

practitioners and clinical nurse specialists to achieve and maintain national certification and recognition. Currently, for the nurse practitioner, 47 States require at least national certification or a master's degree and/or completion of an advanced practice program. For the clinical nurse specialist, 29 States specify a graduate degree and/or national certification. For the remaining States, advanced practice nursing is not recognized, the authority to practice is covered under a broad Nurse Practice Act, or, in still others, the scope of practice is based on the registered nurse's own determination of education, experience and amount of physician supervision necessary to conduct practice safely.

The completion of a formal, graduate education program ensures that the nurse practitioner and clinical nurse specialist acquire and maintain the theoretical knowledge and clinical skills appropriate for the certification and recertification of extended care services. Therefore, in this final rule we are requiring master's preparation for entry level nurse practitioners and clinical nurse specialists who certify and recertify SNF residents. We believe that this requirement is consistent with the training requirement currently associated with advanced practice nursing specialties.

We also intend to allow nurse practitioners and clinical nurse specialists who are currently practicing under previously set standards, which may be less restrictive (for example, not requiring a master's degree in nursing), to certify and recertify SNF services. Consequently, we are providing that an individual may certify and recertify SNF residents if the individual: is a registered professional nurse currently licensed to practice nursing in the State where he or she practices; is authorized to perform the services of a nurse practitioner or clinical nurse specialist; and has received, within 36 months from the effective date of this final rule, a certificate of completion from a formal advanced practice program that prepares registered nurses to perform an expanded role in the delivery of primary care.

Accordingly, we are revising § 424.11(e)(5) to specify that, in order to qualify as a nurse practitioner, an individual must:

(1) Be a registered professional nurse who is currently licensed to practice nursing in the State where he or she practices; be legally authorized to perform the services of a nurse practitioner in accordance with State law; and have a master's degree in nursing;

(2) Be certified as a nurse practitioner by a duly recognized professional association that has, at a minimum, eligibility requirements that meet the standards in § 424.11(e)(5)(i) (that is, in item (1) immediately above); or

(3) Meet the requirements for a nurse practitioner set forth in § 424.11(e)(5)(i), except for the master's degree requirement, and have received before August 25, 1998 a certificate of completion from a formal advanced practice program that prepares registered nurses to perform an expanded role in the delivery of primary care.

We have chosen a 36-month period for two reasons. First, we note that most advanced nursing programs are from one to two years in length, and we want to be sure that students currently or soon to be enrolled in existing non-master's programs would be able to complete their training and be eligible for Medicare participation without the need to change programs. Secondly, we want to provide the institutions operating the programs with enough time to react to these regulations. Our research to date leads us to believe that non-master's advanced programs are steadily being converted to master's degree programs and we therefore believe that this requirement may well affect the timing of institutional decisions for conversion, rather than the nature of those decisions. We welcome comments on this particular issue.

In addition, under revised § 424.11(e)(6), in order to qualify as a clinical nurse specialist the individual must:

(1) Be a registered professional nurse who is currently licensed to practice nursing in the State where he or she practices; be legally authorized to perform the services of a clinical nurse specialist in accordance with State law; and have a master's degree in a defined clinical area of nursing;

(2) Be certified as a clinical nurse specialist by a duly recognized professional association that has, at a minimum, eligibility requirements that meet the standards in § 424.11(e)(6)(i) (that is, item (1)); or

(3) Meet the requirements for a clinical nurse specialist set forth in § 424.11(e)(6)(i), except for the master's degree requirement, and have received before August 25, 1998, a certificate of completion from a formal advanced practice program that prepares registered nurses to perform an expanded role in the delivery of primary care.

As noted above, we are adding the above provisions as a result of a public comment on our June 28, 1991 proposed

rule. However, since it would have been difficult for readers to anticipate the changes that are necessary in this final rule, we are accepting public comments on the qualification requirements set forth in new § 424.11(e)(5) and (6).

#### *D. Timing of the Recertification*

Neither OBRA '89 nor the June 28, 1991 proposed rule addressed the timing of the recertification statements. However, current regulations in § 424.20(d) specify that the first recertification is required no later than the 14th day of post-hospital SNF care, and subsequent recertifications are required at least every 30 days after the first recertification.

*Comment:* One commenter suggested that HCFA change the requirement of recertification for medical and health services, from every 30 days to monthly.

*Response:* The timing requirements for certification and recertification were not addressed in the proposed rule and thus are not the subject of this regulation. We note, however, that the requirements are stated in regulations (§ 424.20(d)) in terms of days because they must relate to an admission, which may occur any time during a month. We do not believe that it would be appropriate to restate these requirements in terms of months. Such a change could result in extending the period between recertifications to 60 days if a recertification took place on the 1st day of one month and on the last day of the next month.

#### **IV. Provisions of the Final Rule With Comment Period**

For the most part, the final rule adopts the provisions of the proposed rule. Those provisions of the final rule that differ from the proposed rule follow.

In the proposed rule, we added a new § 424.11(e)(4) to extend to nurse practitioners and clinical nurse specialists the authority to sign statements that would certify and recertify that extended care services are needed or continue to be needed. We proposed that nurse practitioners and clinical nurse specialists must be licensed by the State in order to be authorized to sign these statements. As a result of public comment, in this final rule we are revising § 424.11(e)(4) of the proposed rule to delete the licensure requirement. Instead, as discussed above in section III.C. of this preamble, we are adding paragraphs (e)(5) and (e)(6) to § 424.11(e) to set forth specific qualification requirements for nurse practitioners and clinical nurse specialists, respectively, for purposes of the certification provisions. We are