

COVER SHEET FOR EMERGENCY RULE

Document Number 13941

Rule Number Nur 301.05

1. Agency Name & Address:

Board of Nursing
c/o Office of Professional
Licensure and Certification
7 Eagle Square
Concord, NH 03301

2. RSA Authority: RSA 326-B:9, I and VII;
RSA 541-A:16, I(b)
intro.

3. Federal Authority: n/a

4. Type of Action:

Adoption _____

Amendment _____

Repeal _____

5. Date of Filing: April 25, 2024

6. Short Title: LNA Licensure by Competency Examination or Comparable Education

7. Contact person for copies and questions:

Name: Chantell B. Wheeler

Title: Rules and Legislative
Liaison

Address: OPLC, 7 Eagle Square, Concord, NH
03301

Phone #: 603-271-8311

****PLEASE ATTACH THE FOLLOWING**, numbered to correspond to the numbers on this sheet (a separate sheet is not required for every item):

8. An explanation of the nature of (a) the imminent peril to public health or safety, demonstrating that the emergency rule is necessary to prevent the imminent peril, or (b) the substantial fiscal harm to the state or its citizens which could otherwise occur if the rule were not adopted as an emergency rule.

9. A summary of the effect if the rule were not adopted.

10. A description of those affected.

***PLEASE SUBMIT 2 COPIES OF THIS COVER SHEET** and all attachments along with 2 copies of the emergency rule to the Office of Legislative Services, Administrative Rules.

****PLEASE SIGN THE FOLLOWING:**

I, the adopting authority,* hereby certify that the attached is an accurate statement explaining why an emergency rule is necessary.

Date: 4/25/24

Signature: Samantha L O'Neill

Name: Samantha L. O'Neill

Title: Public Member & Chair
Board of Nursing
a member of the

*("Adopting authority" is the official empowered by statute to adopt the rule, or a member of the group of individuals empowered by statute to adopt the rule.)

8. An explanation of the nature of (a) the imminent peril to public health or safety, demonstrating that the emergency rule is necessary to prevent the imminent peril, or (b) the substantial fiscal harm to the state or its citizens which could otherwise occur if the rule were not adopted as an emergency rule.

Nur 301.05, effective April 22, 2024, sets forth the requirements for licensure as a Licensed Nursing Assistant (LNA) by competency examination or comparable education. During the rulemaking process, Nur 301.05 was amended and did not include language to allow applicants who have successfully completed the fundamentals of nursing from a board approved nursing program to take the competency examination to become LNAs.

LNAs provide critical, hands-on care to patients in health care facilities including hospitals and nursing homes. There is an acute shortage of LNAs in New Hampshire and across the country resulting in a growing gap between the number of LNA jobs available and qualified workers to fill those positions.

The licensing agency reports that 3,863 nursing students were licensed between 2/26/22 and 2/26/24 after demonstrating competency through the successful completion of the fundamentals of nursing course. The fundamental of nursing course exceeds the educational and competency requirements of Board approved LNA Certification programs.

Without rulemaking to provide a pathway for applicants to use the education and experience gained through the fundamentals of nursing program to become LNAs, the board anticipates staffing shortages resulting in imminent peril to public health and safety, especially to the elderly and vulnerable populations residing in nursing homes.

9. A summary of the effect if the rule were not adopted.

Without adoption of this rule, approximately 1,500 qualified applicants will not be eligible for licensure as an LNA resulting in significant gaps in care provided.

10. A description of those affected.

The general public, health care workers, and applicants for LNA licensure are affected by this rule.

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Adopt Nur 301.05, effective 4/22/24 (Document #13886), to read as follows:

Nur 301.05 Licensed Nursing Assistant.

(a) This section shall apply to those who seek licensure as a nursing assistant (LNA) by competency examination or by having received a comparable education.

(b) Each person seeking licensure as a nursing assistant, regardless of method of qualification, shall:

(1) Complete and submit the “Universal Application for Initial License”;

(2) Complete and submit the “Nursing Assistant Addendum to the Universal Application for Initial Licensure” requiring the following information:

a. All Other names the applicant has ever been known by; and

b. The date of the written and clinical competency evaluation;

(3) Submit to the department of safety, division of state police, a notarized Criminal Record Release Authorization along with any required fee, with the board identified as the recipient of the record or records;

(4) Submit a detailed explanation of any yes answers to the yes or no questions on the “Universal Application for Initial Licensure”; and

(5) Pay the application fee required by Plc 1002.33 and the Professional health program fee required by Plc 1001.08.

(c) Subject to (d), below, each applicant seeking licensure as a nursing assistant by competency examination shall, in addition to complying with (b) above submit the following:

(1) A copy of:

a. Their LNA Education Program Certificate to demonstrate successful completion of such program; or

b. Evidence of successful completion of the fundamentals of nursing from a board approved nursing program; and

(2) Submit a copy of the final report for the Written and Clinical Competency Testing results showing the applicant to be competent in all areas tested.

(d) An applicant shall not be required to submit the copies required by (c)(1), above, if the program from which the applicant graduated has already provided information to the board that the applicant has successfully completed the program and passed the competency test.

(e) Each applicant seeking licensure as a nursing assistant by comparable education shall, in addition to complying with (b) above shall submit one of the following:

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- (1) Their nursing program transcript, showing successful completion of nursing fundamentals coursework that contains content noted in Nur 704.09, within 5 years immediately prior to date of application;
 - (2) A letter from the nursing program verifying successful completion of nursing fundamentals coursework, that contains content noted in Nur 704.09, within 5 years immediately prior to date of application; or
 - (3) A Challenge Examination Certificate and a final report for the Written and Clinical Competency Evaluation Results showing the applicant to be competent in all areas tested.
- (f) An applicant who has satisfactorily met the requirements of this section shall:
- (1) Receive a nursing assistant license; and
 - (2) Be authorized to use the title LNA.

APPENDIX I

Rule	Specific State Statute the Rule Implements
Nur 101	RSA 326-B:9, I; RSA 326-B:19