

Testimony
Study of Registration of Long-Term Care Professionals
Long-Term Care Committee
Wednesday, May 6, 2010; 1:15 p.m.
North Dakota Department of Health

Good afternoon, Chairman Kriedt and members of the Long-Term Care Committee. My name is Darleen Bartz, Ph.D., and I am section chief of the Health Resources Section of the North Dakota Department of Health. I am pleased to be here today to provide information regarding the Registration of Health Care Professionals Workgroup discussions and recommendations.

The workgroup includes members representing the Department of Health, the Board of Nursing, the North Dakota Healthcare Association, the North Dakota Long Term Care Association, the Department of Human Services, Developmental Disabilities, and Home Health Care. Since our report to the Committee in March, the workgroup has met two times: April 5 and April 23, 2010.

During the April 5, 2010, meeting, the workgroup discussed whether to move the entire Board of Nursing Unlicensed Assistive Persons (UAP) Registry to the Department of Health registry, or if certain categories of individuals should be moved. The workgroup decided that nurse aides and medication assistants I and II would be appropriate to move to the Department of Health registry. The workgroup asked a representative from the Department of Health and a representative from the Board of Nursing to seek guidance on this option from Representative Kriedt and Senator Lee. A conference call with the legislators was held April 13, 2010, during which they recommended the workgroup select categories from the UAP registry that would best fit the Department of Health registry and address the concerns of the industry.

The legislators also discussed and the workgroup agreed that the Department of Health should both regulate and register the individuals transferred to its registry. In addition, no application, registration or renewal fee should be charged to ensure consistency with federal requirements for the Certified Nurse Aid (CNA) Registry administered by the Department of Health. This would require the additional state work to be funded from the general fund rather than through registration fees.

During the April 23, 2010, meeting, the workgroup discussed steps for transferring regulation and registration of certain categories from the Board of Nursing registry to the Department of Health registry. (Please refer to Appendix A.)

Please note that the workgroup was asked to draft language and a budget for its recommendations. The Department of Health neither supports nor opposes the recommended changes.

I will briefly discuss the first few steps and the workgroup's recommendations.

Step 1: Identify scope of changes.

The workgroup recommends the following:

- Transfer regulation and registry of nurse aides, home health aides and medication assistants I and II from the Board of Nursing to the Department of Health.
- Do not charge registration fees to individuals in the Department of Health registry to be consistent with the CNA Registry.
- Fund the cost of regulation and registration of the nurse aides, home health aides and medication assistants in the Department of Health's registry from the general fund since federal funds cannot be used to do this state work.

Step 2: Recommend statutory changes.

The workgroup recommends the statutory changes identified in Appendix B as necessary for implementing the scope of changes identified in step 1 above. The statutory changes would:

- Transfer the regulation and registry of the nurse aides, home health aides, and medication assistants from the Board of Nursing to the Department of Health. The categories of medication assistants I and II would be defined in regulation.
- Provide the Department of Health with rulemaking authority to implement the necessary changes.
- Allow nurses to continue to provide oversight and delegate to individuals on the Department of Health registry.

- Identify that no fee would be charged for registration or renewal consistent with the federal prohibition of charging fees for registration and renewal of certified nurse aides.

Step 3: Obtain an estimate from the Information Technology Department (ITD) related to the cost and timeframe for updating the Department of Health's registry to accommodate changes.

ITD prepared two proposals for the workgroup to consider.

- Proposal 1: UAP registry data migration to Department of Health Access/SQL database, which would take about two months and cost \$11,501 plus an additional cost of \$35,613 for CNA/BON Registry online access changes and data migration for a total cost of \$47,114. This option would have an ongoing server application monthly cost of \$125.
- Proposal 2: Develop a web-based application, including registry data rewrite and data migration, which would take about four months and cost \$58,647 plus an additional cost of \$35,613 for registry online access changes and data migration for a total cost of \$94,260. This option would have a monthly ongoing cost of \$665 per month (\$540 per month for hosting, storage and software development maintenance plus \$125 for ongoing server application).

The workgroup recommends the first proposal from ITD discussed above for the immediate future to migrate the proposed categories from the Board of Nursing in the most expedient and cost-effective manner. Please note, however, that the second proposal is highly recommended by ITD and most likely is an option that would need to be pursued in the future as technology continues to evolve.

Step 4: Prepare a draft budget.

A draft budget would reflect the funding and FTEs needed to carry out the additional workload related to moving regulation and registration of nurse aides and medication assistants I and II from the North Dakota Board of Nursing

Unlicensed Assistive Persons Registry to the North Dakota Department of Health registry.

