

MAINE STATE BOARD OF NURSING  
DEPARTMENT OF EDUCATION  
CERTIFIED NURSING ASSISTANT (CNA) REGISTRY

ADVISORY OPINION: The Use on On-The-Job (OJT) Training for CNA Programs

**Purpose:**

1. To provide clarification of the statutes and regulations that address CNA training programs.
2. To provide clarification of the basis for the conclusion that OJT is NOT allowable as a valid form of training within a CNA program.

**Joint Advisory Opinion:**

I. Maine State Board of Nursing

32 M.R.S.A. Section 2104 **Education Programs** (LAW REGULATING THE PRACTICE OF NURSING)

4. **Approval and monitoring of nursing assistant training curriculum and faculty.**

An educational institution or health care facility desiring to conduct an educational program for nursing assistants to prepare individuals for a certificate of training and subsequent listing on the Maine Registry of Certified Nursing Assistants must apply to the Department of Education and submit evidence:

- A. That it is prepared to carry out the curriculum for nursing assistants as prescribed by the board;
- B. That it is prepared to meet those standards established by the Board (*and*)
- C. That it is prepared to meet those standards for educational programming and faculty as established by the Department of Education.

Chapter 5 Regulations Relating to Training Programs and Delegation By Registered Professional Nurses of Selected Nursing Tasks to Certified Nursing Assistants

Section 2.A. (1) The registered professional nurse, bylaw, is responsible for the supervision and teaching of nursing personnel. Therefore, a registered professional nurse shall be in charge of the instructional program to prepare assistants to nurses. (2) No program shall be conducted that includes less than 80 hours of classroom instruction, 20 hours of skills laboratory and 50 hours of correlated, supervised (emphasis added) clinical practice. (3)...The registered professional nurse instructor must provide direct on-site supervision during clinical learning experiences.

## II. Department of Education

22 M.R.S.A. Section 1812-F, 4 authorizes the Department of Education to approve CNA training programs which meet standards set forth by the Department.

The Department of Education's Application for Approval to Conduct a CNA Training Program form lists assurances which must be signed by the educational administrator sponsoring the program.

Assurance 10-I requires the use of the State Standardized Contractual Agreement for all cooperating clinical facilities utilized by the CNA training program. The standardized contractual agreement form defines the respective roles of the educational delivery system sponsoring the CNA training program and the cooperating clinical facility. This document defines the role of the CNA trainee as student, not as part of the nursing facility full time equivalent (FTE) staffing component.

Assurance 10-J requires a written statement from the administrator of the healthcare facility, where the students are training which states that the students, while participating in the classroom or clinical portions of the CNA Program, are not counted as part of the nursing facility FTE staffing component.

## III. Department of Human Services (DHS) Certified Nursing Assistant Registry

### **Regulations for Licensing of General and Specialty Hospitals Chapter X.D.**

**Licensure:** There must be a procedure to ensure that hospital nursing personnel for whom licensure/registration is required hold current licensure with the Maine State Board of Nursing *or registration on the Maine Registry of Certified Nursing Assistants. (italics added)*

Chapter X.D. prohibits individuals from working for pay in acute care facilities unless they are on the CNA Registry. CNA trainees are not eligible for placement on the CNA Registry.

The DHS **Regulations Governing the Licensing and Functioning of Skilled Nursing Facilities and Nursing Facilities Chapter 8.C.1.b (requires that)** 4. The facility must check with the State of Maine Registry of Certified Nursing Assistants to assure that the prospective CNA is listed on the Registry and has no record of a conviction or a substantiated complaint of resident abuse, neglect or misappropriation of residents' funds or property.

Finally, it is important to consider the ramifications of an individual simultaneously acting as a CNA student and employee. Should an incident with liability implications occur involving this individual, was he or she a student or employee at the time of the event? Certainly there is a higher expectation of competence for the employee than for the student. Further, given an incident, the facility would bear the burden to provide evidence that the student/employee individual demonstrated competence through his or her classroom and laboratory instruction and correlated clinical experience.

Thus, the Maine State Board of Nursing, Department of Education and the Department of Human Services put forth this concluding opinion that:

- a. The CNA trainee is a student, (see assurance 10-I);
- b. The instructions of persons preparing to become CNAs is the responsibility of the educational delivery system sponsoring the program and not the clinical facility accommodating the clinical experience;
- c. The clinical experience must be a structured experience that directly correlates to the classroom and laboratory components (unlike OJT that is neither structured nor necessarily correlated to classroom and laboratory preparation); and
- d. The instruction must be directly taught and supervised by a registered professional nurse. (OJT does not ensure that clinical experience is directly supervised by the registered professional nurse who is teaching and supervising the classroom and laboratory portions of the program; in fact, there may be RNs or LPNs employed by the facility who are not part of the CNA training program); and
- e. OJT does not meet the established requirements, and; therefore, is not a valid form of learning within a CNA program.

Approved by Maine State Board of Nursing; Department of Education, Division of Applied Technology; and, Department of Human Services, Certified Nursing Assistant Registry.

FOR THE MAINE STATE BOARD OF NURSING

DATED: November 3, 2000

Richard L. Sheehan, M.S., R.N.  
Chair

FOR THE DEPARTMENT OF EDUCATION  
DIVISION OF APPLIED TECHNOLOGY

DATED: November 6, 2000

Roanne Seeley, R.N. B.S.  
Education Consultant  
Maine Department of Education

FOR THE DEPARTMENT OF HUMAN  
SERVICES, CNA REGISTRY

DATED: November 8, 2000

Sally Flesher, M.S., R.N.  
Nurse Education Consultant  
Maine Registry of Certified Nursing Assistants

Addendum: It is suggested that if facilities wish to use monetary incentives to attract and retain potential CNAs that they consider offering program scholarships or stipends or tuition reimbursement incentives. In no case should a facility advertise an “earn while you learn” concept which denotes on-the-job training.