

Legislative Analysis



REGISTRATION AND TRAINING OF CERTIFIED NURSE AIDES (CNAs)

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Senate Bill 286 (H-1) as reported from House committee
Sponsor: Sen. Hoon-Yung Hopgood
House Committee: Health Policy
Senate Committee: Health Policy
Complete to 10-27-17

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 172 of 2017)

BRIEF SUMMARY:

Senate Bill 286 would add a Part 219 to the Public Health Code, which would provide for the training and registration of certified nurse aides (CNA). The bill would require the Department of Licensing and Regulatory Affairs (LARA) to administer a CNA training and registration program in Michigan in conformance with the new Part 219 as well as applicable federal law. Additionally, it would prohibit an individual from practicing as a CNA without a registration (or meeting applicable federal requirements), and prohibit a person from offering a CNA training program or providing training or instruction to a CNA candidate without a permit.

FISCAL IMPACT:

Senate Bill 286 would increase costs for LARA, likely causing costs to exceed revenues in the short term but having an indeterminate fiscal impact in the long term depending on the extent to which the fees cover actual program costs. The bill would establish a program for the registration of nurse aides, nurse aide trainers, nurse aide training programs, and nurse aid training programs offered by secondary education institutions or skilled nursing facilities. The bill would establish biennial fees for registration in each of these categories at \$20, \$40, \$300, and \$100, respectively. Revenues from these fees would be deposited into the CNA registration fund created by the bill for implementation of the CNA program.

According to LARA estimates, the training permit fees in the bill would generate approximately \$40,000 in revenue each year. With approximately 52,400 nurse aides currently active in Michigan, revenues from that CNA registration fees would total approximately \$1.0 million. LARA estimates the total cost to regulate nurse aide trainers and training programs to be \$930,000 annually. Any costs not covered by the CNA registration fund would be covered by federal Medicare and Medicaid dollars, as well as money LARA determines is available from the state General Fund.

THE APPARENT PROBLEM:

According to committee testimony, this bill is intended to reinstate CNA reciprocity, which LARA suspended in May 2016. Prior to that time, LARA had informally granted reciprocity to CNAs and CNA candidates from other states even though state law did not

endorse it officially. The removal of reciprocity has reportedly had a negative impact on Michigan health facilities, especially those near the state borders that routinely hire CNAs from Ohio, Indiana and Wisconsin.

The bill would offer reciprocity to applicants who have passed a training program in another state or whose certification as a CNA in another state is in good standing as long as the qualifying training program is equivalent to or exceed Michigan's approved training.

THE CONTENT OF THE BILL:

The bill would introduce the following definitions:

Nurse aide: an individual who holds a registration. A nurse aide is not a health professional licensed under Article 15, a registered dietician, or someone who volunteers to provide nursing or nursing-related services without pay.

Practice as a nurse aide: providing nursing or nursing-related services to a patient or resident. Practice as a nurse aide is not the practice of nursing as defined in the Public Health Code.

Registration and permits

Under the bill, LARA would be permitted to grant registration to CNAs, permits to CNA trainers, and permits to training programs to applicants who submit an application according to LARA's requirements and pay the fee described below.

Additionally, the following requirements apply:

- A CNA applicant would be required to demonstrate to LARA successful completion of a CNA training program and LARA-approved competency examination. The applicant would also need to meet the requirements for registration as described in rules to be promulgated under this section.
- A CNA trainer applicant would be required to be a registered professional nurse licensed under Article 15 of the Code who meets federal requirements or requirements promulgated in the new rules.
- A CNA training program applicant would need to meet requirements promulgated in the new rules and demonstrate to LARA that the program is consistent with other CNA training programs as provided by rules promulgated by LARA.

Finally, a registration or permit would not be transferable and must state the persons to whom or which it applies.

Registration for an applicant from another state

LARA may grant registration to an applicant from another state in either of the following instances:

- The applicant passes a training program that is equivalent to or exceeds that offered in Michigan and passes the LARA-approved competency examination; or

- The applicant is in good standing, according to his or her home state's nurse aide registry, and LARA determines that state's training program is equivalent to or exceeds that offered in Michigan.

Renewal of registration and permits

A registration or permit would be effective no longer than two years after the date it was granted. If a registration or permit is not renewed, no practice as a CNA, training by a trainer, or instruction to a candidate may occur until it is renewed.

A registration or permit is renewable if the applicant pays the required fees, submits an application to LARA, and demonstrates that the applicant has met the requirements for renewal according to the rules to be promulgated by LARA.

The registration of a person would continue in effect without further action if the person is in active service in the U.S. military or one of its auxiliary branches or the U.S. Public Health Service. This would continue until the individual is discharged or leaves the service as long as the person remains in compliance with the federal requirement to complete new trainings and/or evaluations if too much time passes without performing paid nursing or nursing-related services.

CNA fees

The following fees would be assessed every two years, upon initial application and subsequent renewals:

Type of Fee	Fee Amount
Nurse aide	\$20
Nurse aide trainer	\$40
Nurse aide training program offered by a secondary education institution or skilled nursing facility	\$100 per site
All other nurse aide training programs	\$300 per site

In addition, an applicant for registration would be required to pay a CNA competency examination fee of \$125, per examination. All fees would be payable to LARA or LARA's contractor at the time of application or renewal. If the application is denied or the permit or registration is revoked before expiration, the fees would not be refunded.

CNA registration fund

The bill would create a CNA registration fund within the state treasury, with the fees collected above credited to the fund. The state treasurer would direct investment of the fund and credit interest and earnings from fund investments to the fund. Money in the fund at the close of the fiscal year would remain in the fund and not lapse to the general fund. LARA would be required to expend money from the fund, upon appropriation, only to implement the program, and would be the fund's administrator for auditing purposes.

Rules to be promulgated

The bill would allow LARA to promulgate and enforce rules to implement the actions described above. These rules may include: requirements for surveying a CNA training program; investigating allegations against a CNA in a health facility or agency or another setting where a CNA engages in the practice as a CNA; investigating allegations against a CNA trainer or CNA training program; and enforcing the proposed Part 219 of the Code. The rules may also establish eligibility requirements to renew a registration or permit, competency requirements, and examination requirements for registration. As they apply to health facilities or agencies, these rules must maintain uniformity with existing rules to the extent it is reasonable.

Proposed MCL 333.21901 et al.

HOUSE COMMITTEE ACTION:

The House Health Policy committee adopted an (H-1) substitute, which replaced language requiring that rules promulgated by LARA include requirements for investigating certain allegations. The substitute specified that the investigation apply only to settings in which the CNA is acting as a CNA.

POSITIONS:

A representative of Hickory Ridge of Temperance testified in support of the bill. (10-4-17)

The following organizations indicated support for the bill:

- Department of Licensing and Regulatory Affairs (10-4-17)
- Michigan County Medical Care Facilities Council (10-11-17)

Legislative Analyst: Jenny McInerney
Fiscal Analyst: Marcus Coffin

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.