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Agency #016.06

**Rules and Regulations
for the
Arkansas Long Term Care Facility
Nursing Assistant Training Program**

**Arkansas Department of Health and Human Services
Division of Medical Services
Office of Long Term Care
1992
(Revised ~~August 1, 2008~~ July 27, 2011)**

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Section I

AUTHORITY

1. The following rules and regulations for the Long Term Care Facility Nursing Assistant Training Program are duly adopted and promulgated by the Department of ~~Health~~ and Human Services pursuant to Arkansas Code 20-10-701 et seq.
2. This initiative is pursuant to the Federal mandates of Public Law 100-203 (the Nursing Home Reform Act, Subtitle C of the Omnibus Budget and Reconciliation Act of 1987 and technical amendments of OBRA 1989 and 1990) concerning the training and competency evaluation of nursing assistants employed in long term care facilities and the registry of certified nursing assistants.
3. The Federal Omnibus Budget Reconciliation Act of 1987, 1989, and 1990 (OBRA) and regulations issued by the U.S. Department of Health and Human Services – Centers for Medicare and Medicaid Services (formerly Health Care Financing Administration, or HCFA) established the minimum requirements for nursing assistant training and competency evaluation programs in Section 1819(a) - (f) and 1919(a) - (f) of the Social Security Act.

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Section II

PURPOSE

1. To develop and approve training and competency evaluation programs for individuals who provide nursing or nursing-related services to residents in long term care facilities and who are not licensed health professionals or volunteers who provide services without monetary compensations.
2. These requirements are designed to assist long term care facilities and other educational institutions with training and competency programs for nursing assistants. The objective of the Nursing Assistant Training Program is the provision of quality services to residents by nursing assistants who are able to:
 - (a) perform uncomplicated nursing procedures and to assist licensed practical nurses or registered nurses in direct resident care;
 - (b) form a relationship, communicate and interact competently on a one-to-one basis with the residents as part of the team implementing resident care objectives;
 - (c) demonstrate sensitivity to residents' emotional, social, and mental health needs through skillful, directed interactions;
 - (d) assist residents in attaining and maintaining functional independence;
 - (e) exhibit behavior in support and promotion of residents' rights;
 - (f) demonstrate observational and documenting skills needed in support of the assessment of residents' health, physical condition and well-being.
3. The training program must teach the attitudes and behaviors (which reflect attitudes) which promote the healthy functioning of residents both physically and emotionally, and focus on the restoration and maintenance of the resident in an independent as possible status. These attitudes and behaviors of staff are demonstrable in the day-to-day care environment in the facility.

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Section III

DEFINITIONS

The following words and terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise.

- Abuse - The willful, knowing, or reckless act of mistreatment of a resident through words or physical action which results in physical, emotional, or mental injury to a resident.
- Act - Public Law 100-203 (the Federal Nursing Home Reform Act, Subtitle C of the Omnibus Budget and Reconciliation Act) of 1987 and technical amendments of OBRA 1989 and 1990. Also may refer to Arkansas Code 20-10-701 et seq.
- Competency Evaluation - An examination that includes manual (skills) and written (or oral component for those with limited literacy skills) evaluations.
- Department - The Arkansas Department of ~~Health and~~ Human Services.
- Division - The Division of Medical Services within the Department of ~~Health and~~ Human Services.
- Educational Institution - An institution that is licensed by the Arkansas State Board of Private Career Education as defined by Act 906 of 1989 (i.e. career colleges, proprietary school, etc).
- Examination - (See competency evaluation) A competency evaluation that includes manual (skills) and written evaluations.
- Facility - A long term care facility/nursing facility (nursing home) licensed by the Office of Long Term Care. A nursing facility that provides nursing care and supportive care on a 24-hour basis to residents. Facility "premises" include all structures and surrounding property.
- Facility Based Program - A nursing assistant training program offered by or in a long term care facility.
- Instructor Training Program - A train-the-trainer program of instruction in educational teaching techniques and methods for Primary Instructors and Team Instructors approved by the Office of Long Term Care.
- Licensed Health Professional - A physician, physician assistant, nurse practitioner, physical, speech, or occupational therapist, physical or occupational assistant, registered professional nurse, licensed practical nurse, or certified social worker.

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- Misappropriation of resident property - The taking, secretion, misapplication, deprivation, transfer, or attempted transfer to any person not entitled to receive any property, real or personal, or anything of value belonging to or under the effective control of a resident or other appropriate legal authority, or the taking of any action contrary to any duty imposed by law prescribing conduct relating to the custody or disposition of property of a resident.
- Neglect - An act of omission or an act without due care which causes physical or emotional harm to a resident or adversely affects the resident's health, safety, or welfare in any way.
- Non-facility based program - A nursing assistant training program not offered by or in a facility (i.e. career college, community college, Vo-Tech school, proprietary school, etc.)
- Nursing Assistant - An individual providing nursing or nursing-related services to residents in a long term care facility who has successfully completed a training and/or competency evaluation program and is competent to provide such services but not an individual who is a licensed health professional or who volunteers to provide such services without monetary compensation.
- Orientation Program - A program which provides the nursing assistant with explanations of facility structure, policies, procedures, philosophy of care, description of the resident population and employee rules. This orientation phase is not included as part of the Nursing Assistant Training Program.
- Performance Record - A list of the major duties/skills to be learned in the program and the trainee's performance of each.
- Petitioner - A person who appeals a finding that such person has, while acting as a nursing assistant in a facility or while being used by a facility in providing services to a resident, abused or neglected a resident, or has misappropriated a resident's property.
- Primary Instructor (PI) - An individual approved by the Office of Long Term Care to provide instruction in a program and who has overall responsibility for conducting a program.
- Program Trainer - A registered nurse, licensed practical nurse, or other licensed health professionals who conduct specific classroom lectures based upon an expertise in a given subject area, under the direct supervision of the Primary Instructor.
- Office - The Office of Long Term Care within the Division of Medical Services.

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- Registry - A listing of all individuals who have satisfactorily completed a training and competency evaluation program or a competency evaluation program approved by the Office of Long Term Care.
- Resident - A patient residing in a facility.
- Skills training - Training composed of both skills demonstration in the classroom lab and skills performance in the clinical area with residents in a long term care facility.
- Team (Additional) Instructor - A RN or LPN who, under the general supervision of the Primary Instructor, may provide classroom and skills training.
- Trainee - An individual who is enrolled in a nursing assistant training program and who is not permitted to perform nursing services for residents during the training period for which he/she have not been trained and found to be competent.

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Section IV

NURSING ASSISTANT TRAINING

GENERAL RULE: A facility must not use any individual working in the facility as a nursing assistant for more than four (4) months (120 calendar days) unless that individual has successfully completed a training program and competency evaluation approved by the Office of Long Term Care as described in these regulations.

A. Training

1. Nursing assistant training programs must include materials that provide a basic level of both knowledge and demonstrable skills for each individual completing the program.
2. Each course must be prepared and administered in accordance with the training course guidelines prescribed in the "Arkansas LTCF Nursing Assistant Training Curriculum". This curriculum is to be used as a guide for conducting training in both facility and non-facility programs.
3. These guidelines essentially provide the outline for each training program and can be enhanced by the inclusion of current information to keep training relevant to changing needs. The content provides fundamental information and leaves open the opportunity for an instructor to function as necessary in response to perceived student requirements. **It is important to recognize that the curriculum guidelines identify the limitations (i.e. scope of practice) of the LTCF nursing assistants' direct care responsibilities.**
4. Each training program must use the behavioral stated objectives in the "Arkansas LTCF Nursing Assistant Training Curriculum" for each unit of instruction. These objectives state the measurable performance criteria that serve as the basis for the state competency evaluation test. The instructor shall conduct a review of each unit objective with trainees at the beginning of each unit so that each trainee knows what is expected of him/her in each part of the training program.
5. Upon successful completion of the required training, the trainee must pass the state competency evaluation/examination administered by the Department (see Section VII). An individual must complete the state competency examination within 12 months of graduation from a training program or retraining will be required.

B. Implementation Requirements

1. Each course shall consist of a combination of classroom and clinical instruction. The requirement for state certification will be a minimum of 90 hours of training with a balance between theory instruction and skills training. Skills

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training is composed of both skills demonstration in the classroom lab and skills performance in the clinical area with residents in a long term care facility.

