

ESSB 6582 - H COMM AMD

By Committee on Health Care & Wellness

ADOPTED AS AMENDED 02/28/2010

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 18.88A.010 and 1991 c 16 s 1 are each amended to read
4 as follows:

5 (1) The legislature takes special note of the contributions made by
6 nursing assistants in health care facilities whose tasks are arduous
7 and whose working conditions may be contributing to the high and often
8 critical turnover among the principal cadre of health care workers who
9 provide for the basic needs of patients. The legislature also
10 recognizes the growing shortage of nurses as the proportion of the
11 elderly population grows and as the acuity of patients in hospitals and
12 nursing homes becomes generally more severe.

13 (2) The legislature finds and declares that:

14 (a) Occupational nursing assistants should have a formal system of
15 educational and experiential qualifications leading to career mobility
16 and advancement. The establishment of such a system should bring about
17 a more stabilized workforce in health care facilities, as well as
18 provide a valuable resource for recruitment into licensed nursing
19 practice.

20 ((The legislature finds that)) (b) The quality of patient care in
21 health care facilities is dependent upon the competence of the
22 personnel who staff their facilities. To assure the availability of
23 trained personnel in health care facilities the legislature recognizes
24 the need for training programs for nursing assistants.

25 ((The legislature declares that)) (c) Certified home care aides and
26 medical assistants are a valuable potential source of nursing
27 assistants who will be needed to meet the care needs of the state's
28 growing aging population. To assure continued opportunity for
29 recruitment into licensed nursing practice and career advancement for
30 certified home care aides and medical assistants, nursing assistant

1 training programs should recognize the relevant training and experience
2 obtained by these credentialed professionals. By taking advantage of
3 the authority granted under the federal social security act to certify
4 nursing assistants through a state-approved competency evaluation
5 program as a federally recognized alternative to the state-approved
6 training and competency evaluation program, the legislature intends to
7 increase the potential for recruitment into licensed nursing practice
8 while maintaining a single standard for competency evaluation of
9 certified nursing assistants.

10 (d) The registration of nursing assistants and providing for
11 voluntary certification of those who wish to seek higher levels of
12 qualification is in the interest of the public health, safety, and
13 welfare.

14 **Sec. 2.** RCW 18.88A.020 and 1994 sp.s. c 9 s 708 are each amended
15 to read as follows:

16 Unless the context clearly requires otherwise, the definitions in
17 this section apply throughout this chapter.

18 (1) "Department" means the department of health.

19 (2) "Secretary" means the secretary of health.

20 (3) "Commission" means the Washington nursing care quality
21 assurance commission.

22 (4) "Nursing assistant" means an individual, regardless of title,
23 who, under the direction and supervision of a registered nurse or
24 licensed practical nurse, assists in the delivery of nursing and
25 nursing-related activities to patients in a health care facility. The
26 two levels of nursing assistants are:

27 (a) "Nursing assistant-certified," an individual certified under
28 this chapter((7)); and

29 (b) "Nursing assistant-registered," an individual registered under
30 this chapter.

31 (5) "Approved training program" means a nursing assistant-certified
32 training program approved by the commission to meet the requirements of
33 a state-approved nurse aide training and competency evaluation program
34 consistent with 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal social
35 security act. For community college, vocational-technical institutes,
36 skill centers, and secondary school as defined in chapter 28B.50 RCW,

1 nursing assistant-certified training programs shall be approved by the
2 commission in cooperation with the board for community and technical
3 colleges or the superintendent of public instruction.

4 (6) "Health care facility" means a nursing home, hospital, hospice
5 care facility, home health care agency, hospice agency, or other entity
6 for delivery of health care services as defined by the commission.

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

10 (8) "Alternative training" means a nursing assistant-certified
11 program meeting criteria adopted by the commission under section 3 of
12 this act to meet the requirements of a state-approved nurse aide
13 competency evaluation program consistent with 42 U.S.C. Sec. 1395i-3(e)
14 and (f) of the federal social security act.

15 NEW SECTION. Sec. 3. A new section is added to chapter 18.88A RCW
16 to read as follows:

17 (1) The commission shall adopt criteria for evaluating an
18 applicant's alternative training to determine the applicant's
19 eligibility to take the competency evaluation for nursing assistant
20 certification. At least one option adopted by the commission must
21 allow an applicant to take the competency evaluation if he or she:

22 (a)(i) Is a certified home care aide pursuant to chapter 18.88B
23 RCW; or

24 (ii) Is a certified medical assistant pursuant to a certification
25 program accredited by a national medical assistant accreditation
26 organization and approved by the commission; and

27 (b) Has successfully completed twenty-four hours of training that
28 the commission determines is necessary to provide training equivalent
29 to approved training on topics not addressed in the training specified
30 for certification as a home care aide or medical assistant, as
31 applicable. In the commission's discretion, a portion of these hours
32 may include clinical training.

