PART 1. GENERAL PROVISIONS

...(23) (a) "Health care facility" or "facility" means all or a portion of an institution, building, or agency, private or public, excluding federal facilities, whether organized for profit or not, that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any individual. The term includes chemical dependency facilities, critical access hospitals, end-stage renal dialysis facilities, home health agencies, home infusion therapy agencies, hospices, hospitals, infirmaries, long-term care facilities, intermediate care facilities for the developmentally disabled, medical assistance facilities, mental health centers, outpatient centers for primary care, outpatient centers for surgical services, rehabilitation facilities, residential care facilities, and residential treatment facilities.

...(5) The department may consider as eligible for licensure during the accreditation period any health care facility located in this state, other than a hospital, that furnishes written evidence, including the recommendation for future compliance statements, of its accreditation by the joint commission on accreditation of healthcare organizations. The department may inspect a health care facility considered eligible for licensure under this section to ensure compliance with state licensure standards.

50-5-105. Discrimination prohibited.
(1) All phases of the operation of a health care facility must be without discrimination against anyone on the basis of race, creed, religion, color, national origin, sex, age, marital status, physical or mental disability, or political ideas.
(2) (a) A health care facility may not refuse to admit a person to the facility solely because the person has an HIV-related condition.

50-5-106. Records and reports required of health care facilities -- confidentiality.
Health care facilities shall keep records and make reports as required by the department. Before February 1 of each year, every licensed health care facility shall submit an annual report for the preceding calendar year to the department. The report must be on forms and contain information specified by the department.

PART 2: LICENSING

50-5-201. License requirements.
(1) A facility or licensee considering construction of or alteration or addition to a health care facility shall submit plans and specifications to the department for preliminary inspection and approval prior to commencing construction.
(2) A person may not operate a health care facility unless the facility is licensed by the department. Licenses may be issued for a period of 1 to 3 years in duration. A license is
valid only for the person and premises for which it was issued. A license may not be sold, assigned, or transferred.

(3) Upon discontinuance of the operation or upon transfer of ownership of a facility, the license must be returned to the department.

(4) Licenses must be displayed in a conspicuous place near the admitting office of the facility.

37.40.315 STAFFING AND REPORTING REQUIREMENTS

(1) Providers must provide staffing at levels which are adequate to meet federal law, regulations and requirements.

(a) Each provider must submit to the department within 10 days following the end of each calendar month a complete and accurate form DPHHS-SLTC-015, "Monthly Nursing Home Staffing Report" prepared in accordance with all applicable department rules and instructions. Copies of form DPHHS-SLTC-015 may be obtained from the Department of Public Health and Human Services, Senior and Long Term Care Division, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210.

(b) If complete and accurate copies of form DPHHS-SLTC-015 are not received by the department within 10 days following the end of each calendar month, the department may withhold all payments for nursing facility services until the provider complies with the reporting requirements in (1)(a).

37.40.408 FACILITY POLICY REQUIREMENTS

(1) The facility must develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents and misappropriation of resident property.

(2) The policies must provide that the facility will:

(a) not use verbal, mental, sexual, or physical abuse, corporal punishment, or involuntary seclusion;

(b) not employ individuals who have been found guilty of abusing, neglecting, or mistreating residents by a court of law, or have had a finding entered into the nurse aide registry concerning abuse, neglect, mistreatment of residents or misappropriation of their property;

(c) report any knowledge it has of actions by a court of law against an employee, which would indicate unfitness for service as a nurse aide or other facility staff to the nurse aide registry maintained by the Department of Public Health and Human Services;

(d) ensure that all alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source, and misappropriation of resident property are reported immediately to the administrator of the facility, the long term care ombudsman, and the Department of Public Health and Human Services in accordance with 52-3-811, MCA;

(e) have evidence that all alleged violations are thoroughly investigated, and must prevent further potential abuse while the investigation is in progress;

(f) ensure that the results of all investigations must be reported to the administrator of the facility and to the Department of Public Health and Human Services in accordance with 52-3-811, MCA, within five working days of the incident; and

(g) if the alleged violation is verified, take appropriate corrective action. (History: 53-6-113, MCA; IMP, 53-6-101, 53-6-113, MCA; NEW, 2004 MAR p. 1479, Eff. 7/2/04.)

37.106.139 ANNUAL REPORTS BY LONG-TERM CARE AND PERSONAL CARE FACILITIES
Every long-term care and personal care facility shall submit an annual report to the department on a form provided by the department and no later than the deadline specified on the form. The annual report must be signed by the facility administrator and must include whichever of the following information is requested on the form:
(a) the facility’s reporting period, and whether the facility was in operation for a full 12 months at the end of the reporting period;
(b) a discussion of the organizational aspects of the facility, including the following information:
(i) the type of organization or entity responsible for the day-to-day operation of the facility (e.g., state, county, city, federal, hospital district, church related, nonprofit corporation, individual, partnership, business corporation);
(ii) whether the controlling organization leases the physical plant from another organization. If so, the name and type of organization that owns the plant;
(iii) any changes in the ownership, board of directors or articles of incorporation of the facility during the past year;
(iv) the name of the current chairman of the board of directors of the facility;
(v) if the controlling organization has placed responsibility for the administration of the facility with another organization, the name and type of organization that manages the facility. A copy of the latest management agreement must be provided;
(vi) if the facility is operated as a part of a multifacility system (e.g., medical center, chain of hospitals owned by a religious order, etc.) the name and address of the parent organization;
(c) utilization information, including:
(i) licensed bed capacity (skilled and intermediate);
(ii) whether the facility is certified for medicare or medicaid;
(iii) number of beds currently set up and staffed;
(iv) total patient census on first day of reporting period; total admissions, discharges, patient deaths, and patient-days of service during the reporting period;
(v) patient census on last day of reporting period, broken down by sex and age categories;
(d) financial data, including:
(i) total annual operating expenses (payroll and nonpayroll);
(ii) closing date of financial statement;
(iii) sources of operating revenue, indicating percent received from medicare, medicaid, private pay, insurance, grants, contributions, and other;
(e) staff information, including number and classification of full and part-time medical personnel, as required on the survey form;
(f) patient origin data, including patients’ counties of residence, and number of admissions from state institutions and from out-of-state;
(g) name of person to contact should the department have any questions regarding the information on the report.

