

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6582

61st Legislature
2010 Regular Session

Passed by the Senate March 9, 2010
YEAS 48 NAYS 0

President of the Senate

Passed by the House February 28, 2010
YEAS 67 NAYS 29

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6582** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6582

AS AMENDED BY THE HOUSE

Passed Legislature - 2010 Regular Session

State of Washington 61st Legislature 2010 Regular Session

By Senate Health & Long-Term Care (originally sponsored by Senators Keiser, Roach, Zarelli, Prentice, and Kilmer)

READ FIRST TIME 02/05/10.

1 AN ACT Relating to credentialing as a nursing assistant; amending
2 RCW 18.88A.010, 18.88A.020, 18.88A.030, 18.88A.050, 18.88A.060,
3 18.88A.085, 18.88A.090, 18.88A.110, 18.88A.140, and 18.88B.040; adding
4 a new section to chapter 18.88A RCW; creating a new section; and
5 repealing RCW 18.88A.115.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 18.88A.010 and 1991 c 16 s 1 are each amended to read
8 as follows:

9 (1) The legislature takes special note of the contributions made by
10 nursing assistants in health care facilities whose tasks are arduous
11 and whose working conditions may be contributing to the high and often
12 critical turnover among the principal cadre of health care workers who
13 provide for the basic needs of patients. The legislature also
14 recognizes the growing shortage of nurses as the proportion of the
15 elderly population grows and as the acuity of patients in hospitals and
16 nursing homes becomes generally more severe.

17 (2) The legislature finds and declares that:

18 (a) Occupational nursing assistants should have a formal system of
19 educational and experiential qualifications leading to career mobility

1 and advancement. The establishment of such a system should bring about
2 a more stabilized workforce in health care facilities, as well as
3 provide a valuable resource for recruitment into licensed nursing
4 practice.

5 ~~((The legislature finds that))~~ (b) The quality of patient care in
6 health care facilities is dependent upon the competence of the
7 personnel who staff their facilities. To assure the availability of
8 trained personnel in health care facilities the legislature recognizes
9 the need for training programs for nursing assistants.

10 ~~((The legislature declares that))~~ (c) Certified home care aides and
11 medical assistants are a valuable potential source of nursing
12 assistants who will be needed to meet the care needs of the state's
13 growing aging population. To assure continued opportunity for
14 recruitment into licensed nursing practice and career advancement for
15 certified home care aides and medical assistants, nursing assistant
16 training programs should recognize the relevant training and experience
17 obtained by these credentialed professionals. By taking advantage of
18 the authority granted under the federal social security act to certify
19 nursing assistants through a state-approved competency evaluation
20 program as a federally recognized alternative to the state-approved
21 training and competency evaluation program, the legislature intends to
22 increase the potential for recruitment into licensed nursing practice
23 while maintaining a single standard for competency evaluation of
24 certified nursing assistants.

25 (d) The registration of nursing assistants and providing for
26 voluntary certification of those who wish to seek higher levels of
27 qualification is in the interest of the public health, safety, and
28 welfare.

29 **Sec. 2.** RCW 18.88A.020 and 1994 sp.s. c 9 s 708 are each amended
30 to read as follows:

31 Unless the context clearly requires otherwise, the definitions in
32 this section apply throughout this chapter.

- 33 (1) "Department" means the department of health.
34 (2) "Secretary" means the secretary of health.
35 (3) "Commission" means the Washington nursing care quality
36 assurance commission.

1 (4) "Nursing assistant" means an individual, regardless of title,
2 who, under the direction and supervision of a registered nurse or
3 licensed practical nurse, assists in the delivery of nursing and
4 nursing-related activities to patients in a health care facility. The
5 two levels of nursing assistants are:

6 (a) "Nursing assistant-certified," an individual certified under
7 this chapter((7)); and

8 (b) "Nursing assistant-registered," an individual registered under
9 this chapter.

10 (5) "Approved training program" means a nursing assistant-certified
11 training program approved by the commission to meet the requirements of
12 a state-approved nurse aide training and competency evaluation program
13 consistent with 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal social
14 security act. For community college, vocational-technical institutes,
15 skill centers, and secondary school as defined in chapter 28B.50 RCW,
16 nursing assistant-certified training programs shall be approved by the
17 commission in cooperation with the board for community and technical
18 colleges or the superintendent of public instruction.

