

HOUSE BILL REPORT

ESSB 6582

As Reported by House Committee On:
Health Care & Wellness

Title: An act relating to credentialing as a nursing assistant.

Brief Description: Concerning nursing assistant credentialing.

Sponsors: Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser, Roach, Zarelli, Prentice and Kilmer).

Brief History:

Committee Activity:

Health Care & Wellness: 2/18/10, 2/23/10 [DPA].

**Brief Summary of Engrossed Substitute Bill
(As Amended by House)**

- Requires the Nursing Care Quality Assurance Commission to adopt criteria for alternative training to determine eligibility to take the certified nursing assistant competency evaluation, including an option that allows certified home care aides and medical assistants to take the examination after completing specified additional training.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass as amended. Signed by 9 members: Representatives Cody, Chair; Driscoll, Vice Chair; Campbell, Clibborn, Green, Kelley, Moeller, Morrell and Pedersen.

Minority Report: Do not pass. Signed by 4 members: Representatives Ericksen, Ranking Minority Member; Bailey, Herrera and Hinkle.

Staff: Chris Cordes (786-7103).

Background:

Nursing Assistant Credentialing.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Washington Law. In Washington, nursing assistants are persons who, regardless of title, assist in the delivery of nursing activities to patients in facilities such as nursing homes, hospitals, hospice, and home health care agencies. Nursing assistants provide care as delegated by, and under the supervision of, a registered nurse or licensed practical nurse. However, nursing assistants employed as personal aides are not prohibited from accepting direction from their clients.

There are two levels of credentialing for nursing assistants:

- Registered nursing assistants. Applicants for nursing assistant registration must file within three days of employment. Registered nursing assistants may not be assigned to provide care until the nursing assistant demonstrates the skills necessary to perform competently all assigned duties.
- Certified nursing assistants. To become certified, a nursing assistant must successfully complete an approved training program and pass a competency evaluation. Certification is required for nursing assistants working in a nursing home, but is voluntary for those working in other health care facilities unless required by law.

The Nursing Care Quality Assurance Commission (Nursing Commission) determines minimum education requirements and approves training programs for certifying nursing assistants. Rules adopted by the Nursing Commission require an applicant for nursing assistant certification to complete at least 85 hours of training in specified topics.

The Nursing Commission also has authority to determine whether alternative training is equivalent to approved training programs and may establish procedures and criteria for evaluating an applicant's alternative training to determine eligibility to take the qualifying examination for certification.

Nursing assistant registrations and certifications are issued by the Department of Health (DOH).

Federal Law. Nursing homes participating in federal Medicare or Medicaid programs must meet specified requirements. One requirement is that nursing homes must employ only nurse aides who have completed either a state-approved (1) training and competency evaluation program, or (2) competency evaluation program. For state-approved training, federal law requires 75 hours of training, including 16 hours of supervised clinical training, in specified subjects. It also specifies the content of the competency evaluation programs, which must address each training subject and include a demonstration of skills. The Department of Social and Health Services is the state's survey agency responsible for determining whether nursing homes meet federal requirements.

Nursing home employees who are in a state-approved training and competency evaluation program are allowed up to four months to complete the program.

The majority of states have chosen to approve only a training and competency evaluation program. Other states also have competency evaluation programs that permit applicants to sit for the certification examination without completing approved training (e.g., Florida,

Minnesota, and Iowa) or after the state waives completion of certain parts of the training (e.g., Missouri).

Certified Home Care Aides.

Under Initiative 1029 (I-1029) as amended in 2009, most long-term care workers hired after January 1, 2011, must have specified training and be certified as a home care aide. The home care aide certification must occur within 150 days from the date of hire after the long-term care worker completes 75 hours of training and passes an examination.

Included in I-1029 was a directive to the DOH to develop, in consultation with the Nursing Commission, rules that would permit reciprocity between certification for home care aides and nursing assistants to the maximum extent possible under federal law. These rules must be adopted by August 1, 2010.

Certified Medical Assistants.

Medical assistants are not certified by the state, but are trained in medical assisting programs accredited by private accrediting organizations. Training includes classes addressing topics in direct patient care and office administration. To be certified as a medical assistant, the student must pass an examination sponsored by the American Association of Medical Assistants.

Medical assistants may work as health care assistants. In Washington, health care assistants are unlicensed persons who assist licensed health care practitioners, such as physicians and physician assistants, registered nurses and advanced registered nurse practitioners, and naturopaths. A licensed health care practitioner may delegate certain functions within the delegator's scope of practice to a health care assistant, including administering skin tests and injections, and performing blood withdrawal and certain other specified functions.

Health care assistants are certified by the health care facility in which the services are performed or by the health care practitioner who delegates functions to the health care assistant. The facility or practitioner must submit to the DOH a roster of certified health care assistants.