37.106.314 MINIMUM STANDARDS FOR ALL HEALTH CARE FACILITIES: MEDICAL RECORDS
(1) A health care facility shall initiate and maintain by storing in a safe manner and in a safe location a medical record for each patient and resident.
A health care facility, excluding a hospital, shall retain a patient’s or resident’s medical records for no less than five years following the date of the patient’s or resident’s discharge or death.

(3) A medical record may be microfilmed or preserved via any other electronic medium that yields a true copy of the record if the health care facility has the equipment to reproduce records on the premises.

(4) A signature of a physician may not be stamped on a medical record unless there is a statement in the facility administrator’s or manager’s file signed by the physician stating that the physician is responsible for the content of any document signed with his rubber stamp.

37.106.322 MINIMUM STANDARDS FOR ALL HEALTH CARE FACILITIES: DISASTER PLAN

(1) A health care facility shall develop a disaster plan in conjunction with other emergency services in the community which must include a procedure that will be followed in the event of a natural or man-caused disaster.

(2) A health care facility shall conduct a drill of such procedure at least once a year. After a drill, a health care facility shall prepare and retain on file a written report including, but not limited to, the following:

(a) date and time of the drill;
(b) the names of staff involved in the drill;
(c) the names of other health care facilities, if any, which were involved in the drill;
(d) the names of other persons involved in the drill;
(e) a description of all phases of the drill procedure and suggestions for improvement; and
(f) the signature of the person conducting the drill.

37.106.330 MINIMUM STANDARDS FOR ALL HEALTH CARE FACILITIES: WRITTEN POLICY AND PROCEDURE

(1) A written policy and procedure for all services provided in a health care facility must be available to and followed by all personnel.

Subchapter 29 Restraints, Safety Devices, Assistive Devices, and Postural Supports

STAFF TRAINING

(1) Restraints, safety devices or postural supports may only be applied by staff who have received training in their use, as specified below and appropriate to the services provided by the facility.

(2) Staff training shall include, at a minimum, information and demonstration in:

(a) the proper techniques for applying and monitoring restraints, safety devices or postural supports;
(b) skin care appropriate to prevent redness, breakdown and decubiti;
(c) active and passive assisted range of motion to prevent joint contractures;
(d) assessment of blood circulation to prevent obstruction of blood flow and promote adequate circulation to all extremities;
(e) turning and positioning to prevent skin breakdown and keep the lungs clear;
(f) potential risk for residents to become injured or asphyxiated because the resident is entangled in a bed rail or caught between the bed rail and mattress if the mattress or mattress pad is ill-fitted or is out of position;
(g) provision of sufficient bed clothing and covering to maintain a normal body temperature;
(h) provision of additional attention to meet the physical, mental, emotional and social needs of the resident; and
(i) techniques to identify behavioral symptoms that may trigger a resident’s need for a restraint or safety device and to determine possible alternatives to their use. These include:
(i) observing the intensity, duration and frequency of the resident’s behavior;
(ii) identifying patterns over a period of time and factors that may trigger the behavior; and
(iii) determining if the resident’s behavior is:
(A) new or if there is a prior history of the behavior;
(B) the result of mental, emotional, or physical illness;
(C) or a radical departure from the resident’s normal personality.
(3) Training described in (2) must meet the following criteria:
(a) training must be provided by a licensed health care professional or a social worker with experience in a health care facility; and
(b) a written description of the content of this training, a notation of the person, agency, organization or institution providing the training, the names of staff receiving the training, and the date of training must be maintained by the facility for two years.
(4) Refresher training for all direct care staff caring for restrained residents and applying restraints, safety devices or postural supports must be provided at least annually or more often as needed. The facility must:
(a) ensure that the refresher training encompasses the techniques described in (2) of this rule; and
(b) for two years after each training session, maintain a record of the refresher training and a description of the content of the training.