2. The clinical site must be a long term care facility, skilled nursing unit or rehabilitation unit located in an acute care facility or inpatient hospice unit which has not been disqualified by restrictions as described in Section V (B).
3. A minimum of 16 hours initial classroom instruction is required in Part I. This will include both theory instruction and skills demonstration in the classroom lab. During Part I the trainee is not allowed on the floor as part of a facility's staffing pattern. After completion of Part I, a trainee may be used in a facility's staffing pattern **but only assigned to duties for which they have demonstrated competency**. Documentation of acceptable performance of all skills and duties shall be on file with the Primary Instructor (see item C - Trainee Activities).
4. Parts II and III ~~requires~~ require the completion of the remaining 74 hours of training consisting of theory, classroom lab and clinical skills training. Clinical skills training must include at least 16 hours of supervised practical training in a facility performing tasks on an individual under the direct supervision of the instructor. Supervised practical training is defined as training in a laboratory or other setting in which the trainee demonstrates knowledge while performing tasks on an individual under the direct supervision of a registered or licensed practical nurse. Clinical training or supervision shall not be performed using the "buddy" system of assigning the trainee to work with an experienced nursing assistant.
5. The ratio of trainees to instructors in classroom must not exceed 24 trainees to one instructor and the ratio for skills training must not exceed 12 trainees to one instructor.
6. ~~In programs that are facility-based, who~~ For facility-based programs that wish to use student trainees in staffing while in training following completion of Part I, a minimum of ten (10) hours per week must be spent in the training program until completed. This provides for the completion of the training program allowing time for students to challenge and successfully pass the competency evaluation test within the four (4) month (120 calendar days) limit.
7. Each program shall issue to each trainee, upon successful completion of the program, a written statement in the form of a certificate of completion, which shall include the program's name, the student's name and a numerical identifier such as a Driver's License Number or identification number from a valid government issued document that contains a current photo (such as state or national-issued ID card, alien registration card, military identification or passport), the date of completion and the signature of the Primary Instructor. Such certificate, or copies thereof, shall serve as evidence of successful completion of a training program in order to be eligible to take the state certification/competency test.

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C. Nursing Assistant Trainee Activities

1. ~~Clearly identify each trainee~~ Each trainee shall be clearly identified during all skills training portions. Identification must be recognizable to residents, family members, visitors, and staff.
2. A nursing assistant who has begun a training program, whether facility-based or not, and who has not completed the program, may be hired by a facility to provide care for which he/she has received training and has demonstrated competence. In other words, nursing assistants are not permitted to perform services for residents during the training period for which they have not been trained and found by the training program to be competent.
3. Documentation of each trainee's acceptable performance of each skill/procedure must be maintained by the Primary Instructor on the Task Performance Record provided by the Department (Form DMS-741). This record will consist of a listing of the duties/skills expected to be learned in the program, space to record when the trainee performs this duty/skill, ~~and~~ spaces to note satisfactory or unsatisfactory performance, and the signature of the instructor supervising the performance.
4. A program must terminate a trainee when provided with substantial evidence or a determination that the trainee is guilty of resident neglect or abuse; or misappropriation of resident property. The program shall establish procedures for a review of the allegations when requested by the trainee. The program shall inform the Department of any trainees terminated under these circumstances.

D. Classroom Facilities & Resources

1. The nursing assistant training program shall require the provision of physical facilities as follows:
 - Comfortable temperatures.
 - Clean and safe conditions.
 - Adequate lighting.
 - Adequate space to accommodate all students.
 - All equipment needed, including audio-visual equipment and that needed for simulating resident care.

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2. The physical facilities including classrooms, laboratories, conference space, library and educational materials shall be adequate to meet the needs of the program, the number of trainees, and the instructional staff.
3. Suggested training material/resources may include (but not be limited to) a blackboard, flipchart, projector/screen, VCR, interactive video machine, anatomical chart, mannequin, bed, lavatory/sink, etc.
4. The Department will not require or endorse any one textbook or other material such as video-tapes, films, etc. There are several textbooks, video-tapes, etc. on the market and each facility or school will have the choice in selecting their materials. The curriculum guide is to be used in identifying the information to be taught in order that each program will know the objectives and procedures expected to be communicated to the nursing assistant trainee in order for ~~them~~ the trainee to pass the state competency evaluation.

E. Orientation Program

1. All nursing assistants must receive an orientation program that includes, but is not limited to, an explanation of:
 - The organizational structure of the facility;
 - Policies and procedures (including fire/disaster plans, etc.)
 - The philosophy of care of the facility;
 - The description of the resident population; and
 - Employee rules.
2. This facility orientation training program is not included in the required 90 hours of nursing assistant training.

F. Ongoing In-Service Training

1. All facilities will continue to provide ongoing in-service training on a routine basis both in groups and as necessary in specific situations on a one-to-one basis. Each nursing assistant must receive one (1) hour of in-service training per month.
2. The facility must complete a performance review of each nursing assistant at least once per year and provide regular in-service training based on the outcome of these reviews. The in-service training should address areas of weakness and be sufficient to ensure the continuing competence of the nursing assistants.

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3. In addition to training needs identified by performance reviews, in-service training should also address the special needs of residents as determined by each facility. Training can be received on the unit as long as it is directed toward skills improvement, provided by appropriately trained staff and documented (for example, skills demonstration with return demonstration recorded on a check list).

4. Effective July 1, 2006, facilities are strongly encouraged to offer in-service training for nursing-home-employed CNAs who were certified in Arkansas prior to July 1, 2006 that covers the Barbara Broyles Alzheimer and Dementia Training that is included in Arkansas LTCF Nursing Assistant Training Curriculum. Facilities should maintain records that verify each employed CNA, who was certified in Arkansas prior to July 1, 2006, has received this training. After July 1, 2006 and ongoing, the new Alzheimer's training is strongly encouraged for CNAs registered in Arkansas through reciprocity from other states and test candidates that are allowed to challenge the State competency test based on exemptions found in Section VII (D) (3 through 6).

G. Non-Permanent Employees

1. Nursing assistants who are employed/leased through a temporary hiring service must have completed an approved training program and passed the state competency evaluation test prior to employment and use by a facility.

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Section V

APPROVAL OF PROGRAMS

A. Location

1. Nursing assistant training programs may be offered by or in nursing facilities, as well as outside facilities. The clinical portion of the training must in all cases utilize a nursing facility and its residents. Nursing facilities may offer a complete training program themselves and/or may contract with another organization to provide the training.
2. Other groups and/or institutions such as employee organizations, vocational/technical schools, community colleges, and private institutions may conduct programs, dependent upon Department approval.
3. Programs offered to the public and that charge a tuition fee must be licensed through the State Board of Private Career Education. This provision would not apply to the state schools (Vo-Tech, community colleges, etc.) or programs offered by nursing facilities who train their own employees (or potential "on-call" employees).

B. Restrictions

1. The Department shall not approve a program offered by or in a nursing facility which, in the previous two years:
 - (A) has operated under a waiver of the nurse staffing requirements in excess of 48 hours during the week;
 - (B) has been subject to an extended (or partial extended)* survey; or
 - (C) has been subject to a civil money penalty of not less than \$5,000, denial of payment for new admissions, appointment of temporary management, closure, or transfer of residents.

- * Extended survey is defined for this provision as a survey which includes a review of facility policy and procedures pertinent to Level A deficiencies in Resident Rights, Resident Behavior and Facility Practices, Quality of Life or Quality of Care. Partial extended survey is defined as a survey conducted as a result of a deficiency in Level A requirements other than those listed above in the extended survey definition.

2. Facility-based training programs are prohibited from charging tuitions/training fees to their nursing assistant employees (or those who have received an offer of employment) for any portion of the program (including any

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fees for textbooks or other required course materials). See Section X regarding reimbursements.

C. Application

1. Each facility or entity that desires to offer a program shall file an Application for Program Approval form prescribed by the Department (Form DMS-724). Application forms are available on request by calling the Nursing Assistant Training Program at 682-1807 and on the Office of Long Term Care website.
2. If the course to be offered differs in content or length from the guidelines prescribed in the "Arkansas LTCF Nursing Assistant Training Curriculum", a basic outline must be attached to the application showing the lesson plans/teaching modules ~~you~~ the program will offer to cover the curriculum contents. This should specify the elements covered in each module, hours of classroom theory, hours of lab (return demonstrations), and hours in the clinical area in a nursing home. Additional information deemed important in consideration of the program may be requested by the Department.
3. If applicable, verification of school licensure by the State Board of Private Career Education will be required (see item A of this section). A notarized copy of the school licensure document must be included with applications for new programs and for renewal of programs. Verification of notification to the State Board of Private Career Education for additional instructors and/or changes in instructors shall be required with each application.
4. Application must be submitted to the Department eight weeks (56 calendar days) prior to the start of the first course and every two years thereafter. An application must be completed and signed by the Primary Instructor. All official application forms must be notarized.
5. Applications that are received incomplete may cause postponement of the program starting date. A notice of deficiency in the application will be mailed to an applicant within 15 business days of the date of filing. The applicant will be given an opportunity to correct any deficiencies.
6. Notice of approval or disapproval of the application will be given to the entity within 15 business days of the receipt of a complete application. If the application is to be disapproved, the reasons for disapproval shall be given in the notice.
7. An applicant may request a hearing on a disapproval in writing within 10 business days of receipt of the notice of the proposed disapproval. If no request is made, the entity is deemed to have waived the opportunity for a hearing.

