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SENATE BILL 5796

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State of Washington

52nd Legislature

1991 Regular Session

By Senator Niemi.

Read first time February 21, 1991. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to the certification and registration of nursing  
2 assistants; amending RCW 18.88A.010, 18.88A.020, 18.88A.030,  
3 18.88A.040, 18.88A.050, 18.88A.060, 18.88A.070, 18.88A.080, and  
4 18.88A.100; adding new sections to chapter 18.88A RCW; and repealing  
5 RCW 18.52A.010, 18.52A.020, 18.52A.030, 18.52A.040, 18.52B.050,  
6 18.52B.080, 18.52B.110, 18.52B.120, 18.52B.150, 18.52B.160, 18.52B.900,  
7 and 18.52B.901.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 **Sec. 1.** RCW 18.88A.010 and 1989 c 300 s 3 are each amended to read  
10 as follows:

11 The legislature takes special note of the contributions made by  
12 nursing assistants in health care facilities whose tasks are arduous  
13 and whose working conditions may be contributing to the high and often  
14 critical turnover among the principal cadre of health care workers who  
15 provide for the basic needs of patients. The legislature also

1 recognizes the growing shortage of nurses as the proportion of the  
2 elderly population grows and as the acuity of patients in hospitals and  
3 nursing homes becomes generally more severe.

4 The legislature finds and declares that occupational nursing  
5 assistants should have a formal system of educational and experiential  
6 qualifications leading to career mobility and advancement. The  
7 establishment of such a system should bring about a more stabilized  
8 work force in health care facilities, as well as provide a valuable  
9 resource for recruitment into licensed nursing practice.

10 The legislature finds that the quality of patient care in health  
11 care facilities is dependent upon the competence of the personnel who  
12 staff their facilities. To assure the availability of trained  
13 personnel in health care facilities the legislature recognizes the need  
14 for training programs for nursing assistants.

15 The legislature declares that the registration of nursing  
16 assistants and providing for voluntary certification of those who wish  
17 to seek higher levels of qualification is in the interest of the public  
18 health, safety, and welfare.

19 **Sec. 2.** RCW 18.88A.020 and 1989 c 300 s 4 are each amended to read  
20 as follows:

21 Unless the context clearly requires otherwise, the definitions in  
22 this section apply throughout this chapter.

23 (1) "Department" means the department of (~~licensing~~) health.

24 (2) (~~Director~~) Secretary means the (~~director of licensing or~~  
25 ~~the director's designee~~) secretary of health.

26 (3) "Board" means the Washington state board of nursing.

27 (4) (~~"Nursing assistant certified" means an individual certified~~  
28 ~~under this chapter.~~

1       ~~(5) "Nursing assistant—registered" means an individual registered~~  
2 ~~under this chapter))~~       "Nursing assistant" means an individual,  
3 regardless of title, who, under the direction and supervision of a  
4 registered nurse or licensed practical nurse, assists in the delivery  
5 of nursing and nursing-related activities to patients in a health care  
6 facility. The two levels of nursing assistants are (a) "nursing  
7 assistant-certified," an individual certified under this chapter, (b)  
8 "nursing assistant-registered," an individual registered under this  
9 chapter.

10       ~~((6))~~       (5) "Committee" means the Washington state nursing  
11 assistant advisory committee.

12       ~~((7) "Certification program" means an educational program approved~~  
13 ~~by the superintendent of public instruction or the state board for~~  
14 ~~community college education in consultation with the board, and offered~~  
15 ~~by or under the administration of an accredited educational~~  
16 ~~institution, either at a school site or a health care facility site.~~  
17 ~~A program shall be offered at or near a health care facility site only~~  
18 ~~if the health care facility can provide adequate classroom and clinical~~  
19 ~~facilities.~~

20       ~~(8))~~       (6) "Approved training program" means a nursing assistant-  
21 certified training program approved by the board. For community  
22 college, vocational-technical institutes, skill centers, and secondary  
23 school as defined in chapter 28B.50 RCW, nursing assistant-certified  
24 training programs shall be approved by the board in cooperation with  
25 the board for community college education or the superintendent of  
26 public instruction.

27       (7) "Health care facility" means a nursing home, hospital, hospice  
28 care facility, home health care agency, hospice agency, or other entity  
29 for delivery of health care services as defined by the board.

1        (8) "Competency evaluation" means the measurement of an  
2 individual's knowledge and skills as related to safe, competent  
3 performance as a nursing assistant.

