



2013 SENATE BILL 212

1 **AN ACT** *to renumber* 146.40 (2) (g); *to amend* 73.0301 (1) (d) 3., 108.227 (1) (e)
2 3., 146.40 (1) (d), 146.40 (2) (a), 146.40 (2) (c) (intro.), 146.40 (3m), 146.40 (4d)
3 (a), 146.40 (4g) (a) 1., 146.40 (4m) and 257.01 (7) (a) and (b); and *to create*
4 146.40 (2) (ac), 146.40 (2) (g) 2., 146.40 (2g) and 146.40 (3g) of the statutes;
5 **relating to:** instructional programs for nurse aides, exempting certain
6 individuals from the requirements to work as a nurse aide, and granting
7 rule-making authority.

Analysis by the Legislative Reference Bureau

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

8 **SECTION 1.** 73.0301 (1) (d) 3. of the statutes is amended to read:
9 73.0301 (1) (d) 3. A license, certificate of approval, provisional license,
10 conditional license, certification, certification card, registration, permit, training

SENATE BILL 212**SECTION 1**

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

5 **SECTION 1m.** 108.227 (1) (e) 3. of the statutes, as created by 2013 Wisconsin Act
6 36, is amended to read:

7 108.227 (1) (e) 3. A license, certificate of approval, provisional license,
8 conditional license, certification, certification card, registration, permit, training
9 permit or approval specified in s. 50.35, 50.49 (6) (a) or (10), 51.038, 51.04, 51.42 (7)
10 (b) 11., 51.421 (3) (a), 51.45 (8), 146.40 (3), (3g), or (3m), 252.23 (2), 252.24 (2),
11 254.176, 254.20 (3), 255.08 (2) (a), 256.15 (5) (a) or (b), (6g) (a), (7), or (8) (a) or (f) or
12 343.305 (6) (a) or a permit for operation of a campground specified in s. 254.47 (1).

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

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

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

23 146.40 (2) (a) The individual has successfully completed instruction in an
24 instructional program for nurse aides that is approved under sub. (3) or (3g), or has
25 been issued a waiver from completing instruction in an instructional program under

SENATE BILL 212

1 sub. (2g) (b), and has successfully completed a competency evaluation program that
2 is approved under sub. (3m). In order to be eligible under this paragraph, an
3 individual who successfully completes instruction in an instructional program for
4 nurse aides that is approved under sub. (3g) and who previously completed a
5 competency evaluation program in another state must successfully complete a
6 competency evaluation program that is approved under sub. (3m), regardless of
7 whether the competency evaluation program that the individual completed in
8 another state is the same as or substantially similar to a competency evaluation
9 program that is approved under sub. (3m).

10 **SECTION 3m.** 146.40 (2) (ac) of the statutes is created to read:

11 146.40 (2) (ac) The individual has been added to the registry under sub. (4g)
12 as provided under sub. (2g) (a).

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

14 146.40 (2) (c) (intro.) For hospitals, nursing homes, home health agencies or
15 hospices, whether or not certified providers of medical assistance, and intermediate
16 care facilities persons with an intellectual disability that are certified providers of
17 medical assistance, the individual is enrolled in an instructional program for nurse
18 aides that is approved under sub. (3) or (3g) and is employed or under contract as a
19 nurse's assistant, home health aide or hospice aide fewer than 120 calendar days by
20 the hospital, nursing home, home health agency, hospice or intermediate care facility
21 for persons with an intellectual disability. All of the following applies to an
22 individual specified under this paragraph:

23 **SECTION 4e.** 146.40 (2) (g) of the statutes is renumbered 146.40 (2) (g) 1.

24 **SECTION 4m.** 146.40 (2) (g) 2. of the statutes is created to read:

SENATE BILL 212**SECTION 4m**

1 146.40 (2) (g) 2. For hospitals, nursing homes, home health agencies, or
2 hospices, whether or not certified providers of medical assistance, and intermediate
3 care facilities for persons with an intellectual disability that are certified providers
4 of medical assistance, the individual, if he or she has performed no nursing-related
5 service for monetary compensation for 24 consecutive months after having satisfied
6 the requirement under par. (ac), successfully completes a competency evaluation
7 program for nurse aides that is approved by the department under sub. (3m).

8 **SECTION 4s.** 146.40 (2g) of the statutes is created to read:

9 146.40 (2g) (a) An individual who has previously been employed in another
10 state as a nurse aide for 2,088 hours or more within the prior 2-year period and who
11 has successfully completed a competency evaluation program in that other state that
12 is the same as or substantially similar to one approved under sub. (3m) may apply
13 to the department to be eligible to be employed or contracted as a nurse aide under
14 sub. (2) (ac). The department shall verify that the individual was employed in that
15 state as a nurse aide for 2,088 hours in the 2-year period prior to the date of
16 application. If the individual is so eligible, the department shall add the individual
17 to the registry under sub. (4g).