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D. Changes in Programs

1. Prior to major changes in the course, an application must be resubmitted for approval.
2. Major changes include:
 - Change in training provider
 - Change in classroom site
 - Change in clinical site
 - Change in instructor
 - Complete revision of course structure
3. Major changes do NOT include:
 - Change in materials (handouts, textbooks, videos, etc.)
 - Change in hours allotted to one or more modules
 - Change in order in which modules are taught
 - Addition of modules/tasks not required by regulations or guidelines

E. Withdrawal of Approval

1. Provisions for monitoring and review of compliance with program requirements are specified in Section IX of these regulations. The Department shall withdraw approval of a training program when;
 - (a) One or more restrictions ~~exists~~ exist as listed in Section V (B).
 - (b) The entity offering the program refuses to permit visits by the Department, whether announced or unannounced. (Also, any facility that refuses to permit unannounced visits is subject to having its provider agreement terminated.)
 - (c) Curriculum and implementation requirements specified in these regulations are not met by the program.
 - (d) An excessive failure rate exists for trainees on the state competency evaluation test.
 - (e) The program:
 1. Purposely makes or causes to be made any false statement or representation of a material fact used in any application for payment by any entity for reimbursement of training costs as allowed in Section X of these regulations;

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2. Purposely makes or causes to be made any false statement or representation of a material fact for use in determining rights to payment to any entity for training costs as allowed in Section X of these regulations;
 3. Purposely makes or causes to be made any false statement or representation that training was provided when training was not provided;
 4. Purposely makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of the program in order that the program may qualify either upon initial approval or re-approval;
 5. Purposely makes or causes to be made any false statement or representation that the amount of training costs is greater than the actual cost of the training to obtain Medicaid reimbursement, as allowed in Section X of these regulations, that exceeds the actual cost of training; or,
 6. Purposely makes or causes to be made any false statement or representation of a material fact in violation of these regulations.
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2. When the Department withdraws approval from a training program, it shall:
 - (a) Notify the program in writing, indicating the reason (or reasons) for withdrawal of approval,
 - (b) Permit students who have already started the program to finish it.

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Section VI

QUALIFICATIONS OF INSTRUCTORS

A. Primary Instructor (PI)

1. The Primary Instructor shall be a registered nurse currently licensed in Arkansas and shall not be subject to disciplinary action by the Arkansas State Board of Nursing. Disciplinary action includes, but is not limited to: probation, suspension, revocation or voluntary surrender of license due to disciplinary action.
2. The Primary Instructor must possess a minimum of two (2) years nursing experience including at least one (1) year ~~in the provision in~~ of long term care nursing services within the last five (5) years. Experience may include, but is not limited to, employment in a nursing assistant education program or employment in or supervision of nursing students in a nursing facility or unit, geriatrics department (excluding geriatric psychiatry), long-term acute care hospital, home care, hospice care or other long term care setting.
3. In a facility-based program, the training of nursing assistants may be performed under the general supervision of the Director of Nursing (DON), who is prohibited from performing the actual training (unless replacement DON coverage is provided).
4. An individual who will be the Primary Instructor and meets the above criteria may submit the Application for Program Approval (Form DMS-724) identifying their qualifications to teach. This must include nursing experience, supervisory experience, teaching experience and/or certificate of attendance in an instructor workshop.

B. Primary Instructor Responsibilities

1. There must be one, and only one, Primary Instructor for each course. All questions and correspondence referring to the course will be directed to this person. The PI should participate in the planning of each lesson/teaching module - including clinical instruction - whether or not the PI teaches the lesson.
2. The Primary Instructor of a nursing assistant training program shall be responsible for supervision of the program and ensuring that the following requirements are met:
 - (a) Course objectives are accomplished.
 - (b) Only persons having appropriate skills and knowledge are selected to conduct any part of the training. ~~Monitors and evaluates each instructor~~ Each instructor shall be monitored and evaluated during classroom, learning laboratory and clinical training whenever new material is being taught and at periodic

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intervals to include, but not limited to, first training calls, following any complaint on a specific instructor and at least annually. Performance reviews of instructors must be documented and maintained.

(c) The provision of direct individual care to assigned residents by a trainee is limited to appropriately supervised clinical experience. Instructors, not unit or facility staff, are expected to function as supervisor of trainees while in clinical areas and providing resident care.

(d) Each trainee ~~demonstrates~~ shall demonstrate competence in clinical skills and fundamental ~~principals~~ principles of resident care. The task performance record (skills check-off) must be approved by the Primary Instructor who must sign or initial all final skills check-off records.

(e) Records are kept to verify the participation and performance of each trainee in each phase of the training program. The satisfactory completion of the training program by each trainee shall be attested on each trainee's record.

(f) Each trainee is issued a certificate of completion within ten (10) calendar days of course completion and as described in Section IV (B) (7) of these regulations.

C. Additional Instructors/Trainers

1. Instructors may use other qualified resource personnel from the health field as guest instructors in the program to meet the objectives for a specific unit. Examples are pharmacists, dietitians, social workers, sanitarians, advocates, gerontologists, nursing home administrators, etc. Guest instructors must have a minimum of one (1) year of experience in their respective fields and must not have current disciplinary action by their respective regulatory board.

2. Licensed Practical Nurses (LPN's) may be used to provide classroom and skills training and supervision. They must be under the general supervision of the Primary Instructor, currently licensed in Arkansas and shall not be subject to disciplinary action by the Arkansas State Board of Nursing. Disciplinary action includes, but is not limited to: probation, suspension, revocation or voluntary surrender of license due to disciplinary action and have a minimum of one (1) year of long term care experience. (All final skills check-off reviews must be approved by the Primary Instructor.)

3. The Application of Program Approval (Form DMS-724) shall be used to identify each additional instructor/trainer and their qualifications to teach.

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Section VII

REQUIREMENTS FOR TESTING AND CERTIFICATION

A. Transition

The initial implementation of these training and testing requirements have covered three basic phases:

1. Deemed Equivalence Waivers -

A nursing assistant shall be deemed to have satisfied the requirement of completing a training and competency evaluation program approved by the State if the nursing assistant:

- a. Completed a program that offered a minimum of 60 hours of nursing assistant training before July 1, 1989 and if such received before July 1, 1989 up to 15 hours of supervised and practical nursing assistant training or regular in-service nursing assistant education (initial training must be at least 75 hours); or
- b. Completed a course of at least 100 hours of nursing assistant training and was found competent (whether or not by the State) before January 1, 1989; or
- c. Has served as a nursing assistant at one or more facilities of the same employer in the State for at least 24 consecutive months before December 19, 1989.

Individuals will not qualify for these waivers if they have not provided nursing or nursing-related services for a period of 24 months or longer since completing training. They will be required to complete a new training program and state test to obtain current certification.

Facilities who wish to obtain certification for the above described individuals should submit to OLTC Form DMS-798, ~~Exemption/Reciprocity~~ Interstate Transfer Form, with attached copies of documents/certificates verifying course completion, number of hours in course, etc.

2. Employment status as of July 1, 1989 -

All individuals working as nursing assistants in Arkansas nursing facilities as of July 1, 1989 were allowed to become certified by passing the state competency test but were not required to complete the "formal" 75 hour training course.

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This phase was completed by October 1, 1990 and does not apply thereafter. Therefore, all individuals must now complete the ~~75~~ 90 hour training requirements to qualify to take the state test regardless of past employment status on July 1, 1989.

3. July 1, 1989 - Ongoing -

Effective July 1, 1989 a facility must not use any individual working in the facility as a nursing assistant for more than four (4) months (120 calendar days) unless that individual has successfully completed a training program and competency evaluation approved by the Office of Long Term Care as described in these regulations.

B. Examination

1. The Department or its appointed agency shall be responsible for administering the competency evaluation/examination. The exam shall be based upon the training curriculum requirements specified in the LTCF Nursing Assistant Training Curriculum Guide.
2. The examination will be in English.
3. The competency examination shall consist of two components, a written (or oral) exam and a skills demonstration. Each test candidate will be allowed to choose between a written or oral exam. The oral examination will be read from a prepared text in a neutral manner.
4. The written/oral component shall be developed from a pool of test questions, only a portion of which is used in any one exam. The skills demonstration shall consist of a demonstration of five randomly selected items drawn from a pool of tasks ranked according to difficulty.
5. The skills demonstration component will be performed in a facility (which has not been disqualified by criteria specified in Section V, item B.) or laboratory setting similar to the setting in which the individual will function.
6. The skills demonstration will be administered and evaluated by a registered nurse (RN) with at least one (1) year experience in providing care for the elderly or chronically ill of any age.
7. The skills demonstration component may be proctored by facility/training site personnel (RNs as described above) if secure, standardized, and scored by the testing agency approved by the Department. "Proctoring" will not be approved in facilities subject to prohibitions specified in Section V (item B).

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8. To complete the competency evaluation successfully, an individual must pass both the written (or oral) examination and the skills demonstration. If an individual does not complete the evaluation satisfactorily, they will be advised of areas which he/she did not pass and their right to take the test three times.
9. All test candidates will be allowed up to three opportunities to successfully complete the examination. Failure after three attempts will require re-training to qualify for further testing opportunities. A maximum time limit of 12 months shall be imposed on an individual to complete the test. Verification of new re-training will be required after this 12-month limit for further testing opportunities.
10. Effective upon notification of test results, any person who has failed the competency evaluation (either the written/oral or skills portion) after three attempts is prohibited from providing nursing services to residents in a nursing facility. However, based on the program regulations, these individuals may maintain their employment status if they re-enroll in a new training program. They would be required to follow the program implementation requirements of completing the first 16 hours (Part I) training prior to direct resident contact and can only be assigned to job duties thereafter in which they have been "checked-off" as competent to perform as they complete the remainder of the full 90 hours of training. Upon successful completion of their training, they should be scheduled for the next available competency exam.
11. All individuals who successfully complete the competency examination shall be placed on the CNA registry and issued a state certificate. Information on the registry shall be made available for public inquiry (see Section VIII).

