



NORTH DAKOTA BOARD OF NURSING

919 S 7th St., Suite 504, Bismarck, ND 58504-5881

Telephone: (701) 328-9777 Fax: (701) 328-9785

Web Site Address: <http://www.ndbon.org>

Workplace Impairment Program: (701) 328-9783

To: Long Term Care Committee

From: ND Board of Nursing
Constance B. Kalanek PhD, RN

RE: Study of the Registration of Health Care Professionals - Comments
related to proposed draft legislation

Date: July 14, 2010

Thank you for the opportunity to provide comments related to the proposed legislation for the creation of another registry for nurse aides and medication assistants. The proposed legislation was emailed to me late on Monday so have been on a tight time frame to prepare the comments. This is the first opportunity for the Board to provide input into the proposed legislation. The Board will be meeting on Thursday and Friday of this week and will have further discussion on this proposed bill at that time.

The NDBON has managed the Unlicensed Assistive Person(UAP) registry for nearly 20 years within the overall mission of public safety. The Board must comply with the Nurse Practices Act (NDCC chapter 43-12.1) and the North Dakota Administrative Code (NDAC Title 54) when regulating the practice of Nursing. The Board, in my opinion has done a superior job of regulating the practice of nursing and those that assist in the practice of nursing.

The Board has already taken steps to address the primary issue of practicing without a registration. The delinquent registrant is issued a letter of concern for those who change employers and fail to renew, which was directed in the previous legislation in 2008. The Board also has reduced penalties to a nominal fee and it has become a non-disciplinary action. Additionally, the names of UAPs who did not renew are posted on the website for employers to check after renewal if unable to verify registration. Also, reminders are placed on the website and in the newsletter quarterly.

The proposed legislation was reviewed by SAAG Brian Bergeson and Board Staff. We have the following comments and questions:

1. Page 1- Line 12 -Definitions- "certified nurse aide" what does "entered" on the nurse aide registry mean? This is not verbiage that has been utilized by the Health Department in previous discussions.
2. Page 1 – Line 21- "Medication assistant" – this individual is "registered" and includes MA I & II. What about the Medication Assistant III? What is accomplished by separating out the various levels?
 - a. Medication administration has and always will be a nursing function. To remove the jurisdiction of the board of Nursing over those who administer and delegate the nursing intervention of medication administration is unjustified. Medication administration is a serious obligation and intervention delegated by licensed nurses and should not be taken lightly nor regulated lightly.
3. Page 2 – Line 3 -"Nurse aide" – "registered" is the term used again. Does this mean the individual is not performing nursing interventions supervised and delegated by a licensed nurse?
 - a. Secondly, in this definition "provide nursing or nursing-related services", are they not assisting in the practice of nursing but rather functioning independently? This is not clear and seems to once again create confusion!
 - b. The term "nurse aide" and "home health aide" are used. Are these terms referring to some (but not all) of the individuals who are currently registered as UAPs? It looks like terms will be applicable to Department of Health registrants, and not BON registrants.
 - c. There is reference to "health care facility or other setting." The reference to "other setting" may be too broad.
 - 1) Keep in mind that unlicensed individuals and medication assistants are employed in a variety of locations, i.e. hospitals, home health, assisted living, basic care, developmental centers, and are utilized by the Department of Human services under the consumer directed care provision. This is not worker specific for the Long Term Care Facility.

4. Page 2 – Line 16- Who is the Health Council and should this group of individuals be defined in the proposed chapter. What is their role in regulating the practice of nursing? Are nurses on this council?
5. Page 2 – Line 23- Sub 3- The board has also reviewed and approved Medication Administration Course for years. What is the purpose of moving this responsibility? The courses have been delivered properly and the oversight of the board has been appropriate.
6. Page 3 – Line 3- Nurse Aide Registry Section f. – this language implies the regulation and the disciplinary process will be very similar to the application of the federal requirements currently in place. Should this not be broader than the current process? Does this mean that an individual reported for activities outside of those listed, would not be grounds for disciplinary action?
 - a. It is the practice of the Board of Nursing to utilize all the standards of nursing practice and determine if the licensees and registrants are following appropriate standards. Certainly we understand the Department of Health limits the disciplinary action to cases related to abuse, neglect and misappropriation of property etc. related to a resident according to the federal regulations.
7. Page 3 – Line 13- Section 2. 43-12.1-03. License required –Title-Abbreviation. Thirdly, we have concern about the language allowing certain individuals who are not nurses to use “nurse” in their title when not regulated by the Board of Nursing. The use of “certified nurse aide” and “nurse aide” could be better worded.
8. Page 4- Line 8 – Supervision of nursing interventions. Adding an exemption for supervision and delegation of nursing intervention is not acceptable. We recommend the new language be struck. This exemption is far-reaching and goes well beyond any safe guards for the citizens of this state who are recipients of nursing care. Currently, the individuals that are exempt in section 3 are still required to be on a UAP or CNA registry.

Overall comments about the proposed language:

It seems the intent of the legislation in 2008 was to soften the discipline of UAPs who failed to register with the Board of Nursing and to assess the need for duplication of registries. It appears this proposed legislation and plan has gone well beyond the initial intent. Also, this proposed legislation looks like UAPs will continue to be registered with the BON. Nurse employers will need to be informed about the two or three distinct registries.

The current registry is self sufficient with the use of the licensure and registry fees. In my opinion, the establishment and development of another entity is an example of wastefulness in state government. The Board has regulated the Unlicensed Assistive Person registry appropriately and with good judgment.

Will staffing at the Board of Nursing need to be adjusted?

Yes, the work of the registry impacts all of the staff at the Board including the Special Assistant Attorney General.

Does this proposal create more confusion?

Yes, if successful there will be three registries. Leaving the Medication III and Technicians with the BON will create another level of confusion. What is this accomplishing?

Are there other options to be considered? The charge for the health department was to put together a proposed plan. Dr. Bartz has done what was requested. However I would challenge you to explore other options?

1. **For example**, if checking the status of registrants is an issue – a cyber space hub would solve that issue easily and be less costly than such massive restructuring and redesign. The two databases could be connected and the person querying for the registrant would automatically go to the correct site and get the information they are seeking.

Certainly, this is a policy decision for you to make and the Board will follow through on what is legislated. I appreciate the opportunity to comment on the proposed legislation. Thank you for your time and attention. I am open for questions.