

CERTIFIED NURSING ASSISTANT AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: A. Cory Maloy

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to certified nursing assistants.

Highlighted Provisions:

This bill:

- ▶ allows an individual seeking a certified nursing assistant certification to complete the training requirement at certain health care facilities; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-2-202, as renumbered and amended by Laws of Utah 2023, Chapter 305

58-31b-102, as last amended by Laws of Utah 2023, Chapters 223, 329

58-31b-302, as last amended by Laws of Utah 2023, Chapters 223, 284

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **26B-2-202** is amended to read:

26B-2-202. Duties of department.



28 (1) The department shall:

29 (a) enforce rules established pursuant to this part;

30 (b) authorize an agent of the department to conduct inspections of health care facilities

31 pursuant to this part;

32 (c) collect information authorized by the committee that may be necessary to ensure

33 that adequate health care facilities are available to the public;

34 (d) collect and credit fees for licenses as free revenue;

35 (e) collect and credit fees for conducting plan reviews as dedicated credits;

36 (f) (i) collect and credit fees for conducting clearance under Sections 26B-2-239 and

37 26B-2-240; and

38 (ii) beginning July 1, 2012:

39 (A) up to \$105,000 of the fees collected under Subsection (1)(f)(i) are dedicated

40 credits; and

41 (B) the fees collected for background checks under Subsection 26B-2-240(6) and

42 Subsection 26B-2-241(4) shall be transferred to the Department of Public Safety to reimburse

43 the Department of Public Safety for its costs in conducting the federal background checks;

44 (g) designate an executive secretary from within the department to assist the committee

45 in carrying out its powers and responsibilities;

46 (h) establish reasonable standards for criminal background checks by public and

47 private entities;

48 (i) recognize those public and private entities that meet the standards established

49 pursuant to Subsection (1)(h); ~~[and]~~

50 (j) establish and maintain a certification for certified nursing assistants that:

51 (i) complies with the Omnibus Budget Reconciliation Act of 1987, Pub. L. No.

52 100-203; and

53 (ii) allows an individual to fulfill the supervised training requirement while working in ~~H~~→

53a ;

54 ~~—— (A) a nursing care facility;~~

55 ~~—— (B) a general acute hospital; or~~

56 ~~—— (C) any other] any~~ ←~~H~~ health care facility ~~H~~→ , including a nursing care facility, a

56a general acute hospital, and an assisted living facility, ←~~H~~ the department determines would not

56b violate the

57 Omnibus Budget Reconciliation Act of 1987, Pub. L. No. 100-203; and

58 ~~[(j)]~~ (k) provide necessary administrative and staff support to the committee.

- 59 (2) The department may:
- 60 (a) exercise all incidental powers necessary to carry out the purposes of this part;
- 61 (b) review architectural plans and specifications of proposed health care facilities or
- 62 renovations of health care facilities to ensure that the plans and specifications conform to rules
- 63 established by the committee; and
- 64 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 65 make rules as necessary to implement the provisions of this part.

66 Section 2. Section **58-31b-102** is amended to read:

67 **58-31b-102. Definitions.**

68 In addition to the definitions in Section **58-1-102**, as used in this chapter:

69 (1) "Administrative penalty" means a monetary fine or citation imposed by the division

70 for acts or omissions determined to be unprofessional or unlawful conduct in accordance with a

71 fine schedule established by division rule made in accordance with Title 63G, Chapter 3, Utah

72 Administrative Rulemaking Act, and as a result of an adjudicative proceeding conducted in

73 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

74 (2) "Applicant" means an individual who applies for licensure or certification under

75 this chapter by submitting a completed application for licensure or certification and the

76 required fees to the department.

77 (3) "Approved education program" means a nursing education program that is

78 accredited by an accrediting body for nursing education that is approved by the United States

79 Department of Education.

80 (4) "Board" means the Board of Nursing created in Section **58-31b-201**.

81 (5) "Diagnosis" means the identification of and discrimination between physical and

82 psychosocial signs and symptoms essential to the effective execution and management of

83 health care.

84 (6) "Examinee" means an individual who applies to take or does take any examination

85 required under this chapter for licensure.

86 (7) "Licensee" means an individual who is licensed or certified under this chapter.