C. Test Dates, Locations, and Fees

1. Testing will be made available at multiple sites geographically dispersed throughout the state. Schedules of times, locations, and registration requirements will be announced in a timely manner by the Department or designated testing agent.
2. At the option of the NA, the competency evaluation (both written/oral and skills components) may be administered in the facility at which the NA is (or will be) employed (unless the facility is disqualified by the Department under criteria specified in Section V, item B).
3. Each test candidate must have appropriate verification of completion of the training requirements. This will be in the form of a "certificate of completion" from an approved training program or other acceptable documents (see item D of this section and Section IV(B) of these regulations).

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4. There will be a fee charged to take the state competency evaluation. The amount of the fee will be announced in a timely manner by the Department or designated testing agent.
5. The Department will be responsible to pay the test fee for individuals who are employed by a Medicaid certified nursing facility or those individuals that have a commitment ("letter of intent" as defined in Section X (A) (2) of these regulations) to be employed in a Medicaid certified nursing facility. Letters of intent to hire from Medicaid certified nursing facilities must be dated within 12 months immediately preceding the date of the application to take the test. Independent test candidates who are taking the competency test without an employment connection to a long term care facility will be responsible to pay their own test fee.

D. Candidate Qualifications

The following list identifies those individuals who qualify for the state competency exam.

Note: Individuals listed on the LTCF Employment Clearance Registry with a disqualification status due to an substantiated administrative finding of abuse, neglect, misappropriation of resident property or a disqualifying criminal record in accordance with ~~A.C.A. 20-33-204~~ Ark. Code Ann. § 20-38-101 et seq shall not be eligible to take the competency examination.

1. Nursing assistants who were trained in **approved** non-facility programs (career colleges, Vo-Tech schools, proprietary schools, etc.) after January 1, 1989.
2. Nursing assistants who were trained in **approved** facility (nursing homes) programs after July 1, 1989.
3. RN or LPN students who have finished the basic nursing course (Introduction to Nursing, Fundamentals of Nursing, etc.). The individual must provide a copy of their school transcript/document showing successful completion of the basic nursing course in order to qualify to take the state competency test.

Registered nurses or licensed practical nurses that have had disciplinary action resulting in suspension, revocation or voluntary surrender of license due to disciplinary action shall not be allowed an exemption to training or be allowed to challenge the state competency examination.

4. Home health aides who have met appropriate federal training and/or testing requirements for HHA certification. Verification must show

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completion of a minimum of 75 hours training and/or federal testing requirements as a home health aide.

This provision does not apply to "personal care aides" as their training requirements of 40 hours does not meet the LTCF Nursing Assistant Training Program's 90 hours or curriculum content.

5. Individuals from other states who can verify completion of a state approved geriatric nursing assistant training program but who were not tested and registered. (If registered in the other state, see Section VIII for reciprocity transfers without further testing.) Verification of course completion ~~rest~~ rests with the individual and must be submitted to OLTC for approval to take the Arkansas competency test.
6. Nursing assistants whose certification has become inactive based on the recertification requirements (see Section VIII, item D.). These individuals shall be required to be retested for recertification. Permission for retesting shall require an "admission slip" obtained from the testing agency prior to the specified test date.

All other persons trained in programs that have not received approval from the Department as a training provider shall not qualify and shall not be allowed to take the examination. Such programs may include hospitals, emergency medical technicians, medical assistant programs, personal care aides, correspondence courses, independent study or on-the-job training/in-service training as they are not acceptable in lieu of the approved training program.

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Section VIII

REGISTRY

A. Function and Content

1. The Department shall establish and maintain a registry of all individuals who have satisfactorily completed the training and competency evaluation program requirements. The nursing assistant registry shall be incorporated into the Long Term Care Facility Employment Clearance Registry (ECR), which also includes criminal record disqualifications for applicable employees and job applicants, and substantiated administrative findings of abuse, neglect or misappropriation of resident property for employees.
2. The information in the registry shall be made available to the public. Registry information shall be open for inquiries 24 hours per day, 7 days per week (except for scheduled maintenance or at times of technical problems), ~~by telephone through an automated voice response system or~~ by computer through an online website system (see Subsection B of this section).
3. The nursing assistant registry record, for each individual who has successfully obtained certification as a LTCF nursing assistant shall contain the following information:
 - individual's full name;
 - date of birth;
 - Social Security Number;
 - name and date of the State approved training program successfully completed;
 - certification number and date of issuance;
 - most recent re-certification date; and
 - documentation of investigations showing substantiated findings of resident neglect, abuse, or misappropriation of resident property by the nursing assistant including a summary of the findings, and where applicable, the date and results of the hearing or date of a waiver of hearing, and a statement by the nursing assistant disputing the findings of the investigation.
4. The Department shall review and investigate allegations of neglect, abuse, or misappropriation of resident property by a nursing assistant. A nursing assistant shall be given written notice by the Department of a finding on an allegation and must request, in writing, a formal hearing within 30 days of receipt of the notice or the right to a hearing shall be waived. Following any appeal, the registry and the nursing assistant shall be notified of the findings. If the finding is substantiated either by the individual's failure to appeal or by issuance of a final administrative order, the registry shall include the documented findings involving an individual listed in the registry, as well as any brief statement of the individual disputing the findings. (See Subsection E of this Section for the process to petition to remove findings of neglect.)

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5. The Department, in the case of inquiries to the registry, shall verify if the individual is listed in the registry and shall disclose any information concerning a finding of resident neglect, resident abuse, or misappropriation of resident property involving an individual listed in the registry. It shall also disclose any statement by the individual related to the finding or a clear and accurate summary of such a statement.

B. Inquiry Process

1. A facility must inquire of the registry as to information in the registry concerning any individual to be used as a nursing assistant. A facility may not use an individual as a nursing assistant until registry inquiry and clearance is obtained. Registry inquiries shall be performed within five calendar days of the offer of employment and prior to any resident contact. A facility must document all inquiries and must include such documentation in the personnel file of each nursing assistant used by the facility.

2. Registry clearance shall be obtained by ~~contacting the automated voice response system or by computer access to the online website system. The telephone number to the automated voice response system and t~~ The URL address to the online website system shall be issued by the OLTC, or its designated agent, and may be subject to change. If needed, facilities should contact the OLTC for the latest contact information for either the system.

3. ~~Both the automated voice response system and t~~ The online website system will maintain an internal log of each inquiry made by Arkansas nursing facilities using a numeric code (Registry Identification Number) assigned to each facility. The internal log shall be monitored by OLTC to verify each facility's compliance with inquiry requirements.

4. ~~If utilizing the automated voice response telephone system, the facility shall document date, time and results of the registry contact in the individual's personnel file. The online website system is capable of providing a printable registry clearance verification report document for the nursing facility's use in record keeping. If utilizing the online website system, t~~ The facility shall be required to print the registry clearance report and maintain this report in the employee's personnel file.

5. Registry clearances accessed through the ~~automated voice response~~ online system ~~requires~~ require the nursing assistant's Social Security Number (SSN) and date of birth. ~~The online website system may be accessed by either the SSN or certification number.~~ Facilities are required to access by using the SSN or certification number in order to assure an accurate inquiry.

~~NAME SEARCHES ARE NOT POSSIBLE ON THE AUTOMATED VOICE RESPONSE SYSTEM. NAME SEARCHES ARE POSSIBLE ON~~

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THE ONLINE SYSTEM BUT ACCURACY IS NOT ASSURED. NAME SEARCHES MAY ALSO BE OBTAINED BY CALLING THE OLTC. PLEASE NOTE, HOWEVER, THAT NAME SEARCHES BY CALLING OLTC DO NOT GENERATE A VERIFICATION LOG OF THE CLEARANCE. THEREFORE, FACILITIES SHALL AVOID THE USE OF NAME SEARCHES WHEN THE NEED FOR DOCUMENTATION AND ACCURACY OF THE REGISTRY CHECK IS REQUIRED.

C. Inter-state (Reciprocity) Transfer

1. If an individual has completed a training and competency evaluation program and become registered as a nursing assistant in other state(s) that meet federal guidelines, reciprocity may be granted without further training or testing. The DMS-798, ~~Exemption/Reciprocity Request~~ Interstate Transfer Form, must be submitted to OLTC with a copy of each other state's certificate/registration document. OLTC will contact each other state to clear the individual's status for the transfer of their certification through reciprocity. However, this process may take several weeks to complete and the facility may not use the individual until each other state's registry is cleared. If the facility wishes, they may telephone each other state's registry, document the contact in the individual's file and use the NA in staffing (if in good standing on the other state's registry) while OLTC processes the official transfer. Contact must be made to all states the individual has worked as a nursing assistant.

