

## DEPARTMENT OF HEALTH

### NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of the intent to adopt, on an emergency basis, the following amendment to Chapter 96 (Certified Nurse Aides) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (“DCMR”).

This rulemaking amends Chapter 96 to permit the use of certified nurse aides (CNA) in a home setting. The challenges of the COVID-19 pandemic have led to the growing shortage of nursing personnel. While several policy measures are being considered for adoption, it has been determined that permitting the use of CNA in a home setting would be a helpful step toward bridging the current gaps in healthcare services. The shortage, however, is becoming dire and it is imperative for the preservation of the health, safety, and welfare of the public to take this action immediately on an emergency basis. Allowing CNA to perform work in home settings will reduce the shortage of nursing personnel needed to provide healthcare services in home settings.

This emergency rule was adopted on April 29, 2024 and became effective immediately on that date. The emergency rule will expire one hundred twenty (120) days from the date of adoption, which will be August 27, 2024, or upon publication of a Notice of Final Rulemaking in the *District of Columbia Register*, whichever occurs first.

The Director also gives notice of the intent to adopt this rule as final in not less than thirty (30) days from the date of publication of this notice in the *District of Columbia Register*.

#### **CHAPTER 96, CERTIFIED NURSE AIDES, OF TITLE 17, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:**

##### **SECTION 9600, GENERAL PROVISIONS, is amended as follows:**

##### **Subsection 9600.5 is amended to read as follows:**

9600.5        A CNA may provide nursing care services in a home setting under the following conditions:

- (a)        A registered nurse licensed pursuant to Chapter 54 of this title shall have attested to the CNA’s competency in functions related to providing nursing services in a home care setting such as home safety and infection control in a home;
- (b)        The CNA shall provide the services only under supervision of a registered nurse licensee pursuant to Chapter 54 of this title and pursuant to the assignment permitted under section 9313 of this title; and

- (c) The CNA may perform home health aide and personal care aide tasks including those enumerated in section 9315 of this title and shall be subject to the standards of conduct and practice required for a home health aide pursuant to chapter 93.

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *District of Columbia Register*. Comments should be sent to the Department of Health, Office of the General Counsel, 2201 Shannon Place, SE, 4<sup>th</sup> Floor, Washington, D 20020, or by email to [Panavee.Vongjaroenrat@dc.gov](mailto:Panavee.Vongjaroenrat@dc.gov). Copies of the proposed rules may be obtained by contacting Panavee Vongjaroenrat, Senior Assistant General Counsel, at (202) 478-5746 or [Panavee.Vongjaroenrat@dc.gov](mailto:Panavee.Vongjaroenrat@dc.gov).