



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Health- Nursing Care Quality Assurance Commission

- Preproposal Statement of Inquiry was filed as WSR 10-13-101 ; or
- Expedited Rule Making--Proposed notice was filed as WSR _ ; or
- Proposal is exempt under RCW 34.05.310(4).

- Original Notice
- Supplemental Notice to WSR
- Continuance of WSR

Title of rule and other identifying information: (Describe Subject)

WAC 246-841-530 through 246-841-585 creating new sections establishing alternative programs for home care aides-certified and medical assistants-certified to qualify for nursing assistant certification.

Hearing location(s): Department of Health
243 Israel Road SE
Town Center Three, Room 512
Tumwater, WA 98504

Check in with the security guard for escort to meeting room.

Date: 6/21/11

Time: 8:00 a.m.

Submit written comments to:

Name: Terry J. West

Address: Department of Health

P.O. Box 47864

Olympia, WA 98504

Website: <http://www3.doh.wa.gov/policyreview/>

fax (360) 236-4738 by (date) 06/17/2011

Assistance for persons with disabilities: Contact

Terry West by 06/17/2011

TTY (800) 833-6388 or () 711

Date of intended adoption: 06/21/2011

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The proposed rules establish alternative program requirements for home care aides-certified and medical assistants-certified to meet the nursing assistant certification level of training. The rules outline the requirements for development of the program and requirements for graduates applying for nursing assistant certification.

Reasons supporting proposal:

ESSB 6582 (2010) requires the Nursing Care Quality Assurance Commission to adopt rules that recognize relevant training and experience and provide career advancement opportunities for home care aides-certified and medical assistants-certified. The proposed rules meet the intent of the legislation by establishing program requirements that will allow medical assistants-certified and home care aides-certified to qualify to take the nursing assistant competency evaluation and apply for nursing assistant certification.

Statutory authority for adoption:

Chapter 18.88A RCW, ESSB6582 (Chapter 169 Laws of 2010)

Statute being implemented:

Chapter 18.88A RCW, ESSB6582 (Chapter 169 Laws of 2010)

Is rule necessary because of a:

Federal Law?

Yes

No

Federal Court Decision?

Yes

No

State Court Decision?

Yes

No

If yes, CITATION:

DATE 05/12/11

NAME (type or print)

Paula R. Meyer, MSN, RN

Paula R. Meyer MSN, RN

TITLE

Executive Director, Nursing Care Quality Assurance Commission

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: May 13, 2011

TIME: 9:59 AM

WSR 11-11-047

NEW SECTION

WAC 246-841-530 Alternative program--Purpose. The commission intends to establish criteria for an alternative program for home care aide-certified and medical assistant-certified that will provide continued opportunity for recruitment and career advancement in nursing, recognize relevant training, and maintain a single standard for competency.

The alternative program is intended to provide twenty-four hours of additional training, including clinical training, on topics not addressed in the specified training for certification as a home care aide or medical assistant, that will meet the requirements necessary to take the nursing assistant-certified competency evaluation.

Successful completion of an approved alternative program may allow the home care aide-certified and medical assistant-certified to meet requirements to complete a competency evaluation. Successful completion of the competency evaluation may allow an applicant who is a home care aide-certified or medical assistant-certified to become a nursing assistant-certified. The nursing assistant-certified credential may then qualify an individual for entry into a nursing program.

NEW SECTION

WAC 246-841-535 Alternative program--Definitions. The definitions in this section apply throughout WAC 246-841-530 through 246-841-585.

(1) **Home care aide-certified** means any person certified under chapter 18.88B RCW.

(2) **Medical assistant-certified** means a person certified by a medical assistant program accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or the American Association of Medical Assistants and the American Medical Association.

(3) **Nursing assistant-certified** means any person certified under chapter 18.88A RCW.

NEW SECTION

WAC 246-841-545 Home care aide-certified alternative program requirements. The commission may approve alternative programs for individuals credentialed as home care aides-certified to successfully complete in order to qualify to take the nursing assistant-certified competency evaluation.

(1) An alternative program shall:

(a) Meet the requirements of WAC 246-841-420.

(b) Have a competency based curriculum composed of learning objectives and activities. The curriculum content shall include:

(i) Measuring vital signs, height and weight, fluid and food input and output.

(ii) Developmental tasks associated with developmental and age specific processes.

(iii) Use and care of prosthetic devices.

(iv) Provision of adequate ventilation, warmth, light, and quiet for the client.

(v) Principles of good body mechanics for self and clients to lift and move clients or heavy items.

(vi) Achieving competence in reading, writing, speaking and understanding English at the level necessary to:

(A) Use terminology accepted in health care settings.

(B) Accurately record and report observations, actions and information in a timely manner.

(vii) The scope of practice of nursing assistant-certified.

