

State of Wisconsin



2013 Senate Bill 212

Date of enactment: April 23, 2014
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2013 WISCONSIN ACT 357

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

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

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

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

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

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

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

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

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

146.40 (2) (a) The individual has successfully completed instruction in an instructional program for nurse aides that is approved under sub. (3) or (3g), or has been issued a waiver from completing instruction in an instructional program under sub. (2g) (b), and has successfully completed a competency evaluation program that is approved under sub. (3m). In order to be eligible under this paragraph, an individual who successfully completes instruction in an instructional program for

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

nurse aides that is approved under sub. (3g) and who previously completed a competency evaluation program in another state must successfully complete a competency evaluation program that is approved under sub. (3m), regardless of whether the competency evaluation program that the individual completed in another state is the same as or substantially similar to a competency evaluation program that is approved under sub. (3m).

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

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

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

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

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

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

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

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

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

department shall add the individual to the registry under sub. (4g).

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

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

146.40 (3g) Except as provided in sub. (4d), the department shall approve instructional programs for nurse aides that apply for approval; that satisfy standards for approval that are promulgated by rule by the department; and that allow an individual who has successfully completed an instructional program for nurse aides in another state to receive instruction in this state 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 under sub. (3). Only an individual so described may complete an instructional program for nurse aides that is approved under this subsection. The department shall review the curriculum of each approved instructional program at least once every 24 months following the date of approval to determine whether the program continues to satisfy the requirements of this subsection. Under this subsection, the department may, after providing notice, suspend or revoke the approval of an instructional program or impose a plan of correction on the program if the program fails to satisfy the requirements of this subsection or operates under conditions that are other than those contained in the application approved by the department.

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

146.40 (3m) The department shall review competency evaluation programs for nurse aides and, except as provided in sub. (4d), may approve those competency evaluation programs that satisfy standards for approval that are specified in rules promulgated by the department. The department may approve a competency evaluation program to be taken by an individual who completes an instructional program for nurse aides that is approved under sub. (3g) only if the competency evaluation pro-

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

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

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

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

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

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

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

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

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

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

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