

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Joint Budget Committee Members
FROM JBC Staff
DATE February 7, 2024
SUBJECT Potential Legislation Packet 4

This packet includes bill drafts and related memos for the Committee’s consideration. Each individual item has page numbers but also a packet page number to help navigate the whole document. The page numbers below refer to the packet page number.

POTENTIAL LEGISLATION

Certified Nurse Aide Testing Process LLS 24-0996 (Shen) 1

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

DRAFT
2/6/24

DRAFT

LLS NO. 24-0996.02 Brita Darling x2241

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: Certified Nurse Aide Testing Process

A BILL FOR AN ACT

101 **CONCERNING THE COMPETENCY EVALUATION PROCESS FOR CERTIFIED**
102 **NURSE AIDES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Joint Budget Committee. Under current law, an individual who completes an approved nurse aide training program must pass a clinical competency evaluation (competency evaluation) in order to become a certified nurse aide in this state. With respect to competency evaluations, the bill requires the state board of nursing (board) or the board's designee to:

*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words indicate deletions from existing law.*

- With respect to the knowledge-based examination portion of the competency evaluation, conduct the examination online, in-person, and orally in English or Spanish, if requested by an individual seeking to take the competency evaluation (applicant);
- Pursue practices to make the competency evaluation more accessible to applicants with limited English proficiency;
- Provide a process for applicants to request a testing accommodation under federal law relating to a disability;
- Ensure that applicants can submit grievances relating to the competency evaluation process or the applicant's score on the competency evaluation and require timely resolution of grievances;
- Ensure that applicants have access to current information about available examination locations and dates, as well as available examination slots, with information updated daily;
- Require an examination to take place if at least 5 applicants are registered for the examination; and
- If the examination registration process is provided through a vendor, require the vendor to collect data concerning the process to be provided to the board or the board's designee upon request.

Pursuant to federal law, the bill authorizes an applicant who has completed an approved nurse aide training program to work for up to 4 months at any long-term care facility prior to certification, instead of only at the long-term care facility that provided the training program.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 12-255-205
3 as follows:

4 **12-255-205. Certification by competency evaluation.** (1) All
5 applicants, except those certified by endorsement, shall pass a clinical
6 competency evaluation. The CLINICAL COMPETENCY evaluation ~~shall be~~
7 ~~in a written or oral form and shall include~~ INCLUDES BOTH A
8 KNOWLEDGE-BASED EXAMINATION AND A PRACTICAL SKILLS-BASED
9 EXAMINATION in the following areas:

10 (a) Basic nursing skills;

- 1 (b) Personal care skills;
- 2 (c) Recognition of mental health and social services needs;
- 3 (d) Basic restorative services; AND
- 4 (e) Resident or patient rights.
- 5 (2) (a) ~~Competency evaluations shall be held at the times and~~
6 ~~places as the board determines but shall be held at least four times per~~
7 ~~year~~ FOR THE WRITTEN KNOWLEDGE-BASED EXAMINATION, THE BOARD OR
8 THE BOARD'S DESIGNEE SHALL CONDUCT THE EXAMINATION IN PERSON
9 AND ONLINE. <*Should this just be in the contract or also in statute?*>
- 10 (b) IF REQUESTED BY AN APPLICANT, THE BOARD OR THE BOARD'S
11 DESIGNEE SHALL ADMINISTER THE KNOWLEDGE-BASED EXAMINATION
12 ORALLY, IN BOTH IN ENGLISH AND SPANISH.
- 13 (3) THE BOARD OR THE BOARD'S DESIGNEE SHALL:
- 14 (a) PURSUE PRACTICES THAT MAKE THE COMPETENCY EVALUATION
15 PROCESS MORE ACCESSIBLE TO APPLICANTS WITH LIMITED ENGLISH
16 PROFICIENCY;
- 17 (b) PROVIDE A PROCESS FOR AN APPLICANT TO REQUEST AN
18 EXAMINATION ACCOMMODATION PURSUANT TO THE FEDERAL "AMERICANS
19 WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ., AS
20 AMENDED. THE BOARD OR THE BOARD'S DESIGNEE SHALL APPROVE OR
21 DENY A REQUEST FOR ACCOMMODATION WITHIN TEN DAYS AFTER RECEIPT
22 OF THE REQUEST IF THE REQUEST CONTAINS SUFFICIENT INFORMATION TO
23 DETERMINE ELIGIBILITY FOR THE ACCOMMODATION.
- 24 (c) (I) ENSURE THAT A PROCESS IS IN PLACE FOR AN APPLICANT TO
25 SUBMIT A GRIEVANCE RELATING TO THE COMPETENCY EVALUATION
26 PROCESS OR THE APPLICANT'S SCORE ON THE COMPETENCY EVALUATION,
27 WITH NOTIFICATION TO THE APPLICANT OF RECEIPT OF THE GRIEVANCE

