

# Significant Legislative Rule Analysis (SA)

Engrossed Substitute House Bill (ESHB) 2473,  
New WAC 246-841-586, WAC 246-841-587, WAC 246-841-588, WAC 246-841-  
589, WAC 246-841-590,  
WAC 246-841-591, WAC 246-841-592, WAC 246-841-593, WAC 246-841-594,  
and WAC 246-841-595

Rules Concerning Medication Assistant Endorsement

April 25, 2013

Health care facilities are finding a shortage of nurses. The need for nurses increases as over 78 million Americans who were born in the baby boom era after World War II turn 65, the typical age of retirement. Registered nurses, already overworked, will find their workload increasing when baby boomers start entering nursing homes.<sup>1</sup> The proposed rules allow supervising registered nurses to delegate certain simple nursing tasks to nursing assistants-certified. This will allow registered nurses to spend their time on more complex tasks.

In 2012, the legislature passed Engrossed Substitute House Bill (ESHB) 2473 allowing medication assistant as an endorsement for nursing assistants-certified. The law directs the Nursing Quality Care Assurance Commission (the commission) to write rules defining and regulating the endorsement requirements. The legislation recognized that nursing assistants-certified will have better work opportunities with this additional endorsement.

## **Section 1. What is the scope of the rule?**

The proposed rules create a new medication assistant endorsement for currently practicing nursing assistants-certified. The commission proposes these new rules as required by ESHB 2473. The commission researched medication assistant programs in Arizona, Arkansas, Wisconsin, and Oregon and found these programs were beneficial to all parties involved. The commission hosted public rules writing workshops by video conference in four different locations throughout the state and invited nursing schools to attend for assistance in the rules writing process. The commission staff also convened work groups for IT, Office of Customer Service and legal staff attorneys for departmental input.

The proposed rules allow certified nursing assistants to apply for an additional endorsement of medication assistant. With the endorsement, nursing assistants-certified are able to administer certain medications and treatments, in a nursing home setting, under the direct supervision of a registered nurse. The proposed rules provide registered nurses with more time for higher level tasks because they can delegate medication and treatment tasks. To protect resident safety, the registered nurse remains responsible for assessing residents' needs and making decisions about medication and treatment administration. The delegation of medication and treatment tasks saves

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<sup>1</sup> Washington Center for Nursing; WWAMI Center for Health Workforce Studies.

employers money because registered nurses receive a higher salary than nursing assistants-certified. Registered nurses have more time for resident assessments, therefore increasing resident access to care. This endorsement is not mandatory for nursing assistants-certified, nor is it mandatory that nursing homes employ only nursing assistants-certified with the medication assistant endorsement.

The proposed rules establish requirements for programs who apply to teach the education and training program for medication assistants. It establishes a mechanism for the commission to review violations and efficiently enforce requirements for the education and training programs. The proposed rules clarify the appeal rights of the program, establish reinstatement requirements and allow for enrolled students to complete a program when program approval has been withdrawn.

## **Section 2. What are the general goals and specific objectives of the proposed rule's authorizing statute?**

The general goal of ESHB 2473 modifies chapter 18.88A RCW so that the people of Washington State have prompt and reliable care while they are dependent on their health care-providers. The commission has broad authority through the bill to write these new rules.

The statute's objectives the rules implement are:

1. Increase care provided to nursing home residents by creating well-trained caregivers with diverse skill sets.
2. Promote quality and safety for residents by allowing nursing assistants-certified to administer certain medications and treatments.
3. Create better work environments for nursing assistants-certified through career opportunities for advancement and pay by increasing training and certification opportunities.

## **Section 3. What is the justification for the proposed rule package?**

The proposed rules package achieves the authorizing statute's goals and objectives because nursing assistants-certified will have the ability to apply for an optional medication assistant endorsement. The endorsement increases the availability of trained healthcare providers who can administer medications and treatments. Nursing assistants-certified are required to complete appropriate training and pass an examination before receiving their endorsement, so residents and employers can be assured of their competency.

Nursing assistants-certified may only administer specific medications and treatments in a nursing home, under the supervision of the designated registered nurse. Registered nurses are responsible for assessing the resident before the administration of medications or treatments by a medication assistant. The judgment for the necessary medications and treatments administered remains with

the supervising registered nurse. Allowing registered nurses to delegate selected administration of medications and treatment enables them to complete other higher level tasks.

Employers reduce costs by having lower paid employees perform these less complex duties. Studies in other states with medication assistant programs have shown that residents benefit from these programs. The commission found in those studies there are fewer medication mistakes when medication assistants focus only on administering medication. The proposed rules require medication assistants to focus on medication administration and reduce distractions as much as possible. This creates better resident safety by lowering medication administering mistakes.

