Office of
The Governor

NO. 21 FY 20/21
DATE December 23, 2020

AN ORDER ADDRESSING THE CRITICAL NEED FOR CERTIFIED NURSING ASSISTANTS DURING THE COVID-19 PANDEMIC

WHEREAS, I proclaimed a state of emergency on March 15, 2020 and renewed states of emergency on April 14, 2020, May 13, 2020, June 9, 2020, July 8, 2020, August 5, 1020, September 2, 2020, September 30, 2020, October 2, 2020, November 24, 2020, and December 22, 2020 to authorize the use of emergency powers in order to expand and expedite the State's response to the serious health and safety risks of the highly contagious COVID-19 virus; and

WHEREAS, nursing facilities and other congregate settings have been hit disproportionately hard by the COVID-19 pandemic, exacerbating staffing shortages to emergency levels in several facilities experiencing outbreaks, with Certified Nursing Assistants (CNAs) in particularly short supply; and

WHEREAS, Board of Nursing regulations require a student seeking to be certified as a CNA to complete 70 hours of supervised clinical practice prior to sitting for the Maine Certified Nursing Assistant competency test; and

WHEREAS, while schools and adult education training programs have adapted training delivery methods to allow for social distancing and safety protocols, the educational programs are not placing students in facilities during the pandemic, which causes many students to be unable to complete the traditional clinical hours required before they may qualify to sit for the Maine Certified Nursing Assistant competency test; and

WHEREAS, in order to assist with meeting urgent staffing needs, expedite the entry of students into the labor market and optimally prepare CNA candidates to be employed in the field, Board of Nursing rules require modification to allow candidates to sit for the exam prior to completing their clinical hours; and

WHEREAS, the indefinite nature of the State of Emergency and the procedural constraints that govern emergency rulemaking make it impractical to use that process to deliver the necessary relief;

WHEREAS, clinical hours could be completed after sitting for the test, on the job, and under appropriate supervision before candidates are added to the CNA registry; and

WHEREAS, the Governor's emergency powers expressly include the authority to adjust timeframes and certain deadlines imposed by law when necessary to mitigate the effect of the emergency pursuant to 37-B M.R.S. § 742(l)(C)(13)(a), modify or suspend the requirements for professional or occupational licensing or registration if strict compliance hinders coping with the emergency pursuant to 37-B M.R.S. § 742(l)(C)(13)(c); and suspend the enforcement of statutes or agency rules inconsistent with managing the emergency pursuant to 37-B M.R.S. §§ 742(l)(C)(1) and 834;

NOW, THEREFORE, I, Janet T. Mills, Governor of the State of Maine, pursuant to 37-B Ch. 13, including but not limited to the provisions cited above, do hereby Order the following:

I. ORDER

A. Notwithstanding any provisions to the contrary contained in the Board of Nursing *Regulations Relating To Training Programs And Delegation By Registered Professional Nurses Of Selected Nursing Tasks To Certified Nursing Assistants*, 02-380 CMR c. 5(2)(A)(2):

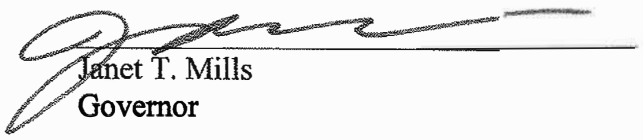
a. Students who have completed 90 hours of classroom instruction and 20 hours of skills laboratory may sit for the Maine Certified Nursing Assistant competency test before they acquire all of the required 70 supervised clinical practice hours through employment at medical facilities.

b. Students who pass the Maine Certified Nursing Assistant competency test may then complete the required 70 hours of correlated, supervised clinical practice through employment at facilities in order to complete their certification requirements. These students must be supervised by a clinical instructor or a registered professional nurse on staff at the facility.

c. Any clinical practice hours obtained through on-the-job training must be documented and certified by the medical facility's Director of Nursing to the student's educational program in a manner specified by the DHHS Division of Licensing prior to an individual being added to the CNA registry.

II. EFFECTIVE DATE

This Order is effective December 23, 2020 and shall remain in effect until rescinded or until 30 days after the State of Civil Emergency to Protect Public Health is terminated, whichever occurs first.



Janet T. Mills
Governor