

BILL ANALYSIS

Senate Research Center
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S.B. 1847
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Health & Human Services
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Throughout the COVID-19 pandemic, many of those in training to become certified nurse aides (CNAs) were able to work on the frontlines in nursing homes. This was only possible because the Centers for Medicare and Medicaid Services (CMS) waived federal requirements, allowing these temporary nurse aides (TNAs) to work on the front lines in nursing homes in the same capacity as a CNA could.

The waiver and additional support staff were invaluable. Even before the COVID-19 pandemic, Texas was aware of the dwindling workforce pipeline for nursing homes, with an estimated shortage of over 60,000 CNAs by 2030. The need for more workers has only increased since the progression of this pandemic, as the Centers for Disease Control and Prevention (CDC) found that those over 65 who had contracted COVID-19 were 90-630 times more likely to die from the illness than their younger 18-29 year old counterparts—with the risk for complications and death increasing significantly as age and pre-existing health conditions increase: making those in nursing homes especially vulnerable. With over 3.9 million Americans receiving care in nursing homes and over 1.2 million healthcare personnel and support staff providing that care, the need to prioritize and support this industry could not be more emphasized.

Without any legislation or rule changes nearly 200,000 TNAs in the United States will be forced to return to the classroom to complete their certifications, even though they have been working in their positions for a year now. This is a huge disincentive, putting unnecessary strain on an already overwhelmed unemployment system and nursing home workforce. These TNAs have been working on the frontlines, and their experience should hold the same weight, if not more, as learning how to do the same thing in a classroom setting.

To summarize, S.B. 1847 seeks to allow TNAs who were hired under the emergency CMS waiver to put those hours towards their certification. Hour substitutions would be:

- 1:1 (TNA Training hours : Classroom Training hours)
- 2:1 (TNA Working hours : Classroom Training hours)
- 1:1 (TNA Working hours : Required Clinical hours)

As proposed, S.B. 1847 amends current law relating to training requirements for certain individuals for inclusion in the nurse aide registry.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 3 (Section 250.00351, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 250.001, Health and Safety Code, by adding Subdivisions (6), (7), and (8), to define "commission," "executive commissioner," and "nurse aide training program."

SECTION 2. Amends Section 250.0035(a), Health and Safety Code, to require an applicant to be listed on the nurse aide registry, to complete a nurse aide training program, rather than a training

program, approved by the Health and Human Services Commission (HHSC) rather than the Department of Aging and Disability Services that includes certain requirements.

SECTION 3. Amends Chapter 250, Health and Safety Code, by adding Section 250.00351, as follows:

Sec. 250.00351. WAIVER; TRAINING REQUIREMENTS FOR CERTAIN INDIVIDUALS. (a) Defines "temporary nurse aide."

(b) Requires the executive commissioner of HHSC (executive commissioner) to seek a waiver from the Centers for Medicare and Medicaid Services (CMS) that allows an individual in accordance with this section to partly or wholly satisfy the classroom training and clinical training hours required for completion of a nurse aide training program with classroom and clinical hours completed as a temporary nurse aide at a nursing facility licensed under Chapter 242 (Convalescent and Nursing Facilities and Related Institutions).

(c) Authorizes an individual who works as a temporary nurse aide to substitute one hour of training accrued as a temporary nurse aide at a nursing facility for one hour of required classroom training through a nurse aide training program, two hours of work experience accrued as a temporary nurse aide at a nursing facility for one hour of required classroom training through a nurse aide training program, and one hour of work experience accrued as a temporary nurse aide at a nursing facility for one hour of required clinical training through a nurse aide training program.

(d) Requires a nursing facility to document the number of hours of nurse aide training and work experience accrued by a temporary nurse aide at the facility and provide the documentation to that individual on request.

(e) Requires a nurse aide training program to accept a nursing facility's documentation of the number of hours of training and work experience accrued by a temporary nurse aide at the facility and apply the documented hours toward the classroom training and clinical training hours required by the training program in accordance with Subsection (c).

(f) Requires an individual, if the individual does not accrue a sufficient number of training or work experience hours as a temporary nurse aide under Subsection (c) to satisfy the total number of classroom training and clinical training hours required to successfully complete the nurse aide training program, to complete the remaining number of required hours through a nurse aide training program.

(g) Requires a nurse aide training program, if an individual satisfies the total number of classroom training and clinical training hours prescribed by Section 250.0035(a)(1) (relating to training requirements for nurse aides) through training and work experience as a temporary nurse aide under Subsection (c) and any training and clinical hours completed under a nurse aide training program, to allow the individual to sit for the competency evaluation required by Section 250.0035(a)(2) (relating to a competency evaluation on completion of a nurse aide training program). Requires HHSC to list in the nurse aide registry under Section 250.0035 (Training Requirements; Continuing Education) each individual who passes the evaluation.

(h) Requires the executive commissioner to adopt rules to implement this section.

SECTION 4. Requires the executive commissioner, as soon as possible after the effective date of this Act, to apply for and actively pursue from CMS or another appropriate federal agency the waiver as required by Section 250.00351, Health and Safety Code, as added by this Act. Authorizes HHSC to delay implementing this Act until the waiver applied for under that section is granted.

SECTION 5. Effective date: upon passage or September 1, 2021.