33 (2)(a) By January 1, 2011, the commission, in consultation with the
34 secretary, the department of social and health services, and consumer,
35 employer, and worker representatives, shall adopt rules to implement
36 this section and to provide, beginning May 1, 2011, for a program of
37 credentialing reciprocity to the extent required by this section

1 between home care aide and medical assistant certification and nursing
2 assistant certification. By January 1, 2011, the secretary shall also
3 adopt such rules as may be necessary to implement this section and the
4 credentialing reciprocity program.

5 (b) Rules adopted under this section must be consistent with
6 requirements under 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal
7 social security act relating to state-approved competency evaluation
8 programs for certified nurse aides.

9 (3) Beginning December 1, 2011, the secretary, in consultation with
10 the commission, shall report annually by December 1st to the governor
11 and the appropriate committees of the legislature on the progress made
12 in achieving career advancement for certified home care aides and
13 medical assistants into nursing practice.

14 **Sec. 4.** RCW 18.88A.030 and 1995 1st sp.s. c 18 s 52 are each
15 amended to read as follows:

16 (1)(a) A nursing assistant may assist in the care of individuals as
17 delegated by and under the direction and supervision of a licensed
18 (registered) nurse or licensed practical nurse.

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

23 ((+3)) (c) Nothing in this chapter shall be construed to confer on
24 a nursing assistant the authority to administer medication unless
25 delegated as a specific nursing task pursuant to this chapter or to
26 practice as a licensed (registered) nurse or licensed practical nurse
27 as defined in chapter 18.79 RCW.

28 ((+4)) (2)(a) A nursing assistant employed in a nursing home must
29 have successfully obtained certification through: (i) An approved
30 training program and the competency evaluation within four months after
31 the date of employment; or (ii) alternative training and the competency
32 evaluation prior to employment.

33 (b) Certification is voluntary for nursing assistants working in
34 health care facilities other than nursing homes unless otherwise
35 required by state or federal law or regulation.

36 ((+5)) (3) The commission may adopt rules to implement the
37 provisions of this chapter.

1 **Sec. 5.** RCW 18.88A.050 and 1991 c 16 s 6 are each amended to read
2 as follows:

3 In addition to any other authority provided by law, the secretary
4 has the authority to:

5 (1) Set all nursing assistant certification, registration, and
6 renewal fees in accordance with RCW 43.70.250 and to collect and
7 deposit all such fees in the health professions account established
8 under RCW 43.70.320;

9 (2) Establish forms, procedures, and (~~examinations~~) the
10 competency evaluation necessary to administer this chapter;

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

13 (4) Issue a nursing assistant registration to any applicant who has
14 met the requirements for registration;

15 (5) After January 1, 1990, issue a nursing assistant certificate to
16 any applicant who has met the (~~education,~~) training, competency
17 evaluation, and conduct requirements for certification under this
18 chapter;

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

22 (7) Exercise disciplinary authority as authorized in chapter 18.130
23 RCW;

24 (8) Deny registration to any applicant who fails to meet
25 requirement for registration as a nursing assistant;

26 (9) Deny certification to applicants who do not meet the
27 (~~education,~~) training, competency evaluation, and conduct
28 requirements for certification as a nursing assistant.

29 **Sec. 6.** RCW 18.88A.060 and 1994 sp.s. c 9 s 710 are each amended
30 to read as follows:

31 In addition to any other authority provided by law, the commission
32 may:

33 (1) Determine minimum nursing assistant education requirements and
34 approve training programs;

35 (2) Prepare, grade, and administer, or determine the nature of, and
36 supervise the grading and administration of, (~~examinations of training~~
37 ~~and~~) the competency evaluation for applicants for nursing assistant

1 certification, using the same competency evaluation for all applicants,
2 whether qualifying to take the competency evaluation under an approved
3 training program or alternative training;

4 (3) (~~Determine whether alternative methods of training are~~
5 ~~equivalent to approved training programs, and~~) Establish forms
6 and procedures (~~,~~ ~~and~~ ~~criteria~~) for evaluation of an applicant's
7 alternative training (~~to determine the applicant's eligibility to take~~
8 ~~any qualifying examination for certification~~) under criteria adopted
9 pursuant to section 3 of this act;

10 (4) Define and approve any experience requirement for nursing
11 assistant certification;

12 (5) Adopt rules implementing a continuing competency evaluation
13 program for nursing assistants; and

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

16 **Sec. 7.** RCW 18.88A.085 and 2007 c 361 s 9 are each amended to read
17 as follows:

18 (1) After January 1, 1990, the secretary shall issue a nursing
19 assistant certificate to any applicant who demonstrates to the
20 secretary's satisfaction that the following requirements have been met:

21 (a) Successful completion of an approved training program or
22 successful completion of (~~alternate~~) alternative training meeting
23 established criteria (~~approved~~) adopted by the commission under
24 section 3 of this act; and

25 (b) Successful completion of (~~a~~) the competency evaluation.

