

**2013 DRAFTING REQUEST**

**Bill**

Received: **2/5/2013** Received By: **tdodge**  
Wanted: **As time permits** Same as LRB:  
For: **Sheila Harsdorf (608) 266-7745** By/Representing: **Matt Wuebke**  
May Contact: Drafter: **mduchek**  
Subject: **Health - miscellaneous** Addl. Drafters:  
Extra Copies:

Submit via email: **YES**  
Requester's email: **Sen.Harsdorf@legis.wisconsin.gov**  
Carbon copy (CC) to: **michael.duchek@legis.wisconsin.gov**  
**tamara.dodge@legis.wisconsin.gov**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Nurse aide bridge training program for nurse aides originally certified in another state.

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mduchek 3/8/2013			_____			
/P1	mduchek 4/5/2013	wjackson 4/8/2013	rschluet 4/8/2013	_____	sbasford 3/14/2013		State
/P2	mduchek 5/8/2013	wjackson 5/9/2013	phenry 5/9/2013	_____	lparisi 4/8/2013		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1				_____	srose 5/9/2013	srose 5/10/2013	State

FE Sent For:



A+  
Intro.

<END>

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FE Sent For: *1/p2wlj 4/8*  
*4 8 10*  
*SM*  
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/?	tdodge	/pl wly 3/14		_____	_____		

FE Sent For:

<END>

## Dodge, Tamara

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**From:** Wuebke, Matt  
**Sent:** Tuesday, February 05, 2013 1:50 PM  
**To:** Dodge, Tamara  
**Subject:** Nurse aid licensing drafting request

Hi Tamara,

I'm not sure if you are the appropriate LRB attorney to contact on this issue, so please point me in the right direction if this is not your area.

We would like to place a drafting request for legislation that would authorize DHS to establish a "bridge" program for nurse aide training. Under DHS administrative code (chapter 129), nurse aides must complete 120 hours of instruction prior to being licensed. Other neighboring states do not require a 120 hour training program, which inhibits nurses trained in other states to be licensed and employed in Wisconsin. After consulting their legal counsel, DHS determined that they do not have the statutory authority to allow those licensed in other states to merely make up the difference in training (i.e.: 40 hours of WI training when the home state only required 80 hours). We would like to give DHS that authority to establish bridge programs. A competency exam should also be included for nurse aides that complete the bridge program.

Please feel free to discuss this matter with DHS as needed. I have spoken to folks over there on this issue, including their legislative liaison. I have also attached a snippet of an e-mail I received from Shari Busse on this issue, who works at DHS in their Division of Quality Assurance.

Please feel free to contact me if you have any questions.

Matt Wuebke  
Office of Sen. Sheila Harsdorf  
800-862-1092 or 608-266-7745

The Department has not proposed any alternatives to meeting the minimum state requirements and I'm not aware of any legislators proposing anything either. We do believe that nurse aides trained in other states should have to meet the same requirements that we require of WI citizens.

We did request a legal opinion about approving a sort of "bridge" training program that an aide with less than 120 hours could take; i.e., a 45 hour program that an aide who had completed a program between 75 and 119 hours could complete (rather than 120 hours) and then take the competency test. OLC determined that we do not currently have statutory authority to approve a training program of less than 120 hours.



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-1513/P1

MED: f:...

Wlj

In 3-8-12

By 3-15, if possible

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

D-note

Gen

1

**AN ACT ...; relating to:** instructional programs for nurse aides.

***Analysis by the Legislative Reference Bureau***

Current law provides that, with certain exceptions, no hospital, nursing home, intermediate care facility for persons with an intellectual disability, home health agency, or hospice (health facility) may employ the services of a nurse aide unless the individual has successfully completed an instructional program and a competency evaluation program that are approved by the Department of Health Services (DHS). A nurse aide is defined as an individual who performs routine patient care duties that are delegated by a registered nurse or licensed practical nurse who supervises the individual, for the direct health care of a patient or resident. Current law requires DHS to promulgate rules that establish standards for the approval of nurse aide instructional programs and competency evaluation programs and requires DHS to approve programs that meet those standards.

