

ASSEMBLY BILL NO. 5353

(First Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I herewith return Assembly Bill No. 5353 (First Reprint) with my recommendations for reconsideration.

Assembly Bill No. 5353 (First Reprint) allows individuals serving as temporary nurse aides to become permanently certified as nurse aides if they meet certain requirements established under the bill.

The staffing shortages created by the Coronavirus disease 2019 ("COVID-19") pandemic have been felt across many sectors of the nation's economy, including, most acutely, within nursing homes. To help mitigate these shortages, the Centers for Medicare and Medicaid Services ("CMS") enacted a temporary emergency blanket waiver allowing nursing homes to employ individuals as nurse aides even if they have not completed a state-approved Nurse Aide Training and Competency Evaluation Program ("NATCEP"). Accordingly, the New Jersey Department of Health issued a waiver of the State's regulations to allow the same flexibility, requiring successful completion of an approved eight-hour Temporary Nurse Aide Training Program.

To ensure that these temporary nurse aides are not prohibited from continuing this vital work once the federal waiver expires, Assembly Bill No. 5353 (First Reprint) allows temporary nurse aides to become certified nurse aides if they successfully complete the eight-hour training course, work a minimum of 80 hours under the supervision of a licensed professional nurse, pass a background check, and successfully complete a State-approved nurse aide written examination. The bill specifies that these requirements must be met within 45 days after the end of the Public Health Emergency declared in response to COVID-19, which means that

temporary nurse aides would have had to comply with the requirements of the bill by July of this year in order to become certified nurse aides.

I share the sponsors' goal of ameliorating the staffing shortages at nursing homes across New Jersey. However, because the pandemic's effects on employment remain with us today, I believe the safeguards provided by the bill should be extended beyond the period delineated in the bill, which has already passed. Under my recommendations, a temporary nurse aide will have until January 11, 2022 to complete the eight-hour course and work 80 hours under the supervision of a licensed professional nurse.

In addition, my recommendations require temporary nurse aides to pass a State-approved clinical skills competency examination in addition to the written examination required in the bill. Skills testing will ensure that these individuals meet the federal requirements for certified nursing aides that will exist once the federal waiver expires. Recognizing that the addition of the skills exam may add time to the certification process, my recommendations grant temporary nurse aides until February 16, 2022 to pass both the written examination and the clinical skills competency examination. Finally, because the time it takes to complete a background check is often not within the control of an applicant, my recommendations further extend the deadline by which applicants must pass a background check until June 4, 2022.

Accordingly, I herewith return Assembly Bill No. 5353 (First Reprint) and recommend that it be amended as follows:

<u>Page 2, Section 2, Line 33:</u>	After "with" insert "applicable"
<u>Page 2, Section 2, Line 33:</u>	Delete "or" and insert "and"
<u>Page 2, Section 3, Line 40:</u>	Delete "within 45 days following the end" and insert " a. between the first day"
<u>Page 2, Section 3, Line 41:</u>	After "COVID-19" insert "and January 11, 2022"

Page 2, Section 3, Line 42: Delete "a." and insert "(1)"

Page 2, Section 3, Line 43: Delete "CMS" and insert "New Jersey"

Page 2, Section 3, Lines 44-45: Delete "during the public health emergency declared in response to COVID-19"

Page 2, Section 3, Line 45: Delete "may have"

Page 3, Section 3, Line 2: Delete "by the CMS"

Page 3, Section 3, Line 4: After "regulation;" insert "and"

Page 3, Section 3, Line 5: Delete "b." and insert "(2)"

Page 3, Section 3, Lines 8-9: Delete "during the public health emergency declared in response to COVID-19"

Page 3, Section 3, Line 13: Delete "c." and insert "b."

Page 3, Section 3, Line 15: After "(C.26:2H-83)" insert ", except that this section shall not be construed to supersede subsection d. or any other provisions of section 3 of P.L.1997, c.100 (C.26:2H-84)"

Page 3, Section 3, Line 16: Delete "d." and insert "c. between the first day of the public health emergency declared in response to COVID-19 and February 16, 2022,"

Page 3, Section 3, Line 16: After "completed" insert "(1)"

Page 3, Section 3, Line 18: After "attempts" insert "and (2) a State-approved clinical skills competency examination"

Page 3, Section 4, Lines 22-23: Delete "for no more than 90 days following the end of the public health emergency declared in response to COVID-19" and insert "until February 16, 2022"

Page 3, Line 24: Insert new section:
 "5. The Department of Health may issue guidance or adopt regulations necessary to effectuate the purposes of this act, which regulations shall be effective immediately upon filing with the Office of Administrative Law and until February 16, 2022."

Page 3, Section 5, Line 25: Delete "5." and insert "6."

Page 3, Section 5, Lines 25-26: Delete "90 days" and insert "on the 365th day"

Respectfully,

[seal]

/s/ Philip D. Murphy
Governor

Attest:

/s/ Parimal Garg
Chief Counsel to the Governor