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AB-2850 Nurse assistant training programs: online or distance learning. (2017-2018)

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Assembly Bill No. 2850

CHAPTER 769

An act to amend Sections 1337.1 and 1337.3 of, and to add Sections 1337.15 and 1337.16 to, the Health and Safety Code, relating to health facilities.

[Approved by Governor September 26, 2018. Filed with Secretary of State September 26, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2850, Rubio. Nurse assistant training programs: online or distance learning.

(1) Existing law establishes the State Department of Public Health and sets forth its powers and duties to license and administer health facilities, as defined, including skilled nursing facilities and intermediate care facilities.

Existing law requires skilled nursing facilities and intermediate care facilities to adopt certified nurse assistant training programs approved by the department. Existing law requires a training program to include 60 hours of classroom training, composed of specified topics, which may be conducted within a facility or at an educational institution.

This bill would authorize the required classroom training to be offered through online or distance learning classes approved by the department. The bill would require an online or distance learning nurse assistant training program to comply with specified requirements, including, among others, having trainees sign an affidavit attesting under penalty of perjury to their identity while completing the program. By expanding the crime of perjury, this bill would impose a state-mandated local program.

This bill would also authorize an experienced licensed or registered nurse, as specified, to provide instruction as part of a certified nurse assistant training program at a skilled nursing or intermediate care facility or in an educational institution, regardless of whether he or she holds a teaching credential to provide that instruction.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Over 1,100 people turn 65 years of age every day in California, and there are approximately 110,000 licensed skilled nursing beds in the state.

(b) About 25 percent of older adults will need nursing home care at some time in their lives.

(c) There is a shortage of qualified nurses available to meet the needs of patients in California health care facilities, particularly those patients in the state's 1,200 skilled nursing facilities.

(d) California's skilled nursing facilities currently face a challenge not only in recruiting qualified nursing staff, but also in retaining quality nursing staff.

(e) With over 65 percent of our residents on Medi-Cal, California's skilled nursing facilities are an integral part of the health care continuum, with over 13.5 million Californians on Medi-Cal.

(f) The occupancy rate of California's skilled nursing facilities is above the national average and is currently at 88 percent.

(g) Certified nurse assistants are an important component of skilled nursing facilities, but unfortunately the workforce in that area is stagnant and extremely limited in various counties.

(h) Over 1,600 additional certified nurse assistants in skilled nursing facilities will be needed to meet the increased minimum staffing level mandate by July 1, 2018.

(i) According to the Office of Statewide Health Planning and Development, in 2016, over 63 percent of skilled nursing facility direct care staff are certified nurse assistants, over 23 percent are licensed vocational nurses (LVNs), and over 9 percent are registered nurses (RNs).

(j) The California HealthCare Foundation has determined that: "... California may not have adequate numbers of nurses with appropriate skills. The result could be decreased patient access, higher health care costs, and lower quality of service."

(k) The quality of patient care in California long-term care facilities is directly dependent upon the availability of an adequate supply of appropriately trained workers.

SEC. 2. Section 1337.1 of the Health and Safety Code is amended to read:

1337.1. A skilled nursing facility or intermediate care facility shall adopt an approved training program that meets standards established by the department. The approved training program shall consist of at least all of the following:

(a) An orientation program to be given to newly employed nurse assistants prior to providing direct patient care in skilled nursing facility or intermediate care facilities.

(b) (1) A precertification training program consisting of at least 60 classroom hours of training on basic nursing skills, patient safety and rights, the social and psychological problems of patients, and resident abuse prevention, recognition, and reporting pursuant to subdivision (e). The 60 classroom hours of training may be conducted within a skilled nursing facility or intermediate care facility or in an educational institution or agency. A skilled nursing facility or intermediate care facility may conduct the 60 classroom hours of training in an online or distance learning course format, as approved by the department.

(2) In addition to the 60 classroom hours of training required under paragraph (1), the precertification training program shall consist of at least 100 hours of supervised and on-the-job training clinical practice. The 100 hours may consist of normal employment as a nurse assistant under the supervision of either the director of nurse training or a licensed nurse qualified to provide nurse assistant training who has no other assigned duties while providing the training.