4        **Sec. 3.** RCW 18.88A.030 and 1989 c 300 s 5 are each amended to read  
5 as follows:

6        (1) A nursing assistant may assist in the care of ~~((patients))~~  
7 individuals as delegated by and under the direction and supervision of  
8 a licensed (registered) nurse or licensed practical nurse~~((, provided~~  
9 ~~that a health care facility shall not assign an assistant to provide~~  
10 ~~patient care until the assistant has demonstrated skill necessary to~~  
11 ~~perform assigned duties and responsibilities competently. Nothing in~~  
12 ~~this chapter shall be construed as conferring on a nursing assistant~~  
13 ~~the authority to administer medication or to practice as a licensed~~  
14 ~~(registered) nurse or licensed practical nurse.~~

15        ~~(2) A nursing assistant certified may assist in the care of the~~  
16 ~~ill, injured, or infirm under the direction and supervision of a~~  
17 ~~licensed (registered) nurse or licensed practical nurse except that a~~  
18 ~~nursing assistant certified may not administer medication or practice~~  
19 ~~as a licensed (registered) nurse as defined in chapter 18.88 RCW or~~  
20 ~~licensed practical nurse as defined in chapter 18.78 RCW)).~~

21        (2) A health care facility shall not assign a nursing assistant-  
22 registered to provide care until the nursing assistant-registered has  
23 demonstrated skills necessary to perform competently all assigned  
24 duties and responsibilities.

25        (3) Nothing in this chapter shall be construed to confer on a  
26 nursing assistant the authority to administer medication or to practice  
27 as a licensed (registered) nurse as defined in chapter 18.88 RCW or  
28 licensed practical nurse as defined in chapter 18.78 RCW.

1       (4) Certification is voluntary for nursing assistants working in  
2 health care facilities other than nursing homes unless otherwise  
3 required by state or federal law or regulation.

4       (5) The board of nursing shall have the authority to promulgate  
5 rules regarding the scope of practice of nursing assistants.

6       **Sec. 4.** RCW 18.88A.040 and 1989 c 300 s 6 are each amended to read  
7 as follows:

8       (1) No person may practice or represent himself or herself as a  
9 nursing assistant-registered by use of any title or description  
10 without being registered by the department pursuant to this chapter(~~(7~~  
11 ~~unless exempt under RCW 18.52B.050))~~).

12       (2) After ~~((January))~~ October 1, 1990, no person may by use of any  
13 title or description, practice or represent himself or herself as a  
14 nursing assistant-~~((-))~~certified without applying for certification,  
15 meeting the qualifications, and being certified by the department  
16 pursuant to this chapter.

17       NEW SECTION. **Sec. 5.** A new section is added to chapter 18.88A RCW  
18 to read as follows:

19       Nothing in this chapter may be construed to prohibit or restrict:

20       (1) The practice by an individual licensed, certified, or  
21 registered under the laws of this state and performing services within  
22 their authorized scope of practice;

23       (2) The practice by an individual employed by the government of the  
24 United States while engaged in the performance of duties prescribed by  
25 the laws of the United States;

26       (3) The practice by a person who is a regular student in an  
27 educational program approved by the secretary, and whose performance of

1 services pursuant to a regular course of instruction or assignments  
2 from an instructor and under the general supervision of the instructor.

3 **Sec. 6.** RCW 18.88A.050 and 1989 c 300 s 7 are each amended to read  
4 as follows:

5 In addition to any other authority provided by law, the  
6 (~~director~~) secretary has the authority to:

7 (1) Set all certification, registration, and renewal fees in  
8 accordance with RCW (~~43.24.086~~) 43.70.250 and to collect and deposit  
9 all such fees in the health professions account established under RCW  
10 (~~43.24.072~~) 43.70.320;

11 (2) Establish forms (~~and~~), procedures, and examinations necessary  
12 to administer this chapter;

13 (3) Hire clerical, administrative, and investigative staff as  
14 needed to implement this chapter;

15 (4) Issue a registration to any applicant who has met the  
16 requirements for registration;

17 (5) After January 1, 1990, issue a certificate to any applicant who  
18 has met the education, training, and conduct requirements for  
19 certification;

20 (6) Maintain the official record for the department of all  
21 applicants and persons with registrations and certificates;

22 (~~(7) (Conduct a hearing on an appeal of a denial of a registration~~  
23 ~~or a certificate based on the applicant's failure to meet the minimum~~  
24 ~~qualifications for certification. The hearing shall be conducted under~~  
25 ~~chapter 34.05 RCW;~~