This bill permits DHS to approve instructional programs for nurse aides that allow an individual who has successfully completed an instructional program for nurse aides in another state to receive instruction that, when combined with the instructional program in the other state, will result in the individual having received substantially the same instruction as an individual who completes an instructional program approved by DHS under current law (bridge program). As under current law and subject to the same exceptions, an individual who successfully completes a bridge program must successfully complete a competency evaluation program approved by DHS in order to work in a health facility.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 73.0301 (1) (d) 3. of the statutes is amended to read:

2 73.0301 (1) (d) 3. A license, certificate of approval, provisional license,  
3 conditional license, certification, certification card, registration, permit, training  
4 permit or approval specified in s. 50.35, 50.49 (6) (a) or (10), 51.038, 51.04, 51.42 (7)  
5 (b) 11., 51.421 (3) (a), 51.45 (8), 146.40 (3), (3g) or (3m), 252.23 (2), 252.24 (2),  
6 254.176, 254.20 (3), 255.08 (2) (a), 256.15 (5) (a) or (b), (6g) (a), (7), or (8) (a) or (f) or  
7 343.305 (6) (a) or a permit for operation of a campground specified in s. 254.47 (1).

8 History: 1997 a. 237 ss. 301, 307, 532; 1999 a. 9, 31, 32, 186; 2001 a. 56; 2005 a. 25; 2007 a. 1; 2007 a. 20 ss. 2155 to 2158, 9121 (6) (a); 2007 a. 130, 196; 2009 a. 2, 3, 185, 344, 405; 2011 a. 32.

8 SECTION 2. 146.40 (1) (d) of the statutes is amended to read:

9 146.40 (1) (d) "Nurse aide" means an individual who performs routine patient  
10 care duties delegated by a registered nurse or licensed practical nurse who  
11 supervises the individual, for the direct health care of a patient or resident. "Nurse  
12 aide" does not mean a feeding assistant, an individual who is licensed, permitted,  
13 certified, or registered under ch. 441, 448, 449, 450, 451, 455, 459, or 460, or an  
14 individual whose duties primarily involve skills that are different than those taught  
15 in instructional programs for nurse aides approved under sub. (3) and (3g) or  
16 evaluated by competency evaluation programs for nurse aides approved under sub.  
17 (3m).

18 History: 1987 a. 128; 1989 a. 31, 84, 336; 1991 a. 39; 1993 a. 27, 39; 1995 a. 27; 1997 a. 27, 35, 156, 237, 252; 1999 a. 9, 22, 32; 2001 a. 74; 2007 a. 20 ss. 2862, 9121 (6) (a); 2007 a. 45, 153; 2011 a. 32, 120, 126; s. 13.92 (2) (f).

18 SECTION 3. 146.40 (2) (a) of the statutes is amended to read:

19 146.40 (2) (a) The individual has successfully completed instruction in an  
20 instructional program for nurse aides that is approved under sub. (3) or (3g) and has

1 successfully completed a competency evaluation program that is approved under  
2 sub. (3m).

History: 1987 a. 128; 1989 a. 31, 84, 336; 1991 a. 39; 1993 a. 27, 399; 1995 a. 27; 1997 a. 27, 35, 156, 237, 252; 1999 a. 9, 22, 32; 2001 a. 74; 2007 a. 20 ss. 2862, 9121  
(6) (a); 2007 a. 45, 153; 2011 a. 32, 120, 126; s. 13.92 (2) (i).

