(c) Administration of the competency evaluation. (1) The competency examination must be administered and evaluated only by—
   (i) The State directly; or
   (ii) A State approved entity which is neither a skilled nursing facility that participates in Medicare nor a nursing facility that participates in Medicaid.

(2) No nurse aide who is employed by, or who has received an offer of employment from, a facility on the date on which the aide begins a nurse aide competency evaluation program may be charged for any portion of the program.

(3) If an individual who is not employed, or does not have an offer to be employed, as a nurse aide becomes employed by, or receives an offer of employment from, a facility not later than 12 months after completing a nurse aide competency evaluation program, the State must provide for the reimbursement of costs incurred in completing the program on a pro rata basis during the period in which the individual is employed as a nurse aide.

(4) The skills demonstration part of the evaluation must be—
   (i) Performed in a facility or laboratory setting comparable to the setting in which the individual will function as a nurse aide; and
   (ii) Administered and evaluated by a registered nurse with at least one year’s experience in providing care for the elderly or the chronically ill of any age.

(d) Facility proctoring of the competency evaluation. (1) The competency evaluation may, at the nurse aide’s option, be conducted at the facility in which the nurse aide is or will be employed unless the facility is described in §483.151(b)(2).

(2) The State may permit the competency evaluation to be proctored by facility personnel if the State finds that the procedure adopted by the facility assures that the competency evaluation program—
   (i) Is secure from tampering;
   (ii) Is standardized and scored by a testing, educational, or other organization approved by the State; and
   (iii) Requires no scoring by facility personnel.

(3) The State must retract the right to proctor nurse aide competency evaluations from facilities in which the State finds any evidence of impropriety, including evidence of tampering by facility staff.

(e) Successful completion of the competency evaluation program. (1) The State must establish a standard for satisfactory completion of the competency evaluation. To complete the competency evaluation successfully an individual must pass both the written or oral examination and the skills demonstration.

(2) A record of successful completion of the competency evaluation must be included in the nurse aide registry provided in §483.156 within 30 days of the date if the individual is found to be competent.

(f) Unsuccessful completion of the competency evaluation program. (1) If the individual does not complete the evaluation satisfactorily, the individual must be advised—
   (i) Of the areas which he or she did not pass; and
   (ii) That he or she has at least three opportunities to take the evaluation.

(2) The State may impose a maximum upon the number of times an individual may attempt to complete the competency evaluation successfully, but the maximum may be no less than three.

§ 483.156 Registry of nurse aides.

(a) Establishment of registry. The State must establish and maintain a registry of nurse aides that meets the requirements of this section. The registry—

(1) Must include as a minimum the information contained in paragraph (c) of this section;

(2) Must be sufficiently accessible to meet the needs of the public and health care providers promptly;

(3) May include home health aides who have successfully completed a home health aide competency evaluation program approved by the State if home health aides are differentiated from nurse aides; and

(4) Must provide that any response to an inquiry that includes a finding of abuse, neglect, or misappropriation of property also include any statement
§483.158  FFP for nurse aide training and competency evaluation.

(a) State expenditures for nurse aide training and competency evaluation programs are administrative costs. They are matched as indicated in §433.15(b)(8) of this chapter.

(b) FFP is available for State expenditures associated with nurse aide training and competency evaluation programs only for—

(1) Nurse aides employed by a facility:

(A) Documentation of the State’s investigation, including the nature of the allegation and the evidence that led the State to conclude that the allegation was valid;

(B) The date of the hearing, if the individual chose to have one, and its outcome; and

(C) A statement by the individual disputing the allegation, if he or she chooses to make one; and

(D) This information must be included in the registry within 10 working days of the finding and must remain in the registry permanently, unless the finding was made in error, the individual was found not guilty in a court of law, or the State is notified of the individual’s death.

(2) The registry must remove entries for individuals who have performed no nursing or nursing-related services for a period of 24 consecutive months, unless the individual’s registry entry includes documented findings of abuse, neglect, or misappropriation of property.

(d) Disclosure of information. The State must—

(1) Disclose all of the information in §483.158(c)(1) (ii) and (iii) to all requesters and may disclose additional information it deems necessary; and

(2) Promptly provide individuals with all information contained in the registry on them when adverse findings are placed on the registry and upon request. Individuals on the registry must have sufficient opportunity to correct any misstatements or inaccuracies contained in the registry.