STATE PLAN FOR THE NURSE AIDE TRAINING AND COMPETENCY TESTING PROGRAM

State Guidelines
(e) Required training of nurse aides.
(1) Definitions:
Licensed health professional means a physician, physician assistant, nurse practitioner; physical, speech or occupational therapist; licensed occupational therapy assistant; licensed physical therapy assistant; registered professional nurse; licensed practical nurse; licensed or certified social worker, and licensed nutritionist/registered dietitian. A registered dietitian, to practice as a professional dietitian/nutritionist, must be licensed by the state. Nurse aide (nurse assistant) means any individual providing nursing or nursing related services to residents in a facility who is not a licensed health professional or someone who volunteers to provide such services without pay.
(2) General rule. Full time employees. An individual who has not completed a nurse aide training and/or competency testing program approved by the State Survey and Certification Agency (SA) within four months of the date of hire to a position providing nursing and nursing related services for residents may not perform any such services for residents once the four-month period has expired. Such individuals must complete a SA approved training and/or competency testing program prior to being hired by another facility or rehired/reassigned by the same facility to perform nursing and nursing related functions. [For rules regarding temporary, part-time or pool employees,
An individual enrolled in a training and competency program may not perform any nursing or nursing related task that is not directly supervised by the licensed nurse instructor until that individual has satisfactorily passed a skills evaluation of the task(s) by the nurse instructor. Documentation of the evaluation(s) is to be made on the official Montana Nurse Aide Skills Competency Checklist (MNASCC). The original of the MNASCC is to be filed in the individual's personnel or training file once it is complete. A copy of the MNASCC must be given to the individual. Once the individual has satisfactorily passed a skill(s), accompanied by such documentation on the MNASCC, s/he may perform the skill under the general supervision of a licensed nurse until successful completion of the training and competency evaluation program. All skills listed in the MNASCC must be satisfactorily passed prior to eligibility to complete the State Competency Evaluation Program (SCEP). For individuals with limited handicaps which preclude satisfactory completion of all skills listed on the checklist, a waiver may be approved by the SA. Waiver requests are to be in writing and list the skills, and the reasons, the individual is unable to physically perform the skill. (Example: an individual is hearing impaired and not able to accurately take a blood pressure). Nurse aides may not perform any skill which is waived. Waivers will be reviewed, evaluated and approved on an individual basis. Waivers, if any, will be recorded on the individual’s official Certification of Competency notice provided by the SA. Individuals who believe they have sufficient experience or training to pass the SCEP without completing a SA approved training program may request to complete the SCEP without proof of training. Such individuals will be allowed one attempt to successfully complete the SCEP. If the individual fails the SCEP, s/he will be required to complete the SA’s Nurse Aide Training and Competency Evaluation Program (NATCEP) prior to retaking the examination. To insure that individuals who successfully complete only the SCEP are competent to practice all skills required by the state approved curriculum, such individuals will be required to be evaluated for all skills listed on the MNASCC by a licensed nurse for the facility or agency that hires him/her. The individual may not perform unsupervised any skill for which s/he has not received a satisfactory score. An individual who has previously completed a training program in another state may provide, in lieu of the MNASCC, a duplicate of any official skills evaluation that is the equivalent of the MNASCC. The original of the completed MNASCC or duplicate of another official skills evaluation is to be filed in the individual’s personnel or training file, with a copy provided to that individual.

Titles. Because it is common practice, the SA will allow individuals who successfully complete the SCEP to use the title CNA (Certified Nurse Assistant), referencing that the individual has met the SA’s competency requirements to practice as a nurse aide and is entered on the Montana Nurse Aide Registry (State Registry). Individuals who have not successfully completed the SCEP may not use this title or in any way suggest they are certified by the SA as competent to practice as a nurse aide.

(3) Non-permanent employees. Definition: Non-permanent employee: Any individual hired to work for a temporary period that is less than four consecutive months. Non-permanent employees include temporary workers hired from "nursing pools" or other agencies who are not regular employees of the facility; intermittent employees filling in for vacation, holiday or other relief purposes; persons providing other part-time non-skilled nursing or nursing related services for pay. Non-permanent employees must meet all certification of
competency requirements, that is, have either successfully completed a NATCEP or a SCEP prior to being hired in any position as defined in the above paragraph.

(4) Competency. (i) Upon hiring an individual who has not met the SA’s competency requirements and is not listed in the State Registry, the facility must immediately place that individual in a training and competency testing program. The individual must complete the NATCEP and be listed in the State Registry no later than 4 months from the date of hire. In-state applicants: (ii) A facility may hire any individual who has completed a SA approved NATCEP or SCEP and is listed in the State Registry. For such an individual, no retraining or retesting is required. The facility should provide appropriate orientation to facility policies and procedures and any other information needed to insure the individual performs assigned duties effectively. The hiree must provide to the facility a copy of a completed MNASCC at the time of hire. If the hiree no longer has a copy of his/her original MNASCC, the hiring facility must reevaluate the individual’s skills using the MNASCC, provide a copy to the hiree and maintain a copy in the individual’s personnel or training file. Out-of-state applicants: An individual who has met another state’s training and competency evaluation program is eligible for entry to the State Registry only if that individual is currently registered in the other state. A facility wishing to hire a currently registered out-of-state individual is required to:

1. Verify, either in writing or by telephone, with the out-of-state registry that the applicant is currently registered in the other state and has no record of resident abuse, neglect or misappropriation of resident property. Document and retain the results of the inquiry with the individual’s employment application.
2. Instruct the applicant to complete a Nurse Aide Registry Application form and attach a copy of his/her current registration card, letter or other notice from the other state. (Note: A copy of certification of completion of a program from a facility or other training agency located in another state is not acceptable.) These documents are to be mailed to the SA, who will officially verify the applicant’s out-of-state status in writing. The applicant may be hired and allowed to work pending the response from the out-of-state registry if the following is done:
   a) obtain from the applicant a copy of the skills evaluation completed by his/her training program instructor to verify competency in the skills required as part of the SA approved curriculum or complete a skills evaluation using the MNASCC. A copy of either skills evaluation must be filed in the applicant’s personnel or training file prior to assigning the individual to resident care.
   b) provide appropriate orientation to facility policies and procedures. Provide any further training to meet curriculum requirements (example: Montana resident rights and abuse laws or skills that were found to be unsatisfactory during the skills evaluation) prior to assigning the individual to resident care. If an out-of-state applicant is found not to be currently registered in the other state, s/he must complete a State approved NATCEP or SCEP as will any other individual hired by the facility. (Note: If the facility has provided the training and skills evaluation as described in 2, a and b, the clock hours attributed to this training, less facility orientation, may be deducted from the required total of 75 hours.)