3 **SECTION 4.** 146.40 (2) (c) (intro.) of the statutes is amended to read:

4 146.40 (2) (c) (intro.) For hospitals, nursing homes, home health agencies or  
5 hospices, whether or not certified providers of medical assistance, and intermediate  
6 care facilities persons with an intellectual disability that are certified providers of  
7 medical assistance, the individual is enrolled in an instructional program for nurse  
8 aides that is approved under sub. (3) or (3g) and is employed or under contract as a  
9 nurse's assistant, home health aide or hospice aide fewer than 120 calendar days by  
10 the hospital, nursing home, home health agency, hospice or intermediate care facility  
11 for persons with an intellectual disability. All of the following applies to an  
12 individual specified under this paragraph:

History: 1987 a. 128; 1989 a. 31, 84, 336; 1991 a. 39; 1993 a. 27, 399; 1995 a. 27; 1997 a. 27, 35, 156, 237, 252; 1999 a. 9, 22, 32; 2001 a. 74; 2007 a. 20 ss. 2862, 9121  
(6) (a); 2007 a. 45, 153; 2011 a. 32, 120, 126; s. 13.92 (2) (i).

13 **SECTION 5.** 146.40 (3g) of the statutes is created to read:

14 146.40 (3g) Except as provided in sub. (4d), the department may approve  
15 instructional programs for nurse aides that allow an individual who has completed  
16 an instructional program for nurse aides in another state to receive instruction in  
17 this state that, when combined with the instructional program in the other state, will  
18 result in the individual having received substantially the same instruction as an  
19 individual who completes an instructional program approved under sub. (3). The  
20 department shall review the curriculum of each approved instructional program at  
21 least once every 24 months following the date of approval to determine whether the  
22 program continues to satisfy the requirements of this subsection. Under this  
23 subsection, the department may, after providing notice, suspend or revoke the

1 approval of an instructional program or impose a plan of correction on the program  
2 if the program fails to satisfy the requirements of this subsection or operates under  
3 conditions that are other than those contained in the application approved by the  
4 department.

5 **SECTION 6.** 146.40 (4d) (a) of the statutes is amended to read:

6 146.40 (4d) (a) Except as provided in par. (am), the department shall require  
7 each applicant to provide the department with his or her social security number, if  
8 the applicant is an individual, or the applicant's federal employer identification  
9 number, if the applicant is not an individual, as a condition of issuing an approval  
10 under sub. (3), (3g), or (3m).

**History:** 1987 a. 128; 1989 a. 31, 84, 336; 1991 a. 39; 1993 a. 27, 399; 1995 a. 27; 1997 a. 27, 35, 156, 237, 252; 1999 a. 9, 22, 32; 2001 a. 74; 2007 a. 20 ss. 2862, 9121  
(6) (a); 2007 a. 45, 153; 2011 a. 32, 120, 126; s. 13.92 (2) (i).

11 **SECTION 7.** 146.40 (4m) of the statutes is amended to read:

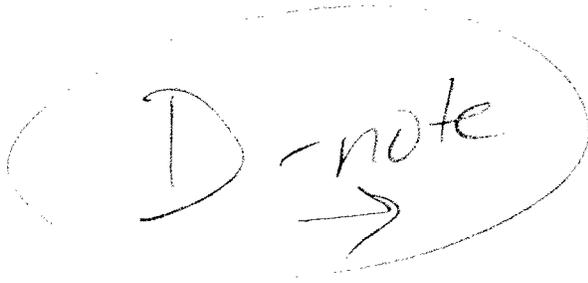
12 146.40 (4m) An instructional program under sub. (3) or (3g) for which the  
13 department has suspended or revoked approval or imposed a plan of correction or a  
14 competency evaluation program under sub. (3m) for which the department has  
15 suspended or revoked approval or imposed a plan of correction may contest the  
16 department's action by sending, within 10 days after receipt of notice of the contested  
17 action, a written request for hearing under s. 227.44 to the division of hearings and  
18 appeals created under s. 15.103 (1). The administrator of the division may designate  
19 a hearing examiner to preside over the case and recommend a decision to the  
20 administrator under s. 227.46. The decision of the administrator of the division shall  
21 be the final administrative decision. The division shall commence the hearing within  
22 30 days after receipt of the request for hearing and shall issue a final decision within  
23 15 days after the close of the hearing. Proceedings before the division are governed  
24 by ch. 227. In any petition for judicial review of a decision by the division, the party,

1 other than the petitioner, who was in the proceeding before the division shall be the  
2 named respondent. This subsection does not apply to a revocation of approval under  
3 sub. (4d) (d).

