30 that person's employer until the board rules on the person's petition
31 but, pending the board's ruling, the employer shall not permit the
32 person to have unsupervised contact with patients or clients who are
33 60 years of age or older.

34 e. (1) A licensed health care facility, home care services
35 agency, or other entity that has received an application from or
36 conditionally employed an applicant for homemaker-home health
37 aide, nurse aide, or personal care assistant certification, or has
38 employed a certified homemaker-home health aide, nurse aide, or
39 personal care assistant, and

40 (a) receives notice from the board that the applicant or certified
41 homemaker-home health aide, nurse aide, or personal care assistant,
42 as applicable, has been determined by the board to be disqualified
43 from certification as a homemaker-home health aide, nurse aide, or
44 personal care assistant pursuant to sections 7 through 13 of
45 P.L.1997, c.100 (C.45:11-24.3 through 24.9); or

46 (b) terminates its employment of a conditionally employed
47 applicant for homemaker-home health aide, nurse aide, or personal
48 care assistant certification or a certified homemaker-home health

1 aide, nurse aide, or personal care assistant because the person was
2 disqualified from employment at the licensed health care facility,
3 home care services agency, or other entity on the basis of a
4 conviction of a crime or disorderly persons offense as described in
5 section 7 of P.L.1997, c.100 (C.45:11-24.3) after commencing
6 employment at the licensed health care facility, home care services
7 agency, or other entity;
8 shall be immune from liability for disclosing that disqualification or
9 termination in good faith to another licensed health care facility,
10 home care services agency, or other entity.

11 (2) A licensed health care facility, home care services agency, or
12 other entity which discloses information pursuant to paragraph (1)
13 of this subsection shall be presumed to be acting in good faith
14 unless it is shown by clear and convincing evidence that the health
15 care facility, home care services agency, or other entity acted with
16 actual malice toward the person who is the subject of the
17 information.

18 f. (1) A licensed health care facility, home care services
19 agency, or other entity, upon receiving notice from the board that a
20 person employed by it as a homemaker-home health aide, nurse
21 aide, or personal care assistant, as applicable, including a
22 conditionally employed person, has been convicted of a crime or
23 disorderly persons offense as described in section 7 of
24 P.L.1997, c.100 (C.45:11-24.3) after commencing employment at
25 the licensed health care facility, home health care agency, or other
26 entity, shall:

27 (a) immediately terminate the person's employment as a
28 homemaker-home health aide, nurse aide, or personal care assistant;
29 and

30 (b) report information about the conviction and termination to
31 the board in a manner prescribed by the board, which shall
32 thereupon deem the person to be disqualified from certification as a
33 homemaker-home health aide, nurse aide, or personal care assistant,
34 subject to the provisions of paragraph (3) of this subsection.

35 (2) A licensed health care facility, home care services agency, or
36 other entity shall be immune from liability for any actions taken in
37 good faith pursuant to paragraph (1) of this subsection and shall be
38 presumed to be acting in good faith unless it is shown by clear and
39 convincing evidence that the licensed health care facility, home care
40 services agency, or other entity acted with actual malice toward the
41 employee.

42 (3) The person terminated from employment pursuant to
43 paragraph (1) of this subsection shall have 30 days from the date of
44 the termination to petition the board for a hearing on the accuracy
45 of the information about the conviction reported to the board or to
46 establish why the person should not be terminated from
47 employment, and disqualified from certification, as a homemaker-
48 home health aide, nurse aide, or personal care assistant, as

1 applicable. The board shall notify the person's employer of the
2 person's petition for a hearing within five days following the receipt
3 of the petition from the person. Upon the issuance of a final
4 decision upon a petition to the board pursuant to this paragraph, the
5 board shall notify the person and the person's employer as to
6 whether:

7 (a) the person is to be reinstated in his employment as a
8 homemaker-home health aide, nurse aide, or personal care assistant,
9 as applicable, and retain his certification; or

10 (b) the person's termination from employment as a homemaker-
11 home health aide, nurse aide, or personal care assistant stands and
12 the person remains disqualified from certification.

13 g. The New Jersey Board of Nursing shall provide for a
14 registry of all persons who have successfully completed all training
15 and competency evaluation requirements for certification as a nurse
16 aide or personal care assistant and shall provide for the inclusion in
17 the registry of information about the disqualification of any person
18 from certification as a nurse aide or personal care assistant pursuant
19 to sections 7 through 13 of P.L.1997, c.100 (C.45:11-24.3 through
20 24.9).

21 (cf: P.L.2000, c.20, s.6)

22

23 4. Section 9 of P.L.1997, c.100 (C.45:11-24.5) is amended to
24 read as follows:

25 9. The Department of Law and Public Safety shall assume the
26 cost of the criminal history record background check conducted on
27 an applicant for homemaker-home health aide, nurse aide, or
28 personal care assistant certification pursuant to sections 7 through
29 13 and section 14 of P.L.1997, c.100 (C.45:11-24.3 through 24.9
30 and C.53:1-20.9a), or a certified homemaker-home health aide,
31 nurse aide, or personal care assistant who is required to undergo a
32 criminal history record background check pursuant to section 7 of
33 P.L.1997, c.100 (C.45:11-24.3), as applicable.