19 (6) "Health care facility" means a nursing home, hospital, hospice
20 care facility, home health care agency, hospice agency, or other entity
21 for delivery of health care services as defined by the commission.

22 (7) "Competency evaluation" means the measurement of an
23 individual's knowledge and skills as related to safe, competent
24 performance as a nursing assistant.

25 (8) "Alternative training" means a nursing assistant-certified
26 program meeting criteria adopted by the commission under section 3 of
27 this act to meet the requirements of a state-approved nurse aide
28 competency evaluation program consistent with 42 U.S.C. Sec. 1395i-3(e)
29 and (f) of the federal social security act.

30 **NEW SECTION. Sec. 3.** A new section is added to chapter 18.88A RCW
31 to read as follows:

32 (1) The commission shall adopt criteria for evaluating an
33 applicant's alternative training to determine the applicant's
34 eligibility to take the competency evaluation for nursing assistant
35 certification. At least one option adopted by the commission must
36 allow an applicant to take the competency evaluation if he or she:

1 (a)(i) Is a certified home care aide pursuant to chapter 18.88B
2 RCW; or

3 (ii) Is a certified medical assistant pursuant to a certification
4 program accredited by a national medical assistant accreditation
5 organization and approved by the commission; and

6 (b) Has successfully completed twenty-four hours of training that
7 the commission determines is necessary to provide training equivalent
8 to approved training on topics not addressed in the training specified
9 for certification as a home care aide or medical assistant, as
10 applicable. In the commission's discretion, a portion of these hours
11 may include clinical training.

12 (2)(a) By July 1, 2011, the commission, in consultation with the
13 secretary, the department of social and health services, and consumer,
14 employer, and worker representatives, shall adopt rules to implement
15 this section and to provide, beginning January 1, 2012, for a program
16 of credentialing reciprocity to the extent required by this section
17 between home care aide and medical assistant certification and nursing
18 assistant certification. By July 1, 2011, the secretary shall also
19 adopt such rules as may be necessary to implement this section and the
20 credentialing reciprocity program.

21 (b) Rules adopted under this section must be consistent with
22 requirements under 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal
23 social security act relating to state-approved competency evaluation
24 programs for certified nurse aides.

25 (3) Beginning December 1, 2012, the secretary, in consultation with
26 the commission, shall report annually by December 1st to the governor
27 and the appropriate committees of the legislature on the progress made
28 in achieving career advancement for certified home care aides and
29 medical assistants into nursing practice.

30 **Sec. 4.** RCW 18.88A.030 and 1995 1st sp.s. c 18 s 52 are each
31 amended to read as follows:

32 (1)(a) A nursing assistant may assist in the care of individuals as
33 delegated by and under the direction and supervision of a licensed
34 (registered) nurse or licensed practical nurse.

35 ((+2)) (b) A health care facility shall not assign a nursing
36 assistant-registered to provide care until the nursing assistant-

1 registered has demonstrated skills necessary to perform competently all
2 assigned duties and responsibilities.

3 ~~((+3))~~ (c) Nothing in this chapter shall be construed to confer on
4 a nursing assistant the authority to administer medication unless
5 delegated as a specific nursing task pursuant to this chapter or to
6 practice as a licensed (registered) nurse or licensed practical nurse
7 as defined in chapter 18.79 RCW.

8 ~~((+4))~~ (2)(a) A nursing assistant employed in a nursing home must
9 have successfully obtained certification through: (i) An approved
10 training program and the competency evaluation within four months after
11 the date of employment; or (ii) alternative training and the competency
12 evaluation prior to employment.

13 (b) Certification is voluntary for nursing assistants working in
14 health care facilities other than nursing homes unless otherwise
15 required by state or federal law or regulation.

16 ~~((+5))~~ (3) The commission may adopt rules to implement the
17 provisions of this chapter.

18 **Sec. 5.** RCW 18.88A.050 and 1991 c 16 s 6 are each amended to read
19 as follows:

20 In addition to any other authority provided by law, the secretary
21 has the authority to:

22 (1) Set all nursing assistant certification, registration, and
23 renewal fees in accordance with RCW 43.70.250 and to collect and
24 deposit all such fees in the health professions account established
25 under RCW 43.70.320;

26 (2) Establish forms, procedures, and ~~((examinations))~~ the
27 competency evaluation necessary to administer this chapter;

28 (3) Hire clerical, administrative, and investigative staff as
29 needed to implement this chapter;

30 (4) Issue a nursing assistant registration to any applicant who has
31 met the requirements for registration;

