



2013 ASSEMBLY BILL 249

June 17, 2013 - Introduced by Representatives BERNIER, T. LARSON, THIESFELDT, BERCEAU, BROOKS, CRAIG, KOOYENGA, A. OTT, RINGHAND, SINICKI, SPIROS and WRIGHT, cosponsored by Senators HARSDORF, SHILLING, OLSEN, VINEHOUT, LASSA, SCHULTZ and LEHMAN. Referred to Committee on Health.

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

ASSEMBLY BILL 249

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 **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

ASSEMBLY BILL 249

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

ASSEMBLY BILL 249**SECTION 5**

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

