

**2013 Senate Bill 212 (LRB -1513)**

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

**2013**

- 06-05. S. Introduced by Senators **Harsdorf, Shilling, Olsen, Vinehout, Lassa, Schultz and Lehman**; cosponsored by Representatives **Bernier, T. Larson, Thiesfeldt, Berceau, Brooks, Craig, Kooyenga, A. Ott, Ringhand, Sinicki, Spiros and Wright.** ..... 246
- 06-05. S. Read first time and referred to Committee on Health and Human Services ..... 246
- 06-18. S. Fiscal estimate received
- 09-18. S. Public hearing held
- 09-23. S. Senate Amendment 1 offered by Senator Harsdorf (**LRB a0700**) ..... 374

**2014**

- 02-11. S. **Senate Amendment 2** offered by Senators Harsdorf and Vukmir (**LRB a1467**) ..... 646
- 02-13. S. Executive action taken
- 02-14. S. Report adoption of Senate Amendment 2 recommended by Committee on Health and Human Services, Ayes 5, Noes 0
- 02-14. S. Report passage as amended recommended by Committee on Health and Human Services, Ayes 5, Noes 0
- 02-14. S. Available for scheduling
- 02-17. S. Referred to Joint Committee on Finance by Committee on Senate Organization, pursuant to Senate Rule 41 (1)(e), Ayes 5, Noes 0
- 02-17. S. Withdrawn from joint committee on Finance and made Available for Scheduling by committee on Senate Organization, pursuant to Senate Rule 41 (1)(e), Ayes 5, Noes 0
- 02-17. S. Placed on calendar 2-18-2014 pursuant to Senate Rule 18(1)
- 02-18. S. Read a second time
- 02-18. S. **Senate Amendment 2 adopted**
- 02-18. S. Ordered to a third reading
- 02-18. S. Rules suspended
- 02-18. S. Read a third time and **passed**, Ayes 32, Noes 0
- 02-18. S. Ordered immediately messaged
- 02-18. A. Received from Senate
- 02-18. A. Read
- 02-18. A. Rules suspended and taken up
- 02-18. A. Read a second time
- 02-18. A. Ordered to a third reading
- 02-18. A. Rules suspended
- 02-18. A. Read a third time and **concurred in**
- 02-18. A. Ordered immediately messaged
- 02-19. S. Received from Assembly concurred in

**2013**  
**ENROLLED BILL**

13en S B-212

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**ADOPTED DOCUMENTS:**

Orig     Engr         SubAmdt     

13-1513/1

Amendments to above (if none, write "NONE"): SA 2 - a 1467/1

Corrections - show date (if none, write "NONE"): None

Topic Rel as amended

2-19-14  
Date

SR Milley  
Enrolling Drafter



## 2013 SENATE BILL 212

June 5, 2013 - Introduced by Senators HARSDORF, SHILLING, OLSEN, VINEHOUT, LASSA, SCHULTZ and LEHMAN, cosponsored by Representatives BERNIER, T. LARSON, THIESFELDT, BERCEAU, BROOKS, CRAIG, KOOYENGA, A. OTT, RINGHAND, SINICKI, SPIROS and WRIGHT. Referred to Committee on Health and Human Services.

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.

INS.  
SA2-1

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### *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

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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

INS.  
SA2-2

INS.  
SA2-3

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1 successfully completed a competency evaluation program that is approved under  
2 sub. (3m). *INS. SA2-4* *INS. SA2-5*

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: *INS. SA2-6*

13 SECTION 5. 146.40 (3g) of the statutes is created to read: *INS. SA2-7*

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). *INS. SA2-8* 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

**SENATE BILL 212****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

INS.  
SA2-9

INS. SA2-10

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1 named respondent. This subsection does not apply to a revocation of approval under  
2 sub. (4d) (d).

INS. SA 2-11

(END)

3



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRBa1467/1  
MED:wlj:rs

SENATE AMENDMENT 2,  
TO SENATE BILL 212

February 11, 2014 - Offered by Senators HARSDORF and VUKMIR.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 3: after "aides" insert "**SA2-1**, exempting certain individuals from the  
3 requirements to work as a nurse aide."