26 (2) (~~The secretary may permit all or a portion of the training~~
27 ~~hours earned under chapter 74.39A RCW to be applied toward~~
28 ~~certification under this section.~~

29 (~~3~~)) In addition, applicants shall be subject to the grounds for
30 denial of certification under chapter 18.130 RCW.

31 **Sec. 8.** RCW 18.88A.090 and 1994 sp.s. c 9 s 713 are each amended
32 to read as follows:

33 (1) (~~The date and location of examinations shall be established by~~
34 ~~the secretary. Applicants who have been found by the secretary to meet~~
35 ~~the requirements for certification shall be scheduled for the next~~

1 ~~examination following the filing of the application. The secretary~~
2 ~~shall establish by rule the examination application deadline.~~

3 (2)) The commission shall examine each applicant, by a written or
4 oral and a manual component of competency evaluation. ((Examinations))
5 The competency evaluation shall be limited to the purpose of
6 determining whether the applicant possesses the minimum skill and
7 knowledge necessary to practice competently.

8 ((3) ~~The examination papers, all grading of the papers, and the~~
9 ~~grading of skills demonstration shall be preserved for a period of not~~
10 ~~less than one year after the commission has made and published the~~
11 ~~decisions. All examinations shall be conducted under fair and wholly~~
12 ~~impartial methods.~~

13 (4)) (2) Any applicant failing to make the required grade in the
14 first ((examination)) competency evaluation may take up to three
15 subsequent ((examinations)) competency evaluations as the applicant
16 desires upon prepaying a fee determined by the secretary under RCW
17 43.70.250 for each subsequent ((examination)) competency evaluation.
18 Upon failing four ((examinations)) competency evaluations, the
19 secretary may invalidate the original application and require such
20 remedial education before the person may take future ((examinations))
21 competency evaluations.

22 ((5)) The commission may approve ((an examination)) a competency
23 evaluation prepared or administered by a private testing agency or
24 association of licensing agencies for use by an applicant in meeting
25 the credentialing requirements.

26 **Sec. 9.** RCW 18.88A.110 and 1991 c 16 s 13 are each amended to read
27 as follows:

28 An applicant holding a credential in another state may be certified
29 by endorsement to practice in this state without ((examination)) the
30 competency evaluation if the secretary determines that the other
31 state's credentialing standards are substantially equivalent to the
32 standards in this state.

33 **Sec. 10.** RCW 18.88A.140 and 2003 c 140 s 3 are each amended to
34 read as follows:

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

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

4 (2) The practice by an individual employed by the government of the
5 United States while engaged in the performance of duties prescribed by
6 the laws of the United States;

7 (3) The practice by a person who is a regular student in an
8 educational program approved by the secretary, and whose performance of
9 services is pursuant to a regular course of instruction or assignments
10 from an instructor and under the general supervision of the instructor;

11 (4) A nursing assistant, while employed as a personal aide as
12 defined in RCW 74.39.007 or a long-term care worker as defined in
13 chapter 74.39A RCW, from accepting direction from an individual who is
14 self-directing (~~their~~) his or her care.

15 NEW SECTION. **Sec. 11.** RCW 18.88A.115 (Home care aide
16 certification reciprocity) and 2009 c 580 s 16 & 2009 c 2 s 11
17 (Initiative Measure No. 1029) are each repealed.

18 NEW SECTION. **Sec. 12.** If any part of this act is found by a
19 federal agency to be in conflict with federal requirements, including
20 requirements related to the medicare and medicaid programs under the
21 federal social security act, that are a prescribed condition to the
22 allocation of federal funds to the state, the conflicting part of this
23 act is inoperative solely to the extent of the conflict and with
24 respect to the agencies directly affected, and this finding does not
25 affect the operation of the remainder of this act in its application to
26 the agencies concerned. Rules adopted under this act must meet federal
27 requirements, including requirements related to the medicare and
28 medicaid programs under the federal social security act, that are a
29 necessary condition to the receipt of federal funds by the state."

30 Correct the title.

EFFECT: The amendment:

(1) Adds a provision affirming the intent to use the federally recognized nurse aide competency evaluation alternative while maintaining a single standard for competency evaluation of nursing assistants;

(2) Adds alternative training reciprocity for medical assistants, in addition to the reciprocity for home care aides;

(3) Delays implementation of the reciprocity program until May 1, 2011;

(4) Adds the Department of Social and Health Services to the entities to be consulted in developing rules and requires Nursing Commission and Department of Health rules to be consistent with federal requirements for a state-approved competency evaluation program;

(5) Adds that the competency evaluation is the same for all applicants, whether qualifying under approved training and under alternative training;

(6) Consistently refers to "competency evaluation" and deletes references to "examinations" and requirements related to examinations, such as establishing dates and locations and keeping and grading papers; and

(7) Makes other technical and clarifying changes.

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