

# The Health Occupations Revision General Amendment Act of 2023

## Proposed Revisions Impacting Long Term Care

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# Overview

- Clarifies many provisions but level of detail means that it will be difficult to make changes down the road. Most provisions not self-executing – rulemaking will be required.
- Consolidates Boards and gives Board of Nursing authority over Nursing Home Administrators, Assisted Living Administrators and Home Health Care Administrators. Creates new requirement for Home Health Care Administrator licensure.
- Expands BON to 13 but does not ensure adequate representation of professionals subject to jurisdiction or the full range of NAP.
- With respect to renewal and reinstatement, places more restrictions on Home Health Aides and Certified Nursing Assistants, further discouraging workers from entering this field.
- Prohibits HHAs and CNAs from reinstating their certification if they fail to renew on time.
- Does not change approach to reciprocity but opens the door (slightly) to allow endorsement when standards of foreign jurisdiction are not comparable to DC.
- Lowers age of CNAs/HHAs to 16 but only under a new “temporary” certification that is not defined and would require a new rulemaking. Those temporarily certified would need to meet full certification standards by age 18 to continue practice.
- **Bottom line – there is nothing in these amendments that addresses the current workforce crisis, and some provisions will make it worse.**

# Board Consolidations and Rules for Participation

- Expands jurisdiction of the Board of Nursing to include professional licensure of Nursing Home, Assisted Living and Home Care Administrators.
- Failure of Board or Advisory Committee member to attend at least  $\frac{1}{2}$  of regular, scheduled meetings within a 12-month period constitutes neglect of duty. The Mayor may remove such member without a hearing.

# Board of Nursing

- Increases the Board from 11 to 13 members.
- In addition to advanced practice registered nursing (certified RN anesthetist, certified nurse-midwife, certified nurse practitioner and clinical nurse specialist) registered nursing, practical nursing and nursing assistive personnel, **Board's jurisdiction is extended to nursing home administrators, assisted living administrators and home health care administration.**
- Adopts the term nursing education programs in place of nursing schools and nursing programs.

## Board of Nursing composition (DC Code 3-1202.04(c))

- Four shall be DC licensed RNs licensed in DC.
- Two shall be DC licensed practical nurses licensed in DC.
- One shall be a nursing home administrator, assisted living administrator or home health care administrator licensed in DC.
- One shall be a nursing assistive personal registered or certified in DC.
- Three shall be RNs, APRNS, LPNs, or NAPs licensed, registered or certified in DC
- Two shall be consumers.

# Licensure and Certification

- Provisions relating to endorsement

“(c) The Mayor *may* issue rules establishing standards and requirements by which a board may assess and determine that an endorsement applicant possesses current competency substantially equivalent to the competency standards required in the District notwithstanding that the applicant may not have been licensed, registered, certified, or accredited by an accrediting association or a state board under the standards that were substantially equivalent to the District’s standards at the time of the licensure, registration, certification, or accreditation.”.

# Licensure and Certification

- Provisions relating to temporary license, registration or certification

“Sec. 508a. Temporary license, registration, or certification. “(a) A board may, in situations established by the Mayor through rule, such as the existence of a public health emergency, issue a temporary license, registration, or certification for a health care profession to an applicant if the applicant is licensed, registered, or certified and in good standing in another jurisdiction to practice the same profession.

“(b) A temporary license, registration, or certification issued pursuant to this section shall be valid for a fixed period of time established by the issuing board, subject to such limits as may be established by the Mayor by rule.

“(c) For the purposes of this section, the term “in good standing” means that the applicant has an active license and is not subject to any current public or private discipline, including probation, suspension, revocation, or any other public or private practice restriction.

“(d) An applicant who previously held a license, registration or certification in the District that was revoked or suspended shall be not eligible for a temporary license, registration, or certification under this section.”

# Term of License

- (II) Section 510 (D.C. Official Code § 3-1205.10) is amended as follows:

- (1) Subsection (a) is amended to read as follows:

- “(a) The term of a license, registration, or certification shall not exceed 2 years; except that the Mayor, by rule, may provide for a period of licensure, registration, or certification of not more than 3 years. An expiring license, registration, or certification may be renewed in accordance with rules issued by the Mayor.

- (2) A new subsection (a-1) is added to read as follows:

- “(a-1) The Mayor may require a health professional to maintain the required qualifications for licensure, registration, or certification during the period of licensure, registration or certification or for the renewal of the license, registration, or certification.”



# Changes to Nursing Assistive Personnel

- *Practice by nursing assistive personnel” means the performance by authorized individuals who have been assigned direct patient care tasks that are common to nursing functions and do not require professional skill or judgment within a health care, residential, or community support setting; provided, that the patient care tasks are performed under the general supervision of a licensed health care professional. Nursing assistive personnel includes:*
  - *“(A) Nurse aides;*
  - *“(B) Medication aides;*
  - *“(C) Home-health aides;*
  - *“(D) Patient care technicians;*
  - *“(E) Trained medication employees;*
  - *“(F) Dialysis technicians; and*
  - *“(G) Any other profession as determined by the Mayor through rulemaking.”.*

# Changes to NAP continued

- The practice of practical nursing includes the training of nursing assistive personnel and shall be subject to the nursing standards established or recognized by the Board of Nursing in accordance with regulations promulgated by the Mayor.
- **Inactive status for NAP 1** Proposed amendment to DC Code 3-1205.11 Subsection (a): While all other licensed health professionals may maintain their license in inactive status, see 3-1205.11(c), as amended, **NAPs, are ineligible to place their certification on inactive status.\***
- This means an individual who is dually certified as an HHA and CNA but is only working in one care setting will have to maintain and pay for both certifications.

\*This provision also pertains to medial training licensees, a medical training registrant, a polysomnographic technician, a polysomnographic trainee, a speech language pathology clinical fellow, or another professional subject to this limitation by rulemaking.

# NAPS are prohibited from reinstatement of their certification if they have not renewed on time.

- DC Code 3-1205(12) Except for NAPS, if a health professional fails for any reason to renew the license, registration or certification prior to expiration or during the period of late renewal, the appropriate board *shall* reinstate the license, registration or certification if the health professional complies with current requirements for reinstatement. But the Board shall not reinstate the license, registration or certification of a health professional 5 years after the L-R-C has expired.
- **If NAPS fail to renew their certification prior to expiration or during the late renewal period, they cannot be reinstated except as may be provided in rules issued by the Mayor.**
- Any individual who has not been in active practice of his or her health profession for more than 2 years preceding the date of reinstatement application may be required (pursuant to rules) to submit satisfactory proof to the board of competency to practice, which may include training, testing or practice monitoring as determined by the Board.

# Changes specific to age of HHAs and CNAs

- Provides for the temporary registration or certification for youths under the age of 18 who seek early entrance into the nursing professional with the practice of nursing assistive personnel.” Language from Bower’s transmittal letter to Council.

- Bill language below:

**“The Mayor may, in accordance with rules issued by the Mayor, grant a temporary registration or certification to an applicant who is at least 16 years of age, who shall be required to apply for and receive a regular, full registration or certification *prior to reaching the age of 18 to continue to practice.*” New Sec. 907 (b) (DC Official Code 3-1209.07.**

# Nurse Education

- Establishes process to deny or withdraw approval of nursing education or nursing assistive personnel training programs ;
- Clarifies the extent of disciplinary records. (See page 46)

# Telemedicine

- *“Telehealth” means the use of synchronous or asynchronous telecommunication technology to provide access to health assessment, diagnosis, intervention, consultation, supervision and information across distance, in which a practitioner and a patient or client or supervisee are located at different physical locations.*
- *“Telehealth service” means a healthcare service provided through telehealth.”.*

# Telehealth

- A health professional licensed, registered or certified in DC may provide telehealth services to a DC resident or person located in DC if doing so is consistent with the applicable standard of care in DC and the health professional's scope of authorized practice in DC and
- Not otherwise prohibited by law or regulations.
- The practitioner/patient/client relationship may be established through telehealth in accordance with the appropriate standard of care and the practitioner's competence and scope of practice.
- A health professional who provides telehealth service shall so consistent with the standard of care applicable to a health professional who provides comparable health care services in person in DC.
- All applicable standards of practice, law and rules apply to the provision of telehealth services.
- A health professional who is an authorized prescriber shall register and comply with DC's Prescription Drug Monitoring Program and is subject to all DC and federal laws/rules regarding the prescription of controlled substances.
- A practitioner who is not credentialed in DC may not provide telemedicine services to a client or patient in DC except if there is an existing practitioner/client relationship and the patient is temporarily present in DC.

# Provisions to Oppose

- **Composition of the BON** – Need to ensure adequate representation of Nursing Home Administrators, Assisted Living Administrators, Home Care Administrators and all NAPS.
- **NAPs, are ineligible to place their certification on inactive status. This means that a dually certified HHA/CNA would need to maintain both certifications even if they are currently only working in one care setting or that an HHA/CNA who temporarily leaves the workforce (to have a baby, pursue education, etc), would have to maintain their certification or forfeit it.**
- **If NAPS fails to renew their certification prior to expiration or during the late renewal period, they cannot be reinstated except as may be provided in rules issued by the Mayor.** There is no rationale reasons for not allowing an NAP to reinstate if they meet standards.
- **Creation of temporary registration/certification for individuals under 16 while requiring full registration at 18.** We do not need to create different standard for certification. This will take time, plus, if a 17 old works to secure the temporary certification and four months later, turns 18, they will be required to stop work and take the full certification course and exam. This is time consuming, disruptive and expensive and will deter young people from considering pursuing this credential. (It will also discourage high schools from developing and offering the course work).
- **Endorsement and temporary licensure provisions maintain status quo and do not allow MD and VA health care workers to work in DC to help meet the needs of our residents.**



# Hearing is scheduled Dec 7 at 11:00 am

- Sign up to testify at <https://lims.dccouncil.gov/Hearings> by 5pm on Tuesday, December 5, 2023.
- Submit written testimony through the Council's Hearing Management System <https://lims.dccouncil.gov/hearings> in advance of the hearing.
- The record closes at 5 p.m. on Thursday, December 21, 2023.

- For more information, contact:

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