87 (8) "Long-term care facility" means any of the following facilities licensed by the

88 Department of Health and Human Services pursuant to Title 26B, Chapter 2, Part 2, Health

89 Care Facility Licensing and Inspection:

- 90 (a) a nursing care facility;
- 91 (b) a small health care facility;
- 92 (c) an intermediate care facility for people with an intellectual disability;
- 93 (d) an assisted living facility Type I or II; or
- 94 (e) a designated swing bed unit in a general hospital.
- 95 (9) "Medication aide certified" means a certified [~~nurse aide~~] nursing assistant who:
- 96 (a) has a minimum of 2,000 hours experience working as a certified [~~nurse aide~~]
- 97 nursing assistant;
- 98 (b) has received a minimum of 60 hours of classroom and 40 hours of practical training
- 99 that is approved by the division in collaboration with the board, in administering routine
- 100 medications to patients or residents of long-term care facilities; and
- 101 (c) is certified by the division as a medication aide certified.
- 102 (10) (a) "Practice as a medication aide certified" means the limited practice of nursing
- 103 under the supervision, as defined by the division by rule made in accordance with Title 63G,
- 104 Chapter 3, Utah Administrative Rulemaking Act, of a licensed nurse, involving routine patient
- 105 care that requires minimal or limited specialized or general knowledge, judgment, and skill, to
- 106 an individual who:
- 107 (i) is ill, injured, infirm, has a physical, mental, developmental, or intellectual
- 108 disability; and
- 109 (ii) is in a regulated long-term care facility.
- 110 (b) "Practice as a medication aide certified":
- 111 (i) includes:
- 112 (A) providing direct personal assistance or care; and
- 113 (B) administering routine medications to patients in accordance with a formulary and
- 114 protocols to be defined by the division by rule made in accordance with Title 63G, Chapter 3,
- 115 Utah Administrative Rulemaking Act; and
- 116 (ii) does not include assisting a resident of an assisted living facility, a long term care
- 117 facility, or an intermediate care facility for people with an intellectual disability to self
- 118 administer a medication, as regulated by the Department of Health and Human Services by rule
- 119 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 120 (11) "Practice of advanced practice registered nursing" means the practice of nursing

121 within the generally recognized scope and standards of advanced practice registered nursing as
122 defined by rule and consistent with professionally recognized preparation and education
123 standards of an advanced practice registered nurse by a person licensed under this chapter as an
124 advanced practice registered nurse. "Practice of advanced practice registered nursing" includes:

- 125 (a) maintenance and promotion of health and prevention of disease;
- 126 (b) diagnosis, treatment, correction, consultation, and referral;
- 127 (c) prescription or administration of prescription drugs or devices including:
 - 128 (i) local anesthesia;
 - 129 (ii) Schedule III-V controlled substances; and
 - 130 (iii) Schedule II controlled substances; or
- 131 (d) the provision of preoperative, intraoperative, and postoperative anesthesia care and
132 related services upon the request of a licensed health care professional by an advanced practice
133 registered nurse specializing as a certified registered nurse anesthetist, including:
 - 134 (i) preanesthesia preparation and evaluation including:
 - 135 (A) performing a preanesthetic assessment of the patient;
 - 136 (B) ordering and evaluating appropriate lab and other studies to determine the health of
137 the patient; and
 - 138 (C) selecting, ordering, or administering appropriate medications;
 - 139 (ii) anesthesia induction, maintenance, and emergence, including:
 - 140 (A) selecting and initiating the planned anesthetic technique;
 - 141 (B) selecting and administering anesthetics and adjunct drugs and fluids; and
 - 142 (C) administering general, regional, and local anesthesia;
 - 143 (iii) postanesthesia follow-up care, including:
 - 144 (A) evaluating the patient's response to anesthesia and implementing corrective
145 actions; and
 - 146 (B) selecting, ordering, or administering the medications and studies listed in this
147 Subsection (11)(d);
 - 148 (iv) other related services within the scope of practice of a certified registered nurse
149 anesthetist, including:
 - 150 (A) emergency airway management;
 - 151 (B) advanced cardiac life support; and

152 (C) the establishment of peripheral, central, and arterial invasive lines; and
153 (v) for purposes of this Subsection (11)(d), "upon the request of a licensed health care
154 professional":

155 (A) means a health care professional practicing within the scope of the health care
156 professional's license, requests anesthesia services for a specific patient; and

157 (B) does not require an advanced practice registered nurse specializing as a certified
158 registered nurse anesthetist to obtain additional authority to select, administer, or provide
159 preoperative, intraoperative, or postoperative anesthesia care and services.