(5) Registry verification. (i) and (ii) Prior to or immediately upon hiring an individual who claims to be listed in the State Registry, the facility must verify that the individual has met the competency evaluation requirements by one of the following:
1. Reviewing the original copy of the individual’s unexpired Certification of Competency notice from the SA.
2. Making an inquiry directly to the State Registry through the Montana Nurse Aide Registry web site, in writing, or by telephone. If the inquiry is from the web site or by telephone, documentation of the verification is be entered into the individual’s personnel file; if by writing, the original or photocopy of the correspondence from the SA is placed in the individual’s personnel file.
3. Reviewing the original copy of the individual’s test results from the SA approved test vendor showing the individual has successfully completed all parts of the test(s). Either a copy of the unexpired certification of competency notice, a hard copy of the web verification, or a copy of test results is to be obtained by the facility and filed in the personnel file of each individual hired, as soon as possible, for any of the above listed verification procedures.

(6) Multi-State registry verification.
A facility must determine, at the time of application, if an applicant has worked as a nurse aide in other states. Prior to hiring or assigning such an individual to perform any nursing or nursing related duties, the facility must inquire of the registries of any and all states the applicant has so indicated, to determine if there is any information contained in the registries about the applicant that is related to resident abuse, neglect or misappropriation of property. Documentation of the results of any and all inquiries to other states is to be maintained in the individual’s personnel file.

(7) Required retraining.
An individual must complete a new NATCEP or SCEP if s/he has not been employed to provide nursing or nursing-related services for at least 8 hours within the previous consecutive 24 months (2 years) of the date of expiration of certification of competency. To meet this requirement, the nursing or nursing related services may be provided in any type of health care setting, including private home care and physicians’ offices or clinics. Proof of employment is to be submitted with the individual’s certification of competency renewal application.

Recertification
Nurse aide certification is renewed every two years from the last date an individual has worked 8 hours providing nursing and/or nursing related services, as verified in writing by the employer. Renewal notices are mailed to each nurse aide at least 60 days prior to the expiration date of his/her certification. It is the responsibility of the individual to apply for certification renewal in a timely fashion to avoid certification expiration. Nursing facilities are required to ensure each nurse aide employed by them meets certification of competency requirements. They should implement some method of tracking to ensure certifications of nurse aides they employ are current. A nurse aide who does not renew his/her certification on time will no longer be registered and his/her name will be removed from the State Registry. To be reentered in the State Registry, individuals who have allowed certifications to expire will be required to complete either a NATCEP or a SCEP.

(8) Regular in-service education. Performance review. The annual performance review is to be completed no later than 12 months from the date of hire and at least every 12 months thereafter. The review should include ongoing observations during the individual’s daily routine. The evaluation is not an additional competency test. The purpose of the review is to determine if the individual continues to competently practice nursing and nursing
related skills and behaviors. Skills and behaviors that should be included in the evaluation are: communication and interaction skills, basic nursing procedures, infection control, safety, and other procedures the individual may practice. The performance areas reviewed are to be documented and include a statement noting whether or not the individual satisfactorily performed each area reviewed. If performance is not satisfactory, the documentation should include any remedy taken. Facilities may use any format they choose to document this information. It is permissible to use the MNASCC or other skills checklist, if desired.

In-service training. Facility responsibility: (i) The facility must provide each nurse aide with the opportunity to accumulate a minimum of 12 hours of appropriate continuing education (in-service training) each year. (Note: staff meetings and care plan meetings will not be accepted for continuing education credit, unless they meet Parts (ii) and (iii) of this paragraph.)

(ii) and (iii) Continuing education may be provided in any appropriate educational format. Video and audio tape presentations and reading or research assignments are acceptable. Appropriate subjects for continuing education are any that enhance nurse aides’ job related knowledge and skills. These include, but are not limited to the following:

1) remedial training in skills not performed satisfactorily as a result of the annual reevaluation.
2) nursing and nursing related information to improve knowledge and/or skills, including skills working with individuals with cognitive impairments.
3) meeting mental, physical and psychological needs of residents.
4) recertification in CPR (4-hour limit).
5) self-growth (management of stress, time management, interpersonal skills etc.)
6) written/oral communication, observation and documentation.
7) promotion of resident rights and dignity, including the prohibition of mistreatment, abuse, neglect and misappropriation of resident property. Each facility/agency is to maintain an individual inservice record for each nurse aide that contains the following information:

1. Date of in-service
2. Title of in-service
3. Length (time) of inservice
4. Signature of instructor(s)

A copy of this record is to be filed in each nurse aide’s personnel or training file to insure the information is easily retrievable.