If these rules are not adopted, Washington State would not be in compliance with the authorizing statute and availability of quality care in nursing homes will decrease for residents. Nursing assistants-certified will find fewer opportunities to advance their career and increase their pay. Registered nurses have less time for more critical duties if they are administering medications and treatments that could be performed by a medication assistant.

**Section 4. What are the costs and benefits of each rule included in the rules package? What is the total probable cost and total probable benefit of the rule package?**

1. Identification of total number of rules in package

There are ten rules included in this package

2. Non-Significant Rule Identification Table

**Table: Non-Significant Rule Identification**

#	WAC Section	Section Title	Reason
1	WAC-841-586	Medication Assistant Purpose	Does not meet criteria of a legislatively significant rule <sup>2</sup>
2	WAC-841-587	Medication Assistant Definition	Does not meet criteria of a legislatively significant rule

There are eight significant rules included in this package:

**1. New WAC 246-841-588 Medication Assistant: Endorsement application requirements.**

This rule explains the minimum application requirements for a medication assistant endorsement. Applicants are required to complete an approved education or training program detailed in a later rule. The cost for these programs will vary between \$600 and \$1,650. There will be a minimum

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<sup>2</sup> A significant legislative rule is a rule that a) subjects a person who violates the proposed rule to a penalty or sanction, b) creates, changes or repeals any qualification or standard for issuing, suspending, or revoking a license or permit, c) adopts a new policy, or makes significant amendments to a policy or regulatory program.

of 1,000 experience hours, approximately half a year, as a nursing assistant-certified before application. The cost to document these hours is considered by the commission to be minimal. After the completion of the required education and experience hours, the applicant is required to successfully pass a written competency evaluation at one of the approved testing facilities. The cost of this evaluation will be \$125 per evaluation. The application fees are \$48 for first time applicants and \$53 for continuing endorsement. Currently endorsed medication assistants who wish to continue their certification will be required to complete 250 hours of supervised work experience as a medication assistant and eight continuing education hours specific to medication administration each year on their birth date. While the applicant is completing the necessary education or training program it is estimated they will give up 120 hours of work. At a rate of \$11.54 per hour this calculates out to \$1,385 in opportunity cost. However, it is anticipated most facilities will pay their employees salary during the training because of the benefit to the employer.

Nursing assistants-certified performing medication assistance tasks for the registered nurses allows the RNs more time to perform more complex tasks, such as bedside assessments. The nursing assistants-certified assists the registered nurse in resident assessment and monitoring, which increases resident access to care. Nursing assistants- certified make approximately \$11.54 per hour, as opposed to a registered nurse, who makes approximately \$31.10 per hour. Therefore, employers save money by having medication assistants perform these tasks. Resident safety is the most important goal for the commission and can be ensured because the registered nurse still assesses the individual resident and makes all judgments about the types of medications and treatments needed.

#### Cost

- Additional medication assistant education and training costs.
- Medication assistant examination fees.
- Documenting completion of required experience hours.
- Ongoing certification costs.
- Continuing competency requirements cost.
- Application fees.
- Working hours forgone for education.

#### Benefits

- Increase availability of quality care for nursing home residents.
- Provides assistance to registered nurse in observing residents and resident needs.
- Decreases cost to employer by having lower paid employees perform the same tasks.

**2. New WAC 246-841-589 Medication Assistant: Medication Administration and Performing prescriber ordered treatments.** The proposed rule defines the primary responsibilities and limiting duties of the medication assistant. Medication assistants are able to perform only limited duties under the supervision of the registered nurse. They may administer medications orally, topically and through inhalation. They may also perform simple prescriber-ordered treatments as defined by the commission. These tasks have been determined as within the medication assistant's abilities to ensure resident safety. The medication assistant is

responsible for, and must be competent at, documenting tasks they have performed. Some of the limitations of the medication assistant include;

- accepting telephone or verbal orders from the prescriber,
- calculating medication dosages,
- injecting medications,
- performing sterile tasks,
- administering medications through a tube,
- administering any schedule I, II, or III controlled substances, and
- performing any task that requires nursing judgment.

The responsibilities are clearly defined in the rule for the benefit of employers, supervising registered nurses and the medication assistants. The limitations are also clearly defined to ensure resident safety by restricting performance out of the scope of a medication assistant's abilities.

Cost

- No cost to applicant for compliance with this rule.

Benefits

- Provides protection for residents by limiting duties to those within the medication assistant's abilities.
- Clearly defines the responsibilities of a medication assistant for employers and supervising registered nurses.
- Clearly defines tasks that may not be performed by medication assistants.