160 (12) "Practice of nursing" means assisting individuals or groups to maintain or attain
161 optimal health, implementing a strategy of care to accomplish defined goals and evaluating
162 responses to care and treatment, and requires substantial specialized or general knowledge,
163 judgment, and skill based upon principles of the biological, physical, behavioral, and social
164 sciences. "Practice of nursing" includes:

- 165 (a) initiating and maintaining comfort measures;
- 166 (b) promoting and supporting human functions and responses;
- 167 (c) establishing an environment conducive to well-being;
- 168 (d) providing health counseling and teaching;
- 169 (e) collaborating with health care professionals on aspects of the health care regimen;
- 170 (f) performing delegated procedures only within the education, knowledge, judgment,
171 and skill of the licensee;
- 172 (g) delegating nursing tasks that may be performed by others, including an unlicensed
173 assistive personnel; and
- 174 (h) supervising an individual to whom a task is delegated under Subsection (12)(g) as
175 the individual performs the task.

176 (13) "Practice of practical nursing" means the performance of nursing acts in the
177 generally recognized scope of practice of licensed practical nurses as defined by division rule
178 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and as
179 provided in this Subsection (13) by an individual licensed under this chapter as a licensed
180 practical nurse and under the direction of a registered nurse, licensed physician, or other
181 specified health care professional as defined by division rule made in accordance with Title
182 63G, Chapter 3, Utah Administrative Rulemaking Act. Practical nursing acts include:

- 183 (a) contributing to the assessment of the health status of individuals and groups;
- 184 (b) participating in the development and modification of the strategy of care;
- 185 (c) implementing appropriate aspects of the strategy of care;
- 186 (d) maintaining safe and effective nursing care rendered to a patient directly or
- 187 indirectly; and
- 188 (e) participating in the evaluation of responses to interventions.

189 (14) "Practice of registered nursing" means performing acts of nursing as provided in
190 this Subsection (14) by an individual licensed under this chapter as a registered nurse within
191 the generally recognized scope of practice of registered nurses as defined by division rule made
192 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Registered
193 nursing acts include:

- 194 (a) assessing the health status of individuals and groups;
- 195 (b) identifying health care needs;
- 196 (c) establishing goals to meet identified health care needs;
- 197 (d) planning a strategy of care;
- 198 (e) prescribing nursing interventions to implement the strategy of care;
- 199 (f) implementing the strategy of care;
- 200 (g) maintaining safe and effective nursing care that is rendered to a patient directly or
- 201 indirectly;
- 202 (h) evaluating responses to interventions;
- 203 (i) teaching the theory and practice of nursing; and
- 204 (j) managing and supervising the practice of nursing.

205 (15) "Registered nurse apprentice" means an individual licensed under Subsection
206 [58-31b-301\(2\)\(b\)](#) who is learning and engaging in the practice of registered nursing under the
207 indirect supervision of an individual licensed under:

- 208 (a) Subsection [58-31b-301\(2\)\(c\)](#), (e), or (f);
- 209 (b) Chapter 67, Utah Medical Practice Act; or
- 210 (c) Chapter 68, Utah Osteopathic Medical Practice Act.

211 (16) "Routine medications":

- 212 (a) means established medications administered to a medically stable individual as
- 213 determined by a licensed health care practitioner or in consultation with a licensed medical

214 practitioner; and

215 (b) is limited to medications that are administered by the following routes:

216 (i) oral;

217 (ii) sublingual;

218 (iii) buccal;

219 (iv) eye;

220 (v) ear;

221 (vi) nasal;

222 (vii) rectal;

223 (viii) vaginal;

224 (ix) skin ointments, topical including patches and transdermal;

225 (x) premeasured medication delivered by aerosol/nebulizer; and

226 (xi) medications delivered by metered hand-held inhalers.

227 (17) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501
228 and 58-31b-501.