26 (~~(8) Issue subpoenas, statements of charges, statements of intent to~~  
27 ~~deny certification, and orders and to delegate in writing to a designee~~  
28 ~~the authority to issue subpoenas, statements of charges, and statements~~  
29 ~~of intent to deny certification.~~

1       ~~The uniform disciplinary act, chapter 18.130 RCW, governs~~  
2 ~~unregistered or uncertified practice, issuance of certificates and~~  
3 ~~registration, and the discipline of persons registered or with~~  
4 ~~certificates under this chapter. The director shall be the~~  
5 ~~disciplinary authority under this chapter)) Exercise disciplinary  
6 authority as authorized in chapter 18.130 RCW;~~

7       (8) Deny registration to any applicant who fails to meet  
8 requirement for registration;

9       (9) Deny certification to applicants who do not meet the education,  
10 training, competency evaluation, and conduct requirements for  
11 certification;

12       (10) Delegate responsibilities under this chapter.

13       **Sec. 7.** RCW 18.88A.060 and 1989 c 300 s 8 are each amended to read  
14 as follows:

15       In addition to any other authority provided by law, the state board  
16 of nursing has the authority to:

17       (1) Determine minimum education requirements and approve  
18 ~~((certification))~~ training programs;

19       (2) Prepare, grade, and administer, or determine the nature of, and  
20 supervise the grading and administration of, examinations of training  
21 and competency for applicants for certification;

22       (3) Determine whether alternative methods of training are  
23 equivalent to ~~((formal education))~~ approved training programs, and  
24 establish forms, procedures, and criteria for evaluation of an  
25 applicant's alternative training to determine the applicant's  
26 eligibility to take any qualifying examination for certification;

27       (4) Define and approve any experience requirement for  
28 certification;

1 (5) Adopt rules implementing a continuing competency evaluation  
2 program;

3 (6) Adopt rules to enable it to carry into effect the provisions of  
4 this chapter.

5 **Sec. 8.** RCW 18.88A.070 and 1989 c 300 s 9 are each amended to read  
6 as follows:

7 (1) The ~~((director))~~ secretary has the authority to appoint an  
8 advisory committee to the state board of nursing and the department to  
9 further the purposes of this chapter. The committee shall be composed  
10 of ten members, two members initially appointed for a term of one year,  
11 three for a term of two years, and four for a term of three years.  
12 Subsequent appointments shall be for terms of three years. No person  
13 may serve as a member of the committee for more than two consecutive  
14 terms. The committee shall consist of: A nursing assistant certified  
15 under this chapter, a representative of nursing homes, a representative  
16 of the office of the superintendent of public instruction, a  
17 representative of the state board ~~((of))~~ for community college  
18 education, a representative of the department of social and health  
19 services responsible for aging and adult services in nursing homes, a  
20 consumer of nursing assistant services who shall not be or have been a  
21 member of any other licensing board or committee; nor a licensee of any  
22 health occupation board, an employee of any health care facility, nor  
23 derive primary livelihood from the provision of health services at any  
24 level of responsibility, a representative of an acute care hospital, a  
25 representative of home health care, and one member who is a licensed  
26 (registered) nurse and one member who is a licensed practical nurse.

27 (2) The ~~((director))~~ secretary may remove any member of the  
28 advisory committee for cause as specified by rule. In the case of a

1 vacancy, the ~~((director))~~ secretary shall appoint a person to serve for  
2 the remainder of the unexpired term.

3 (3) The advisory committee shall meet at the times and places  
4 designated by the ~~((director))~~ secretary or the board and shall hold  
5 meetings during the year as necessary to provide advice to the  
6 ~~((director))~~ secretary.

7 **Sec. 9.** RCW 18.88A.080 and 1989 c 300 s 10 are each amended to  
8 read as follows:

9 (1) The ~~((director))~~ secretary shall issue a registration to any  
10 applicant who pays any applicable fees and submits, on forms provided  
11 by the ~~((director))~~ secretary, the applicant's name, address, and other  
12 information as determined by the ~~((director, including information~~  
13 necessary to determine whether)) secretary, provided there are no  
14 grounds for denial of registration or issuance of a conditional  
15 registration under this chapter or chapter 18.130 RCW.