2. This process for out-of-state registry verification becomes complicated if the individual is not officially registered under the new federal standards. Facilities may not use these individuals in staffing until their qualifications have been cleared by OLTC. The same process described above, of submitting the DMS-798, ~~Exemption/Reciprocity Request~~ Interstate Transfer Form, with copies of certificates or documents attached, also applies. Some of these individuals may qualify for registration under certain exemption criteria, some may be required to take the Arkansas state test, and some may be required to complete both training and testing. In any case, OLTC has the responsibility to make these determinations and notify the facility and/or individual of the results.

D. Certification Renewal

1. The initial certification period is valid for 24 months. Each certificate contains an expiration date. The Department will develop a plan and procedure to renew each nursing assistant certification listed in the registry on a biennial basis (every two years). The renewal process will require the nursing assistant to document having worked as a nursing assistant for monetary compensation during the prior two years. This provision shall be defined by at least one documented day (e.g. eight (8) hours) of employment providing nursing or nursing-related services for monetary compensation in any setting.

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2. Employing facilities and/or individuals shall be required to submit update information to the registry to establish ongoing eligibility for active status. The registry shall make "inactive" those individuals who cannot document having worked in an aide capacity within a 24-month period. Nursing assistants who are currently employed as a nursing assistant at the time of their renewal will be renewed for 24 months. Nursing assistants who are not currently employed will be renewed for 24 months beginning with the last day employed as a nursing assistant. A certification that has been expired for a period longer than 24 months cannot be renewed and the individual must retest to re-certify to an active status.
3. An individual will be required to successfully complete a new competency evaluation test to become recertified (see Section VII, item D-7) if documentation of having worked in an aide capacity within the previous 24-month period can not be provided or for any certification that has been expired for over 24 months.
4. The process to renew a nursing assistant certification shall be implemented by the Department or its agent. Each certified nursing assistant will be mailed a renewal form approximately 60 calendar days before the expiration of their certification. The renewal form shall be mailed to the home address currently listed in the registry database when the nursing assistant was initially tested or renewed. It is the responsibility of each nursing assistant to update their mailing address by contacting the Department or its designated agent. It is the responsibility of each nursing assistant to renew their certification regardless if they have received the mailed renewal notice. Renewal forms may be obtained from the OLTC or its designated agent.
5. Individuals listed on the LTCF Employment Clearance Registry with a disqualification status due to a substantiated administrative finding of abuse, neglect, misappropriation of resident property or a disqualifying criminal record in accordance with ~~A.C.A. 20-33-201~~ Ark. Code Ann. § 20-38-101 et seq shall not be eligible to renew their certification. Individuals approved for removal of a neglect finding pursuant to Subsection VIII (E) shall be eligible to renew their certification.
6. Nursing assistant certifications may not be renewed more than 60 calendar days prior to the expiration date.
7. Renewals may be conducted either by mail or through an online website. The Department or its designated agent shall provide instructions for the online renewal process attached to the renewal notice.
8. The Arkansas Nursing Assistant Registry Renewal Form must be fully completed, and the information in the form must be accurate to the best of the knowledge and information of the nursing assistant. Failure to fully complete the form, or the inclusion of false or inaccurate information, shall constitute the basis for denial of certification renewal.

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9. When a nursing assistant renewal is processed (either by mail or online) and the nursing assistant is determined to be eligible for renewal, a new certificate showing the new expiration date will be mailed to the individual and their registry record shall be updated to reflect the new certification period.

E. Petition to Remove Neglect Findings

Pursuant to federal law 42 U.S.C. § 1395i-3(g)(1)(D), in the case of a finding of neglect under Subsection A of Section VIII of these regulations, the Office of Long Term Care shall establish a procedure that permits a certified nursing assistant to petition for the removal of a substantiated finding of neglect. The procedure to file a petition shall be as follows:

1. Factors that must be met are:
 - a. The certified nursing assistant must have a substantiated finding of neglect. There shall not be a petition process available for substantiated findings of physical abuse, verbal abuse or misappropriation of resident property.
 - b. The Office of Long Term Care makes a determination that the petition applicant's employment and personal record does not reflect a pattern of abusive behavior or neglect. Factors to be considered shall include, but shall not be limited to:
 - The neglect that resulted in a finding was a singular occurrence as identified in the incident investigation file.
 - The petition applicant does not have a criminal conviction related to neglect, abusive behavior or physical violence.
 - The petition applicant's name does not appear on the DHS/Division of Aging and Adult Services' Adult Abuse Registry or the DHS/Division of Children and Family Services' Child Abuse Registry.
 - Whether a pattern of abusive behavior or neglect is discovered through reference checks with prior employers or other parties.
 - Character references as provided by the petition applicant.
 - c. At least one year has passed since the petition applicant's substantiated finding of neglect was placed on the Registry.
2. The procedure to file for a petition to remove a neglect finding shall include the following:

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- a. Petition applicants shall submit a letter requesting the removal of the neglect finding. The letter shall be addressed to:

Office of Long Term Care
Nursing Assistant Training Program
Mail Slot S-405
P.O. Box 8059
Little Rock, AR 72203-8059

- b. The petition applicant must provide the following information with their request letter:

- Full name and current mailing address
- Day-time phone number
- Social Security Number
- Date of birth
- Name and day-time phone number of at least two personal character references
- Letters of reference from any employment within the previous year from the date of the petition request. This letter must include a statement attesting to the petition applicant's work performance in relation to the lack of any incidents involving abusive or negligent behavior.
- A current criminal record report from the Arkansas State Police. If the petition applicant is currently or has recently (within the previous 12 months) lived in another state, a criminal record report must be provided from that state. All criminal record reports must be an original document and copies will not be accepted.

3. The Office of Long Term Care shall review each petition request for consideration for removal of the neglect finding. The review shall be conducted by an administrative review panel consisting of at least three members appointed by the Office Director. The panel shall meet within thirty (30) days of any petition request. The review panel shall consider all information submitted by the petition applicant and may conduct additional research as needed.
4. The review panel shall render a decision within thirty (30) calendar days of the panel's review, and the petition applicant shall be notified in writing within 10 business days of the review committee's final determination.
5. If the petition to remove the neglect finding is approved, the Registry shall be updated within 10 work days to show the petition applicant no longer has the neglect record and shall be eligible for employment in Arkansas long term care facilities. Note that any CNA whose certification has been

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expired for over 24 months must successfully complete the state competency test to re-establish employment eligibility as a certified nursing assistant.

6. Any applicant whose petition has been denied may not re-apply for a subsequent petition request for a period of at least 12 months from the date of the previous denial.
7. If the petition to remove the neglect finding is denied by the review panel, any further appeals of the committee's determination shall be based on the appeals procedures as listed below:
 - a. Administrative hearings are available to persons, herein referred to as petitioners, who disagree with determinations to deny a petition to remove a neglect finding made by the Office of Long Term Care as described in these regulations.
 - b. When a petitioner wishes to appeal, he/she may do so by mailing a written notice of appeal to Appeals and Hearings (Slot 1001), Office of Chief Counsel, Arkansas Department of Human Services, P.O. Box 1437, Little Rock, Arkansas 72203. The notice shall be mailed by certified mail, return receipt requested. The notice of appeal shall state the following:
 1. Name of the petitioner;
 2. Address of the petitioner;
 3. Date of birth of the petitioner;
 4. Phone number, if any, of the petitioner;
 5. The petitioner's place of employment;
 6. A short statement explaining why the petitioner believes the determination/decision is in error.
 - c. The notice of appeal must be received by the Appeals and Hearing Office within 30 calendar days from the mailing date of the notification document of the determination of petition denial. No appeal shall be accepted prior to such a determination/decision.
 - d. A hearing shall be conducted by the Appeals and Hearings Section, Office of Chief Counsel, Department of Human Services. The procedures to conduct the hearing are as follows:

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1. The hearing record will contain all documents, exhibits and testimony admitted into evidence by the hearing officer. Within 20 calendar days of receipt of notice that a petitioner has requested a hearing, the petitioner and the Office of Long Term Care will prepare a file to be submitted to the Appeals and Hearings Section, and mail a copy of the file by certified mail, return receipt requested, to the other party. The file will contain only documentary evidence supporting or tending to support each party's allegations. The Office of Long Term Care will also submit an Administrative Hearing Statement summarizing the determination/decision. This statement is not evidence. Only such portions of each file as are determined by the hearing officer to be relevant shall be included in the Administrative Hearing Record.

2. Both parties will be advised by the Appeals and Hearings Section via certified mail, return receipt requested, that they have ten (10) calendar days from the date the certified mail receipt was signed to review the hearing file and submit a request to subpoena witnesses. The request shall include the name, address and telephone number of all witnesses not employed by the Department of Human Services (DHS). DHS employees will be expected to attend hearings and present testimony without the benefit of a subpoena and will be notified by the Appeals and Hearings Section of their required presence at the hearing. Each party will be notified of any witnesses requested and will have five (5) business days from the receipt of this notice to request subpoenas for rebuttal witnesses.

The Department of Human Services, Office of Chief Counsel, will issue the subpoenas, pursuant to the terms and authority of Ark. Code Ann. § 20-76-103.