**History:** 1987 a. 128; 1989 a. 31, 84, 336; 1991 a. 39; 1993 a. 27, 399; 1995 a. 27; 1997 a. 27, 35, 156, 237, 252; 1999 a. 9, 22, 32; 2001 a. 74; 2007 a. 20 ss. 2862, 9121  
(6) (a); 2007 a. 45, 153; 2011 a. 32, 120, 126; s. 13.92 (2) (i).

4

(END)



D - note  
→

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1513/P1dn

MED:/.....

Wlj

Dab

Please review this draft carefully and note the following:

1. Although the instructions referred to DHS establishing the bridge programs, I assumed that while DHS would approve programs, it would not itself establish the programs, as is the case under current law.
2. The bill does not specify which states' programs that bridge programs could be designed to supplement. Let me know if you would like the bill to provide that DHS may only approve bridge programs to supplement, for instance, programs offered in the states that border Wisconsin.
3. I did not amend s. 146.40 (5) (a), stats., which requires DHS to promulgate rules specifying standards for approval of nurse aide instructional programs. Let me know if you would like me to explicitly provide that DHS may (or shall) promulgate rules specifying standards for approval of bridge programs, or if you would like me to explicitly exclude bridge programs for purposes of the rule-making requirement.
4. Note that, under the bill, nurse aides who take bridge programs would be subject to the same competency examination requirement as nurse aides who take a full program.
5. 2011 Wisconsin Act 120 allows DHS to accept certain military service and training in lieu of an instructional program under current law. Let me know if DHS should be permitted to accept military service and training in lieu of a bridge program as well.

Please let me know if you would like any changes, and let me know if a delayed effective date should be added to the draft for any reason. Thank you.

Michael Duchek  
Legislative Attorney  
Phone: (608) 266-0130  
E-mail: michael.duchek@legis.wisconsin.gov

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1513/P1dn  
MED:wlj:rs

March 14, 2013

Please review this draft carefully and note the following:

1. Although the instructions referred to DHS establishing the bridge programs, I assumed that while DHS would approve programs, it would not itself establish the programs, as is the case under current law.
2. The bill does not specify which states' programs that bridge programs could be designed to supplement. Let me know if you would like the bill to provide that DHS may approve bridge programs to supplement, for instance, only programs offered in the states that border Wisconsin.
3. I did not amend s. 146.40 (5) (a), stats., which requires DHS to promulgate rules specifying standards for approval of nurse aide instructional programs. Let me know if you would like me to explicitly provide that DHS may (or shall) promulgate rules specifying standards for approval of bridge programs, or if you would like me to explicitly exclude bridge programs for purposes of the rule-making requirement.
4. Note that, under the bill, nurse aides who take bridge programs would be subject to the same competency examination requirement as nurse aides who take a full program.
5. 2011 Wisconsin Act 120 allows DHS to accept certain military service and training in lieu of an instructional program under current law. Let me know if DHS should be permitted to accept military service and training in lieu of a bridge program as well.

Please let me know if you would like any changes, and let me know if a delayed effective date should be added to the draft for any reason. Thank you.

Michael Duchek  
Legislative Attorney  
Phone: (608) 266-0130  
E-mail: michael.duchek@legis.wisconsin.gov

**Duchek, Michael**

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**From:** Weigand, Melissa  
**Sent:** Thursday, March 28, 2013 9:00 AM  
**To:** Duchek, Michael  
**Subject:** RE: Changes for LRB 1513: Nurse Aide Bridge Program

Thanks for the response. We will go with your suggestion to not address b) with this legislation.

