

1987 Assembly Bill 660

Date of enactment: **November 27, 1987**

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1987 Wisconsin Act 128

AN ACT to create 146.40 of the statutes, relating to certification by the department of health and social services of instructional programs for nurse's assistants and home health aides, regulating employment of nurse's assistants and home health aides, granting rule-making authority and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 146.40 of the statutes is created to read:

146.40 Instructional programs for nurse's assistants and home health aides. (1) In this section:

(a) "Developmentally disabled person" has the meaning specified in s. 55.01 (2).

(b) "Home health agency" has the meaning specified in s. 141.15 (1) (a).

(bm) "Home health aide" means an individual employed by or under contract with a home health agency to provide home health aide services under the supervision of a registered nurse.

(br) "Hospital" has the meaning specified in s. 50.33 (2).

(c) "Licensed practical nurse" means a nurse who is licensed or has a temporary permit under s. 441.10.

(d) "Nurse's assistant" means a person who performs routine patient care duties delegated by a registered nurse or licensed practical nurse who supervises the person, for the direct health care of a patient or resident. "Nurse's assistant" does not mean a person who is licensed, permitted, certified or registered under ch. 441, 448, 449, 450, 455 or 459 or a person whose duties primarily involve skills that are different than those taught in instructional programs certified under sub. (3).

(e) "Nursing home" has the meaning specified in s. 50.01 (3).

(f) "Registered nurse" means a nurse who has a certificate of registration under s. 441.06 or a temporary permit under s. 441.08.

(2) After December 31, 1989, a hospital or nursing home may not employ a person as a nurse's assistant and a home health agency may not employ a person as a home health aide, regardless of the title under which the person is employed, unless one of the following is true:

(a) The person has completed instruction in an instructional program for nurse's assistants or for home health aides that is certified by the department under sub. (3).

(b) The person has practiced as a nurse's assistant or as a home health aide for at least 12 months on or prior to December 31, 1989.

(c) The person has been employed fewer than 91 days by the hospital, nursing home or home health agency.

(d) The person has completed instruction in an instructional program for nurse's assistants or for home health aides that is certified in another state that is specified by the department by rule, or the person is certified as a nurse's assistant or as a home health aide in another state that is specified by the department by rule.

(3) The department shall certify instructional programs for nurse's assistants and for home health aides that apply for certification and satisfy standards for certification promulgated by rule by the department. The department shall review the curriculum of each certified program at least once every 36 months following the date of certification to determine whether the curriculum incorporates all of the skills required of a nurse's assistant or of a home health aide. The department may, following a hearing, suspend or revoke the certification of a program if the curriculum does not incorporate all of the skills required of a nurse's assistant or of a home health aide.

(4) By March 1, 1991, and every March 1 thereafter, a certified instructional program for nurse's assistants and a certified instructional program for home health aides shall notify the department in writing of the number of persons who have successfully completed instruction during the previous calendar year.

(5) (a) The department, in consultation with the board of vocational, technical and adult education, shall promulgate rules specifying standards for certification in this state of instructional programs for nurse's assistants and for home health aides. The standards shall include specialized training in providing care to persons with special needs. The department shall promulgate rules regarding this specialized training in consultation with a private nonprofit organization awarded a grant under s. 46.855.

(b) The department shall promulgate rules specifying states that are included under sub. (2) (d). A state may be specified in the rule only if the state grants nurse's assistant privileges or home health aide privileges to persons who have completed instruction in a program that is certified by the department under sub. (3) and if one of the following is true:

1. If the other state certifies instructional programs for nurse's assistants or for home health aides, the state's requirements are substantially similar, as determined by the department, to certification requirements in this state.

2. If the other state certifies nurse's assistants or home health aides, the state's requirements are such

that the instructional programs required for attendance by persons receiving certificates are substantially similar, as determined by the department, to instructional programs certified under sub. (3).

(6) Any person who violates sub. (2) shall forfeit not more than \$1,000.