3. After the time frame has expired for subpoenaing witnesses, the hearing officer will schedule the hearing to afford the petitioner, the Office of Long Term Care, and their attorneys, if any, at least ten (10) calendar days notice of the date, place and time of the hearing. The scheduling letter, sent via certified mail with return receipt requested, shall also contain the name of the hearing officer who will conduct the hearing. In the event the petitioner, the Office of Long Term Care representative, or an attorney representing the petitioner suffers from illness or cannot attend the hearing due to scheduling conflicts, that party may request the hearing be continued. The hearing will be rescheduled by the hearing officer upon a showing of good cause. A request for continuance made by the petitioner or the petitioner's attorney will constitute a waiver of any objection as to timeliness of the

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hearing. In each case, the hearing and hearing record must be completed within one hundred twenty (120) calendar days of receipt of the request for a hearing.

4. The hearing will take place at a place, time, and manner determined by the Appeals and Hearing Office. Hearings may be conducted by telephone, by personal appearance of the parties, or by record review by the Appeals and Hearings Office.

5. If the petitioner fails to appear for the hearing when conducted by telephone or by personal appearance of the parties and does not contact the Appeals and Hearings Section prior to the date of the hearing of his/her inability to attend, the appeal will be deemed abandoned. The petitioner will be advised of this fact in the scheduling letter.

6. It is the responsibility of the Office of Long Term Care to designate a representative prior to the time of the hearing. The representative should be familiar with the circumstances of the determination/decision and be able to summarize the pertinent aspects of the situation and present the documentation to support the basis for the determination/decision. The representative should also be able to answer questions posed by the petitioner or the hearing officer relative to the issues and should be prepared to cross examine adverse witnesses. The representative may request the services of an Office of Chief Counsel attorney for representation at the hearing.

7. If any party is to be represented by an attorney, notice shall be given to all parties and to the Appeals and Hearings Section at least ten (10) calendar days prior to the hearing. Failure to furnish notice shall entitle other parties to a continuance to obtain counsel. Petitioner's failure to furnish notice shall constitute a waiver of objection as to timeliness of the hearing.

8. The hearing will be conducted by a hearing officer from the Appeals and Hearings Section who had no part in the determination/decision upon which the hearing is being conducted.

9. The petitioner may be accompanied by friends or other persons and may be represented by a friend, legal counsel, or other designated representative.

10. The hearing officer may not review the case record or other material either prior to or during the hearing unless such material is made available to the petitioner or his/her representative.

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11. The hearing will be conducted in an informal but orderly manner. The hearing officer will explain the hearing procedure to the petitioner. The administrative hearing statement will be read by the Office of Long Term Care representative. The Office of Long Term Care shall then present its case. After completion of the Office's case, the petitioner's case will be presented. The parties shall have the opportunity to present witnesses, advance arguments, offer additional evidence, and to confront and cross examine adverse witnesses. If the petitioner is unable to present his evidence in a logical manner, the hearing officer will assist the petitioner. Questioning of all parties will be confined to the issue(s) involved.

12. The hearing officer will prepare a comprehensive report of the proceedings. The report will consist of an introduction, findings of fact, conclusions of law and decision. The report shall constitute the final agency determination. The determination shall be mailed to the petitioner and the Office of Long Term Care.

e. Any further review must be pursued in accordance with the Administrative ~~procedure~~ Procedure Act, Arkansas Code Annotated § 25-15-101 et seq.

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Section IX

METHODOLOGY FOR REVIEW OF COMPLIANCE WITH PROGRAM REQUIREMENTS

A. Monitoring

1. A program is subject to inspection at any reasonable time by personnel authorized by the Department. After initial approval of a training program, the Department shall do an on-site visit review to determine the program's implementation of and compliance with the requirements. The Department shall review the program on-site at least every two years.
2. Program reviews may be comprehensive or partial. Based on the findings of the most current review, a program may be reviewed with an increased frequency and depth.
3. An inspector will file a written report with the Department. The report will specify strengths and deficiencies of the program and be available to the program. The Department will terminate those programs not meeting minimum requirements and that do not provide an acceptable plan for correcting deficiencies within the specified time frame as established by the Office of Long Term Care.

B. Minimum Program Standards

1. Each training program shall provide for secure maintenance of records. Records to be maintained shall include but not be limited to:
 - names of enrollees
 - names of those who successfully complete the program
 - dates of initiation and termination of program
 - curricular revisions
 - tests, grades, course documents, skills checklist
 - credentials of instructors
 - documentation of state approval
 - record of complaints
2. The program monitoring shall review for compliance with requirements, at a minimum:
 - (a) Program curriculum content
 - (b) Program length
 - (c) Ratio of classroom to skills training
 - (d) Qualifications of instructors

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- (e) Quality of skills training supervision
 - (f) Access for clinical training in a nursing facility that was not disqualified based on criteria specified in Section V (B).
 - (g) Physical (classroom and lab) facilities
3. The quality of care provided by individual nursing assistants that is monitored during a licensure and/or survey and certification survey shall be one part of the program review. The monitoring of "quality of care" shall apply only to graduates of the facility-based training program being surveyed.
 4. The graduates' success rate on the state competency examination will be monitored by the Department and shall be utilized as a criterion for revoking program approval.
 5. Programs that do not meet these minimum standards shall be notified in form of a letter. This letter shall list all deficiencies that require corrective action. The program will be required to respond in writing within 15 business days specifying actions to correct the deficiencies. Failure to respond or inadequate corrective actions may cause withdrawal of the Department's approval of the program.

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Section X

REIMBURSEMENTS

A. General Provisions

1. This section sets forth policy for direct reimbursement for allowable nursing assistant training costs incurred by Medicaid certified nursing facilities. Allowable training costs will be separately tracked, documented and submitted monthly as described herein. All reimbursements shall be made directly to the Medicaid certified nursing facility.

2. Based on Federal regulations, nursing assistants who are employed by (or who have a “letter of intent” to be employed by) a Medicaid certified nursing facility may not be charged for any portion of the program (including any fees for textbooks or other required course material). The Department shall be responsible to pay for the training costs for individuals who are employed by, or have a “letter of intent” to be employed, by a Medicaid certified nursing facility as set forth in this Section.

The criteria required for reimbursements under the “letter of intent” arrangement must meet the following:

- a. Letters of intent must be on the facility letterhead, dated within twelve (12) months immediately preceding the training and signed by the facility Administrator. Copies of the Administrator’s signature are not allowed;
- b. The facility must have on file a job application completed and signed by the individual receiving the letter of intent;
- c. The facility must complete a criminal record check on the individual in accordance with ~~Arkansas Code Annotated 20-33-201~~ Ark. Code Ann. § 20-38-101 et seq; and
- d. The facility must retain copies of documents to verify compliance with these provisions as specified in Subsection E of this section.

3. Allowable costs for nursing assistant training reimbursement may include the costs for operation of an approved nursing assistant training program, the costs associated with a cooperative training effort with a neighboring approved training program (not claimed by that program) and the costs of having nursing assistants trained in an approved non-facility based training program (paid by the facility). **Nursing Assistant salaries and fringe benefits, including amounts paid while in training, and in-service/continuing education costs are not directly reimbursable but are included on the facility's annual cost report and reimbursed through the per diem rates.**

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4. Reimbursement of nursing facility costs for training of nursing assistants must be allocated between Medicaid, Medicare and private pay patients. Medicaid may not be charged for that portion of these costs that are properly charged to Medicare or private pay activities. Therefore, the Office of Long Term Care will pay only the percentage of the total billed or maximum limit (see item D) for nursing assistant training based on the percentage of Medicaid recipients indicated on the billing. Facilities should continue to bill for the total amount of expenses incurred. The recipient information should reflect the midnight census for the last day of the month.

B. Allowable Costs

The following costs are allowable for nursing assistant training:

1. Nursing Assistant Transportation Expenses. The dollar amount of transportation expenses paid directly to or reimbursed for the NA to attend training or to travel to a NA competency evaluation site.
2. Books. The dollar amount spent for books purchased specifically for use in the NA training program.
3. Instructional Equipment. The dollar amount spent for equipment such as overhead projectors, VCRs, film projectors, etc. purchased specifically for use in the NA training program.
4. Instructional Videos. The dollar amount spent for instructional videos, video disc(s), films, etc. purchased specifically for use in the NA training program.
5. Other Training Materials. The dollar amount spent for other training materials purchased specifically for use in the NA training program.
6. Training Space. The dollar amount spent for the rent of classroom space (outside the facility), lab equipment, etc. specifically for the NA training program. Construction costs for training facilities will not be authorized.
7. Instructor Wages. The dollar amount of wages paid to the NA Instructor for training time, only while the NA Instructor is not included in the NF's staffing pattern providing nursing services.

Facilities should not include the time spent proctoring the skills test as training activity reported to OLTC for reimbursement. Information reported to OLTC on the DMS-755 is strictly for training, **not testing activity**.