(3) At least two hours of the 60 hours of classroom training shall address the special needs of persons with developmental and mental disorders, including intellectual disability, cerebral palsy, epilepsy, dementia, Parkinson's disease, and mental illness. At least two hours of the 60 hours of classroom training shall address the special needs of persons with Alzheimer's disease and related dementias.

(4) At least four hours of the 100 hours of supervised clinical training shall address the special needs of persons with developmental and mental disorders, including intellectual disability, cerebral palsy, epilepsy, Alzheimer's disease and related dementias, and Parkinson's disease.

(5) In a precertification training program subject to this subdivision, credit shall be given for the training received in an approved precertification training program adopted by another skilled nursing facility or intermediate care facility.

(6) This subdivision shall not apply to a skilled nursing facility or intermediate care facility that demonstrates to the department that it employs only nurse assistants with a valid certification.

(c) Continuing in-service training to ensure continuing competency in existing and new nursing skills.

(d) Each facility shall consider including training regarding the characteristics and method of assessment and treatment of acquired immune deficiency syndrome (AIDS).

(e) (1) The approved training program shall include, within the 60 hours of classroom training, a minimum of six hours of instruction on preventing, recognizing, and reporting instances of resident abuse utilizing those courses developed pursuant to Section 13823.93 of the Penal Code, and a minimum of one hour of instruction on preventing, recognizing, and reporting residents' rights violations.

(2) A minimum of four hours of instruction on preventing, recognizing, and reporting instances of resident abuse, including instruction on preventing, recognizing, and reporting residents' rights violations, shall be included within the total minimum hours of continuing education or in-service training required and in effect for certified nurse assistants.

SEC. 3. Section 1337.15 is added to the Health and Safety Code, immediately following Section 1337.1, to read:

1337.15. (a) A person who provides instruction or training, at a skilled nursing facility or intermediate care facility or in an educational institution, as part of a certified nurse assistant precertification training program described in Section 1337.1 or 1337.3 may be any licensed vocational nurse or registered nurse with no less than two years of nursing experience, of which no less than one year is in providing care and services to chronically ill or elderly patients in an acute care hospital, skilled nursing facility, intermediate care facility, home care, hospice care, or other long-term care setting.

(b) Notwithstanding any other law, a person described in subdivision (a) shall not be required to hold a teaching credential to provide instruction as part of a certified nurse assistant precertification training program described in Section 1337.1 or 1337.3.

SEC. 4. Section 1337.16 is added to the Health and Safety Code, immediately following Section 1337.15, to read:

1337.16. (a) An online or distance learning nurse assistant training program shall comply with all of the following requirements:

(1) Provide online instruction in which the trainees and the approved instructor are online at the same or similar times and which allows them to use real-time collaborative software that combines audio, video, file sharing, or any other forms of approved interaction and communication.

(2) Require the use of a personal identification number or personal identification information that confirms the identity of the trainees and instructors, including, but not limited to, having trainees sign an affidavit attesting under penalty of perjury to their identity while completing the program.

(3) Provide safeguards to protect personal information.

(4) Include policies and procedures to ensure that instructors are accessible to trainees outside of the normal instruction times.

(5) Include policies and procedures for equipment failures, student absences, and completing assignments past original deadlines.

(6) Provide a clear explanation on its Internet Web site of all technology requirements to participate and complete the program.

(7) Provide the department with statistics about the performance of trainees in the program, including, but not limited to, exam pass rate and the rate at which trainees repeat each module of the program, and any other information requested by the department regarding trainee participation in and completion of the program.

(b) In addition to the requirements set forth in subdivision (a), an online or distance learning nurse assistant training program shall meet the same standards as a traditional, classroom-based program, and comply with any other standard established by the department for online or distance learning nurse assistant training programs. Notwithstanding any other law, the department may, without taking any regulatory actions pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, implement, interpret, or make specific this section by means of an All Facilities Letter (AFL) or similar instruction.

(c) As a condition of approval by the department, an online or distance learning nurse assistant training program shall provide the department with access rights to the program for the purposes of verifying that program complies with all requirements and allowing the department to monitor online or distance learning sessions.

