



Senate Fiscal Agency  
P.O. Box 30036  
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383  
Fax: (517) 373-1986

House Bill 4098 (Substitute H-3 as passed by the House)

Sponsor: Representative Ben Frederick

House Committee: Health Policy

Ways and Means

Senate Committee: Health Policy and Human Services

Date Completed: 10-7-20

### **CONTENT**

**The bill would amend the Public Health Code to do the following:**

- **Require the Department of Licensing and Regulatory Affairs (LARA) to administer a medication aide training and permit program as established in rules promulgated by the Department.**
- **Prohibit an individual from engaging in practice as a medication aide unless he or she held a registration to engage in that practice.**
- **Prohibit a person from offering a medication aide training program or providing training or instruction to a medication aide candidate unless the person held a permit to offer that training program or provide that training or instruction.**
- **Rename the "Nurse Aide Registration Fund" as the "Nurse Aide and Medication Aide Registration Fund".**
- **Allow LARA to grant a registration to engage in practice as a medication aide or a permit as a medication aide trainer or a medication aide training program if certain requirements were met.**
- **Allow LARA to grant a registration to an out-of-State applicant if certain requirements were met.**
- **Prescribe certain application and renewal fees for a registration to practice as a medication Aide and for a permit to conduct training or instruction of a medication aide candidate.**
- **Modify certain rulemaking provisions.**

The bill would take effect 90 days after its enactment.

### **Definitions**

"Medication aide" would mean a nurse aide who holds a registration to engage in practice as a medication aide. A medication aide would not be a health professional licensed under Article 15 (Occupations), a registered dietitian, or someone who volunteers to provide nursing or nursing-related services without pay.

"Medication aide trainer" would mean an individual who holds a permit to provide training to a medication aide candidate who is enrolled in a medication aide training program.

"Medication aide training program" would mean an instructional program provided at a qualified educational institution that prepares a nurse aide with the knowledge and ability to

engage in practice as a medication aide and that is offered by a person who holds a permit. As used in this term, "qualified education institution" would mean a degree- or certificate-granting public or private college or university, junior college, or community college.

"Practice as a medication aide" would mean administering regularly scheduled medications to residents of a nursing home or skilled nursing facility while under the supervision of a registered professional nurse licensed under Article 15. Practice as a medication aide would not be the practice of nursing as that term is defined in Section 17201 and would not include administering controlled substances, administering medications in injectable forms, the initial administration of medications, or the administration of as needed medications including pro re nata medications. (Under Section 17021, "practice of nursing" means the systematic application of substantial specialized knowledge and skill, derived from the biological, physical, and behavioral sciences, to the care, treatment, counsel, and health teaching of individuals who are experiencing changes in the normal health processes or who require assistance in the maintenance of health and the prevention or management of illness, injury, or disability.)

### Registration and Permits

The Code requires LARA to administer a nurse aide training and registration program in the State in conformance with Part 219 (Nurse Aide Training and Registration Program), 42 USC 1396r, and 42 CFR Part 483 and 488. The bill would refer to "nurse aide training and *permit* program". Additionally, the bill would require LARA to administer a medication aide training and permit program as established in rules promulgated by the Department.

Under the bill, an individual could not engage in practice as a medication aide unless he or she held a registration to engage in practice as a medication aide.

A person could not offer a medication aide training program or provide training or instruction to a medication aide candidate unless the person held a permit to offer that training program or provide that training or instruction.

The Department could grant a registration to engage in practice as a medication aide to an applicant who met all of the following requirements:

- Submitted an application on a form and in a manner prescribed by LARA.
- Paid the prescribed fee.
- Demonstrated to LARA that he or she held a current registration to engage in practice as a nurse aide and that he or she had worked as a nurse aide in a nursing home or skilled nursing facility for at least 2,000 hours during the two-year period immediately preceding the date of his or her application.
- Demonstrated to LARA that he or she had successfully completed a medication aide training program and a competency examination approved by the Department.
- Met the requirements for registration in rules promulgated under the Code.

The Department could grant a permit as a medication aide trainer to an applicant who met all of the following requirements:

- Submitted an application on a form and in a manner prescribed by LARA.
- Paid the prescribed fee.
- Was a registered professional nurse licensed under Article 15 who met the requirements for a permit in rules promulgated under the Code.

The Department could grant a permit as a medication aide training program to an applicant that meet all of the following requirements:

- Submitted an application on a form and in a manner prescribed by LARA.
- Paid the prescribed fee.
- Met the requirements for a permit in rules promulgated under the Code.
- Demonstrated to LARA that the applicant's curriculum was consistent with other medication aide training programs, as provided by rules promulgated by the Department under Part 219.