4 **2.** Page 2, line 7: after that line insert: **SA2-2**

5 "SECTION 1m. 108.227 (1) (e) 3. of the statutes, as created by 2013 Wisconsin  
6 Act 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)?"



SA2-3

1           **3.** Page 2, line 19: after "(3g)" insert "or has been issued a waiver from  
2 completing instruction in an instructional program under sub. (2g) (b)."

SA2-4

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

SA2-5

11           **5.** Page 3, line 2: after that line insert:  
12 "**SECTION 3m.** 146.40 (2) (ac) of the statutes is created to read:  
13 146.40 (2) (ac) The individual has been added to the registry under sub. (4g)  
14 as provided under sub. (2g) (a)."

SA2-6

15           **6.** Page 3, line 12: after that line insert:  
16 "**SECTION 4e.** 146.40 (2) (g) of the statutes is renumbered 146.40 (2) (g) 1.  
17 **SECTION 4m.** 146.40 (2) (g) 2. of the statutes is created to read:  
18 146.40 (2) (g) 2. For hospitals, nursing homes, home health agencies, or  
19 hospices, whether or not certified providers of medical assistance, and intermediate  
20 care facilities for persons with an intellectual disability that are certified providers  
21 of medical assistance, the individual, if he or she has performed no nursing-related  
22 service for monetary compensation for 24 consecutive months after having satisfied  
23 the requirement under par. (ac), successfully completes a competency evaluation  
24 program for nurse aides that is approved by the department under sub. (3m).

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

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

11           (b) An individual who has previously been employed in another state as a nurse  
12 aide for 2,088 hours or more within the prior 2-year period but who has not  
13 successfully completed a competency evaluation program that is the same as or  
14 substantially similar to one approved under sub. (3m) may apply to the department  
15 to be eligible for a waiver from completing instruction in an instructional program  
16 for nurse aides under subs. (3) and (3g). The department shall verify that the  
17 individual was employed in that state as a nurse aide for 2,088 hours in the 2-year  
18 period prior the date of application. If the individual is so eligible, the department  
19 shall issue the individual a waiver so that the individual may complete a competency  
20 evaluation program under sub. (3m) without completing instruction in an  
21 instructional program for nurse aides under sub. (3) or (3g).".

22           **7.** Page 3, line 14: delete "may" and substitute "shall".

SA2-7

SA2-8

1           **8.** Page 3, line 21: after "sub. (3)." insert "Only an individual so described may  
2 complete an instructional program for nurse aides that is approved under this  
3 subsection."

SA2-9

4           **9.** Page 4, line 3: after that line insert:

5           "SECTION 5m. 146.40 (3m) of the statutes is amended to read:  
6           146.40 (3m) The department shall review competency evaluation programs for  
7 nurse aides and, except as provided in sub. (4d), may approve those competency  
8 evaluation programs that satisfy standards for approval that are specified in rules  
9 promulgated by the department. The department may approve a competency  
10 evaluation program to be taken by an individual who completes an instructional  
11 program for nurse aides that is approved under sub. (3g) only if the competency  
12 evaluation program is the same as one to be taken by an individual who completes  
13 an instructional program for nurse aides that is approved under sub. (3). Under this  
14 subsection, the department may, after providing notice, suspend or revoke approval  
15 of a competency evaluation program or impose a plan of correction on the program  
16 if the competency evaluation program fails to satisfy the standards for approval or  
17 operates under conditions that are other than those contained in the application  
18 approved by the department."

SA2-10

19           **10.** Page 4, line 9: after that line insert:

20           "SECTION 6m. 146.40 (4g) (a) 1. of the statutes is amended to read:  
21           146.40 (4g) (a) 1. A listing of all individuals who are added to the registry as  
22 required under sub. (2g) and all individuals about whom the department is notified  
23 under sub. (4)."

24           **11.** Page 5, line 2: after that line insert:

