

## CHAPTER 48

**AN ACT** concerning health care service firms and homemaker-home health aides, and amending P.L.2002, c.126 and P.L.1947, c.262.

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

1. Section 1 of P.L.2002, c.126 (C.34:8-45.1) is amended to read as follows:

C.34:8-45.1 Consideration of Health Care Service Firm; terms defined.

1. a. Notwithstanding any other law or regulation to the contrary, an employment agency required to be licensed pursuant to P.L.1989, c.331 (C.34:8-43 et al.), or any other firm, company, business, agency, or other entity that is not a home health care agency licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) or a hospice licensed pursuant to P.L.1997, c.78 (C.26:2H-79 et seq.), which employs, places, arranges for the placement of, or in any way refers, an individual to provide companion services, health care services, or personal care services in the personal residence of a person with a disability or who is age 60 or older, regardless of the title by which the provider of the services is known, shall be registered as a Health Care Service Firm and shall be subject to the rules and regulations governing Health Care Service Firms adopted by the Division of Consumer Affairs in the Department of Law and Public Safety. The Division of Consumer Affairs is authorized to enforce the health care service firm registration requirement, and the provisions of P.L.1989, c.331 (C.34:8-43 et al.), upon any person whose operations are subject to this section, whether the operations include the direct employment of individuals, the use of an Internet website or application, or any other process or business model.

As used in this section:

"Companion services" means non-medical, basic supervision and socialization services which do not include assistance with activities of daily living, and which are provided in the individual's home. Companion services may include the performance of household chores.

"Health care services" means any services rendered for the purpose of maintaining or restoring an individual's physical or mental health or any health-related services, and for which a license or certification is required as a pre-condition to the rendering of such services.

"Personal care services" means services performed by licensed or certified personnel for the purpose of assisting an individual with activities of daily living that may involve physical contact. Services include, but are not limited to, bathing, toileting, transferring, dressing, grooming, and assistance with ambulation, exercise, or other aspects of personal hygiene.

b. (Deleted by amendment, P.L.2014, c.29)

c. As a condition of being registered under P.L.1989, c.331 (C.34:8-43 et al.), a health care service firm shall obtain within 12 months of registration accreditation from an accrediting body that is recognized by the Commissioner of Human Services as an accrediting body for homemaker agencies participating in the Medicaid program, as set forth at N.J.A.C.10:60-1.2. For purposes of accreditation pursuant to this subsection, the accrediting body shall apply the standards set forth in N.J.A.C.13:37-14.1 et seq. and N.J.A.C.13:45B-13.1 et seq., as applicable.

d. As a condition of registration under P.L.1989, c.331 (C.34:8-43 et al.), every health care service firm shall submit to the director an audit the third calendar year after registration and every third year thereafter. The audit shall be conducted by a certified public accountant

licensed by the State of New Jersey and shall encompass an examination of the subject firm's financial records, financial statements, the general management of its operations, and its internal control systems. The audit shall include an audit report with an unqualified opinion and shall be accompanied by any management letters prepared by the auditor in connection with the audit commenting on the internal controls or management practices of the health care service firm. The audit shall be divided into two components: compliance and financial. The compliance component of the audit shall evaluate the firm's compliance with relevant laws and regulations governing health care service firms. The financial component shall include an audit of the financial statements and accompanying notes, as specified in the Statements on Auditing Standards issued by the American Institute of Certified Public Accountants.

e. In addition to any other penalty provided by law, a person shall be liable for a penalty of \$500 per day for each day that the person continues to operate a firm without registering as required under this section. The penalty shall be collected by the Director of the Division of Consumer Affairs in a summary proceeding in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

2. Section 1 of P.L.1947, c.262 (C.45:11-23) is amended to read as follows:

C.45:11-23 Definitions.

1. As used in this act:

a. The words "the board" mean the New Jersey Board of Nursing created by this act.

b. The practice of nursing as a registered professional nurse is defined as diagnosing and treating human responses to actual or potential physical and emotional health problems, through such services as casefinding, health teaching, health counseling, and provision of care supportive to or restorative of life and well-being, and executing medical regimens as prescribed by a licensed or otherwise legally authorized physician or dentist. Diagnosing in the context of nursing practice means the identification of and discrimination between physical and psychosocial signs and symptoms essential to effective execution and management of the nursing regimen within the scope of practice of the registered professional nurse. Such diagnostic privilege is distinct from a medical diagnosis. Treating means selection and performance of those therapeutic measures essential to the effective management and execution of the nursing regimen. Human responses means those signs, symptoms, and processes which denote the individual's health need or reaction to an actual or potential health problem.