STATE GUIDELINES FOR SUBPART D

(a) Program approval.
(1) (i) Only programs which meet the SA’s core curriculum requirements will be approved. The SA has designated and approved HEADMASTER, a Montana based non profit educational research and development firm, as vendor for the State’s competency evaluation program. (ii) The SA does not directly provide nurse aide training and/or competency evaluation programs. A SA approved competency evaluation program, developed by HEADMASTER and SA staff, will be administered for the State by HEADMASTER.
(2) Facilities, other agencies or vendors wishing to seek approval of self-developed programs or programs not contained in the approved programs list (Appendix C) must submit a copy of their complete curriculum, teacher guide and student workbook/learning materials to the SA for review. Following review, the SA will notify the facility, agency or vendor of its findings by letter, along with a copy of the SA’s written evaluation. Any recommendations for additions and/or changes to the submitted materials will be documented in the Comments section on page 4 of the evaluation form. If any additions or changes are required, the facility, agency or vendor must submit documentation of how these additions and/or changes will be incorporated into their program. Facilities or other agencies must notify the SA of the date of planned implementation prior to final approval. Final approval of any program submitted will be by letter from the SA. Facilities or agencies wishing approval to adopt a program listed in Appendix C must submit a letter to the SA requesting approval to implement the program. This letter must contain the following:

a. Name of approved curriculum, textbook and/or other training materials;
b. Total program hours (must be a minimum of 75 hours excluding facility orientation);
c. Number of classroom hours (acceptable range is 45-50 hours);
d. Number of clinical hours (acceptable range is 25-30 hours);
e. Training schedule that includes an outline of modules (including clinical practice) to be taught and the number of hours devoted to each module of the program; and
f. Expected date of implementation.

(3) The SA will complete the survey protocols for CFR 483.75(e) for each extended survey as directed by the State Operations Manual, Appendix P, Standard and Extended surveys. Complete NATCEP surveys will be conducted every 2 years.

(b) Requirements for program approval.

(1) (i) Requirements for approval of nurse aide training programs are contained in Section (a)(2) of this plan.

(ii) The SA has provided guidance and assistance in the development of the SA approved competency evaluation program which meets the requirements of 483.154. (See Section(a)(2) of this plan.)

(iii) Initial approval of nurse aide training programs will be conducted as described in (a)(2) of this section. Onsite reviews of all approved programs will be conducted no later than one year after the initial review and approval, and every two years thereafter, to determine compliance to 483.75(e), 483.151 (e)(1) through (3), 483.152, and 483.154 (c)(2). These reviews will be conducted utilizing established survey protocols. Upon approval, the SA will send the entity providing the NATCEP a letter of approval that contains an expiration date. Approximately 60 to 90 days prior to that expiration date, the SA will send a notice and an Application to Renew the NATCEP to the entity to determine if the entity has and will continue to provide a NATCEP. This application must be returned to the SA no later than 30 days from the date of the notice. Failure to return the renewal application will result in the automatic termination of the NATCEP. A termination notice will be sent to any entity which has not provided a NATCEP within the previous two years and to any entity that does not return a completed renewal form within the required timeframe. To reinstate a NATCEP, the entity will be required to follow all steps required in 483.152.
(2) and (3) The SA will not approve any nurse aide training or competency evaluation programs offered in or by a facility which, in the previous two years, has been under a waiver of licensed nurses or has had penalties assessed as described in these sections.

(i) Skilled nursing facilities who have been granted a waiver under this section, (i.e., allowing coverage by a registered nurse for less than 8 consecutive hours a day, 7 days a week), at any time within the two years previous to application for approval of a program, will have their application denied. A facility who already is operating a program will have the program approval withdrawn for a period of two years from the date the waiver expired.

(ii) Nursing facilities who have been granted a waiver under this section, (i.e., allowing coverage by a registered nurse for less than 8 consecutive hours a day, 7 days a week or allowing coverage by a licensed nurse for less than 24 hours a day), at any time within the two years previous to application for approval of a program will have the application denied. For a skilled nursing facility, or a nursing facility, which is operating a program at the time the waiver is approved, the program approval will be withdrawn for a period of two years from the date the waiver expired. Facilities who have been subject to:

(iii) extended or partial extended surveys;

(iv) civil money penalties of not less than $5,000;

(v) operation by temporary management appointed to oversee the operation of the facility or closure and transfer of its residents, will:

(3) --in the case of a facility which has an existing program, have the nurse aide training and competency program withdrawn for a period of 24 consecutive months (2 years) from the date that any of these penalties were imposed.

--in the case of a facility which applies for program approval, be denied approval of the nurse aide training and competency evaluation program for 24 consecutive months (2 years) from the date that any of these penalties were imposed.

--before being allowed to conduct a program, be required to resubmit a request for approval of a new program or re-approval of a previous program at such time any of these penalties have expired.

Waiver of prohibition of nurse aide training and competency evaluation programs in nursing facilities.

Nursing facilities which have been subjected to any remedy described in 483.151(b)(2) may apply to the SA, in writing, for a waiver of the prohibition of providing nurse aide training and competency evaluation in a facility if the facility meets the following:

1. There are no other nurse aide training and competency evaluation programs in, or within a reasonable distance from, the community in which the nursing facility is located.

2. The facility arranges for both classroom and clinical instruction and evaluation to be conducted by a licensed nurse who is not an employee of the facility.

(c) Time frame for approval.

The SA will, within 90 days of a request for an approval of a NATCEP,--

(1) Advise the requester that approval is or is not granted; or

(2) Request additional information from the requesting entity.

(d) Duration of approval.

The SA may grant NATCEP approvals for any time period deemed appropriate by the SA but not to exceed two years. Any substantive change in a training program must be submitted to the SA in writing. Substantive changes include changes in curriculum,
textbooks, schedules and coordinator and instructors. The SA will review the changes submitted and will respond to the provider in writing.

(e) Withdrawal of approval.

