

CHAPTER 300

[House Bill No. 1253]

NURSING ASSISTANTS—EXAMINATION AND REGISTRATION

AN ACT Relating to nursing assistants; amending RCW 18.52A.030, 18.52A.040, 18.52B.010, 18.52B.020, 18.52B.030, 18.52B.040, 18.52B.060, 18.52B.070, 18.52B.090, 18.52B.100, 18.52B.130, 18.52B.140, and 18.52A.020; reenacting and amending RCW 18.120.020; recodifying RCW 18.52B.010, 18.52B.020, 18.52B.030, 18.52B.040, 18.52B.060, 18.52B.070, 18.52B.090, 18.52B.100, 18.52B.130, and 18.52B.140; and repealing RCW 18.52A.060.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 3, chapter 114, Laws of 1979 as last amended by section 20, chapter 267, Laws of 1988 and RCW 18.52A.030 are each amended to read as follows:

(1) Any nursing assistant employed by a nursing home, who has satisfactorily completed a nursing assistant training program under this chapter, shall, upon application, be issued a verification of completion by the program provider.

(2) All nursing assistants employed by a nursing home shall be required to be registered with the department of licensing and to show evidence of satisfactory completion of a nursing assistant training program, or that they are enrolled in and are progressing satisfactorily towards completion of a training program under standards promulgated by the board, which program must be completed within ~~((six))~~ four months of employment. A nursing home may employ a person not currently enrolled if the employer within twenty days enrolls the person in an approved training program: PROVIDED, That a nursing home shall not assign an assistant to provide resident care until the assistant has demonstrated skills necessary to perform assigned duties and responsibilities competently. All persons enrolled in a training program must satisfactorily complete the program within ~~((six))~~ four months from the date of initial employment.

(3) Compliance with this section shall be a condition of licensure of nursing homes under chapter 18.51 RCW. Beginning January 1, 1986, compliance with this section shall be a condition of licensure of hospitals licensed under chapter 70.41 RCW with a wing certified to provide nursing home care under Title XVIII or Title XIX of the social security act. Any health provider of skilled nursing facility care or intermediate care facility care shall meet the requirements of this section.

Sec. 2. Section 4, chapter 114, Laws of 1979 and RCW 18.52A.040 are each amended to read as follows:

(1) The board shall establish minimum curriculum standards and approve or disapprove curriculum used in nursing assistant training programs. ~~((The standards shall include, as a minimum, instruction in patient environment, patients' psychosocial needs, aseptic technique, personal hygiene,~~

~~excretory systems, basic nursing procedures, food service, and fire safety, consisting of at least twenty-five classroom hours and at least fifty hours of supervised and on-the-job training clinical practice. The fifty hours may consist of employment as nurse assistants under supervision of a registered nurse:))~~

(2) For nursing assistant training programs conducted by nursing homes, the board shall adopt additional minimum standards covering non-curriculum matters such as, but not limited to, staffing and teacher qualifications. Of the standards adopted by the board, nursing assistant training programs conducted by publicly supported schools, and private educational institutions accredited by the northwest association of schools and colleges, shall be required to meet only those standards established under subsection (1) of this section.

(3) The board shall periodically review the nursing assistant training programs conducted by nursing homes. Upon completion of the review, the board shall approve or disapprove each program.

(4) The superintendent of public instruction and the state board for community college education shall periodically review with the board the nursing assistant training programs conducted by publicly supported schools within the agencies' respective jurisdictions. Upon completion of the review, the board shall approve or disapprove each program, and graduates of such approved programs shall automatically be certified.

Sec. 3. Section 1, chapter 267, Laws of 1988 and RCW 18.52B.010 are each amended to read as follows:

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

The legislature finds and declares that occupational nursing assistants should have a formal system of educational and experiential qualifications leading to career mobility and advancement. The establishment of such a system should bring about a more stabilized work force in ~~((the nursing home setting))~~ health care facilities, as well as provide a valuable resource for recruitment into licensed nursing practice.

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

Sec. 4. Section 2, chapter 267, Laws of 1988 and RCW 18.52B.020 are each amended to read as follows:

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

(1) "Department" means the department of licensing.

(2) "Director" means the director of licensing or the director's designee.

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

(4) "Nursing assistant—certified" means an individual certified under this chapter.

(5) "Nursing assistant—registered" means an individual registered under this chapter.

(6) "Committee" means the Washington state nursing assistant advisory committee.

