Requires suspension of certification of homemaker-home health aides under certain circumstances; designated as “Maria’s Law.”

Introduced Pending Technical Review by Legislative Counsel.
AN ACT concerning the certification of homemaker-home health aides, designated as Maria’s Law, and amending P.L.1947, c.262.

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

1. Section 2 of P.L.1947, c.262 (C.45:11-24) is amended to read as follows:

2. a. The board; appointment; terms. In addition to the members appointed to represent the interests of the public pursuant to P.L.1971, c.60 (C.45:1-2.1 et seq.), the New Jersey Board of Nursing shall consist of 12 members, six of whom shall be registered professional nurses, two of whom shall be licensed practical nurses, two of whom shall be nurse educators, one of whom shall be an advanced practice nurse, and one of whom shall be an additional public member, all to be appointed by the Governor. Appointments to the board shall be for terms of five years or for the unexpired portion of a term in the case of a vacancy for any cause within a term, and until a successor shall be appointed and qualified. In making appointments the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the various nurses' professional associations of this State. Upon notice and hearing, the Governor may remove from office any member of the board for neglect of duty, incompetency, unprofessional or dishonorable conduct.

b. Qualifications for appointment. The advanced practice nurse member shall be a resident of this State, shall be a graduate of an accredited advanced practice nurse program, shall have had at least five years' experience in professional nursing, shall at the time of appointment be actively working as an advanced practice nurse, and, except for the member first appointed, shall hold a certification as an advanced practice nurse pursuant to P.L.1991, c.377 (C.45:11-45 et al.). Each registered professional nurse member of the board shall be a citizen of the United States and a resident of this State; shall be a graduate of an accredited school of nursing within the United States; shall be a registered nurse in this State; shall have had at least five years' experience in professional nursing following graduation from an accredited school of nursing; and shall at the time of appointment be actively engaged in nursing or work relating thereto. The licensed practical nurse members of the board shall be citizens of the United States and residents of this State; shall hold a valid license to practice practical nursing in this State; shall have had at least three years' experience in practical nursing; and shall at the time of appointment be actively engaged in practical nursing or

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
work related thereto. Each nurse educator member of the board shall be a resident of this State, shall be a registered nurse in this State, shall have at least five years’ experience in professional nursing, and shall have been active as an educator or administrator in an approved program to train registered nurses.

3. Oath or affirmation of office. Within 30 days after receipt of the commission, each appointee shall take, subscribe and file in the office of the Secretary of State the oath or affirmation prescribed by law.