(1) The SA will withdraw approval of, for 24 consecutive months, a NATCEP or SCEP offered by or in a facility who has operated under a licensed nurse waiver or has been assessed a penalty described in paragraph (b)(2) of this section.

(2) The SA may withdraw approval of a NATCEP or SCEP offered by or in a facility who does not meet the SA’s Guidelines for meeting the requirements 483.152 or 483.154. The time limits for withdrawal of approval will be determined by the SA, but will not exceed 24 consecutive months.

(3) The SA will withdraw approval of a NATCEP or SCEP by or in a facility who refuses to permit unannounced visits by the SA.

(4) If the SA withdraws approval of a NATCEP, the entity will be:

(i) notified in writing, with reasons, for the withdrawal of approval of the program.

(ii) allowed to complete a NATCEP or SCEP that is already in progress at the time the withdrawal is made. The facility will notify the SA immediately upon receipt of the notice of withdrawal, in writing, of the following:

1. the date the class began;
2. names of all students in the class;
3. expected date of completion.

State NATCEP curriculum requirements.

a) The SA requires that at a minimum the NATCEP must--

(1) consist of a minimum of 75 clock hours of training, excluding facility orientation (i.e., orientation to personnel policies and procedures, completing employment papers, building tour and other facility-specific information);

(2) Include the subjects specified in paragraph (b) of this section.

(3) Include at least 25 hours of directly supervised practical training by an approved licensed nurse instructor. Practical training may be conducted

--in a laboratory setting, utilizing nurse aide trainees or other volunteers as subjects; or

--in a clinical setting, utilizing resident volunteers as subjects. Direct supervision means in the presence of the licensed nurse instructor. [Note: Student nurse aides may not be trained or evaluated by other nurse aides. Student nurse aides may not be assigned to work with experienced nurse aides until the students have demonstrated competence in assigned skills as required by section (4)(i) below and 483.75(e)(2) (State Plan, page 2).]

(4) A facility which is approved to provide a NATCEP may--

(i) not assign student nurse aides to perform any services for which they have not demonstrated competence. Direct supervision of a student nurse aide is not required once they have successfully passed a skills evaluation by the nurse instructor that has been dated and signed as "passed" on the MNASCC.

(ii) allow a student nurse aide to perform services under the general supervision of a licensed practical nurse or a registered nurse once the provisions described in the previous paragraph (i) are met. General supervision means on the premises during a trainee’s assigned tour of duty.

(5) Any entity which provides training of nurse aides must apply to the SA for approval of a program coordinator (PC), clinical instructor(s) (CI) and supplemental instructor(s) (SI). Only one individual may serve as program coordinator. Applications for approval as PC, CI, or SI are to be made to the SA by completing the SA application form accompanied by a
The resume must contain the individual’s professional education and experience, any teaching experience or training, and any experience supervising nurse aides.

(i) The training of nurse aides must be performed by or under the general supervision of a registered nurse who coordinates the training program. The program coordinator (PC) and clinical instructors (CI) must have at least 2 years of nursing experience, one of which has been in the provision of long term care services. Long term care services include those provided in nursing homes and geriatric or long term care units of another facility, or other entities that provide services to the aged, chronically ill and/or disabled.

(ii) All instructors must have--
1. experience in teaching adults;
2. experience in supervising nurse aides, with demonstrated competence in teaching; or
3. have equivalent education. Equivalent education includes college/university education courses, a degree in education, or a train-the-trainer course approved by the SA.

(iii) In a facility-based program, the director of nursing also may be the program coordinator. As program coordinator, the director of nurses may provide general supervision of the program and instructors but may not provide direct training.

(iv) Qualified health care personnel, who have at least one year of experience in their respective fields, may provide training in their specialties under the general supervision of the program coordinator. Such personnel include additional registered or licensed practical nurses; occupational, physical and speech/language/hearing therapists; physicians; psychologists; dentists; social workers; recreation therapists; activities specialists; administrators; medical records specialists; dietitians/dietary managers; fire safety experts; ombudspersons; pharmacists; sanitarians or others as approved by the SA.

(6) Competency evaluation procedures are specified by the test vendor and approved by the SA.

(b) The SA approved curriculum requirements include--
(1) a minimum of 16 hours of training, excluding facility orientation, in the following subjects prior to any direct contact with residents:
(i) communication and interpersonal skills
(ii) infection control
(iii) safety and emergency procedures, including Heimlich maneuver;
(iv) promoting residents’ independence, i.e. principles of restorative care; and
(v) respecting residents’ rights.

(2) Basic nursing skills:
(i) taking and recording temperature, pulse, respiration and blood pressure;
(ii) measuring and recording height and weight;
(iii) caring for the resident’s environment;
(iv) recognizing physical and emotional changes of aging; and
(v) caring for residents when death is imminent.

(3) Personal care skills, including--
(i) through (viii). Bathing, grooming, oral care, dressing, toileting, eating/feeding, skin care, transfers, positioning and turning.

(4) Mental health and social service needs:
(i) care of residents with personality and/or behavior disorders;
(ii) recognizing the physical and emotional changes of aging; understanding of caregiver’s, resident’s and family’s attitudes toward the aging process;
(iii) communicating with residents who have specific problems (sensory and cognitive deficits) and care of residents with personality and/or behavior disorders;
(iv) allowing resident to make personal choices and promoting respect and dignity, basic rights and needs;
(v) promoting support of family, i.e. understanding the family’s attitude toward the aging process and communicating with family.