**3. New WAC 246-841-590 Medication Assistant: Requirements for approval of education and training programs.** The proposed rule details the requirements for education and training programs for nursing commission approval. This rule has no cost to applicants.

Cost

- No cost to applicant.

Benefits

- Defines approved education and training programs for medication assistant applicants.

**4. New WAC 246-841-591 Medication Assistant: Commission review and investigation.**

The proposed rule allows the nursing commission to conduct a review, investigation, or site visit of an education and training program to evaluate:

- Complaints relating to violations of the rules;
- Failure to notify the commission of any changes in the curriculum or program directors and instructors;
- Providing false or misleading information to students;
- Failure to secure or retain a qualified program director, and
- Failure to maintain an average annual passing rate of 80% for first time test takers.

If the program fails to maintain an average annual passing rate of 80% for three out of four years, the commission may withdraw program approval.

Cost

- No cost to the applicant.

Benefit

- Clearly defines circumstances that will lead to a review of the program.

**5. New WAC 246-841-592 Medication Assistant: Commission action for violations.** The proposed rule allows the commission to issue a statement of deficiencies or withdraw approval of the program. It explains what an education and training program is required to do if they have failed to meet the requirements of the rules. It allows the program to submit a plan for enrolled students to complete the program.

Cost

- No cost to the applicant.
- No costs to the program, as programs must abide by the rules.

Benefit

- Outlines specific standards that programs must meet.
- Clearly explains what an education and training program must do after they have been found to not meet the requirements.
- Allows an opportunity for enrolled students to complete the program.

**6. New WAC 246-841-593 Medication Assistant: Reinstatement of approval.** The proposed rule allows reinstatement of approval for education and training programs that have submitted satisfactory evidence that the program meets the requirements.

Cost

- No cost to the applicant.

Benefit

- Programs that have lost their approval may be reinstated when violations have been corrected.

**7. New WAC 246-841-594 Medication Assistant: Appeal rights.** The proposed rule explains that education and training programs that have been denied or had approval withdrawn have the right to a hearing to appeal the decision.

Cost

- No cost to the applicant.

Benefit

- Education and training programs are aware of their appeal rights.

**8. New WAC246-841-595 Medication Assistant: Medication assistant endorsement program renewal.** The proposed rule explains what an education and training program must do to renew, and sets timelines for submission of documents.

Cost

- No cost to the applicant.

Benefit

- Education and training programs are aware of their responsibilities in renewing the program.

**Cost/Benefit Summary**

The cost to medication assistant applicants includes the required education, training, examination, and application fees as defined in WAC 246-841-588. Benefits of the endorsement include better nursing home resident health through higher availability of quality care. With medication assistants performing medication duties, registered nurses have more time to perform higher level duties and focus on resident assessment. The medication assistants focus only on administering tasks to reduce medication errors. Also, nursing assistants-certified have more career advancement opportunities. The increase in advancement opportunities increases recruitment opportunities for the nursing assistant profession. After consideration of the rules package, the commission determined the probable benefits outweigh the probable costs.

**Section 5. What alternative versions of the rule were considered? Is the proposed rule the least burdensome approach?**

**Descriptions of alternatives considered**

The definition of direct supervision was discussed during the rules writing process. It was suggested to require registered nurses be physically present during the administration of the medications. This alternative was rejected because it defeats the purpose of allowing registered nurses more time for other duties. Instead, the rule is written to have registered nurses assess the resident before delegation of medication administration to the medication assistant and to be within the building during medication administration.

**Least burdensome determination**

The commission considered the most appropriate education programs, training programs and examination centers to keep costs as low as possible for applicants. The application forms are

structured in the most efficient way for ease of application. The commission staff is working to coordinate the rules' effective dates with the release of the new application form, so the application process can begin immediately when the rules go into effect. The commission determined the proposed rules are the least burdensome option for accomplishing the legislative goals and criteria for medication assistant endorsement.

**Section 6. Does the rule require anyone to take an action that violates another federal or state law?**

The rules do not require those to whom it applies to take an action that violates requirements of federal or state law.

**Section 7. Does the rule impose more stringent performance requirements on private entities than on public entities unless the difference is required in federal or state law?**

The Department of Health determined that the rules do not impose more stringent performance requirements on private entities than on public entities.

**Section 8. Does the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, is the difference justified by an explicit state statute or by substantial evidence that the difference is necessary?**

The rules do not differ from any applicable federal regulation or statute.

**Section 9. Has the rule been coordinated, to the maximum extent possible, with other federal, state, and local laws applicable to the same activity or subject matter?**

There are no other applicable laws.