(viii) The workers right to know law.

(ix) The Uniform Disciplinary Act, including RCW 18.130.180.

(c) Have a program director:

(i) Who is currently licensed as a registered nurse (RN) in good standing in the state of Washington and has a minimum of three years of experience as an RN with at least one year of experience in direct patient care; and

(ii) Who has successfully completed a training course on adult instruction or can demonstrate that he or she has one year experience teaching adults, unless the program director works exclusively in a secondary educational setting.

(A) The training course on adult instruction must provide instruction in understanding the adult learner, techniques for teaching adults, classroom methods for teaching adults and audio-visual techniques for teaching adults.

(B) Acceptable experience does not include in-service education or patient teaching.

(iii) Who has a minimum of one year experience within the past three years in caring for the elderly or chronically ill of any age or both if also acting as an instructor.

(2) The program director may select instructional staff to assist in the teaching of the course. Instructional staff must meet the following requirements:

(a) Hold a current Washington state license to practice as a registered or licensed practical nurse in good standing; and

(b) Have a minimum of one year experience within the past

three years in caring for the elderly or chronically ill of any age.

(3) Instructional staff may assist the program director in development of curricula, teaching modalities, and evaluation. The instructor must be under the supervision of the program director at all times.

(4) A guest lecturer or individual with expertise in a specific course unit may be used in the classroom setting for teaching without commission approval, following the program director's review of the currency of content. The guest lecturer, where applicable, must hold a license, certificate or registration in good standing in their field of expertise.

NEW SECTION

WAC 246-841-550 Medical assistant-certified alternative program requirements. The commission may approve alternative programs for individual medical assistant-certified to successfully complete in order to qualify to take the nursing assistant-certified competency evaluation.

(1) An alternative program shall:

(a) Submit documentation of meeting all requirements of WAC 246-841-420.

(b) Have a competency based curriculum composed of learning objectives and activities. The curriculum content shall include:

(i) Measurement of fluid and food input and output.

(ii) Participation in planning and nursing reporting process.

(iii) Bathing, oral care, and skin care.

(iv) Personal care tasks, appropriate to chronological age and developmental stage of residents.

(v) Grooming and dressing.

(vi) Toileting.

(vii) Eating and hydration, including:

(A) Techniques to prevent choking and aspiration; and

(B) Health and sanitation in food services.

(viii) Basic restorative services.

(A) Use of assistive devices in ambulation, transferring, eating and dressing.

(B) Range of motion.

(C) Turning and positioning.

(D) Transferring and ambulating.

(E) Use and care of prosthetic devices.

(ix) Client resident rights and promotion of independence.

(A) Assistance in getting to and joining in activities appropriate to chronological age of resident.

(B) Respect for client's property.

(C) Use of restraints and acknowledges agency policies that may apply to restraints.

(x) An environment with adequate ventilation, warmth, light, and quiet.

(xi) Rules and regulations, including:

(A) The scope of practice, nursing assistant-certified.

(B) The workers right to know law.

(C) The Uniform Disciplinary Act, including RCW 18.130.180.

(c) Have a program director:

(i) Who is currently licensed as a registered nurse (RN) in good standing in the state of Washington and has a minimum of three years of experience as an RN, with at least one year of experience in direct patient care.

(ii) Who has successfully completed a training course on adult instruction or can demonstrate that he or she has one year experience teaching adults unless the program director works exclusively in a secondary educational setting.

(A) The training course on adult instruction must provide instruction in understanding the adult learner, techniques for teaching adults, classroom methods for teaching adults and audio-visual techniques for teaching adults.

(B) Acceptable experience does not include in-service education or patient teaching.

(iii) Who has a minimum of one year experience within the past three years in caring for the elderly or chronically ill of any age if also acting as an instructor.

(2) The program director may select instructional staff to assist in the teaching of the course. Instructional staff must meet the following requirements:

(a) Hold a current Washington state license to practice as a registered or licensed practical nurse in good standing; and

(b) Have a minimum of one year experience within the past three years in caring for the elderly or chronically ill of any age.

(3) Instructional staff may assist the program director in development of curricula, teaching modalities, and evaluation. The instructor must be under the supervision of the program director at all times.

(4) A guest lecturer or individual with expertise in a specific course unit may be used in the classroom setting for teaching without commission approval, following the program director's review of the currency of content. The guest lecturer, where applicable, must hold a license, certificate or registration in good standing in their field of expertise.