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

(8) (~~"Registration program" means a nursing assistant training program as defined under chapter 18.52A RCW.~~

~~(9) "Nursing home" means a facility licensed under chapter 18.51 RCW.) "Health care facility" means a nursing home, hospital, hospice care facility, home health care agency, hospice agency, or other entity for delivery of health care services.~~

Sec. 5. Section 3, chapter 267, Laws of 1988 and RCW 18.52B.030 are each amended to read as follows:

(1) A nursing assistant(~~(=registered))~~) may assist in the care of patients under the direction and supervision of a licensed (registered) nurse or licensed practical nurse, provided that a ((nursing home)) health care facility shall not assign an assistant to provide ((resident)) patient care until the assistant has demonstrated skill necessary to perform assigned duties and responsibilities competently. Nothing in this chapter shall be construed as conferring on a nursing assistant the authority to administer medication or to practice as a licensed (registered) nurse or licensed practical nurse.

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

~~((3) The board may further define by rule the scope of practice and minimum competencies of nursing assistants—certified in consultation with the nursing assistant advisory committee.))~~

Sec. 6. Section 4, chapter 267, Laws of 1988 and RCW 18.52B.040 are each amended to read as follows:

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

(2) After January 1, 1990, no person may represent himself or herself as a nursing assistant—certified without applying for certification, meeting the qualifications, and being certified by the department pursuant to this chapter.

Sec. 7. Section 6, chapter 267, Laws of 1988 and RCW 18.52B.060 are each amended to read as follows:

In addition to any other authority provided by law, the director has the authority to:

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

(2) Establish forms and procedures necessary to administer this chapter;

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

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

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

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

(7) Conduct a hearing on an appeal of a denial of a registration or a certificate based on the applicant's failure to meet the minimum qualifications for certification. The hearing shall be conducted under chapter ~~((34.04))~~ 34.05 RCW;

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

The uniform disciplinary act, chapter 18.130 RCW, governs unregistered or uncertified practice, issuance of certificates and registration, and the discipline of persons registered or with certificates under this chapter. The director shall be the disciplinary authority under this chapter.

Sec. 8. Section 7, chapter 267, Laws of 1988 and RCW 18.52B.070 are each amended to read as follows:

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

(1) Determine minimum education requirements and approve (~~(registration)~~) certification programs (~~(according to chapter 18.52A RCW)~~);

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

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

~~((5))~~ (4) Define and approve any experience requirement for certification;

~~((6))~~ (5) Adopt rules implementing a continuing competency evaluation program;

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

Sec. 9. Section 9, chapter 267, Laws of 1988 and RCW 18.52B.090 are each amended to read as follows:

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

(2) The director may remove any member of the advisory committee for cause as specified by rule. In the case of a vacancy, the director shall appoint a person to serve for the remainder of the unexpired term.

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

Sec. 10. Section 10, chapter 267, Laws of 1988 and RCW 18.52B.100 are each amended to read as follows:

(1) The director shall issue a registration to any applicant who submits, on forms provided by the director, the applicant's name, address, ~~((occupational title, name and location of business,))~~ and other information as determined by the director, including information necessary to determine whether there are grounds for denial of registration or issuance of a conditional registration under this chapter or chapter 18.130 RCW.

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

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

(b) Successful completion of an approved examination; and

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

~~((4))~~ (3) In addition, applicants shall be subject to the grounds for denial of registration or certificate under chapter 18.130 RCW.

Sec. 11. Section 13, chapter 267, Laws of 1988 and RCW 18.52B.130 are each amended to read as follows:

(1) The date and location of examinations shall be established by the director. Applicants who have been found by the director to meet the requirements for certification shall be scheduled for the next examination following the filing of the application. The director shall establish by rule the examination application deadline.

(2) The board shall examine each applicant, by ~~((means determined most effective, on subjects appropriate to the scope of practice, as applicable))~~ a written or oral and a manual component of competency evaluation. Examinations shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

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

(4) Any applicant failing to make the required grade in the first examination may take up to three subsequent examinations as the applicant desires upon prepaying a fee determined by the director under RCW 43.24.086 for each subsequent examination. Upon failing four examinations,

the director may invalidate the original application and require such remedial education before the person may take future examinations.

(5) The board may approve an examination prepared or administered by a private testing agency or association of licensing agencies for use by an applicant in meeting the credentialing requirements.

Sec. 12. Section 15, chapter 267, Laws of 1988 and RCW 18.52B.140 are each amended to read as follows:

The director shall waive the competency examination and certify a person authorized to practice within the state of Washington if the board determines that the person meets commonly accepted standards of education and experience for the ((profession)) nursing assistants. This section applies only to those individuals who file an application for waiver within one year of the establishment of the authorized practice on January 1, 1990.

Sec. 13. Section 2, chapter 114, Laws of 1979 as last amended by section 19, chapter 267, Laws of 1988 and RCW 18.52A.020 are each amended to read as follows:

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

(1) "Nursing assistant" means a person registered or certified under chapter ((18.52B)) 18.88A RCW (as recodified by section 15 of this act) who, under the direction and supervision of a registered nurse or licensed practical nurse, assists in the care of patients in a facility licensed under chapter 18.51 RCW, a wing of a hospital licensed under chapter 70.41 RCW if the wing is certified to provide nursing home care under Title XVIII or Title XIX of the social security act, or any nursing care facility operated under the direction of the department of veterans affairs.