SEC. 5. Section 1337.3 of the Health and Safety Code is amended to read:

1337.3. (a) The department shall prepare and maintain a list of approved training programs for nurse assistant certification. The list shall include training programs conducted by skilled nursing facilities or intermediate care facilities, as well as local agencies and education programs. In addition, the list shall include information on whether a training center is currently training nurse

assistants, their competency test pass rates, and the number of nurse assistants they have trained. Clinical portions of the training programs may be obtained as on-the-job training, supervised by a qualified director of staff development or licensed nurse.

(b) It shall be the duty of the department to inspect a representative sample of training programs. The department shall protect consumers and students in any training program against fraud, misrepresentation, or other practices that may result in improper or excessive payment of funds paid for training programs. In evaluating a training center's training program, the department shall examine each training center's trainees' competency test passage rate, and require each program to maintain an average 60 percent test score passage rate to maintain its participation in the program. The average test score passage rate shall be calculated over a two-year period. If the department determines that a training program is not complying with regulations or is not meeting the competency passage rate requirements, notice thereof in writing shall be immediately given to the program. If the program has not been brought into compliance within a reasonable time, the program may be removed from the approved list and notice thereof in writing given to it. Programs removed under this article shall be afforded an opportunity to request reinstatement of program approval at any time. The department's district offices shall inspect facility-based centers as part of their annual survey.

(c) Notwithstanding Section 1337.1, the approved training program shall consist of at least the following:

(1) A 16-hour orientation program to be given to newly employed nurse assistants prior to providing direct patient care, and consistent with federal training requirements for facilities participating in the Medicare or Medicaid programs.

(2) (A) A precertification training program consisting of at least 60 classroom hours of training on basic nursing skills, patient safety and rights, the social and psychological problems of patients, and elder abuse recognition and reporting pursuant to subdivision (e) of Section 1337.1. The 60 classroom hours of training may be conducted within a skilled nursing facility, an intermediate care facility, or an educational institution or agency. A health facility, educational institution, or local agency may conduct the 60 classroom hours of training in an online or distance learning course format, as approved by the department.

(B) In addition to the 60 classroom hours of training required under subparagraph (A), the precertification program shall also consist of 100 hours of supervised and on-the-job training clinical practice. The 100 hours may consist of normal employment as a nurse assistant under the supervision of either the director of staff development or a licensed nurse qualified to provide nurse assistant training who has no other assigned duties while providing the training.

(3) At least two hours of the 60 hours of classroom training and at least four hours of the 100 hours of the supervised clinical training shall address the special needs of persons with developmental and mental disorders, including intellectual disability, Alzheimer's disease, cerebral palsy, epilepsy, dementia, Parkinson's disease, and mental illness.

(d) The department, in consultation with the State Department of Education and other appropriate organizations, shall develop criteria for approving training programs, that includes program content for orientation, training, inservice and the examination for testing knowledge and skills related to basic patient care services and shall develop a plan that identifies and encourages career ladder opportunities for certified nurse assistants. This group shall also recommend, and the department shall adopt, regulation changes necessary to provide for patient care when facilities utilize noncertified nurse assistants who are performing direct patient care. The requirements of this subdivision shall be established by January 1, 1989.

(e) On or before January 1, 2004, the department, in consultation with the State Department of Education, the American Red Cross, and other appropriate organizations, shall do the following:

(1) Review the current examination for approved training programs for certified nurse assistants to ensure the accurate assessment of whether a nurse assistant has obtained the required knowledge and skills related to basic patient care services.

(2) Develop a plan that identifies and encourages career ladder opportunities for certified nurse assistants, including the application of on-the-job postcertification hours to educational credits.

(f) A skilled nursing facility or intermediate care facility shall determine the number of specific clinical hours within each module identified by the department required to meet the requirements of subdivision (d), subject to subdivisions (b) and (c). The facility shall consider the specific hours recommended by the state department when adopting the precertification training program required by this chapter.

(g) This article shall not apply to a program conducted by any church or denomination for the purpose of training the adherents of the church or denomination in the care of the sick in accordance with its religious tenets.

(h) The Chancellor of the California Community Colleges shall provide to the department a standard process for approval of college credit. The department shall make this information available to all training programs in the state.

(i) An online or distance learning nurse assistant training program shall meet the same standards as a traditional, classroom-based program.

(j) An online nurse assistant training program shall contract with a licensed skilled nursing facility or intermediate care facility for the purpose of coordinating and completing the clinical portion of the nurse assistant training program.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.