The draft biennial budget to implement these recommendations can be found in Appendix C. Information received from the Board of Nursing considered in the development of this budget includes:

- Each year, about 2,000 renewals and 2,700 new applications from individuals in the proposed categories are processed by the Board of Nursing for entry in its registry. It takes about 15 to 20 minutes to process each renewal and 20 to 30 minutes to process each new application.
- About 35 to 40 complaints are received each year that need to be investigated. In addition, the Board of Nursing reviews and renews medication assistant training programs every four years.
- The Board of Nursing's annual expenditures for 2008-2009 to regulate and register UAP and medication assistant programs were \$138,547.

After reviewing information available, the Department of Health determined that 1.5 new FTEs would be needed to handle the additional workload related to the registry and regulation of the nurse aides, home health aides, and medication assistants I and II. This would include review of applications, complaint intake and investigation, and disciplinary actions as needed, and review and approval of medication assistant training programs. As this is a state activity, federal funds may not be used to cover the associated costs. In order to provide this service at no fee to the individuals, it would cost the department \$212,464 for the 2011-2013 biennium, plus additional one-time start-up costs of \$52,114 for UAP registry data migration to the Department of Health Access/SQL database, registry online access changes, and rulemaking, for a total of \$264,578.

Additional steps would be needed following the legislative session should the decision be made to move the categories of unlicensed assistive persons identified above from the Board to the DoH. The steps are listed in Appendix A for your review.

It is important to note that the workgroup recognized and discussed the fact that criminal history checks currently are not required by the federal government for the CNA registry and therefore not required prior to placement on the Department of Health's registry. The workgroup decided not to include criminal history checks at this time so that all individuals on the registry would be dealt with consistently. Additional statutory changes, staffing and funding would be necessary if this is added to the review completed by the registry.

I appreciate this opportunity to present the workgroup's recommendations. The workgroup believes that its recommendations are very workable and address many of the concerns of the industry.

This concludes my testimony. I am happy to answer any questions you may have.

Appendix A
Transfer of the Regulation and Registration of Nurse Aides, Home Health Aides, and Medication Assistants I and II from the North Dakota Board of Nursing to the North Dakota Department of Health

Steps to Consider:

1. Identify scope of changes.
2. Draft statutory changes to recommend.
3. Obtain an estimate from ITD related to the cost and timeframe for updating the Department of Health's registry to accommodate movement of the registration of nurse aides and medication assistants I and II from the North Dakota Board of Nursing Unlicensed Assistive Persons Registry to the North Dakota Department of Health registry.
4. Prepare a draft budget that reflects the funding and FTEs needed to carry out the additional workload related to moving regulation and registration of nurse aides and medication assistants I and II from the North Dakota Board of Nursing Unlicensed Assistive Persons Registry to the North Dakota Department of Health registry.
5. After the legislative session, if this change is approved and funded, ITD will need to reconfigure the department's registry to accommodate the transition. This would take two to three months.
6. The department would begin work on development of administrative rules for the regulation and registration of nurse aides, home health aides, and medication assistants I and II, and related training programs.
7. The Board of Nursing would need to provide the department with a hard copy printout of all individuals to be transferred to the Department of Health registry.
8. ITD would work with the department and the Board of Nursing to electronically transfer as much information as necessary to the department's registry.

9. Staff from the department would complete quality assurance and verify information transferred to the department by comparing the hardcopy printout of the information to the electronic version.
10. The Department of Health would need to develop rules, policies and procedures, and associated forms as necessary for applications, renewals, limitations, revocations, voluntary surrender, denial of registrations and certifications, and reporting of disciplinary actions to the National Practitioner Data Base registry.
11. Train department staff, providers, and the public regarding the changes, including investigation of allegations.
12. Notify the public of the changes in the regulation and registration of nurse aides, home health aides, and medication assistants I and II.

Appendix B

Introduced by

1 A BILL for an Act to create and enact a new chapter to title 23, amend and reenact
2 subsection 13 of section 43-12.1-04, and section 43-12.1-16.1 of the North Dakota
3 Century Code, relating to licensing of nurse aides, home health aides, certified nurse
4 aides, and medication assistants, individuals exempt from licensing by the board of
5 nursing, and supervision and delegation of nursing functions; and amend and reenact
6 sections 43-12.1-03 and 43-12.1-16 of the North Dakota Century Code, relating to
7 individuals required to be licensed by the board of nursing and delegation of authority to
8 administer medication.

9 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

10 **SECTION 1.** A new chapter to title 23 of the North Dakota Century Code is
11 created and enacted as follows:

12 **Definitions.** As used in this chapter:

- 13 1. "Certified nurse aide" means an individual who has successfully
14 completed the requirements for the department-approved training and
15 competency evaluation program, or department approved competency
16 evaluation program and is entered on the department's registry.
- 17 2. "Department" means the state department of health.
- 18 3. "Home health aide" means an individual who is determined competent to
19 render personal related services under the supervision of a nurse in the
20 home setting and is registered on the department's registry.
- 21 4. "Medication assistant" is a person who has successfully completed all the
22 requirements of a department-approved medication assistant program for

1 a specific employment setting and is registered on the department's
2 registry.

