

# Notice of Agency Rule-making Adoption

**AGENCY:** Department of Health and Human Services, Division of Licensing and Regulatory Services

**CHAPTER NUMBER AND TITLE:** **(Repeal and Replace)** Rules Governing the Maine Registry of Certified Nursing Assistants, 10-144 C.M.R. Ch. 128.

**ADOPTED RULE NUMBER:**

*(LEAVE BLANK - ASSIGNED BY SECRETARY OF STATE)*

**CONCISE SUMMARY.** Adopted rules: These rules implement Public Law 2003, chapters 376, 416, 599, and 634; Resolves 2003 chapter 96; and adopted amendments to the Maine Board of Nursing rules (02-380 C.M.R. Ch. 5). They repeal and replace the current Rules Governing the Maine Registry of Certified Nursing Assistants (CNA Registry). The rules incorporate mandated legislative changes and current best practices in the operation of a CNA Registry. The amended provisions include employment restrictions for crimes committed within the last 10 years (Sec. 2.5 ); CNA training course instructor's requirement to notify applicants about the employment restrictions (Sec. 3.2.1.2 ); the Bridge Examination process (Section 3.2.2); and registry notations of convictions and substantiated complaints (Sections 4.3.6 and 4.3.7). A CNA with disqualifying annotations may not work as a CNA, or as an unlicensed assistive person (UAP), for nursing facilities, hospitals, home health agencies, assisted housing programs, adult day services programs, personnel care agencies and placement agencies, or temporary nurse agencies (Sec. 2.5.4). As part of their application process, CNA training programs must secure, and pay for, a criminal background check on individuals who enroll in a training program (Sec. 3.2.1.3). The rules include various technical, non-substantive changes relating to section numbering, intra-Departmental agency name changes, spelling, and usage.

**Economic impact on small businesses.** [Applies to businesses with 20 or fewer employees.]

Most of the facilities, agencies and programs impacted by this final rule are not classified as small businesses. This final rule may create adverse economic impact on small businesses that hire or place certified nursing assistants because the rule includes language that clarifies and standardizes compliance requirements with long-standing federal law (OBRA '87) and state laws. DHHS has determined that there is no less intrusive or less costly, reasonable alternative methods to achieve the purposes of this final rule and that it can be implemented within existing resources. The rules do not create any new compliance burdens for municipalities and counties.

**EFFECTIVE DATE:** August 1, 2009