18 (b) An individual who has previously been employed in another state as a nurse
19 aide for 2,088 hours or more within the prior 2-year period but who has not
20 successfully completed a competency evaluation program that is the same as or
21 substantially similar to one approved under sub. (3m) may apply to the department
22 to be eligible for a waiver from completing instruction in an instructional program
23 for nurse aides under subs. (3) and (3g). The department shall verify that the
24 individual was employed in that state as a nurse aide for 2,088 hours in the 2-year
25 period prior the date of application. If the individual is so eligible, the department

SENATE BILL 212

1 shall issue the individual a waiver so that the individual may complete a competency
2 evaluation program under sub. (3m) without completing instruction in an
3 instructional program for nurse aides under sub. (3) or (3g).

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

5 146.40 (3g) Except as provided in sub. (4d), the department shall approve
6 instructional programs for nurse aides that apply for approval; that satisfy
7 standards for approval that are promulgated by rule by the department; and that
8 allow an individual who has successfully completed an instructional program for
9 nurse aides in another state to receive instruction in this state that, when combined
10 with the instructional program in the other state, will result in the individual having
11 received substantially the same instruction as an individual who successfully
12 completes an instructional program approved under sub. (3). Only an individual so
13 described may complete an instructional program for nurse aides that is approved
14 under this subsection. The department shall review the curriculum of each approved
15 instructional program at least once every 24 months following the date of approval
16 to determine whether the program continues to satisfy the requirements of this
17 subsection. Under this subsection, the department may, after providing notice,
18 suspend or revoke the approval of an instructional program or impose a plan of
19 correction on the program if the program fails to satisfy the requirements of this
20 subsection or operates under conditions that are other than those contained in the
21 application approved by the department.

22 **SECTION 5m.** 146.40 (3m) of the statutes is amended to read:

23 146.40 (3m) The department shall review competency evaluation programs for
24 nurse aides and, except as provided in sub. (4d), may approve those competency
25 evaluation programs that satisfy standards for approval that are specified in rules

SENATE BILL 212**SECTION 5m**

1 promulgated by the department. The department may approve a competency
2 evaluation program to be taken by an individual who completes an instructional
3 program for nurse aides that is approved under sub. (3g) only if the competency
4 evaluation program is the same as one to be taken by an individual who completes
5 an instructional program for nurse aides that is approved under sub. (3). Under this
6 subsection, the department may, after providing notice, suspend or revoke approval
7 of a competency evaluation program or impose a plan of correction on the program
8 if the competency evaluation program fails to satisfy the standards for approval or
9 operates under conditions that are other than those contained in the application
10 approved by the department.

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

12 146.40 (4d) (a) Except as provided in par. (am), the department shall require
13 each applicant to provide the department with his or her social security number, if
14 the applicant is an individual, or the applicant's federal employer identification
15 number, if the applicant is not an individual, as a condition of issuing an approval
16 under sub. (3), ~~(3g)~~, or (3m).

17 **SECTION 6m.** 146.40 (4g) (a) 1. of the statutes is amended to read:

18 146.40 (4g) (a) 1. A listing of all individuals who are added to the registry as
19 required under sub. (2g) and all individuals about whom the department is notified
20 under sub. (4).

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

22 146.40 (4m) An instructional program under sub. (3) or (3g) for which the
23 department has suspended or revoked approval or imposed a plan of correction or a
24 competency evaluation program under sub. (3m) for which the department has
25 suspended or revoked approval or imposed a plan of correction may contest the

SENATE BILL 212

1 department's action by sending, within 10 days after receipt of notice of the contested
2 action, a written request for hearing under s. 227.44 to the division of hearings and
3 appeals created under s. 15.103 (1). The administrator of the division may designate
4 a hearing examiner to preside over the case and recommend a decision to the
5 administrator under s. 227.46. The decision of the administrator of the division shall
6 be the final administrative decision. The division shall commence the hearing within
7 30 days after receipt of the request for hearing and shall issue a final decision within
8 15 days after the close of the hearing. Proceedings before the division are governed
9 by ch. 227. In any petition for judicial review of a decision by the division, the party,
10 other than the petitioner, who was in the proceeding before the division shall be the
11 named respondent. This subsection does not apply to a revocation of approval under
12 sub. (4d) (d).

13 **SECTION 7m.** 257.01 (7) (a) and (b) of the statutes are amended to read:

14 257.01 (7) (a) An individual who satisfies the requirements for a nurse aide
15 under s. 146.40 (2) (a), (ac), (c), (e), (em), or (g).

16 (b) An individual who did at any time within the previous 10 years, but does
17 not currently, satisfy the requirements for a nurse aide under s. 146.40 (2) (a), (ac),
18 (c), (e), (em), or (g), if the individual's name has never been listed under s. 146.40 (4g)
19 (a) 2., 2005 stats., or s. 146.40 (4g) (a) 2.

20 (END)