(5) Care of cognitively impaired residents:
(i) through (v) care of residents who have personality and behavior disorders and meeting the needs of special residents.

(6) Basic restorative services:
(i) promoting independence and self care;
(ii) prevention of injury and falls through proper body mechanics and promotion of safe transfers and ambulation; assistance with eating; assistance with dressing;
(iii) maintenance of range of motion;
(iv) proper turning and positioning;
(v) bowel and bladder retraining; and
(vi) care and use of prosthetic devices and orthotic devices, care of residents’ personal possessions, helping the sensory impaired, and basic restorative.

(7) Residents’ rights:
(i) through (vii) promoting residents’ rights, including Montana Residents’ Rights Act; confidentiality; legal and ethical issues; resident abuse, including the Montana Elder Abuse Act; care of residents’ clothing and personal possessions; and proper use of restraints.

(c) Prohibition of charges.

(1) Nurse aides who are employed, or who have received an offer of employment, at the time he/she begins a NATCEP or SCEP may not be charged any fees, including charges for textbooks or other course materials.

(2) Questions regarding any repayment to qualifying nurse aides are to be directed to the Senior and Long Term Care Division of the Department of Public Health and Human Services, Helena, Montana.

(a) The SA approved test vendor must provide a procedure to notify any individual who applies to complete the approved competency evaluation program that a record of his/her successful completion of the competency evaluation will be forwarded to the SA for placement in the nurse aide registry. To ensure that nurse aides who apply to take the test are eligible under 483.156(c)(5)(iv) (findings of abuse, neglect or misappropriation of property), the test vendor shall require that each nurse aide must present at least two forms of identification prior to taking the test. These must include at least one form of photo identification and the aide’s social security card. The identification information must be checked against the abuse file contained in the State Registry. Any nurse aide who has been found to have committed abuse, neglect or misappropriation of property and whose name is found in the abuse file of the State Registry may not take the test and must be reported immediately to the State Registry.

(b) Content of the competency evaluation program.

(1) The SA approved test vendor must provide---
(i) a choice of a written or oral examination to all SCEP applicants;
(ii) a competency evaluation that addresses all of the core curriculum requirements;
(iii) a sufficient pool of test questions so that different forms of the examination may be used;
(iv) a system that protects the security of the pool of test questions; and
(v) an oral version of the test which is given from a prepared text in a neutral manner, and provide appropriate training to test proctors/administrators in proper the administration of oral tests. Audiotapes prepared for this purpose are acceptable.

(2) The SA approved testing entity must provide a skills demonstration test that evaluates at least 5 randomly selected skills (5 subtests) from a pool of skills. No less than 2 of the randomly selected skills must be chosen from the list of personal care skills listed in Appendix C, Core Curriculum Requirements, section 5. The remaining skills must be chosen from skills listed in Appendix C, Core Curriculum Requirements, sections 4, 6, 8, and 9. Each skill demonstration must incorporate as part of its task analysis the evaluation of the examinee’s communication and interpersonal skills (Appendix C, Core Curriculum Requirements, section 1-d and 3 and recognition of resident’s right to privacy and respect.

(c) Administration of the competency evaluation program.
(1) The competency evaluation program will be administered by-
(ii) a SA approved entity which is neither a skilled facility nor a nursing facility participating in Medicare and/or Medicaid programs.
(2) Nurse aides who are employed by, or have received an offer of employment from, a skilled facility or nursing facility participating in the Medicare and/or Medicaid programs on the date the competency program began may not be personally charged any fees for completion of the competency evaluation program, including repeating the test due to unsuccessful completion at previous attempts.
(3) See State Plan for 483.152(c)(2).
(3) Reimbursement is the responsibility of the state Medicaid agency. See 483.152(c)(2).
(4) The test vendor must insure that the skills demonstration part of the SCEP be--
(i) performed in a facility or a laboratory setting which simulates the setting in which the skill(s) will be routinely practiced; and
(ii) administered and evaluated by a registered nurse with at least one year’s experience providing care for persons who are elderly and/or chronically ill or disabled of any age. Such experience includes nursing facilities, long term care units of another facility (swing beds, rehabilitation units, geriatric units, etc.), and home health/hospice agencies.
(d) Facility proctoring of the SCEP.
(1) The test vendor must provide for testing individuals, at their request, in the facility for which they work except a facility whose NATCEP or SCEP has been revoked as specified in 483.151(b)(2).
(2) The SA will allow proctoring of the SCEP by a qualified registered nurse employed by a facility provided the test vendor insures that--
(a) only one registered nurse for each facility is approved to proctor the SCEP, and
(b) each approved proctor receives appropriate training in proctoring both the written and skills portions of the SCEP.
The test also may be administered by registered nurse instructors of units of higher education (vocational-technical schools, colleges, universities) who have at least one year’s experience instructing and testing students in nursing and nursing-related subjects. The test vendor must insure that the SCEP--
(i) is secure from tampering;
(ii) is standardized and scored only by the vendor;
(iii) requires no scoring by the facility proctor or other facility personnel.

(3) The SA will revoke approval to proctor the SCEP for any facility whose staff have been found to have engaged in impropriety and/or tampering of the SCEP.

(e) Successful completion of the competency evaluation program.

(1) For a candidate to successfully complete the SCEP, he/she must pass--
- the written (or oral) test with a score of no less than 75% correct responses.
- each skills subtest with a score of no less than 80% correct responses. The skills subtests must incorporate a system to insure that key points (those affecting the overall outcome of a subtest) must be satisfactorily passed in order to pass the skill tested.