229 (18) "Unlicensed assistive personnel" means any unlicensed individual, regardless of
230 title, who is delegated a task by a licensed nurse as permitted by division rule made in
231 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the standards
232 of the profession.

233 (19) "Unprofessional conduct" means the same as that term is defined in Sections
234 58-1-501 and 58-31b-502 and as may be further defined by division rule made in accordance
235 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

236 Section 3. Section 58-31b-302 is amended to read:

237 **58-31b-302. Qualifications for licensure or certification -- Criminal background**
238 **checks.**

239 (1) An applicant for certification as a medication aide shall:

240 (a) submit an application to the division on a form prescribed by the division;

241 (b) pay a fee to the division as determined under Section 63J-1-504;

242 (c) have a high school diploma or its equivalent;

243 (d) have a current certification as a ~~nurse aide~~ nursing assistant, in good standing,
244 from the Department of Health and Human Services;

245 (e) have a minimum of 2,000 hours of experience within the two years prior to
246 application, working as a certified [~~nurse aide~~] nursing assistant in a long-term care facility or
247 another health care facility that is designated by the division in collaboration with the board;

248 (f) obtain letters of recommendation from a health care facility administrator and one
249 licensed nurse familiar with the applicant's work practices as a certified [~~nurse aide~~] nursing
250 assistant;

251 (g) be in a condition of physical and mental health that will permit the applicant to
252 practice safely as a medication aide certified;

253 (h) have completed an approved education program or an equivalent as determined by
254 the division in collaboration with the board;

255 (i) have passed the examinations as required by division rule made in collaboration
256 with the board; and

257 (j) meet with the board, if requested, to determine the applicant's qualifications for
258 certification.

259 (2) An applicant for licensure as a licensed practical nurse shall:

260 (a) submit to the division an application in a form prescribed by the division;

261 (b) pay to the division a fee determined under Section [63J-1-504](#);

262 (c) have a high school diploma or its equivalent;

263 (d) be in a condition of physical and mental health that will permit the applicant to
264 practice safely as a licensed practical nurse;

265 (e) have completed an approved practical nursing education program or an equivalent
266 as determined by the board;

267 (f) have passed the examinations as required by division rule made in collaboration
268 with the board; and

269 (g) meet with the board, if requested, to determine the applicant's qualifications for
270 licensure.

271 (3) An applicant for a registered nurse apprentice license shall:

272 (a) submit to the division an application form prescribed by the division;

273 (b) pay to the division a fee determined under Section [63J-1-504](#);

274 (c) have a high school diploma or its equivalent;

275 (d) be in a condition of physical and mental health that will allow the applicant to

276 practice safely as a registered nurse apprentice;

277 (e) as determined by an approved registered nursing education program, be:

278 (i) in good standing with the program; and

279 (ii) in the last semester, quarter, or competency experience;

280 (f) have written permission from the program in which the applicant is enrolled; and

281 (g) meet with the board, if requested, to determine the applicant's qualifications for

282 licensure.

283 (4) An applicant for licensure as a registered nurse shall:

284 (a) submit to the division an application form prescribed by the division;

285 (b) pay to the division a fee determined under Section 63J-1-504;

286 (c) have a high school diploma or its equivalent;

287 (d) be in a condition of physical and mental health that will allow the applicant to

288 practice safely as a registered nurse;

289 (e) have completed an approved registered nursing education program;

290 (f) have passed the examinations as required by division rule made in collaboration

291 with the board; and

292 (g) meet with the board, if requested, to determine the applicant's qualifications for

293 licensure.

294 (5) Applicants for licensure as an advanced practice registered nurse shall:

295 (a) submit to the division an application on a form prescribed by the division;

296 (b) pay to the division a fee determined under Section 63J-1-504;

297 (c) be in a condition of physical and mental health which will allow the applicant to

298 practice safely as an advanced practice registered nurse;

299 (d) hold a current registered nurse license in good standing issued by the state or be

300 qualified at the time for licensure as a registered nurse;

301 (e) (i) have earned a graduate degree in:

302 (A) an advanced practice registered nurse nursing education program; or

303 (B) a related area of specialized knowledge as determined appropriate by the division

304 in collaboration with the board; or

305 (ii) have completed a nurse anesthesia program in accordance with Subsection

306 (5)(f)(ii);

