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House Bill 5089 (Substitute H-1 as passed by the House)  
Sponsor: Representative Ann Bollin  
House Committee: Health Policy  
Senate Committee: Health Policy and Human Services

Date Completed: 12-2-21

## **CONTENT**

**The bill would amend Part 219 (Nurse Aide Training and Registration Program) of the Public Health Code to do the following:**

- **Allow an individual who is a registered professional nurse licensed under Article 15 (Occupations) of the Code to provide training to a nurse aide candidate without a permit during a COVID-19 pandemic emergency.**
- **Modify the requirements an applicant must meet to be granted registration as a nurse aide by the Department of Licensing and Regulatory Affairs (LARA).**
- **Specify that an applicant who met certain training requirements during a COVID-19 pandemic emergency would meet the training requirements prescribed in Part 219.**
- **Require LARA to allow an applicant to complete a competency examination online or remotely.**
- **Prohibit LARA from denying a person a permit as a nurse training program solely because the program allowed individuals to complete curricula online or remotely.**

### Practice as a Nurse Aide

Section 21909 of the Code prohibits an individual from engaging in practice as a nurse aide unless he or she holds a registration or is in compliance with 42 CFR 483.35 (which requires a facility to ensure that nurse aides are able to demonstrate competency in skills and techniques necessary to care for residents' needs).

A person may not offer a nurse aide training program or provide training or instruction to a nurse aide candidate unless the individual holds a permit. Under the bill, this prohibition would apply except as provided below.

An individual who was a registered professional nurse licensed under Article 15 of the Code could provide training to a nurse aid candidate without a permit. This provision would apply only during a COVID-19 pandemic emergency. "COVID-19 pandemic emergency" would mean the public health emergency declared by the Secretary of the United States Department of Health and Human Services resulting from COVID-19 and the immediately following four months after the public health emergency ends.

### Registration as a Nurse Aide

Section 21911 of the Code allows LARA to grant registration as a nurse aide to an applicant who meets all of the following requirements:

- Submits an application on a form and in a manner prescribed by the Department.
- Pays the prescribed fee.
- Demonstrates to the Department that he or she has successfully completed a nurse aide training program and a competency examination approved by the Department.
- Meets the requirements for registration in rules promulgated under Section 21923 (which allows LARA to promulgate and enforce rules to implement Part 219).

Instead, under the bill, LARA could grant registration as a nurse aide to an applicant who met all of the following requirements:

- Submitted an application on a form and in a manner prescribed by the Department.
- Paid the prescribed fee.
- Demonstrated to the Department that he or she has successfully completed a nurse aide training program approved by the Department and was competent as demonstrated by successfully completing either a competency examination approved by the Department or an assessment performed by a site administrator responsible for assessing the applicant's competency skills or the entity hiring the applicant if the Department determined that the assessment met the requirements for determining competency under Federal law, including 42 CFR 483.154 (which governs nurse aide competency evaluation programs) and any guidance issued by the Centers for Medicare and Medicaid Services.
- Met the requirements for registration in rules promulgated under Section 21923.

An applicant who did all of the following during a COVID-19 pandemic emergency would satisfy the competency requirements and registration requirements by promulgated rule described above:

- Under the supervision of an individual who was a registered professional nurse licensed under Article 15, completed a minimum of 80 hours of temporary nurse aide training, training on the job, or in-service nurse aide education.
- Completed a minimum of 16 hours of online or classroom instruction covering the training areas described in 42 CFR 483.152(b).

(Title 42 CFR 483.152(b) requires a nurse aide training program curriculum to include at least 16 hours of training in communication and interpersonal skills, infection control, safety/emergency procedures, promoting residents' independence, and respecting patients' rights; basic nursing skills; personal care skills; mental and social service needs; care of cognitively impaired residents; basic restorative services; and residents' rights.)

The 16 hours of online or classroom instruction would have to include all of the following:

- Psychosocial well-being, including resident rights, confidentiality, and abuse.
- Infection control with a focus on the prevention and control of COVID-19.
- Safety and emergency care, including the proper use of the Heimlich maneuver.
- Assisting with activities of daily living, including positioning, locomotion, and restorative care.
- Nutrition and hydration.
- End of life and comfort care.
- Dementia care.
- Communication and interpersonal skills.
- Documentation and use of care plans.
- Promoting independence of residents.
- Basic nursing skills.
- Providing personal care and basic restorative services.
- Caring for cognitively impaired residents.

-- Mental health and social service needs.

The Department would have to allow an applicant to complete a competency examination online or through remote means.

#### Nurse Aide Training Program

The bill would prohibit LARA from denying a person a permit as a nurse aide training program solely because the program allowed individuals to complete curricula online or by other remote means, or counted each hour an individual had worked performing skills necessary of a nurse aide as one hour of training. This provision would not apply to training required under 42 CFR 483.152(a)(3) or (b)(1). (Title 42 CFR 483.152(a)(3) requires a nurse aide training and competency evaluation program to include at least 16 hours of supervised practical training in order to be approved. Title 42 CFR 483.152(b)(1) requires a nurse aide training program curriculum to include at least 16 hours of training in communication and interpersonal skills, infection control, safety/emergency procedures, promoting residents' independence, and respecting patients' rights.)

MCL 333.21903 et al.

Legislative Analyst: Stephen Jackson

#### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Elizabeth Raczkowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.