Thanks for your help,

*Melissa Weigand*

Office of Senator Sheila Harsdorf  
800.862.1092 or 608.266.7745

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**From:** Duchek, Michael  
**Sent:** Thursday, March 28, 2013 7:53 AM  
**To:** Weigand, Melissa  
**Subject:** RE: Changes for LRB 1513: Nurse Aide Bridge Program

Melissa,

I can make the two suggested changes regarding bridge programs. However, regarding s. s. 146.40 (4r) – this provision is not currently being treated in the bill, and doing so would appear expand the scope of the bill beyond nurse aide bridge programs to deal with caregiver misconduct. If this is an issue you would like to address in this bill about bridge programs, please let me know. Otherwise, I would not treat this provision in this bill. Let me know how you want to proceed or if you have any questions. Thanks.

**Mike Duchek**  
**Legislative Attorney**  
**Wisconsin Legislative Reference Bureau**  
**(608) 266-0130**

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**From:** Weigand, Melissa  
**Sent:** Tuesday, March 26, 2013 4:00 PM  
**To:** Duchek, Michael  
**Subject:** Changes for LRB 1513: Nurse Aide Bridge Program

*Good afternoon,*

*Thanks for the bill draft. Please see below some responses to your draft notes:*

1. Although the instructions referred to DHS establishing the bridge program, I assumed that while DHS would approve programs, it would not itself establish the programs, as is the case under current law.

*Correct, DHS would not establish the bridge programs. DHS would review programs that apply and approve those that meet the criteria as specified by rule.*

2. The bill does not specify which states' programs that bridge programs could be designed to supplement. Let me know if you would like the bill to provide that DHS may approve bridge programs to supplement, for instance, only programs offered in the states that border Wisconsin.

*No need to specify.*

3. I did not amend s. 146.40 (5) (a), stats., which requires DHS to promulgate rules specifying standards for approval of nurse aide instructional programs. Let me know if you would like me to explicitly provide that DHS may (or shall) promulgate rules specifying standards for approval of bridge programs, or if you would like me to explicitly exclude bridge programs for purposes of the rule-making requirement.

*DHS recommends that language explicitly provide that DHS shall promulgate rules specifying standards for the approval of bridge programs.*

4. Note that, under the bill, nurse aides who take bridge programs would be subject to the same competency examination requirement as nurse aides who take a full program.

5. 2011 Wisconsin Act 120 allows DHS to accept certain military service and training in lieu of an instructional program under current law. Let me know if DHS should be permitted to accept military service and training in lieu of a bridge program as well.

*No need to specify.*

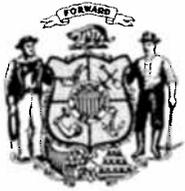
*Also, DHS has some suggested changes to s. 146.40, which are as follows:*

- a) To ensure an individual has substantially received the same instruction as an individual who completed an instructional program approved under sub. 3, DHS recommends inserting the word "successfully" before the word "completed" on page 3, Section 5, line 13.
- b) DHS recommends that s. 146.40 (4r) be moved to 50.065, stats., as a new subsection. Currently s. 146.40 (4r), stat., addresses reviewing complaints, conducting investigations, determining whether a finding of caregiver misconduct should be substantiated, and conducting any attendant appeal. However, under the wording of this subsection it is questionable whether the subsection relates only to nurse aides working in federally-certified nursing homes. Since the state law's final effective date of October 1998, the Wisconsin caregiver law has included virtually all caregivers who are licensed by or who work in Wisconsin caregiving entities. The caregiver law is no longer limited to covering only nurse aides working only in federally-certified nursing homes. Since the caregiver law is codified in s. 50.065, stats., and s.146.40, stats., continues to address primarily nurse aide training and testing requirements, the DHS recommends that s. 146.40 (4r), stats., be consolidated in Chapters 50 and 48.