d. Duties and powers. The board shall have the following duties and powers: (1) It shall hold annual meetings and such other meetings as it may deem necessary at such times and places as the board shall prescribe and a majority of the board including one officer shall constitute a quorum. (2) It shall elect from its members and prescribe the duties of a president and secretary-treasurer, each of whom shall serve for one year and until a successor is elected. (3) It shall appoint and prescribe the duties of an executive secretary to the board who need not be a member thereof but who shall be a citizen of the United States, a graduate of a college or university with a major in nursing education, a registered nurse of this State with at least five years’ experience in teaching or administration or both in an accredited school of professional nursing, or have equivalent qualifications as determined by the board. The executive secretary shall hold office during the will and pleasure of the board. (4) It shall employ and prescribe the duties of such persons as in its judgment shall be necessary for the proper performance and execution of the duties and powers of the board. (5) It shall determine and pay reasonable compensation and necessary expenses of the executive secretary and all employees of the board. (6) It shall pay to each member of the board the compensation hereinafter provided. (7) It shall have a common seal, keep an official record of all its meetings, and through its secretary-treasurer report annually to the Governor the work of the board. (8) It shall examine applicants for a license or renewals thereof, issue, renew, revoke and suspend licenses, as hereinafter provided. (9) It shall investigate and prosecute all violations of provisions of this act. (10) It shall keep an official record which shall show the name, age, nativity and permanent place of residence of each applicant and licensee and such further information concerning each applicant and licensee as the board shall deem advisable. The record shall show also whether the applicant was examined, licensed or rejected under this and any prior act. Copies of any of the entries of the record or of any certificate issued by the board may be authenticated by any member of the board under its seal and when so authenticated shall be evidence in all courts of this State of the same weight and force as the original thereof. For authenticating a copy of any entry or entries contained in its record
the board shall be paid a fee of $3.00, but such authentication, if
made at the request of any public agency of this or any other
jurisdiction, may be without fee. (11) In its discretion it may
publish at such times as it shall determine a list of nurses licensed
under this act, a list of schools of nursing accredited or approved
under this act, and such other information as it shall deem
advisable. (12) It shall prescribe standards and curricula for schools
of nursing and evaluate and approve courses for affiliation. (13) It
shall hear and determine applications for accreditation of schools of
professional nursing, conduct investigations before and after
accreditation of such schools and institutions with which they are
affiliated, and issue, suspend or revoke certificates of accreditation
as hereinafter provided. (14) It shall approve schools of practical
nursing which shall conform to the standards, curricula, and
requirements prescribed by the board, and suspend or revoke
approval for violations thereof; provided, that this power shall not
extend to schools operated by any board of education in this State.
(15) It may consult with the Medical Society of New Jersey and the
New Jersey Hospital Association with respect to any matter relating
to the administration of this act and shall consult with those
associations with respect to standards and curricula and any change
thereof for schools of nursing. (16) It shall issue subpoenas for the
attendance of witnesses and production of documents at any hearing
before the board authorized by this act and any member of the board
shall administer an oath or affirmation to persons appearing to give
testimony at such hearings. (17) It may conduct any investigations,
studies of nursing and nursing education and related matters, and
prepare and issue such publications as in the judgment of the board
will advance the profession of nursing and its service to the public.
(18) It shall perform all other functions which are provided in this
act to be performed by it or which in the judgment of the board are
necessary or proper for the administration of this act. (19) It shall
from time to time prescribe rules and regulations not inconsistent
with this act. (20) It shall prescribe standards and curricula for
homemaker-home health aide education and training programs
which a homemaker-home health aide shall complete in order to
work in this State. (21) It shall review applications to provide
homemaker-home health aide training programs and shall issue,
suspend or revoke program approval. (22) It shall establish and
maintain a registry of all individuals who have successfully
completed a homemaker-home health aide training and competency
evaluation program. The board shall provide for the inclusion in the
registry of information about the disqualification of any person
from certification as a homemaker-home health aide pursuant to
sections 7 through 13 of P.L.1997, c.100 (C.45:11-24.3 through
24.9), including the specific documented findings constituting the
basis for that disqualification; except that the information shall
indicate that the person was convicted of a crime or disorderly
persons offense as described in section 7 of P.L.1997, c.100
(C.45:11-24.3), but shall not identify the conviction or convictions
which constitute the basis for the disqualification. (23) It shall
prescribe standards and requirements for a competency evaluation
program resulting in certification of the homemaker-home health
aide, and the renewal, revocation, and suspension of that
certification. (24) It shall review applications for homemaker
home-health aide certification and shall
issue, suspend, revoke, or fail to renew certifications and conduct
investigations pursuant to the provisions of P.L.1978, c.73 (C.45:1-
14 et seq.). Notwithstanding any provision of section 8 of
P.L.1978, c.73 (C.45:1-21) to the contrary, it shall defer
consideration of an application for a certification, or withhold the
approval of an application for or renewal of a certification pursuant
to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.), with respect
to any person who is a certified homemaker-home health aide, or is
an applicant for certification, and for whom the board has received
the following: (a) notification of a charge or complaint filed against
the person by a law enforcement agency that alleges abuse, neglect,
or violence inflicted by the person on a patient; or (b) credible
evidence supporting an allegation of abuse, neglect, or violence
inflicted by the person on a patient, if the board determines based
on the nature of the allegation that certification or renewal of that
person’s certification would be inconsistent with the public’s
health, safety or welfare. The deferral of consideration or
withholding of approval based on subparagraph (a) or (b) of this
paragraph shall remain in effect pending the final disposition of any
inquiry or investigation conducted by the board, or pending the
final disposition of any civil or criminal proceedings resulting from
a court action, except that in no case shall the deferral of
consideration or withholding of approval exceed 120 days unless
the charge or complaint as to which the board received notification
as described in subparagraph (a) remains pending or is extended for
other good cause shown. (25) It shall require that nursing school
curricula include, and shall prescribe standards for, the training of
registered professional nurses in the supervision of, and the
delegation of nursing tasks to, unlicensed assistive personnel, and
shall further prescribe standards establishing the criteria for
determining those tasks which registered professional nurses may
delegate to unlicensed assistive personnel working under their
supervision and the type of supervision required with respect to
those personnel. (26) It shall prescribe standards and requirements
for unlicensed assistive personnel, including initial education and
continuing education and a competency evaluation program, which
these personnel shall satisfy in order to work in this State. As used
in this paragraph and in paragraph (25) of this subsection,
"unlicensed assistive personnel" means any unlicensed or uncertified personnel employed by a licensed health care facility that perform nursing tasks which do not require the skill or judgment of a registered professional nurse and which are assigned to them by, and carried out under the supervision of, a registered professional nurse. (27) It may require licensees to meet continuing education requirements as a condition of relicensure.

e. Compensation. Each member of the board shall receive $15.00 per day for each day in which such member is actually engaged in the discharge of duties and traveling and other expenses necessarily incurred in the discharge of duties.

(cf: P.L.2017, c.125, s.1)

2. This act shall take effect immediately.

STATEMENT

This bill, designated as “Maria’s Law,” requires the New Jersey Board of Nursing to defer consideration or withhold the certification of a homemaker-home health aide under certain circumstances.

Homemaker-home health aides are persons certified by the board who perform certain nursing tasks delegated through the authority of a duly licensed registered professional nurse and are employed by a home care services agency. Homemaker-home health aides work in a variety of assisted living residences, as well as the homes of individual patients. Current law requires criminal history record background checks for all certified homemaker-home health aides and disqualifies any certified person, or any applicant for certification, if the person is found to have been convicted of certain crimes and offenses.

The bill requires the board to defer consideration or withhold the approval of a certification or conditional certification with respect to any person who is a certified homemaker-home health aide or is an applicant for certification and for whom the board has received the following:

(1) notification of a charge or complaint filed against the person by a law enforcement agency that alleges abuse, neglect, or violence inflicted by the person on a patient; or

(2) credible evidence supporting an allegation of abuse, neglect, or violence inflicted by the person on a patient.

The deferred consideration or withholding of approval of a certification or conditional certification pursuant to the provisions of this bill must remain in effect pending the final disposition of any inquiry or investigation conducted by the board, or pending the final disposition of any civil or criminal proceedings resulting from
a court action, except that the deferred consideration or withholding
of approval shall not exceed 120 days unless the charge or
compliant remains pending or is extended for other good cause
shown.