32 (5) After January 1, 1990, issue a nursing assistant certificate to
33 any applicant who has met the ~~((education,))~~ training, competency
34 evaluation, and conduct requirements for certification under this
35 chapter;

36 (6) Maintain the official record for the department of all

1 applicants and persons with registrations and certificates under this
2 chapter;

3 (7) Exercise disciplinary authority as authorized in chapter 18.130
4 RCW;

5 (8) Deny registration to any applicant who fails to meet
6 requirement for registration as a nursing assistant;

7 (9) Deny certification to applicants who do not meet the
8 (~~education,~~) training, competency evaluation, and conduct
9 requirements for certification as a nursing assistant.

10 **Sec. 6.** RCW 18.88A.060 and 1994 sp.s. c 9 s 710 are each amended
11 to read as follows:

12 In addition to any other authority provided by law, the commission
13 may:

14 (1) Determine minimum nursing assistant education requirements and
15 approve training programs;

16 (2) Prepare, grade, and administer, or determine the nature of, and
17 supervise the grading and administration of, (~~examinations of training~~
18 ~~and~~) the competency evaluation for applicants for nursing assistant
19 certification, using the same competency evaluation for all applicants,
20 whether qualifying to take the competency evaluation under an approved
21 training program or alternative training;

22 (3) (~~Determine whether alternative methods of training are~~
23 ~~equivalent to approved training programs, and~~) Establish forms(~~(,)~~)
24 and procedures(~~(, and criteria)~~) for evaluation of an applicant's
25 alternative training (~~(to determine the applicant's eligibility to take~~
26 ~~any qualifying examination for certification)~~) under criteria adopted
27 pursuant to section 3 of this act;

28 (4) Define and approve any experience requirement for nursing
29 assistant certification;

30 (5) Adopt rules implementing a continuing competency evaluation
31 program for nursing assistants; and

32 (6) Adopt rules to enable it to carry into effect the provisions of
33 this chapter.

34 **Sec. 7.** RCW 18.88A.085 and 2007 c 361 s 9 are each amended to read
35 as follows:

1 (1) After January 1, 1990, the secretary shall issue a nursing
2 assistant certificate to any applicant who demonstrates to the
3 secretary's satisfaction that the following requirements have been met:

4 (a) Successful completion of an approved training program or
5 successful completion of ~~((alternate))~~ alternative training meeting
6 established criteria ~~((approved))~~ adopted by the commission under
7 section 3 of this act; and

8 (b) Successful completion of ~~((a))~~ the competency evaluation.

9 (2) ~~((The secretary may permit all or a portion of the training~~
10 ~~hours earned under chapter 74.39A RCW to be applied toward~~
11 ~~certification under this section.~~

12 ~~(3))~~ In addition, applicants shall be subject to the grounds for
13 denial of certification under chapter 18.130 RCW.

14 **Sec. 8.** RCW 18.88A.090 and 1994 sp.s. c 9 s 713 are each amended
15 to read as follows:

16 (1) ~~((The date and location of examinations shall be established by~~
17 ~~the secretary. Applicants who have been found by the secretary to meet~~
18 ~~the requirements for certification shall be scheduled for the next~~
19 ~~examination following the filing of the application. The secretary~~
20 ~~shall establish by rule the examination application deadline.~~

21 ~~(2))~~ The commission shall examine each applicant, by a written or
22 oral and a manual component of competency evaluation. ~~((Examinations))~~
23 The competency evaluation shall be limited to the purpose of
24 determining whether the applicant possesses the minimum skill and
25 knowledge necessary to practice competently.

26 ~~((3) The examination papers, all grading of the papers, and the~~
27 ~~grading of skills demonstration shall be preserved for a period of not~~
28 ~~less than one year after the commission has made and published the~~
29 ~~decisions. All examinations shall be conducted under fair and wholly~~
30 ~~impartial methods.~~

31 ~~(4))~~ (2) Any applicant failing to make the required grade in the
32 first ~~((examination))~~ competency evaluation may take up to three
33 subsequent ~~((examinations))~~ competency evaluations as the applicant
34 desires upon prepaying a fee determined by the secretary under RCW
35 43.70.250 for each subsequent ~~((examination))~~ competency evaluation.
36 Upon failing four ~~((examinations))~~ competency evaluations, the

1 secretary may invalidate the original application and require such
2 remedial education before the person may take future ((~~examinations~~))
3 competency evaluations.

