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House Bill 4316 (Substitute H-2 as passed by the House)  
Sponsor: Representative Ben Frederick  
House Committee: Health Policy  
Senate Committee: Health Policy and Human Services

Date Completed: 1-20-22

### **CONTENT**

**The bill would amend Part 219 (Nurse Aide Training and Registration Program) of 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, until January 1, 2027.**
- **Rename the "Nurse Aide Registration Fund" as the "Nurse Aide and Medication Aide Registration Fund".**
- **Modify certain rulemaking provisions.**

**The bill also would add Section 21920 to Part 219 to do the following:**

- **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.**
- **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 initial and renewal application fees for a registration to practice as a medication aide and for a permit to conduct training or instruction of a medication aide candidate.**
- **Specify that Section 21920 would not apply beginning January 1, 2027.**

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 volunteered 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.)

#### Department Requirements

Part 219 of the Code requires LARA to administer a nurse aide training and registration program in the State in conformance with Part 219, 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. This provision would not apply beginning January 1, 2027.

Part 219 prescribes certain initial and renewal fees for a registration to practice as a nurse aide and a permit to conduct training or instruction of a nurse aide candidate. Under the bill, the fees prescribed in Part 219 would be payable to LARA or its contractor when an application for an initial or renewal registration or permit was submitted to the Department. If an application for registration or permit were denied, or if a registration or permit were revoked before its expiration date, LARA could not refund the fees paid to the Department.

#### Nurse Aide Permit & Registration Renewal

Part 219 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 LARA prescribes, and demonstrates to LARA that the applicant has met the requirements for renewal in promulgated rules. Under the bill, the promulgated rules would include any requirement for the successful completion of continuing education.

#### Medication Aides

The bill would add Section 21920 to Part 219, which would prohibit an individual from engaging 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.

The Department could grant registration to an applicant who was from another state if he or she 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 LARA-approved competency examination.

If a medication aide did not renew his or her registration, he or she could not engage in 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.

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 that 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 to practice as a medication aide would have to pay a \$125 medication aide competency exam fee, per examination.

Section 21920 would not apply beginning January 1, 2027.

### 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.
- Requirements for investigating allegations against a nurse aide in a nursing home or skilled nursing facility where a nurse engaged in the practice as a nurse aide and taking action against the nurse aide.
- Requirements for investigating allegations and taking action against a nurse aide trainer or nurse 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.
- Requirements for surveying a medication aide training program, requirements for investigating allegations against a medication aide in a nursing home or skilled nursing facility where a medication aide engaged in the practice of a medication aide and taking action against a medication aide, and requirements for investigating allegations and taking action against a medication aide trainer or medication aide training program; however, this provision would not apply beginning January 1, 2027.

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 LARA and no significant fiscal impact on local units of government.

The bill would require LARA to establish and administer registration, training, and permit programs for medication aides and medication aide trainers. The chart below shows the registration and permit fees that would be established by the bill through January 1, 2027:

<b><u>Registration or Permit</u></b>	<b><u>Initial and Biennial Renewal Fee</u></b>
Medication aide	\$64
Medication aide trainer	\$80
Medication aide training program (per site)	\$500
Examination fee	\$125

The bill also would change the name of the Nurse Aide Registration Fund to the Nurse Aide and Medication Aide Registration Fund. Revenue from fees would be deposited into the Fund and used for the regulation and administration of the nurse aide and medication aide programs. It is unclear whether these fee levels would be sufficient to fully cover the costs of program administration and activities. As a result, the initial stages of implementation likely would have a negative fiscal impact on LARA. The Department does not anticipate receiving any Federal funds to support the program.

Promulgation of rules related to the bill would be sufficiently funded by existing appropriations.

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.