NEW SECTION

WAC 246-841-555 Responsibilities of the program director in alternative programs. The program director of an alternative program is responsible for:

- (1) Development and use of a curriculum which:
 - (a) Meets the requirements of WAC 246-841-545; or
 - (b) Meets the requirements of WAC 246-841-550.
- (2) Ensuring compliance with the requirements of WAC 246-841-500 and 246-841-510.
- (3) Verifying home care aides-certified have a valid certification before admission to the alternative program.
- (4) Verifying medical assistants-certified have certification before admission to the alternative program.
- (5) Direct supervision of all students during clinical experience. Direct supervision means an approved program director or instructor observes students performing tasks.
- (6) Ensuring the clinical instructor has no concurrent duties during the time he or she is instructing students.
- (7) Maintaining an environment acceptable to teaching and learning.
- (8) Supervising all instructors involved in the course. This includes clinical instructors and guest lecturers.
- (9) Ensuring students are not asked to, or allowed to perform any clinical skill with patients or clients until the students have demonstrated the skill satisfactorily to an instructor in a practice setting.
- (10) Evaluating knowledge and skills of students before verifying completion of the course.
- (11) Providing students a verification of completion when requirements of the course have been satisfied.
- (12) Providing adequate time for students to complete the objectives of the course. The time may vary with skills of the learners and teaching or learning variables.
- (13) Establishing an evaluation process to assess mastery of competencies.

NEW SECTION

WAC 246-841-560 Alternative program application for approval, denial, or withdrawal. (1) An applicant for an alternative program must submit a completed application provided by the department of health. The application will include forms and instructions to submit the following:

- (a) Program objectives;
 - (b) Required curriculum and content.
- (2) The commission shall comply with WAC 246-841-430 when denying or withdrawing an approval of an alternative program.
- (3) An alternative program that has been denied or had an approval withdrawn shall have the right to a hearing to appeal the commission's decision according to the provisions of chapters 18.88A and 34.05 RCW, the Administrative Procedure Act, Parts IV and V.

NEW SECTION

WAC 246-841-570 Recordkeeping and administrative procedures for approved alternative programs. An alternative program shall comply with all the requirements in WAC 246-841-510.

NEW SECTION

WAC 246-841-573 Closure of an alternative program. Before an approved alternative program closes it shall notify the commission in writing, stating the reason and the date of intended closing.

NEW SECTION

WAC 246-841-575 Alternative program--Eligibility to complete the nursing assistant-certified competency examination. Graduates of alternative programs who meet all application requirements are deemed eligible to complete the nursing assistant-certified competency evaluation approved by the commission.

Competency evaluation means the measurement of an individual's knowledge and skills as related to safe, competent performance as a nursing assistant-certified.

NEW SECTION

WAC 246-841-578 Application requirements. To be eligible to apply for nursing assistant-certified the applicant must:

- (1) Be currently credentialed as a home care aide-certified;
- or
- (2) Be a medical assistant-certified as defined in WAC 246-841-535;
 - (3) Have completed a cardiopulmonary resuscitation course;
 - (4) Have completed seven hours of AIDS education and training as required in chapter 246-12 WAC, part 8; and
 - (5) Have successfully completed the competency evaluation.

NEW SECTION

WAC 246-841-585 Application for nursing assistant-certified from an alternative program. (1) An applicant for nursing assistant-certified who has successfully completed an approved alternative program as a home care aide-certified must submit to the department:

- (a) A completed application for nursing assistant-certified.
- (b) A copy of certificate of completion from an approved alternative program for home care aides-certified.
- (c) Documentation verifying current certification as a home care aide.
- (d) Evidence of completion of a cardiopulmonary resuscitation course.
- (e) Evidence of completion of seven hours of AIDS education and training.
- (f) Applicable fees as required in WAC 246-841-990.

(2) An applicant for nursing assistant-certified who successfully completed an approved alternative program as a medical assistant-certified must submit to the department:

- (a) A completed application for nursing assistant-certified;
- (b) A copy of certificate of completion from approved alternative program for medical assistant-certified;
- (c) An official transcript from the nationally accredited medical assistant program;
- (d) Evidence of completion of an adult cardiopulmonary resuscitation course;
- (e) Evidence of completion of seven hours of AIDS education and training; and
- (f) Applicable fees as required in WAC 246-841-990.

Small Business Economic Impact Statement (SBEIS)
 For WAC 246-841-530 through WAC 246-841-585
 Alternative Training for Home Care Aide-Certified and
 Medical Assistant-Certified

Section 1. What is the scope of the proposed rule package?

Engrossed Substitute Senate Bill (ESSB) 6582 (2010) requires the Nursing Care Quality Assurance Commission (commission) to adopt rules establishing criteria for alternative training programs for existing home care aides-certified and medical assistants-certified to complete so they may be eligible to qualify to take the nursing assistant-certified competency evaluation. The proposed rules will give existing home care aides-certified and medical assistants-certified the option to take an alternative 24-hour training program to supplement their existing education rather than complete the standard nursing assistant training program, which is 121-hours of classroom and clinical training. Upon completion of the alternative training and competency evaluation, applicants are eligible to apply for a nursing assistant-certified (NAC) credential. Rules shall recognize and not duplicate relevant training and experience. Rules shall also provide for career advancement opportunities.