3 5. "Nurse aide" means any individual who has successfully met the
4 competency requirements identified by the department to provide nursing
5 or nursing related services to individuals in a health care facility or other
6 setting, who is not a licensed professional or someone who volunteers to
7 provide the services without pay, and is registered on the department's
8 registry.

9 6. "Nurse aide registry" means a listing of individuals who have been
10 determined to successfully complete the requirements established by the
11 department to be designated as nurse aide, home health aide, certified
12 nurse aide, medication assistant I or medication assistant II. The registry
13 will include disciplinary findings including findings of abuse, neglect, or
14 misappropriation of property, and the eligibility of the individual to be
15 employed.

16 **Nurse aides, home health aides, certified nurse aides and medication**
17 **assistants regulation and registration – Adoption of rules.**

18 1. The health council shall adopt rules necessary to regulate and register any
19 person who receives compensation for engaging in the provision of
20 nursing or nursing-related services to an individual in a health-care facility
21 or other setting, who meet the definitions in this chapter and is not a
22 licensed professional or unlicensed assistive person in chapter 43.12.1, or
23 someone who volunteers to provide services without pay.

24 2. The department shall develop rules, in consultation with the North Dakota
25 board of nursing and other key stakeholders, that address:

26 a. Training and competency requirements for each category of
27 individuals;

b. Approval of training programs;

c. Initial registration and renewal of registration of individuals who
have met training and competency requirements;

d. Reporting and investigation of complaints regarding individuals on
the registry in a facility and other settings where care is rendered;
and

e. A disciplinary process for validated finding of abuse, neglect, or
misappropriation of resident property, and other misconduct that
has the potential to be harmful to residents or clients by an
individual on the department's registry.

3. No fees will be charged for initial registration or renewal of registration of
an individual's registration status on the department's registry, consistent
with federal prohibition of charging an individual for initial registration or
renewal of registration as a certified nurse aide.

SECTION 2. AMENDMENT. Section 43-12-03 of the North Dakota Century
Code is amended and reenacted as follows:

43-12.1-03. License required – Title – Abbreviation. Any person who provides
nursing care to a resident of this state must hold a current license or registration issued
by the board. It is unlawful for a person to practice nursing, offer to practice nursing,
assist in the practice of nursing, or use any title, abbreviation, or designation to indicate
that the person is practicing nursing or assisting in the practice of nursing in this state
unless that person is currently licensed or registered under this chapter. A currently
licensed advanced practice registered nurse or specialty practice registered nurse may
use titles approved by the board; a currently licensed registered nurse may use the
abbreviation "R.N."; a currently licensed practical nurse may use the abbreviation
"L.P.N."; and an unlicensed assistive person with current registration may use the title

1 identified by the employer. A person may not use the title "nurse" or be referred to as a
2 "nurse" unless licensed by the board or exempt under section 43-12.1-04.

3 **SECTION 3.** Subsection 13 of section 43-12.1-04 of the North Dakota Century
4 Code is created and enacted as follows:

5 13. A person that is registered on the North Dakota department of
6 health registry, including certified nurse aides, home health aides, nurse
7 aides and medication assistants. These individuals may use the term
8 "nurse" as a part of their title.

9 **SECTION 4. AMENDMENT.** Section 43-12.1-16 of the North Dakota Century
10 Code is amended and reenacted as follows:

11 **43-12.1-16. Delegation of medication administration.** A licensed nurse may
12 delegate medication administration to a person exempt under subsection subsections 9
13 and 13 of section 43-12.1-04.

14 **SECTION 5.** Section 43-12.1-16.1 of the North Dakota Century Code is created
15 and enacted as follows:

16 **43-12.1-16.1. Supervision and delegation of nursing interventions. A**
17 licensed nurse may supervise and delegate nursing interventions to a person exempt
18 under subsection 13 of section 12.1-04.

Appendix C
Proposed Biennial Budget

SALARIES AND WAGES	
FTE Employees (Number)	1.5
Salaries	\$128,668
Benefits	52,896
Total	\$181,564
OPERATING EXPENSES	
Travel	\$9,600
IT – Software/Supp (includes \$125/mo ITD costs for running application)	4,000
Supplies	4,000
Postage	800
Telephone/Communications	5,000
Training	2,000
Legal	4,000
IT Equip Under \$5,000	1,500
Total Operating	\$30,900
TOTAL BIENNIAL BUDGET	\$212,464
ADDITIONAL START-UP EXPENSES	
Rulemaking	\$5,000
ITD Option 1: BON migration to access and CNA/BON Registry Web change and data migration	47,114
Total Additional Start-up Expenses	\$52,114
TOTAL BUDGET (2011-2013 Biennium)	\$264,578
General Fund	264,578
Federal Funds	0
Other Funds	0