- 307 (f) have completed:
- 308 (i) course work in patient assessment, diagnosis and treatment, and
- 309 pharmacotherapeutics from an education program approved by the division in collaboration
- 310 with the board; or
- 311 (ii) a nurse anesthesia program which is approved by the Council on Accreditation of
- 312 Nurse Anesthesia Educational Programs;
- 313 (g) to practice within the psychiatric mental health nursing specialty, demonstrate, as
- 314 described in division rule, that the applicant, after completion of a doctorate or master's degree
- 315 required for licensure, is in the process of completing the applicant's clinical practice
- 316 requirements in psychiatric mental health nursing, including in psychotherapy;
- 317 (h) have passed the examinations as required by division rule made in collaboration
- 318 with the board;
- 319 (i) be currently certified by a program approved by the division in collaboration with
- 320 the board and submit evidence satisfactory to the division of the certification; and
- 321 (j) meet with the board, if requested, to determine the applicant's qualifications for
- 322 licensure.
- 323 (6) For each applicant for licensure or certification under this chapter except an
- 324 applicant under Subsection 58-31b-301(2)(b):
- 325 (a) the applicant shall:
- 326 (i) submit fingerprint cards in a form acceptable to the division at the time the
- 327 application is filed; and
- 328 (ii) consent to a fingerprint background check conducted by the Bureau of Criminal
- 329 Identification and the Federal Bureau of Investigation regarding the application;
- 330 (b) the division shall:
- 331 (i) in addition to other fees authorized by this chapter, collect from each applicant
- 332 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal
- 333 Identification is authorized to collect for the services provided under Section 53-10-108 and the
- 334 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of
- 335 obtaining federal criminal history record information;
- 336 (ii) submit from each applicant the fingerprint card and the fees described in this
- 337 Subsection (6)(b) to the Bureau of Criminal Identification; and

338 (iii) obtain and retain in division records a signed waiver approved by the Bureau of
339 Criminal Identification in accordance with Section 53-10-108 for each applicant; and

340 (c) the Bureau of Criminal Identification shall, in accordance with the requirements of
341 Section 53-10-108:

342 (i) check the fingerprints submitted under Subsection (6)(b) against the applicable state
343 and regional criminal records databases;

344 (ii) forward the fingerprints to the Federal Bureau of Investigation for a national
345 criminal history background check; and

346 (iii) provide the results from the state, regional, and nationwide criminal history
347 background checks to the division.

348 (7) For purposes of conducting the criminal background checks required in Subsection
349 (6), the division shall have direct access to criminal background information maintained
350 pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

351 (8) (a) (i) Any new nurse license or certification issued under this section shall be
352 conditional, pending completion of the criminal background check.

353 (ii) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the
354 criminal background check discloses the applicant has failed to accurately disclose a criminal
355 history, the license or certification shall be immediately and automatically revoked upon notice
356 to the licensee by the division.

357 (b) (i) An individual whose conditional license or certification has been revoked under
358 Subsection (8)(a) is entitled to a postrevocation hearing to challenge the revocation.

359 (ii) A postrevocation hearing shall be conducted in accordance with Title 63G, Chapter
360 4, Administrative Procedures Act.

361 (9) If an individual has been charged with a violent felony, as defined in Subsection
362 76-3-203.5(1)(c), and, as a result, the individual has been convicted, entered a plea of guilty or
363 nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance pending the
364 successful completion of probation, the division shall act upon the license as required under
365 Section 58-1-401.

366 (10) If an individual has been charged with a felony other than a violent felony, as
367 defined in Subsection 76-3-203.5(1)(c), and, as a result, the individual has been convicted,
368 entered a plea of guilty or nolo contendere, or entered a plea of guilty or nolo contendere held

369 in abeyance pending the successful completion of probation, the division shall determine
370 whether the felony disqualifies the individual for licensure under this chapter and act upon the
371 license, as required, in accordance with Section 58-1-401.

372 (11) The division may not disseminate outside of the division any criminal history
373 record information that the division obtains from the Bureau of Criminal Identification or the
374 Federal Bureau of Investigation under the criminal background check requirements of this
375 section.

376 Section 4. **Effective date.**

377 This bill takes effect on May 1, 2024.