(2) "Department" means the department of social and health services.

(3) "Nursing home" means a facility licensed under chapter 18.51 RCW, a wing of a hospital licensed under chapter 70.41 RCW if the wing is certified to provide nursing home care under Title XVIII or Title XIX of the social security act, or any nursing care facility operated under the direction of the department of veterans affairs.

(4) "Board" means the state board of nursing.

Sec. 14. Section 21, chapter 267, Laws of 1988 and section 12, chapter 277, Laws of 1988 and RCW 18.120.020 are each reenacted and amended to read as follows:

The definitions contained in this section shall apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant group" includes any health professional group or organization, any individual, or any other interested party which proposes that any health professional group not presently regulated be regulated or which proposes to substantially increase the scope of practice of the profession.

(2) "Certificate" and "certification" mean a voluntary process by which a statutory regulatory entity grants recognition to an individual who (a) has met certain prerequisite qualifications specified by that regulatory entity, and (b) may assume or use "certified" in the title or designation to perform prescribed health professional tasks.

(3) "Grandfather clause" means a provision in a regulatory statute applicable to practitioners actively engaged in the regulated health profession prior to the effective date of the regulatory statute which exempts the practitioners from meeting the prerequisite qualifications set forth in the regulatory statute to perform prescribed occupational tasks.

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: Podiatry under chapter 18.22 RCW; chiropractic under chapters 18.25 and 18.26 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; dispensing opticians under chapter 18.34 RCW; hearing aids under chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ophthalmologists under chapter 18.55 RCW; osteopathy and osteopathic medicine and surgery under chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71, 18.71A, and 18.72 RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.78 RCW; psychologists under chapter 18.83 RCW; registered nurses under chapter 18.88 RCW; occupational therapists licensed pursuant to chapter 18.59 RCW; respiratory care practitioners certified under chapter 18.89 RCW; veterinarians and animal technicians under chapter 18.92 RCW; health care assistants under chapter 18.135 RCW; massage practitioners under chapter 18.108 RCW; acupuncturists certified under chapter 18.06 RCW; persons registered or certified under chapter 18.19 RCW; dietitians and nutritionists certified by chapter 18.138 RCW; radiologic technicians under chapter 18.84 RCW; and nursing assistants registered or certified under chapter (~~18.88B~~) 18.88A RCW (as recodified by section 15 of this act).

(5) "Inspection" means the periodic examination of practitioners by a state agency in order to ascertain whether the practitioners' occupation is being carried out in a fashion consistent with the public health, safety, and welfare.

(6) "Legislative committees of reference" means the standing legislative committees designated by the respective rules committees of the senate and house of representatives to consider proposed legislation to regulate health professions not previously regulated.

(7) "License," "licensing," and "licensure" mean permission to engage in a health profession which would otherwise be unlawful in the state in the

absence of the permission. A license is granted to those individuals who meet prerequisite qualifications to perform prescribed health professional tasks and for the use of a particular title.

(8) "Professional license" means an individual, nontransferable authorization to carry on a health activity based on qualifications which include: (a) Graduation from an accredited or approved program, and (b) acceptable performance on a qualifying examination or series of examinations.

(9) "Practitioner" means an individual who (a) has achieved knowledge and skill by practice, and (b) is actively engaged in a specified health profession.

(10) "Public member" means an individual who is not, and never was, a member of the health profession being regulated or the spouse of a member, or an individual who does not have and never has had a material financial interest in either the rendering of the health professional service being regulated or an activity directly related to the profession being regulated.

(11) "Registration" means the formal notification which, prior to rendering services, a practitioner shall submit to a state agency setting forth the name and address of the practitioner; the location, nature and operation of the health activity to be practiced; and, if required by the regulatory entity, a description of the service to be provided.

(12) "Regulatory entity" means any board, commission, agency, division, or other unit or subunit of state government which regulates one or more professions, occupations, industries, businesses, or other endeavors in this state.

(13) "State agency" includes every state office, department, board, commission, regulatory entity, and agency of the state, and, where provided by law, programs and activities involving less than the full responsibility of a state agency.

NEW SECTION. Sec. 15. RCW 18.52B.010, 18.52B.020, 18.52B.030, 18.52B.040, 18.52B.060, 18.52B.070, 18.52B.090, 18.52B.100, 18.52B.130, and 18.52B.140 are each recodified as a new chapter in Title 18 RCW to be designated as chapter 18.88A RCW as well as chapter 267, Laws of 1988.

NEW SECTION. Sec. 16. Section 6, chapter 114, Laws of 1979 and RCW 18.52A.060 are each repealed.

Passed the House April 17, 1989.

Passed the Senate April 4, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.