1 WITHIN FIVE BUSINESS DAYS AFTER SUBMISSION OF THE GRIEVANCE AND
2 RESOLUTION OF THE GRIEVANCE WITHIN THIRTY DAYS AFTER SUBMISSION
3 OF THE GRIEVANCE.

4 (II) IF THE GRIEVANCE PROCESS IS PROVIDED THROUGH A VENDOR
5 CONTRACTED WITH THE BOARD, THE VENDOR SHALL RESPOND TO THE
6 BOARD OR THE BOARD'S DESIGNEE WITHIN AN APPROPRIATE TIME FRAME
7 SPECIFIED BY THE BOARD OR THE BOARD'S DESIGNEE CONCERNING THE
8 GRIEVANCES RECEIVED, INCLUDING THE NUMBER AND NATURE OF THE
9 GRIEVANCES, THE RESOLUTION OF THE GRIEVANCES, AND ANY OTHER
10 INFORMATION REQUESTED BY THE BOARD OR THE BOARD'S DESIGNEE.

11 (d) ENSURE THAT APPLICANTS FOR A COMPETENCY EVALUATION
12 HAVE ACCESS TO CURRENT INFORMATION ABOUT THE EXAMINATION
13 LOCATIONS, EXAMINATION DATES FOR EACH LOCATION, AND AVAILABLE
14 APPLICANT SLOTS FOR EACH LOCATION AND DATE, UPDATED AT LEAST
15 DAILY;

16 (e) (I) IF AT LEAST FIVE APPLICANTS HAVE REGISTERED FOR AN
17 EXAMINATION, CONDUCT THE EXAMINATION REGARDLESS OF THE NUMBER
18 OF REGISTERED APPLICANTS WHO ATTEND THE EXAMINATION.

19 (II) IF THE REGISTRATION PROCESS IS PROVIDED THROUGH A
20 VENDOR CONTRACTED BY THE BOARD OR THE BOARD'S DESIGNEE, THE
21 VENDOR SHALL COLLECT DATA PERTAINING TO THE EXAMINATION
22 REGISTRATION PROCESS, AS SPECIFIED BY THE BOARD OR THE BOARD'S
23 DESIGNEE. IF REQUESTED, THE VENDOR SHALL PROVIDE THE COLLECTED
24 DATA TO THE BOARD OR THE BOARD'S DESIGNEE WITHIN THE TIME FRAME
25 SPECIFIED BY THE BOARD OR THE BOARD'S DESIGNEE.

26 **SECTION 2.** In Colorado Revised Statutes, 12-255-214, **amend**
27 (1)(d) as follows:

1 **12-255-214. Exclusions.** (1) This part 2 does not affect or apply
2 to:

3 (d) A person who HAS COMPLETED AN APPROVED TRAINING
4 PROGRAM AND is directly employed by a medical facility while acting
5 within the scope and course of employment for the first four consecutive
6 months of the person's employment at the medical facility ~~if the~~
7 ~~employment is part of an approved training program~~ prior to certification
8 and the certification is not by endorsement pursuant to section
9 12-255-204. A person may utilize this exclusion only once in any
10 twelve-month period. This exclusion does not apply to any person who
11 has allowed the person's certification to lapse, had the person's
12 certification as a nurse aide suspended or revoked, or had an application
13 for certification denied.

14 **SECTION 3. Safety clause.** The general assembly finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, or safety or for appropriations for
17 the support and maintenance of the departments of the state and state
18 institutions.