(2) No later than 30 days following completion of the SCEP, the test vendor must provide to the State Registry a record for each individual who is successful in passing the SCEP. Information to be provided to the registry must include, at minimum, the information required by the State Plan described in 483.156.

(f) Unsuccessful completion of the competency evaluation program.

(1) The test vendor must inform individuals who have failed the written (or oral) and/or skills portions of the SCEP--
- of the general subject area(s) (e.g., resident rights, making an unoccupied bed, post mortem care, etc.) of the test which he/she did not pass;
- that the individual will have three opportunities to repeat part or all of the SCEP. Individuals who fail to score at least 75% correct responses on the written (or oral) test or who fail three or more of the skills subtests are required to repeat the entire test that was not satisfactorily completed. Individuals who fail up to two of the skills subtests are required to repeat only the subtests that he/she failed. For partial retesting of skills, the test vendor will randomly select the same number of skill(s) from the same category(ies) that were failed.

(2) Individuals who have completed an approved nurse aide training program of at least 75 hours will be allowed to repeat the SCEP a maximum of three times. If, after three attempts, the individual does not successfully complete the SCEP, he/she will be required to complete another approved nurse aide training program of at least 75 hours before being eligible to again attempt the SCEP. An individual who has not completed an approved nurse aide training program of at least 75 hours will be allowed one attempt to successfully complete the SCEP. If the individual fails the SCEP, he/she will be required to complete an approved nurse aide training program of at least 75 hours to be eligible to repeat the SCEP. Following completion of the approved training program, the individual will be given three opportunities to successfully complete the SCEP.

Nurse aide registry.

(a) Establishment of registry. The SA will maintain a registry of nurse aides that--
- includes the identifying information described in paragraph (c) of this section;
- is accessible during the operating hours of the SA;
- includes home health aides who meet the NATCEP or SCEP requirements for nurse aide certification of competency and the additional home health training competency evaluation program.

(4) provides information from nurse aides who dispute any finding against them of abuse, neglect, or misappropriation of property, should they choose to provide such information. Should an aide choose to dispute any finding of abuse, neglect, or misappropriation of funds, he/she must respond to the State’s written request for such information within 30 calendar days from the date of written notification of the SA’s findings. Failure to respond
to the SA’s request within 30 days will result in the permanent placement of the findings as public record in the registry.

(b) Registry operation.
(1) The operation of the registry will remain with the SA.
(2) Only the State survey and certification agency will be responsible to place on the registry any findings of abuse, neglect, or misappropriation of property.
(3) Individuals who are placed in the registry are those who have met the SA’s NATCEP and SCEP and include:
(i) individuals who have successfully completed a NATCEP or SCEP;
(ii) were deemed as meeting the requirements under 483.150 by March 31, 1990; or
(iii) have met waiver requirements under 483.150(b)(1). The SA will provide for certification and recertification of nurse aides and home health aides for periods not to exceed 24 consecutive months. Individuals who have not worked at least 8 hours within the 24 consecutive months preceding the expiration date of his/her certification or recertification period will be removed from the State Registry.
(4) The SA will not charge any fees related to the State Registry.
(5) The SA will respond to requests for State Registry information as follows:
- inquiries to the State Registry by telephone will be answered when State Registry staff is available or within 3 days of the inquiry.
- inquiries by mail will be answered within 5 working days of the date the inquiry is received.
- inquiries to the State Registry are available on the SA’s web site [http://161.7.8.64/QAD/nurseaideregistry.jsp](http://161.7.8.64/QAD/nurseaideregistry.jsp) 24 hours a day, 7 days a week.

c) State Registry content.
(1) The State Registry will contain the following information on all individuals who meet the requirements for nurse aide/home health aide certification of competency:
(i) the individual’s first, middle and last names, including maiden name and any previous names used;
(ii) identifying information including the individual’s
- mailing address,
- social security number,
- identification number assigned by the State; and
- date of birth;
(iii) the date of certification of competency; date the certification period expires; name of approved NATCEP completed, including hours of training, or SCEP. The SA will maintain an Abuse File as part of the State Registry which contains the following information:
(iv) substantiated findings, by either the SA or as adjudicated by a court of law, of abuse, neglect, or misappropriation of property, including—
(A) the SA’s written reports of the investigation to include information about the nature of the allegation and supporting evidence;
(B) the date and results of hearing, if any; and
(C) the statement by the individual disputing the allegation(s), if any.
(D) Information will be entered in the State Registry within 10 working days of a substantiated finding by the SA, either by default or by hearing, or within 10 days of the receipt of written notification of a verdict of guilty by a court of law. State Registry information will remain a permanent SA record unless otherwise found in error or upon notification of the individual’s death.
(2) Individuals who are no longer eligible to remain in the State Registry will,--
- in the case of an individual who has not performed nursing or nursing-related services for a period of 24 consecutive months, have his/her name removed from the active State Registry.
- in the case of substantiated abuse, neglect, or misappropriation of property, be subject to loss of his/her certification of competency by the SA.

(a) Disclosure of information.
The SA will:
(1) Disclose all of the information in 483.156(c)(1)(iii) and (iv) to any requester.
(2) Information in 483.156(c)(1)(iv) will be disclosed to any requester only if a finding of abuse, neglect, or misappropriation of property has been verified and the information has been placed in the Abuse File of the State Registry.

State FFP.
The provisions of this section are administered by the state Medicaid agency at Department of Public Health and Human Services, Senior and Long Term Care Division.