However, a medication aide training program would have to incorporate the National Council of State Boards of Nursing medication assistant-certified model curriculum.

#### Out-of-State Applicant

The Code allows LARA to grant registration to an applicant who is from another state if he or she meets the following requirements:

- The applicant passes a training program that the Department determines is equivalent to or exceeds a nurse aide training program offered in the State and the applicant passes a competency examination approved by the Department.
- The applicant's status as a nurse aide in the other state is in good standing, as verified by that state's nurse aide registry, and the Department determines that the other state's training program is equivalent to or exceeds a nurse aide training program offered in the State.

Under the bill, these requirements would apply if the applicant were seeking a registration to practice as a nurse aide.

If the applicant were seeking a registration to practice as a medication aide, LARA could grant registration to an out-of-State applicant if applicant demonstrated to the Department that he or she had successfully completed a medication aide training program from Indiana, Ohio, or Wisconsin, and the applicant passed a competency examination approved by the Department.

#### Registration & Permit Renewal

Under the bill, a medication aide registration or a medication aide trainer or a medication aide training program permit would be effective for no longer than two years after the date it was granted.

If a medication aide does not renew his or her registration, he or she could not practice as a medication aide until his or her registration was renewed by the Department. If a medication aide trainer did not renew his or her permit, he or she could not provide training to a nurse aide candidate until his or her permit was renewed by the Department. If a person did not renew its permit as a medication aide training program, it could not provide instruction to a medication aide candidate until the permit was renewed by the Department.

The Code specifies that a registration or permit is renewable if the applicant pays the prescribed fee, submits an application for renewal to LARA on a form and in a manner prescribed by the Department, and demonstrates to the Department that the applicant has met the requirements for renewal in rules promulgated under the Code. Under the bill, requirements for renewal in rules promulgated under the Code would include any requirement for the successful completion of continuing education.

### Medication Aide Fees

Under the bill, an applicant for registration to practice as a medication aide or a permit to conduct training or instruction of a medication aide candidate, or renewal of a registration or permit, would have to pay the following fees:

- \$64 for a medication aide.
- \$80 for a medication aide trainer.
- \$500, per site, for a medication aide training program.

Additionally, an applicant for registration would have to pay a \$125 medication aide competency exam fee.

### Rulemaking

Currently, the Code allows LARA to promulgate and enforce rules to implement Part 219. The rules may include rules establishing requirements for surveying a nurse aide training program, investigating allegations against a nurse aide in a health facility or agency or another setting where a nurse aide engages in the practice as a nurse aide, investigating allegations against a nurse aide trainer or nurse aide training program, and enforcing Part 219. The rules also may establish eligibility requirements to renew a registration or permit under Part 219, competency requirements, and examination requirements for registration.

Rules promulgated under Part 219 that are applicable to health facilities or agencies must be uniform to the extent as is reasonable.

Instead, under the bill, notwithstanding any rule-promulgation authority provided in Article 17 (Facilities and Agencies), LARA could promulgate rules only as provided in Part 219 and to establish the following:

- Requirements for surveying a nurse aide training program or medication aide training program.
- Requirements for investigating allegations against a nurse aide or a medication aide in a nursing home or skilled nursing facility where a nurse aide or medication aide engaged in the practice as a nurse aide or a medication aide engaged in the practice of a medication aide and taking action against the nurse aide or medication aide.
- Requirements for investigating allegations and taking action against a nurse aide trainer, nurse aide training program, medication aide trainer, or medication aide training program.
- Requirements for enforcing Part 219.
- Eligibility requirements to grant and renew a registration or permit under Part 219.
- Competency requirements.
- Examination requirements for registration.
- Requirements for renewal.

Rules promulgated under Part 219 that were applicable to nursing homes or skilled nursing facilities would have to be uniform to the extent as was reasonable.

MCL 333.21903 et al.

Legislative Analyst: Stephen Jackson

### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on the Department of Licensing and Regulatory Affairs and no fiscal impact on local units of government.

Under the bill, annual registration fees for a medication aide would be as follows:

Medication aide	\$64
Medication aide trainer	\$80
Medication aide training program (per site)	\$500

An applicant for registration also would have to pay a competency examination fee of \$125.

The magnitude of the revenue collected would depend on the number of applicants for registration. Revenue would be deposited into the Nurse Aide and Medication Aide Registration Fund, which currently is named the Nurse Aide Registration Fund. The name of the Fund would be altered under the bill. Fees likely would offset a significant portion of expenses related to the registrant program; however, it is possible that the bill could result in the need for additional appropriations for administrative and investigatory purposes.

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.