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8. Instructor Fringe Benefits. The dollar amount paid for fringe benefits for the NA Instructor while training, only while the NA Instructor is not included in the NF's staffing pattern providing nursing services.
9. Nursing Assistant Consultant Training Fees. The dollar amount paid to a consultant trainer for NA training.
10. Consultant Reimbursable Expenses. The dollar amount paid to a consultant trainer for reimbursable expenses such as travel and lodging.
11. Instructor Workshop Fees. The amount of tuition and registration fees paid for NA training program instructors to attend instructor workshops. Instructor workshops must meet requirements established by the Office of Long Term Care to qualify for reimbursement and participants must be approved for attendance by the Office of Long Term Care.
12. Instructor Workshop Travel Expenses. Travel expenses and lodging paid directly or reimbursed for NA training program instructors to attend instructor workshops.
13. Nursing Assistant Training Tuition. The dollar amount spent on tuition for employees (and potential employees given a "letter of intent", dated within 12 months immediately preceding the date of the completion of training) to attend NA training in an approved non-facility training program. The actual amount of tuition paid for a student, up to a **maximum of \$480.00 per student**, will be reimbursed as allowable cost. This amount is based on the provision of the minimum 90 hours training required by the Department.

C. Claims Submission

1. Claims for reimbursement of expenses incurred for NA training costs shall be submitted to the Office of Long Term Care on a monthly basis on form DMS-755. Claims can be submitted no earlier than the first day of the month following the expense month. The report forms will be designed to capture the above cost categories by use area in either formal "approved" or combined/cooperative training. Therefore, documentation of these costs should be accounted for in a manner consistent with these categories.
2. Claims must be submitted to the Office of Long Term Care within 30 calendar days following the end of the expense month. **Claims not submitted timely or claims that are incomplete will not be accepted for payment and shall be returned to the facility. Corrected claims must be submitted within 15 calendar days of the date returned.**

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3. A claim for reimbursement may not be submitted for any month in which no students completed training. Unclaimed costs in this circumstance may be carried over to the month when students complete training and will still be subject to the \$480.00 maximum cost limit per student (see item D - Maximum Cost Limit).
 4. All claims submitted must include a copy of each trainee's Certificate of Completion from the training program and a copy of the OLTC issued CRC Determination Letter. In accordance with Section 203.1 of the Rules and Regulations for Conducting Criminal Record Checks for Employees of Long Term Care Facilities, the facility must complete the criminal record check for each trainee prior to conducting the nursing assistant training or prior to sponsoring the trainee through the "letter for intent to employ" provisions as specified in item A (2) and B (13) of this section.
 5. **Reimbursements are not allowed and shall be denied to facilities for the following:**
 - a. **Individuals listed on the LTCF Employment Clearance Registry with a disqualification status due to a substantiated administrative finding of abuse, neglect, misappropriation of resident property or a disqualifying criminal record in accordance with ~~A.C.A. 20-33-201~~ Ark. Code Ann. § 20-38-101 et seq.**
 - b. **Individuals listed on the LTCF Employment Clearance Registry with an expired certification. These individuals are not required to be retrained and may retest in accordance with Section VII (D) (6) of these regulations.**
 - c. **Individuals who, prior to training, did not complete a criminal record check in accordance with ~~A.C.A. 20-33-201~~ Ark. Code Ann. § 20-38-101 et seq.**
 6. All claim forms (DMS-755) must be submitted with original signatures of the nursing facility Administrator ~~or designee~~. "Copied" signatures will not be accepted.
- D. Maximum Cost Limit
1. In efforts to establish proper and efficient administration of training costs reimbursements, a reasonable maximum cost limit shall be imposed. Based on analysis of nursing assistant training costs, \$480.00 per student will be the maximum paid to facilities on their claims. This limit shall be imposed based on the number of students who finish the training program. Claims must show actual costs incurred and reimbursements will be made for actual costs but not to exceed the maximum limit of \$480.00 per student who complete the training.

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2. Example: Claim form shows actual costs is \$1250.00 with four students completing the course. As \$1250.00 is less than \$1920.00 (4 students x \$480 = \$1920 maximum) the actual costs will be reimbursed. If this example had only two students completing, the maximum would be \$960.00 (2 students x \$480) and the reimbursement would be capped at \$960.00 rather than paying the full \$1250.00 actual expenses.

E. Cost Reporting and Record Retention

1. NA training costs directly reimbursed by the Department of ~~Health and~~ Human Services shall be included in the nursing facility's annual Financial and Statistical Cost Report (FSR) and shall be reported as revenue offsets to NA training costs. Facilities must retain receipts/documentation of NA training costs submitted to the OLTC for reimbursement for a period of not less than five (5) years or until all audit findings are final. Any facility claiming reimbursement for costs not actually incurred or not properly documented will be required to provide restitution to the Department of ~~Health and~~ Human Services and will be subject to fines and/or prosecution as authorized by State and/or Federal Statutes.

Arkansas Department of Health and Human Services
Division of Medical Services
Office of Long Term Care
P.O. Box 8059, Mail Slot S405
Little Rock, AR 72203-8059

**NURSING ASSISTANT TRAINING COST
REIMBURSEMENT CLAIM FORM**

FOR THE MONTH OF: _____,
INVOICE DATE: _____
MM/DD/YYYY (last day of the month)

DATE OF SERVICE: _____
MM/YYYY

AASIS Vendor Number:

Name of Facility:

Address:

Number of Residents: _____ Medicaid _____ Private _____ Medicare _____ Other _____

Number of Students that Completed Training:

Attach the following documents for each student being claimed:
1. State Criminal Background Determination Letter from OLTC
2. Completion of Training Certificate

EXPENSE		TRAINING COST
1.	NA Transportation Expense	\$ _____
2.	Books	\$ _____
3.	Instructional Equipment	\$ _____
4.	Instructional Videos	\$ _____
5.	Other Training Materials	\$ _____
6.	Training Space	\$ _____
7.	NA Instructor Wages	\$ _____
8.	NA Instructor Fringe Benefits	\$ _____
9.	Nursing Assistant Consultant Fees	\$ _____
10.	Consultant Reimbursable Expenses	\$ _____
11.	Instructor Workshop Fees	\$ _____
12.	Instructor Workshop Travel	\$ _____
13.	Nursing Assistant Tuition (Amount paid to "outside" training course)	\$ _____
Training Site(s): _____		
TOTAL TRAINING EXPENSE		\$ _____
Administrator Signature _____		
Date of Signature _____		

FOR OFFICE USE ONLY:

of Students _____

Multiplied by Cap Amount:

Total Approved Cost:

Percent Ratio: _____

Amount to be Reimbursed:

Pay: _____

Invoice Reference#

_____ NATP _____

Date: _____

Approved by:

**Nursing Assistant Training Costs
Reimbursement Claim Form**

PURPOSE OF FORM

The Nursing Assistant Training Costs Reimbursement Claim Form is used by nursing facilities to claim reimbursement for allowable nursing assistant training costs.

COMPLETION OF FORM

Month and Year Section:

Complete the ~~applicable- invoice date~~ section for the month and year in which expenses are being claimed. Use the last day of the month as the invoice date. Use the month and year for the service date.

Name and Address of Facility Section:

Contact this office if the facility name or address has changed.

Number of Residents Section:

1. Provide the total number of residents on the last day of the month.
2. Provide the number of residents covered by or eligible for Medicaid (or pending Medicaid) as of the last day of the month.
3. Provide the number of residents whose care was paid for privately or by private insurance, etc. as of the last day of the month.
4. Provide the number of residents whose care was paid for by Medicare as of the last day of the month.
(Medicare certified facilities only).
5. Provide the number of residents that do not fall into the previous categories as of the last day of the month.

Number of Students that Completed Training Section:

Provide the number of students that completed the nursing assistant training course. Do not include any students that failed to pass or complete the training.

You must provide a copy of the State Criminal Background Determination letter from OLTC and a copy of the Completion of Training Certificate for each student being claimed.

Expense and Training Cost Section:

Complete by line the dollar and cent amount of cost for each expense category. Complete the Total Training Expense.

For item #13, list the non-facility training program that provide training during the month and the tuition costs paid on behalf of the new trainees. If more than one approved non-facility training program was used by the facility, list all programs.

Refer to the Nursing Assistant Training Cost Reimbursement policy, Section X of the Rules and Regulations for the Arkansas Long Term Care Nursing Assistant Training Program for details concerning allowable cost items.

Administrator Signature and Date of Signature Section:

The reimbursement claim for monthly nursing assistant training program costs must be signed by the Nursing Facility Administrator for the facility. The date of the signature is the date the claim form is signed (claims may not be submitted earlier than the first day of the month following the expense month).

Leave the For Office Use Only Section blank.