34 (cf: P.L.2000, c.20, s.7)

35

36 5. Section 14 of P.L.1997, c.100 (C.53:1-20.9a) is amended to
37 read as follows:

38 14. a. In accordance with the provisions of **sections 2 through**
39 **6 and** sections 7 through 13 of P.L.1997, c.100 (**C.26:2H-83**
40 **through 87 and** C.45:11-24.3 through 24.9) and P.L.2002, c.104
41 (C.45:1-28 et al.), the Division of State Police in the Department of
42 Law and Public Safety shall conduct a criminal history record
43 background check, including a name and fingerprint identification
44 check, of:

45 (1) each applicant for nurse aide **or** , personal care assistant
46 **certification submitted to the Department of Health and Senior**
47 **Services and of each applicant for** or homemaker-home health aide

A5037 VAINIERI HUTTLE

12

1 certification submitted to the New Jersey Board of Nursing in the
2 Division of Consumer Affairs;

3 (2) each nurse aide **【or】** , personal care assistant **【certified by**
4 **the Department of Health and Senior Services and each】** and
5 homemaker-home health aide certified by the New Jersey Board of
6 Nursing, as required pursuant to P.L.1997, c.100 (C.26:2H-83 et
7 al.); and

8 (3) each applicant for licensure or other authorization to engage
9 in a health care profession who is required to undergo a criminal
10 history record background check pursuant to P.L.2002, c.104
11 (C.45:1-28 et al.).

12 b. For the purpose of conducting a criminal history record
13 background check pursuant to subsection a. of this section, the
14 Division of State Police shall examine its own files and arrange for
15 a similar examination by federal authorities. The division shall
16 immediately forward the information obtained as a result of
17 conducting the check to: **【the Commissioner of Health and Senior**
18 **Services, in the case of an applicant for nurse aide or personal care**
19 **assistant certification or a certified nurse aide or personal care**
20 **assistant;】** the New Jersey Board of Nursing in the Division of
21 Consumer Affairs in the Department of Law and Public Safety, in
22 the case of an applicant for homemaker-home health aide, nurse
23 aide, or personal care assistant certification or a certified
24 homemaker-home health aide, nurse aide, or personal care assistant;
25 and the Director of the Division of Consumer Affairs in the
26 Department of Law and Public Safety, in the case of an applicant
27 for licensure or other authorization to practice as a health care
28 professional as defined in section 1 of P.L.2002, c.104 (C.45:1-28).
29 (cf: P.L.2002, c.104, s.5)

30
31 6. (New section) An individual certified as a nurse aide by
32 another state or territory of the United States may apply to have that
33 certification entered on the registry established and maintained by
34 the New Jersey Board of Nursing in the Division of Consumer
35 Affairs in the Department of Law and Public Safety pursuant to
36 section 8 of P.L.1997, c.100 (C.45:11-24.4), provided that:

37 a. the Board of Nursing receives documentation from the other
38 state or territory that the applicant holds a current, valid
39 certification as a nurse aide in the state or territory;

40 b. the applicant has not been convicted of any crimes and has
41 no documented findings of abuse, neglect, or misappropriation of
42 resident property in the other state or territory;

43 c. the applicant complies with the criminal history record
44 background check requirements set forth under sections 7 through
45 14 of P.L.1997, c.100 (C.45:11-24.3 through 24.9 and C.53:1-
46 20.9a); and

1 d. (1) the applicant has completed within the preceding 24
2 months the amount of continuing education hours required by
3 regulation for a nurse aide; or

4 (2) the applicant has the equivalent of at least two years of full
5 time employment in the other state or territory as a nurse aide and
6 the most recent date of such employment is within the 24-month
7 period immediately preceding the date of the application. The
8 Board of Nursing shall require an individual applying for a
9 certification to be entered on the registry on the basis of work
10 experience pursuant to this paragraph to complete the clinical skills
11 competency examination and the written and oral competency
12 examination, required by the board pursuant to regulation, to verify
13 the individual meets New Jersey's training and competency
14 requirements.

15
16 7. In accordance with the "Administrative Procedure Act,"
17 P.L.1968, c.410 (C.52:14B-1 et seq.), the New Jersey Board of
18 Nursing in the Division of Consumer Affairs in the Department of
19 Law and Public Safety shall adopt rules and regulations necessary
20 to implement the provisions of this act.

21
22 8. The following sections are repealed:
23 Sections 2 through 6 of P.L.1997, c.100 (C.26:2H-83 through
24 C.26:2H-87); and
25 Sections 1 and 2 of P.L.2019, c.18 (C.26:2H-87.1 and C.26:2H-
26 87.2).

27
28 9. This act shall take effect 180 days after the date of
29 enactment.

30
31

32 STATEMENT

33
34 This bill requires the Board of Nursing (board) to establish a
35 dual certification as a certified nurse aide and homemaker-home
36 health aide. Further, this bill transfers certified nurse aide licensing
37 authority from the Department of Health (DOH) to the board.

38 Under the bill, the same requirements for the certification of
39 nurse aides and personal care assistants as are currently in place
40 under the DOH will continue to apply under the Board of Nursing,
41 including criminal history record background check requirements
42 and requirements concerning conditional certification.

43 Under the bill, the board is to prescribe application, education,
44 and training standards and other requirements as necessary for
45 obtaining a dual certification as a certified nurse aide and
46 homemaker-home health aide. The requirements for obtaining a

A5037 VAINIERI HUTTLE

14

- 1 dual certification as a certified nurse aide and a homemaker-home
- 2 health aide are to be lessened for an individual who is certified
- 3 either as a certified nurse aide or as a homemaker-health aide at the
- 4 time he or she applies for dual certification.