There are currently 42,664 NAC's in Washington State. Home care aide-certified is a new profession. The Department of Health (department) will begin regulating home care aides in 2011. The title "Medical Assistant-certified" is a working title for health care workers who have graduated from programs offering medical assistant degrees. Washington does not currently issue a credential to medical assistants. There are, however, some Washington schools offering medical assistant degrees. The department does not have a tally or count of the number of people that have graduated with a medical assistant degree.

Section 2. Which businesses are impacted by the proposed rule package? What are their North American Industry Classification System (NAICS) codes? What are their minor cost thresholds?

| NAICS Code 4, 5 or 6 digit) | NAICS Business Description | # of businesses in WA | Minor Cost Threshold = 1% of Average Annual Payroll | Minor Cost Threshold = .3% of Average Annual Receipts |
|-----------------------------|--|------------------------|---|---|
| 611519 | Other Technical and Trade Schools¹ | 116 | \$3,040 | \$2,938 |
| 611210 | Community colleges/Junior Colleges | Not available in NAICS | Not Available in NAICS | Not Available in NAICS |

2007 NAICS Data

¹ This U.S. industry comprises establishments primarily engaged in offering job or career vocational or technical courses (except cosmetology and barber training, aviation and flight training, and apprenticeship training). The curriculums offered by these schools are highly structured and specialized and lead to job-specific certification.

Section 3. What is the estimated cost per business of the proposed rule?

The commission conducted a survey to determine if any parties were considering creating an alternative training program and if so, to obtain estimated costs to create an alternative nursing assistant-certified training program for those recognized as home care aide-certified and medical assistant-certified. The commission sent a survey to 450 individuals on the DSHS list serv. This list serv is composed of individuals and schools affiliated with existing nursing assistant certified training programs. The survey asked participants to provide costs to develop the program, including salaries, materials, supplies, equipment and “other” costs. The total costs reported by seventeen of the nineteen respondents were \$5,000 or less. The other two respondents, however, reported substantially higher costs estimates (\$16,900 and \$29,700).

The commission recognizes that in addition to the costs for creating the alternative training program, facilities and schools that elect to offer such training will also incur ongoing costs associated with offering the program. For example, these entities will incur costs such as salary of the instructors, administration (application process, record keeping, etc.) and facilities (rent, equipment). This analysis does not attempt to quantify these costs, the assumption is these costs will drive tuition costs for the courses being offered.

Section 4. Does the rule impose more than minor costs on two or more impacted businesses?

Yes. Several respondents provided cost estimates for creating an alternative training program that exceed the minor cost threshold for their industry.

Section 5. Does the rule have a disproportionate impact on small businesses?

Yes. The North American Industry Classification System indicates that there are both small and large businesses in the impacted business classification. It appears that the required tasks and associated costs to develop an alternative training program would be comparable to both small and large businesses. Therefore, using the “cost per employee” methodology, the commission assumes that there will be a disproportionate impact on small businesses because they have fewer employees than large businesses.

Section 6. Did we make an effort to reduce the impact of the rule?

The commission made an effort to reduce the impact of the rule in the following ways:

- The commission reviewed the proposed curriculum of home care aide-certified and the existing curriculum for medical assistant-certified to the curriculum for nursing assistant-certified. Only the gaps between the curriculums were included in the rules.

- The proposed rules reduce record keeping by requiring the same kinds of record keeping whether a school has an alternative training program or a standard nursing assistant training program.
- The rules allow the program to assess the student to determine what additional training they deem necessary. The rules outline the minimum standards but leave options for the schools. This allows the school to incorporate their existing nursing assistant training program requirements as much as possible. This also allows the school flexibility because each student has different skill sets. The skill sets can be assessed by the school and only the gaps in their training need to be addressed. This reduces the cost of a school in providing alternative training.

Section 7. Did we involve small businesses in the rule development process?

Yes. Both of the stakeholder meetings involved representatives from schools, employers and existing nursing assistant training programs. The commission sent invitations to the nursing list serve which includes nurses, facilities, employers and nursing assistant training programs.

In addition, the commission sent a survey to all nursing assistant training programs asking for additional information. The survey asked questions about interest in developing an alternative program. The survey asked about the cost to develop a program, staffing levels needed and cost to students. A summary of the results from this survey are included in this document.

Section 8. Will businesses have to hire or fire any employees because of the requirements in the rule?

The commission's analysis concludes that that there will not be any jobs lost as a result of the proposed rules. If a school or facility chooses to develop an alternative training program they may choose to employ additional staff or use their existing staff.