Summary of Amended Bill:

Alternative Training Criteria.

The Nursing Commission is required to adopt criteria for evaluating alternative training to determine an applicant's eligibility to take the competency evaluation for nursing assistant certification. At least one option must allow an applicant to take the competency evaluation if he or she:

- is a certified home care aide or a certified medical assistant; and
- has successfully completed 24 hours of training determined by the Nursing Commission to provide training equivalent to nursing assistant approved training on

topics not addressed in the training specified for home care aide or medical assistant, as applicable.

The Nursing Commission has discretion to include clinical training for a portion of the 24 hours of training.

References to "examination" are replaced with "competency evaluation," and requirements related to examinations, such as establishing the dates and locations of exams and keeping and grading papers are deleted. The same competency evaluation is to be used for all applicants.

"Approved training" and "alternative training" are defined as programs that meet the requirements of a state-approved nurse aide "training and competency evaluation program" and "competency evaluation program," respectively, consistent with federal law.

Reciprocity Rules.

By January 1, 2011, the Nursing Commission, in consultation with the Secretary of the DOH, the Department of Social and Health Services, and consumer, employer, and worker representatives, must adopt rules to implement, beginning May 1, 2011, the alternative training criteria and to provide for credentialing reciprocity between nursing assistant certification and the certification of home care aides and medical assistants. The Secretary of the DOH must also adopt rules that may be necessary to implement this program. Rules must be consistent with federal law. The directive to the DOH to develop reciprocity rules to the maximum extent possible under federal law is repealed.

Nursing Assistant Practice.

Nursing assistants employed in nursing homes must be certified through (1) an approved training program within four months after the date of employment, or (2) through an alternative training program and the competency examination prior to employment.

Nursing assistants employed as long-term care workers are not prohibited from accepting direction from their clients.

Report on Nursing Career Advancement.

Beginning December 1, 2011, the Secretary of the DOH, in consultation with the Nursing Commission, must report annually to the Governor and Legislature on the progress made in achieving career advancement for certified home care aides into nursing practice.

Various technical changes are made for consistency and to clarify terms.

Amended Bill Compared to Engrossed Substitute Bill:

The striking 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 certified medical assistants, in addition to home care aides, to the nursing assistant alternative training reciprocity program;
3. delays implementation of the reciprocity program until May 1, 2011;
4. adds the Department of Social and Health Services as an entity to be consulted in developing rules and requires Nursing Commission and DOH 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.

Appropriation: None.

Fiscal Note: Available on original bill. New fiscal note requested on February 23, 2010.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill will allow certified home care aides to use their experience to get them on a career path into nursing. There is significant overlap in the training required for home care aides and for nursing assistants; duplicating the cost of training is not a good use of state resources. To get home care aides certified as nursing assistants, it is not necessary to develop a different examination. The bill only lowers the hurdles to advancement, but does not lower the examination requirements. This is not a different kind of nursing assistant. Everyone who passes the examination should have the same qualifications and meet the same high standards of competency. The state needs to address the dead end nature of home care worker jobs. If home care aides are able to move up into nursing with having to take time off from work to start a new training program, the state will be moving toward addressing the shortages in persons providing nursing care.

(With concerns) There will need to be adequate time and resources to compare the 75 hours of home care aide training and the 85 hours of nursing assistance training to develop the "bridge" training. It would help to have an extra six months before the program takes effect. The Nursing Commission will suggest some clarifying language to address the "one examination" issue. Employers need to be sure that they are hiring the same certified nursing assistant as a nursing home would hire. The bill should keep the revised federal severability clause and make changes that require an adequate skills demonstration for competency.

The Nursing Commission supports the idea of a career ladder and recognizing existing competencies. The goals for the program should be competency, successful passing of the exam, and competency that the employer can rely on.

For home health aides, they must be certified nursing assistants to be placed on the register and be eligible for the additional home health training. It may be impractical to fund a new training program because of budget cuts. The fee of \$110 for home care aide certification is a significant barrier for home care workers. Private pay aides have the certification fee taken out of their pay. Only about 25 percent of the population is Medicaid, with the rest private pay.

(Opposed) None.

Persons Testifying: (In support) Senator Keiser, prime sponsor; Peter Nazzal, Catholic Community Services; and Misha Werschkul, Service Employees International Union 775.

(With concerns) Paula Meyer, Nursing Care Quality Assurance Commission; Lisa Butler, Home Care Association of Washington and Washington State Hospice and Palliative Care Organization; Leslie Emerick, Washington Private Duty Association; and Julie Peterson, Aging Services of Washington.

Persons Signed In To Testify But Not Testifying: None.