

## **STUDY OF THE REGISTRATION OF HEALTH CARE PROFESSIONALS - BACKGROUND MEMORANDUM**

Section 3 of 2009 House Bill No. 1269 (attached as an [appendix](#)) provides for a Legislative Management study of steps necessary to enable the State Department of Health to administer the registry for certified nurse assistants, nurse assistants, and unlicensed assistive persons, and examine the possibility of one registry and a potential location for that registry. The Long-Term Care Committee has been assigned this responsibility for the 2009-10 interim.

### **BACKGROUND INFORMATION**

North Dakota, unlike the majority of other states, has two registries that impact health care professionals, including certified nurse assistants, nurse assistants, and unlicensed assistive persons--one with the State Board of Nursing and one with the State Department of Health.

#### **State Board of Nursing - Unlicensed Assistive Person Registry**

An unlicensed assistive person is any individual who is an assistant to a nurse who regardless of title is authorized to perform nursing interventions delegated and supervised by a nurse. An unlicensed assistive person complements the licensed nurse in the performance of nursing interventions but may not substitute for the licensed nurse. An unlicensed assistive person is generally responsible to the licensed nurse to assist with client care but may be responsible to an individual directing his or her own care or to the legally responsible person directing an individual's care for services provided to that individual. An unlicensed assistive person is typically employed by hospitals, home health, assisted living facilities, basic care facilities, and developmental disabilities facilities.

Pursuant to North Dakota Administrative Code (NDAC) Section 54-07-02-01, the State Board of Nursing is to establish and maintain an unlicensed assistive person registry. Individuals may be placed on the registry either through competency evaluation by an employer or licensed nurse or through a national nurse aide competency evaluation testing program. Individuals must renew their registration every two years. The State Board of Nursing charges a \$30 fee for individuals to be placed on the registry. If the individual has never held registry status, the individual has four months from the date of initial employment to achieve registry status. If an individual practices as an unlicensed assistive person without registration, the State Board of Nursing may discipline the individual. Pursuant to North Dakota Century Code Section 43-12.1-14.2, enacted by the 2009 Legislative Assembly, the action of the board in the

case of first violation is limited to the issuance of a letter of concern.

#### **State Department of Health - Certified Nurse Aide Registry**

A certified nurse aide (commonly known as a certified nursing assistant) is any individual who has successfully completed the requirements for the state-approved nurse aide training and competency evaluation program or state-approved competency evaluation program. The scope of work for a certified nurse aide includes infection control, safety and emergency procedures, promoting resident or patient independence, respecting resident rights, basic nursing skills, personal care skills, mental health and social service needs, care of the cognitively impaired resident or patient, basic restorative services, resident or patient rights, and communication and interpersonal skills. A certified nurse aide is typically employed by nursing facilities and other health care facilities.

The State Department of Health Division of Health Facilities is designated by the Centers for Medicare and Medicaid Services as the agency responsible for the registration of certified nurse aides. Individuals may be placed on the department's registry after successfully completing a state-approved competency evaluation program. Individuals must renew their registration every two years. Federal regulations prohibit charging fees to the individual for placement of their name on the registry. The department's registry is recognized by the State Board of Nursing as provided for in NDAC Section 54-07-01-03.

### **2009 LEGISLATIVE ASSEMBLY - RELATED LEGISLATION**

House Bill No. 1269 revises the State Board of Nursing's grounds for discipline clarifying the board may issue a nondisciplinary letter of concern to a licensee, registrant, or applicant and that the board has grounds to discipline a person that assisted in the practice of nursing without a current registration. The bill also limits the disciplinary actions the board may take against an unlicensed assistive person whose registration has expired.

### **PROPOSED STUDY PLAN**

The following is a proposed study plan for the committee's consideration relating to its study of the registration of certified nurse assistants, nurse assistants, and unlicensed assistive persons:

1. Gather and review information on the registration of certified nurse assistants, nurse assistants, and unlicensed assistive persons, including the registration maintained by the

State Department of Health and the registration maintained by the State Board of Nursing.

2. Examine the possibility of one registry and a potential location for that registry.
3. Receive information from interested persons regarding the registration of certified nurse assistants, nurse assistants, and unlicensed assistive persons.
4. Develop committee recommendations and prepare any legislation necessary to implement the committee recommendations.
5. Prepare a final report for submission to the Legislative Management.

ATTACH:1

**SECTION 3. LEGISLATIVE COUNCIL STUDY.** During the 2009-10 interim, the legislative council shall study any steps necessary to enable the state department of health to administer the registry for certified nurse assistants, nurse assistants, and unlicensed assistive persons, and examine the possibility of one registry and a potential location for that registry. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.