16 (2) ~~((After January 1, 1990, the director shall issue a certificate~~  
17 ~~to any applicant who demonstrates to the director's satisfaction that~~  
18 ~~the following requirements have been met:~~

19 ~~(a) Completion of an educational program approved by the board or~~  
20 ~~successful completion of alternate training meeting established~~  
21 ~~criteria approved by the board;~~

22 ~~(b) Successful completion of an approved examination; and~~

23 ~~(c) Successful completion of any experience requirement established~~  
24 ~~by the board.~~

25 (3) ~~In addition, applicants shall be subject to the grounds for~~  
26 ~~denial of registration or certificate under chapter 18.130 RCW))~~  
27 Applicants must file an application with the board for registration  
28 within three days of employment.

1        NEW SECTION.    **Sec. 10.**    A new section is added to chapter 18.88A  
2    RCW to read as follows:

3        (1) After January 1, 1990, the secretary shall issue a certificate  
4    to any applicant who demonstrates to the secretary's satisfaction that  
5    the following requirements have been met:

6        (a) Completion of an approved training program or successful  
7    completion of alternate training meeting established criteria approved  
8    by the board; and

9        (b) Successful completion of a competency evaluation.

10       (2) In addition, applicants shall be subject to the grounds for  
11    denial of certification under chapter 18.130 RCW.

12       **Sec. 11.**    RCW 18.88A.100 and 1989 c 300 s 12 are each amended to  
13    read as follows:

14       The    (~~director~~)    secretary    shall    waive    the    competency  
15    (~~examination~~)    evaluation    and    certify    a    person    (~~authorized~~)    to  
16    practice within the state of Washington if the board determines that  
17    the person meets commonly accepted standards of education and  
18    experience for the nursing assistants. This section applies only to  
19    those individuals who file an application for waiver (~~within one year~~  
20    ~~of the establishment of the authorized practice on January 1, 1990~~) by  
21    December 31, 1991.

22       NEW SECTION.    **Sec. 12.**    A new section is added to chapter 18.88A  
23    RCW to read as follows:

24       An applicant holding a credential in another state may be certified  
25    by endorsement to practice in this state without examination if the  
26    secretary determines that the other state's credentialing standards are  
27    substantially equivalent to the standards in this state.

1        NEW SECTION.    **Sec. 13.**    A new section is added to chapter 18.88A  
2 RCW to read as follows:

3        Applications for registration and certification shall be submitted  
4 on forms provided by the secretary.    The secretary may require any  
5 information and documentation that reasonably relates to the need to  
6 determine whether the applicant meets the criteria for registration and  
7 certification credentialing provided for in this chapter and chapter  
8 18.120 RCW.    Each applicant shall pay a fee determined by the secretary  
9 under RCW 43.70.250.    The fee shall accompany the application.

10       NEW SECTION.    **Sec. 14.**    A new section is added to chapter 18.88A  
11 RCW to read as follows:

12        The secretary shall establish by rule the procedural requirements  
13 and fees for renewal of a registration or certificate.    Failure to  
14 renew shall invalidate the credential and all privileges granted by the  
15 credential.    If a certificate has lapsed for a period longer than three  
16 years, the person shall demonstrate competence to the satisfaction of  
17 the board by taking continuing education courses, or meeting other  
18 standards determined by the board.

19       NEW SECTION.    **Sec. 15.**        The following acts or parts of acts are  
20 each repealed:

21        (1) RCW 18.52A.010 and 1979 c 114 s 1;

22        (2) RCW 18.52A.020 and 1989 c 300 s 13, 1988 c 267 s 19, 1985 c 284  
23 s 5, & 1979 c 114 s 2;

24        (3) RCW 18.52A.030 and 1989 c 300 s 1, 1988 c 267 s 20, 1987 c 476  
25 s 7, 1985 c 284 s 6, & 1979 c 114 s 3;

26        (4) RCW 18.52A.040 and 1989 c 300 s 2 & 1979 c 114 s 4;

27        (5) RCW 18.52B.050 and 1988 c 267 s 5;

28        (6) RCW 18.52B.080 and 1988 c 267 s 8;

- 1 (7) RCW 18.52B.110 and 1988 c 267 s 11;
- 2 (8) RCW 18.52B.120 and 1988 c 267 s 14;
- 3 (9) RCW 18.52B.150 and 1988 c 267 s 16;
- 4 (10) RCW 18.52B.160 and 1988 c 267 s 17;
- 5 (11) RCW 18.52B.900 and 1988 c 267 s 18; and
- 6 (12) RCW 18.52B.901 and 1988 c 267 s 25.

7 NEW SECTION. **Sec. 16.** If any provision of this act or its  
8 application to any person or circumstance is held invalid, the  
9 remainder of the act or the application of the provision to other  
10 persons or circumstances is not affected.