4 ((+5)) The commission may approve ((~~an examination~~)) a competency
5 evaluation prepared or administered by a private testing agency or
6 association of licensing agencies for use by an applicant in meeting
7 the credentialing requirements.

8 **Sec. 9.** RCW 18.88A.110 and 1991 c 16 s 13 are each amended to read
9 as follows:

10 An applicant holding a credential in another state may be certified
11 by endorsement to practice in this state without ((~~examination~~)) the
12 competency evaluation if the secretary determines that the other
13 state's credentialing standards are substantially equivalent to the
14 standards in this state.

15 **Sec. 10.** RCW 18.88A.140 and 2003 c 140 s 3 are each amended to
16 read as follows:

17 Nothing in this chapter may be construed to prohibit or restrict:

18 (1) The practice by an individual licensed, certified, or
19 registered under the laws of this state and performing services within
20 their authorized scope of practice;

21 (2) The practice by an individual employed by the government of the
22 United States while engaged in the performance of duties prescribed by
23 the laws of the United States;

24 (3) The practice by a person who is a regular student in an
25 educational program approved by the secretary, and whose performance of
26 services is pursuant to a regular course of instruction or assignments
27 from an instructor and under the general supervision of the instructor;

28 (4) A nursing assistant, while employed as a personal aide as
29 defined in RCW 74.39.007 or a long-term care worker as defined in
30 chapter 74.39A RCW, from accepting direction from an individual who is
31 self-directing ((~~their~~)) his or her care.

32 **Sec. 11.** RCW 18.88B.040 and 2009 c 580 s 15 are each amended to
33 read as follows:

34 The following long-term care workers are not required to become a
35 certified home care aide pursuant to this chapter.

1 (1) Registered nurses, licensed practical nurses, certified nursing
2 assistants or persons who are in an approved training program for
3 certified nursing assistants under chapter 18.88A RCW, medicare-
4 certified home health aides, or other persons who hold a similar health
5 credential, as determined by the secretary of health, or persons with
6 special education training and an endorsement granted by the
7 superintendent of public instruction, as described in RCW 28A.300.010,
8 if the secretary of health determines that the circumstances do not
9 require certification. Individuals exempted by this subsection may
10 obtain certification as a home care aide from the department of health
11 without fulfilling the training requirements in RCW 74.39A.073 but must
12 successfully complete a certification examination pursuant to RCW
13 18.88B.030.

14 (2) A person already employed as a long-term care worker prior to
15 January 1, 2011, who completes all of his or her training requirements
16 in effect as of the date he or she was hired, is not required to obtain
17 certification. Individuals exempted by this subsection may obtain
18 certification as a home care aide from the department of health without
19 fulfilling the training requirements in RCW 74.39A.073 but must
20 successfully complete a certification examination pursuant to RCW
21 18.88B.030.

22 (3) All long-term care workers employed by supported living
23 providers are not required to obtain certification under this chapter.

24 (4) An individual provider caring only for his or her biological,
25 step, or adoptive child or parent is not required to obtain
26 certification under this chapter.

27 (5) Prior to June 30, 2014, a person hired as an individual
28 provider who provides twenty hours or less of care for one person in
29 any calendar month is not required to obtain certification under this
30 chapter.

31 (6) A long-term care worker exempted by this section from the
32 training requirements contained in RCW 74.39A.073 may not be prohibited
33 from enrolling in training pursuant to that section.

34 (7) The department of health shall adopt rules by August 1, 2010,
35 to implement this section.

36 NEW SECTION. **Sec. 12.** RCW 18.88A.115 (Home care aide

1 certification reciprocity) and 2009 c 580 s 16 & 2009 c 2 s 11
2 (Initiative Measure No. 1029) are each repealed.

3 NEW SECTION. **Sec. 13.** If any part of this act is found by a
4 federal agency to be in conflict with federal requirements, including
5 requirements related to the medicare and medicaid programs under the
6 federal social security act, that are a prescribed condition to the
7 allocation of federal funds to the state, the conflicting part of this
8 act is inoperative solely to the extent of the conflict and with
9 respect to the agencies directly affected, and this finding does not
10 affect the operation of the remainder of this act in its application to
11 the agencies concerned. Rules adopted under this act must meet federal
12 requirements, including requirements related to the medicare and
13 medicaid programs under the federal social security act, that are a
14 necessary condition to the receipt of federal funds by the state.

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