*Thanks for your help and please let me know if you have any questions.*

*Melissa Weigand*

Office of Senator Sheila Harsdorf  
800.862.1092 or 608.266.7745



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-1513/01  
MED:wj:rs

stays

In 4-5-12

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Insert

and granting rule-making authority

Regen

- 1 AN ACT to amend 73.0301 (1) (d) 3., 146.40 (1) (d), 146.40 (2) (a), 146.40 (2) (c)
- 2 (intro.), 146.40 (4d) (a) and 146.40 (4m); and to create 146.40 (3g) of the
- 3 statutes; relating to: instructional programs for nurse aides.

**Analysis by the Legislative Reference Bureau**

Current law provides that, with certain exceptions, no hospital, nursing home, intermediate care facility for persons with an intellectual disability, home health agency, or hospice (health facility) may employ the services of a nurse aide unless the individual has successfully completed an instructional program and a competency evaluation program that are approved by the Department of Health Services (DHS). A nurse aide is defined as an individual who performs routine patient care duties that are delegated by a registered nurse or licensed practical nurse who supervises the individual, for the direct health care of a patient or resident. Current law requires DHS to promulgate rules that establish standards for the approval of nurse aide instructional programs and competency evaluation programs and requires DHS to approve programs that meet those standards.

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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2           73.0301 (1) (d) 3. A license, certificate of approval, provisional license,  
3 conditional license, certification, certification card, registration, permit, training  
4 permit or approval specified in s. 50.35, 50.49 (6) (a) or (10), 51.038, 51.04, 51.42 (7)  
5 (b) 11., 51.421 (3) (a), 51.45 (8), 146.40 (3), ~~(3g)~~, or (3m), 252.23 (2), 252.24 (2),  
6 254.176, 254.20 (3), 255.08 (2) (a), 256.15 (5) (a) or (b), (6g) (a), (7), or (8) (a) or (f) or  
7 343.305 (6) (a) or a permit for operation of a campground specified in s. 254.47 (1).

8           **SECTION 2.** 146.40 (1) (d) of the statutes is amended to read:

9           146.40 (1) (d) "Nurse aide" means an individual who performs routine patient  
10 care duties delegated by a registered nurse or licensed practical nurse who  
11 supervises the individual, for the direct health care of a patient or resident. "Nurse  
12 aide" does not mean a feeding assistant, an individual who is licensed, permitted,  
13 certified, or registered under ch. 441, 448, 449, 450, 451, 455, 459, or 460, or an  
14 individual whose duties primarily involve skills that are different than those taught  
15 in instructional programs for nurse aides approved under sub. (3) or (3g) or evaluated  
16 by competency evaluation programs for nurse aides approved under sub. (3m).

17           **SECTION 3.** 146.40 (2) (a) of the statutes is amended to read:

18           146.40 (2) (a) The individual has successfully completed instruction in an  
19 instructional program for nurse aides that is approved under sub. (3) or (3g) and has  
20 successfully completed a competency evaluation program that is approved under  
21 sub. (3m).

1           **SECTION 4.** 146.40 (2) (c) (intro.) of the statutes is amended to read:

2           146.40 (2) (c) (intro.) For hospitals, nursing homes, home health agencies or  
3 hospices, whether or not certified providers of medical assistance, and intermediate  
4 care facilities persons with an intellectual disability that are certified providers of  
5 medical assistance, the individual is enrolled in an instructional program for nurse  
6 aides that is approved under sub. (3) or (3g) and is employed or under contract as a  
7 nurse's assistant, home health aide or hospice aide fewer than 120 calendar days by  
8 the hospital, nursing home, home health agency, hospice or intermediate care facility  
9 for persons with an intellectual disability. All of the following applies to an  
10 individual specified under this paragraph:

11           **SECTION 5.** 146.40 (3g) of the statutes is created to read:

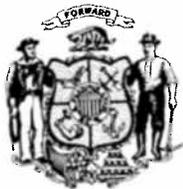
12           146.40 (3g) Except as provided in sub. (4d), the department may approve  
13 instructional programs for nurse aides that allow an individual who has completed  
14 an instructional program for nurse aides in another state to receive instruction in  
15 this state that, when combined with the instructional program in the other state, will  
16 result in the individual having received substantially the same instruction as an  
17 individual who <sup>successfully</sup> completes an instructional program approved under sub. (3). The  
18 department shall review the curriculum of each approved instructional program at  
19 least once every 24 months following the date of approval to determine whether the  
20 program continues to satisfy the requirements of this subsection. Under this  
21 subsection, the department may, after providing notice, suspend or revoke the  
22 approval of an instructional program or impose a plan of correction on the program  
23 if the program fails to satisfy the requirements of this subsection or operates under  
24 conditions that are other than those contained in the application approved by the  
25 department.

Ins 3-13

successfully







State of Wisconsin  
2013 - 2014 LEGISLATURE

ln 5-8-13



LRB-1513/ra  
MED:wlj:rs

11

stays

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

No changes

Regen

PLW/PV

1 **AN ACT to amend** 73.0301 (1) (d) 3., 146.40 (1) (d), 146.40 (2) (a), 146.40 (2) (c)  
2 (intro.), 146.40 (4d) (a) and 146.40 (4m); and **to create** 146.40 (3g) of the  
3 statutes; **relating to:** instructional programs for nurse aides and granting  
4 rule-making authority.

***Analysis by the Legislative Reference Bureau***

Current law provides that, with certain exceptions, no hospital, nursing home, intermediate care facility for persons with an intellectual disability, home health agency, or hospice (health facility) may employ the services of a nurse aide unless the individual has successfully completed an instructional program and a competency evaluation program that are approved by the Department of Health Services (DHS). A nurse aide is defined as an individual who performs routine patient care duties that are delegated by a registered nurse or licensed practical nurse who supervises the individual, for the direct health care of a patient or resident. Current law requires DHS to promulgate rules that establish standards for the approval of nurse aide instructional programs and competency evaluation programs and requires DHS to approve programs that meet those standards.

This bill permits DHS to approve instructional programs for nurse aides that allow an individual who has successfully completed an instructional program for nurse aides in another state to receive instruction that, when combined with the instructional program in the other state, will result in the individual having received substantially the same instruction as an individual who successfully completes an instructional program approved by DHS under current law (bridge program). As

under current law and subject to the same exceptions, an individual who successfully completes a bridge program must successfully complete a competency evaluation program approved by DHS in order to work in a health facility.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 73.0301 (1) (d) 3. of the statutes is amended to read:

2           73.0301 (1) (d) 3. A license, certificate of approval, provisional license,  
3 conditional license, certification, certification card, registration, permit, training  
4 permit or approval specified in s. 50.35, 50.49 (6) (a) or (10), 51.038, 51.04, 51.42 (7)  
5 (b) 11., 51.421 (3) (a), 51.45 (8), 146.40 (3), (3g), or (3m), 252.23 (2), 252.24 (2),  
6 254.176, 254.20 (3), 255.08 (2) (a), 256.15 (5) (a) or (b), (6g) (a), (7), or (8) (a) or (f) or  
7 343.305 (6) (a) or a permit for operation of a campground specified in s. 254.47 (1).

8           **SECTION 2.** 146.40 (1) (d) of the statutes is amended to read:

9           146.40 (1) (d) "Nurse aide" means an individual who performs routine patient  
10 care duties delegated by a registered nurse or licensed practical nurse who  
11 supervises the individual, for the direct health care of a patient or resident. "Nurse  
12 aide" does not mean a feeding assistant, an individual who is licensed, permitted,  
13 certified, or registered under ch. 441, 448, 449, 450, 451, 455, 459, or 460, or an  
14 individual whose duties primarily involve skills that are different than those taught  
15 in instructional programs for nurse aides approved under sub. (3) or (3g) or evaluated  
16 by competency evaluation programs for nurse aides approved under sub. (3m).

17           **SECTION 3.** 146.40 (2) (a) of the statutes is amended to read:

18           146.40 (2) (a) The individual has successfully completed instruction in an  
19 instructional program for nurse aides that is approved under sub. (3) or (3g) and has

1 successfully completed a competency evaluation program that is approved under  
2 sub. (3m).

3 **SECTION 4.** 146.40 (2) (c) (intro.) of the statutes is amended to read:

4 146.40 (2) (c) (intro.) For hospitals, nursing homes, home health agencies or  
5 hospices, whether or not certified providers of medical assistance, and intermediate  
6 care facilities persons with an intellectual disability that are certified providers of  
7 medical assistance, the individual is enrolled in an instructional program for nurse  
8 aides that is approved under sub. (3) or (3g) and is employed or under contract as a  
9 nurse's assistant, home health aide or hospice aide fewer than 120 calendar days by  
10 the hospital, nursing home, home health agency, hospice or intermediate care facility  
11 for persons with an intellectual disability. All of the following applies to an  
12 individual specified under this paragraph:

13 **SECTION 5.** 146.40 (3g) of the statutes is created to read:

14 146.40 (3g) Except as provided in sub. (4d), the department may approve  
15 instructional programs for nurse aides that apply for approval; that satisfy  
16 standards for approval that are promulgated by rule by the department; and that  
17 allow an individual who has successfully completed an instructional program for  
18 nurse aides in another state to receive instruction in this state that, when combined  
19 with the instructional program in the other state, will result in the individual having  
20 received substantially the same instruction as an individual who successfully  
21 completes an instructional program approved under sub. (3). The department shall  
22 review the curriculum of each approved instructional program at least once every 24  
23 months following the date of approval to determine whether the program continues  
24 to satisfy the requirements of this subsection. Under this subsection, the  
25 department may, after providing notice, suspend or revoke the approval of an

1 instructional program or impose a plan of correction on the program if the program  
2 fails to satisfy the requirements of this subsection or operates under conditions that  
3 are other than those contained in the application approved by the department.

4 **SECTION 6.** 146.40 (4d) (a) of the statutes is amended to read:

5 146.40 (4d) (a) Except as provided in par. (am), the department shall require  
6 each applicant to provide the department with his or her social security number, if  
7 the applicant is an individual, or the applicant's federal employer identification  
8 number, if the applicant is not an individual, as a condition of issuing an approval  
9 under sub. (3), (3g), or (3m).

10 **SECTION 7.** 146.40 (4m) of the statutes is amended to read:

11 146.40 (4m) An instructional program under sub. (3) or (3g) for which the  
12 department has suspended or revoked approval or imposed a plan of correction or a  
13 competency evaluation program under sub. (3m) for which the department has  
14 suspended or revoked approval or imposed a plan of correction may contest the  
15 department's action by sending, within 10 days after receipt of notice of the contested  
16 action, a written request for hearing under s. 227.44 to the division of hearings and  
17 appeals created under s. 15.103 (1). The administrator of the division may designate  
18 a hearing examiner to preside over the case and recommend a decision to the  
19 administrator under s. 227.46. The decision of the administrator of the division shall  
20 be the final administrative decision. The division shall commence the hearing within  
21 30 days after receipt of the request for hearing and shall issue a final decision within  
22 15 days after the close of the hearing. Proceedings before the division are governed  
23 by ch. 227. In any petition for judicial review of a decision by the division, the party,  
24 other than the petitioner, who was in the proceeding before the division shall be the



**Basford, Sarah**

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**From:** Weigand, Melissa  
**Sent:** Thursday, May 09, 2013 5:49 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -1513/1 Topic: Nurse aide bridge training program for nurse aides originally certified in another state.

Please Jacket LRB -1513/1 for the SENATE.

Thanks,

*Melissa Weigand*  
Office of Senator Sheila Harsdorf  
800.862.1092 or 608.266.7745