

SSB 6582 - S AMD 92

By Senators Keiser, Pflug

ADOPTED 02/16/2010

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 are
26 a valuable potential source of nursing assistants who will be needed to
27 meet the care needs of the state's growing aging population. To assure
28 continued opportunity for recruitment into nursing practice and career
29 advancement for certified home care aides, nursing assistant training

1 programs should recognize the relevant training and experience obtained
2 by these credentialed professionals.

3 (d) The registration of nursing assistants and providing for
4 voluntary certification of those who wish to seek higher levels of
5 qualification is in the interest of the public health, safety, and
6 welfare.

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

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

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

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

13 (3) "Commission" means the Washington nursing care quality
14 assurance commission.

15 (4) "Nursing assistant" means an individual, regardless of title,
16 who, under the direction and supervision of a registered nurse or
17 licensed practical nurse, assists in the delivery of nursing and
18 nursing-related activities to patients in a health care facility. The
19 two levels of nursing assistants are (a) "nursing assistant-certified,"
20 an individual certified under this chapter, (b) "nursing assistant-
21 registered," an individual registered under this chapter.

22 (5) "Approved training program" means a nursing assistant-certified
23 training program approved by the commission to meet the training
24 requirements of a state-approved nurse aide training and competency
25 evaluation program within the meaning of 42 U.S.C. Sec. 1395i-3(e).
26 For community college, vocational-technical institutes, skill centers,
27 and secondary school as defined in chapter 28B.50 RCW, nursing
28 assistant-certified training programs shall be approved by the
29 commission in cooperation with the board for community and technical
30 colleges or the superintendent of public instruction.

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

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

1 ((+2)) (b) A health care facility (~~shall~~) may not assign a
2 nursing assistant-registered to provide care until the nursing
3 assistant-registered has demonstrated skills necessary to perform
4 competently all assigned duties and responsibilities.

5 ((+3)) (c) Nothing in this chapter shall be construed to confer on
6 a nursing assistant the authority to administer medication unless
7 delegated as a specific nursing task pursuant to this chapter or to
8 practice as a licensed (registered) nurse or licensed practical nurse
9 as defined in chapter 18.79 RCW.

10 ((+4)) (2)(a) A nursing assistant employed in a nursing home must
11 have successfully obtained certification through: (i) An approved
12 training program and the competency evaluation within four months after
13 the date of employment; or (ii) alternative training and the competency
14 evaluation prior to employment.

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

18 ((+5)) (3) The commission may adopt rules to implement the
19 provisions of this chapter.

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

22 In addition to any other authority provided by law, the secretary
23 has the authority to:

24 (1) Set all certification, registration, and renewal fees in
25 accordance with RCW 43.70.250 and to collect and deposit all such fees
26 in the health professions account established under RCW 43.70.320;

27 (2) Establish forms, procedures, and examinations necessary to
28 administer this chapter;

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

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

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

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

1 (7) Exercise disciplinary authority as authorized in chapter 18.130
2 RCW;

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

5 (9) Deny certification to applicants who do not meet the education,
6 training, competency evaluation, and conduct requirements for
7 certification.

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

10 In addition to any other authority provided by law, the commission
11 may:

12 (1) Determine minimum nursing assistant education requirements and
13 approve training programs;

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

17 (3) (~~Determine whether alternative methods of training are~~
18 ~~equivalent to approved training programs, and~~) Establish forms
19 and procedures (~~(, and criteria)~~) for evaluation of an applicant's
20 alternative training (~~(to determine the applicant's eligibility to take~~
21 ~~any qualifying examination for certification)~~) under criteria adopted
22 pursuant to section 3 of this act;

23 (4) Define and approve any experience requirement for nursing
24 assistant certification;

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

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

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

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

34 (a) Successful completion of an approved training program or
35 successful completion of (~~(alternate)~~) alternative training meeting

1 established criteria (~~approved~~) adopted by the commission under
2 section 3 of this act; and

3 (b) Successful completion of a competency evaluation.

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

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

9 **Sec. 8.** RCW 18.88A.140 and 2003 c 140 s 3 are each amended to read
10 as follows:

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

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

15 (2) The practice by an individual employed by the government of the
16 United States while engaged in the performance of duties prescribed by
17 the laws of the United States;

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

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

26 NEW SECTION. **Sec. 9.** RCW 18.88A.115 (Home care aide certification
27 reciprocity) and 2009 c 580 s 16 & 2009 c 2 s 11 (Initiative Measure
28 No. 1029) are each repealed.

29 NEW SECTION. **Sec. 10.** If any part of this act is found by an
30 agency of the federal government to be in conflict with federal
31 requirements, including requirements related to the medicare and
32 medicaid programs under the federal social security act, that are a
33 prescribed condition to the allocation of federal funds to the state,
34 the conflicting part of this act is inoperative solely to the extent of
35 the conflict and with respect to the agencies directly affected, and

1 this finding does not affect the operation of the remainder of this act
2 in its application to the agencies concerned. Rules adopted under this
3 act must meet federal requirements, including requirements related to
4 the medicare and medicaid programs under the federal social security
5 act, that are a necessary condition to the receipt of federal funds by
6 the state."

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7 On page 1, line 1 of the title, after "assistant;" strike the
8 remainder of the title and insert "amending RCW 18.88A.010, 18.88A.020,
9 18.88A.030, 18.88A.050, 18.88A.060, 18.88A.085, and 18.88A.140; adding
10 a new section to chapter 18.88A RCW; creating a new section; and
11 repealing RCW 18.88A.115."

EFFECT: Date by which rules must be developed by the Nursing Care Quality Assurance Commission is changed to January 1, 2011, to match other dates in the bill.

Medical assistants are no longer included in the bill.

Definitions are provided for "approved training program" and "alternative training" ensuring that they both comply with federal requirements under 42 U.S.C. Sec. 1395i-3(e).

Clarification is provided to ensure compliance with federal requirements about hiring certified nursing assistants in nursing facilities. For those enrolled in an approved training program, such certification must be accomplished within four months of employment. For those completing an alternative training, such certification must be completed prior to employment.

Language is added to specify that if bill language conflicts with federal law or Medicaid, Medicare programs, the conflicting part of the act is inoperative.

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