Submit original form and signature. Copies are not acceptable. Route completed forms to:

**Department of Health and Human Services
Office of Long Term Care
P.O. Box 8059, Mail Slot S405
Little Rock, Arkansas 72203-8059**

**ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF MEDICAL SERVICES
OFFICE OF LONG TERM CARE
NURSING ASSISTANT TRAINING PROGRAM
SLOT S405
P. O. BOX 8059
LITTLE ROCK, AR 72203-8059**

Telephone: 501-682-6472 ~~6177~~ Fax: 501-682-8551 TDD: 501-682-6789
Website: <http://www.medicaid.state.ar.us/internetsolution/general/units/oltc/index.aspx>

**NURSING ASSISTANT TRAINING PROGRAM (NATP)
APPLICATION INSTRUCTIONS**

1. Review Rules and Regulations for the Arkansas Long Term Care Facility Nursing Assistant Training Program. Pay special attention to Section IV. B. Implementation Requirements, C. Nursing Assistant Trainee Activities, and Section V.
2. Respond to all application items in compliance with the standards (above) and as required within instructions for each item.
3. Obtain agreements from any and all nursing facilities that will be used as clinical training or testing sites and attach a copy of each agreement. Agreements must either (a) be current, i.e. signed by facility authority within the past six months, or (b) specify the time period for which the agreement is valid. Facility authority is the facility administrator or corporate officer who is a designated authority.
4. Mail application with original notarized signatures along with attachments to:

Arkansas Department of Health and Human Services
Division of Medical Services
Office of Long Term Care
Nursing Assistant Training Program
Slot S405
P.O. Box 8059
Little Rock, AR 72203-8059

You Need to Know:

- Incomplete applications will be returned, which will delay the approval of your program
 - If the application contains errors or discrepancies, you will be notified within 15 days of Department's receipt of the application and you will be given an opportunity to make corrections. This may delay the date of approval of your program.
 - You should allow AT LEAST 20 DAYS from the date you mail your application before inquiring about the status of the application.
 - Training shall not be conducted until approval for instructors, classrooms and/or clinical sites has been received by the training program.
 - Programs offered in or by nursing facilities that have been subject to one or more of the following actions will not be approved as per Arkansas Code 20-70-01 et seq.:
 - (1) Waiver for nurse staffing requirements in excess of 48 hours during the week;
 - (2) Extended or partial extended survey*;
 - (3) Assessment of civil money penalty in excess of \$5000;
 - (4) Denial of payment for new admissions for Medicare/Medicaid;
 - (5) Appointment of temporary management;
 - (6) Transfer of residents;
 - (7) Termination from Medicare/Medicaid;
 - (8) Closure of facility.
- * Extended survey is defined for this provision as a survey that includes a review of facility policy and procedures pertinent to Level A deficiencies in Resident Rights, Resident Behavior and Facility Practices, Quality of Life, or Quality of Care. Partial extended survey is defined as a survey conducted as a result of a deficiency in Level A requirements other than those listed above in the extended survey definition.
- Nursing facilities that are prohibited due to one of the actions above will not be approved as a clinical training or testing site for any nursing assistant training program. Sanctioned nursing facilities may apply for a training waiver by submitting a written request to this office.
 - Public training programs MUST contact the Arkansas State Board of Private Career Education, ~~612 Summit, Suite 102, Little Rock, AR 72201, 501-682-2565~~ 501 Woodlane, Suite 312S, Little Rock, AR 72201, 501-683-8000, to apply for a license to operate a proprietary educational program in Arkansas.

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF MEDICAL SERVICES
OFFICE OF LONG TERM CARE
NURSING ASSISTANT TRAINING PROGRAM
SLOT S405

P. O. BOX 8059

LITTLE ROCK, AR 72203-8059

Telephone: 501-682-6172-77

Fax: 501-682-8551

TDD: 501-682-6789

Website: <http://www.medicaid.state.ar.us/internetsolution/general/units/oltc/index.aspx>

APPLICATION FOR NURSING ASSISTANT TRAINING PROGRAM

1.	Enter Nursing Assistant Training Program Name:		
	If the name of the Nursing Assistant Training Program has changed, enter the new name here:		
2.	Check application type:		
	NEW	Check NEW for initial application or if program is not currently approved.	
	RENEWAL NATP Code #	Check RENEWAL if program is currently approved and you have received ADHS Renewal notice.	
	CHANGE NATP Code #	Check CHANGE if program is currently approved and you are requesting approval for program changes. Complete entries for all items that have changed & certify changes by signature in Block #42 10 of this application.	
3.	Check Program Category:		
	Non-facility based program (not offered in or by a facility)		
	Facility-based program (offered in and by a facility)		
	<i>Note: Applications under Arkansas Code 20-10-701 et seq. may not be completed by the facility that has been prohibited from training. The Department shall not approve a program offered by or in a nursing facility which, in the previous two years: a) has operated under a waiver of the nurse staffing requirements in excess of 48 hours during the week; b) has been subject to an extended (or partial extended) survey; or c) has been subject to a civil money penalty of not less than \$5,000, denial of payment, appointment of temporary management, closure, or transfer of residents.</i>		
4.	Primary Instructor Name:		E-Mail Address:
	Arkansas R.N. License Number:		Social Security Number:
Yes	No	Check responses to the following questions about the Primary Instructor:	
		a. Does the Primary Instructor have at least two (2) years of nursing experience?	
		b. Is at least one (1) year of the required nursing experience in the provision of long term care facility services in a nursing facility or skilled nursing facility?	
		c. Has the Primary Instructor completed a course in teaching adults or have experience in teaching adults or supervising Nursing Assistants?	
5.	Contact/Mailing Address: Enter a single, physical address and telephone number for the training program. All correspondence from the Office of Long Term Care will be sent to this address and all on-site NATP surveys will be conducted at this address.		
	Street		
	City	ST	Phone ()

6.	Additional Instructor(s): List the name(s) and requested information below for individuals who will conduct the actual NATP training. Attach a copy of each instructors current Arkansas nursing license.			
Name:	Discipline:		Does Instructor have at least one (1) year of nursing experience in a long term care facility?	
	RN	LPN	Yes	No

7.	Classroom Location: Enter a single classroom name and location. Attach additional sheets as needed.			
Name				
Street				
City	ST	Zip Code	Phone ()	

8.	Please check responses to the following questions:			
Yes	No			
		a. Does this program teach the Arkansas Curriculum for Nursing Assistants in Long Term Care Facilities?		
		b. Does this program exceed both the curriculum content and minimum hours indicated above? If Yes, enter the number of hours offered: Classroom: Clinical:		
		c. Does this program have adequate textbooks, audio-visual materials and other supplies and equipment necessary for training?		
		d. Do the classroom and skills training rooms provide for adequate space, cleanliness, safety, lighting and temperature controls to promote safe and effective learning?		

9.	Clinical Training Site(s): In the space(s) provided below, list all certified nursing facilities that will be used for the required clinical training for the NATP. (Additional sites may be listed on a separate sheet).			
a.	Facility Name			
Street				
City	ST	Zip Code	Phone ()	
b.	Facility Name			
Street				
City	ST	Zip Code	Phone ()	

10.	I certify that the information submitted in this application and attachments is true and correct. I agree to provide prior notification to the Office of Long Term Care of any change in information presented in this application by submitting a Program Change Application as required. I acknowledge that failure to comply with Arkansas DHHS DHS Rules and Regulations for the Arkansas Long Term Care Facility Nursing Assistant Training Program may result in withdrawal of NATP approval.	
Signature of Primary Instructor (MUST be signed before a notary). _____ Sworn and subscribed before me on this _____ day of _____, 20_____ In _____ County, in the State of _____ Notary Signature: _____		(Notary Stamp/Seal):

**ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF MEDICAL SERVICES
OFFICE OF LONG TERM CARE
NURSING ASSISTANT REGISTRY
SLOT S405
P. O. BOX 8059
LITTLE ROCK, AR 72203-8059**

Telephone: 501-682-6472

Fax: 501-682-8551

TDD: 501-682-6789

Website: <http://www.medicaid.state.ar.us/internetsolution/general/units/oltc/index.aspx>

INTER-STATE TRANSFER FORM

SECTION A		TO BE COMPLETED BY THE NURSING ASSISTANT	
<p>Name: _____ (Last) (First) (Initial) (Maiden)</p> <p>Address: _____ (Street Address or PO Box) (Apt Number)</p> <p>_____ (City) (State) (Zip Code)</p> <p>_____ (Telephone) (Email Address)</p> <p>_____ (Social Security Number) (Date of Birth)</p> <p style="text-align: right;">Attach a copy of your Drivers License or State-issued ID Attach a copy of your Social Security Card Attach a copy of your Nursing Assistant Certificate</p> <p>FAILURE TO ATTACH THE ABOVE DOCUMENTS WILL RESULT IN PROCESSING DELAYS AND/OR DENIAL OF TRANSFER INTO THE STATE OF ARKANSAS</p>			

STOP! DO NOT COMPLETE SECTION B OR THE APPLICATION WILL BE RETURNED TO YOU!

SECTION B		TO BE COMPLETED BY THE STATE OF ARKANSAS ONLY	
<p>Transferring from _____</p> <p>Date originally certified and placed on the Registry _____ Expiration Date (If Any) _____</p> <p>Did Training Program meet OBRA 1987 Requirements? Yes _____ No _____ Number of Hrs in Training _____</p>			
Method of Certification ____ Passed State Competency Examination? Date _____ ____ Transferred from another state? List state _____ ____ Exemption to Training? List exemption _____ ____ Not Certified		Status of Certificate ____ Active ____ Inactive Date checked _____ Online _____ Phone _____ Attach copy of online registry check	
Disciplinary Action Are there any findings of abuse, neglect, or misappropriation? Yes _____ No _____ Is the individual disqualified due to criminal record check? Yes _____ No _____		Arkansas Registry Status ____ Not found on the NAR ____ On the NAR, current ____ On the NAR, expired ____ On the NAR, disqualified Attach copy of AR certification	
_____ AR NAR Signature/Title Date		AR NAR Decision ____ Accepted Transfer ____ Denied AR Certification Reason: _____ Attach copy of AR certification & letter of approval	