The practice of nursing as a licensed practical nurse is defined as performing tasks and responsibilities within the framework of casefinding; reinforcing the patient and family teaching program through health teaching, health counseling and provision of supportive and restorative care, under the direction of a registered nurse or licensed or otherwise legally authorized physician or dentist.

The terms "nursing," "professional nursing," and "practical nursing" as used in this act shall not be construed to include nursing by students enrolled in a school of nursing accredited or approved by the board performed in the prescribed course of study and training, nor nursing performed in hospitals, institutions and agencies approved by the board for this purpose by graduates of such schools pending the results of the first licensing examination scheduled by the board following completion of a course of study and training and the attaining of age qualification for examination, or thereafter with the approval of the board in

the case of each individual pending results of subsequent examinations; nor shall any of said terms be construed to include nursing performed for a period not exceeding 12 months unless the board shall approve a longer period, in hospitals, institutions or agencies by a nurse legally qualified under the laws of another state or country, pending results of an application for licensing under this act, if such nurse does not represent or hold himself or herself out as a nurse licensed to practice under this act; nor shall any of said terms be construed to include the practice of nursing in this State by any legally qualified nurse of another state whose engagement made outside of this State requires such nurse to accompany and care for the patient while in this State during the period of such engagement, not to exceed six months in this State, if such nurse does not represent or hold himself or herself out as a nurse licensed to practice in this State; nor shall any of said terms be construed to include nursing performed by employees or officers of the United States Government or any agency or service thereof while in the discharge of his or her official duties; nor shall any of said terms be construed to include services performed by nurses aides, attendants, orderlies and ward helpers in hospitals, institutions and agencies or by technicians, physiotherapists, or medical secretaries, and such duties performed by said persons aforementioned shall not be subject to rules or regulations which the board may prescribe concerning nursing; nor shall any of said terms be construed to include first aid nursing assistance, or gratuitous care by friends or members of the family of a sick or infirm person, or incidental care of the sick by a person employed primarily as a domestic or housekeeper, notwithstanding that the occasion for such employment may be sickness, if such incidental care does not constitute professional nursing and such person does not claim or purport to be a licensed nurse; nor shall any of said terms be construed to include services rendered in accordance with the practice of the religious tenets of any well-recognized church or denomination which subscribes to the art of healing by prayer. A person who is otherwise qualified shall not be denied licensure as a professional nurse or practical nurse by reason of the circumstances that such person is in religious life and has taken a vow of poverty.

c. "Homemaker-home health aide" means a person who is employed by a home care services agency and who is performing delegated nursing regimens or nursing tasks delegated through the authority of a duly licensed registered professional nurse. No homemaker-home health aide shall follow a delegated nursing regimen or perform tasks which are delegated unless the homemaker-home health aide is under the supervision of a duly licensed registered professional nurse provided by the home care services agency that directly employs the homemaker-home health aide. "Home care services agency" means home health agencies, assisted living residences, comprehensive personal care homes, assisted living programs or alternate family care sponsor agencies licensed by the Department of Health pursuant to P.L.1971, c.136 (C.26:2H-1 et al.), nonprofit homemaker-home health aide agencies, and health care service firms regulated by the Director of the Division of Consumer Affairs in the Department of Law and Public Safety and the Attorney General pursuant to P.L.1989, c.331 (C.34:8-43 et seq.) and P.L.1960, c.39 (C.56:8-1 et seq.) respectively, which are engaged in the business of procuring or offering to procure employment for homemaker-home health aides, where a fee may be exacted, charged or received directly or indirectly for procuring or offering to procure that employment.

d. "Advanced practice nurse" means a person who holds a certification in accordance with section 8 or 9 of P.L.1991, c.377 (C.45:11-47 or 45:11-48).

e. "Collaborating physician" means a person licensed to practice medicine and surgery pursuant to chapter 9 of Title 45 of the Revised Statutes who agrees to work with an advanced practice nurse.

Nothing in this act shall confer the authority to a person licensed to practice nursing to practice another health profession as currently defined in Title 45 of the Revised Statutes.

3. This act shall take effect immediately.

Approved March 18, 2019.