

**Fiscal Impact Analysis of
Permanent Rule Adoption without Substantial Economic Impact**

Agency Proposing Rule Change

North Carolina Department of Health and Human Services (Secretary)/ Division of Health Service Regulation (Director)

Contact Persons

Nadine Pfeiffer, DHSR Rules Review Manager – (919) 855-3811
Drexdal Pratt, DHSR Director – (919) 855-3752
Jesse Goodman, HCPEC Section Chief – (919) 855-3988
Kathy Turner, HCPEC Assistant Chief – (919) 855-3972

Impact Summary

Federal Government:	No Impact
State Government:	\$451,199.40
Local Government:	No Impact
Small Business:	\$323,690.18
Private Citizen:	\$32,055
Substantial Impact:	No

Titles of Rule Changes and Statutory Citations

10A NCAC 13 .0301

**See proposed text of this rule in the Appendix*

Authorizing Statutes

G.S. 131E-255
42 CFR Part 483
42 U.S.C. § 1395i-3(e)
42 U.S.C. § 1396r(e)

Introduction and Background

Regulation by the State of North Carolina of Nurse Aide I Training and the Nurse Aide I Registry is subject to the provisions of 42 U.S.C. §1395i-3(e), 42 U.S.C. §1396r(e), and 42 CFR Part 483. The purpose of the new rule is to comply with the federal regulations to ensure the provision of safe care for the citizens of North Carolina and to ensure consistent training for all Nurse Aide I's listed in the N.C. Nurse Aide I Registry.

Nurse Aide I Training and the Nurse Aide I Registry was established in 1989 when the Omnibus Budget Reconciliation Act of 1987 (OBRA 87) was enacted. Before passage of the OBRA 87, only a few States required training of nurse aides. Passage of OBRA 87 required each State to establish State-approved nurse aide training programs and to establish minimum requirements for nurse aide competency.

Oversight and enforcement of the nurse aide training and registry regulatory requirements are left to the States. Pursuant to 42CFR483.151 through 42CFR483.154, DHSR reviews and approves or disapproves nurse aide training and competency evaluation programs and nurse aide competency evaluation programs upon request. Pursuant to 42CFR483.156, DHSR has established and maintains a Nurse Aide I Registry.

According to the UNC Institute on Aging (<http://www.aging.unc.edu/topics-of-interests/healthy-aging/>) approximately two-thirds of older citizens have multiple chronic disease. With nurse aides being a primary caregiver of unlicensed nursing care in nursing homes (DHHS Office of Inspector General – *Nurse Aide Training*, November 2002), nurse aides play an increasingly important role in the delivery of quality health care. The Health Care Personnel Education and Credentialing Section (HCPEC) revised and implemented a statewide nurse aide training curriculum to better reflect current standards of care. The curriculum was developed, reviewed, and piloted with the support of various stakeholder groups, including but not limited to, the NC Board of Nursing, the NC

Community College System, the NC Department of Public Instruction, and representatives of statewide associations, advocacy groups, and nursing home personnel.

Rules Summary and Anticipated Fiscal Impact

Prior to 2006, Nurse Aide I Training and Competency testing was completed within the community colleges, colleges and universities, health care facilities, licensed proprietary schools, and high schools. In July of 2006, in concert with the federal requirements, the Department implemented a national standardized competency exam for the testing of all nurse aides. Individuals who pass the exam are listed on the NC Nurse Aide I Registry. The majority of health care providers must verify this listing prior to hiring an individual to fill a nurse aide position. North Carolina currently does not require state approved Nurse Aide I training as a prerequisite to taking the Nurse Aide I Competency Exam. As a result over the past several years, potential Nurse Aide I Competency candidates have been migrating to non-state approved two-three day courses or videos that are marketed as exam prep courses. As this practice has grown, the Health Care Personnel Education and Credentialing (HCPEC) section at the Division of Health Service Regulation, has received an increasing number of complaints and negative stakeholder feedback regarding these Nurse Aide I training prep courses in North Carolina. Complaints about the training in non-approved, unlicensed schools are frequent and based on current exam data, students in these programs have a higher failure rate than those who pass state-approved training. Also, many providers, as well as many nursing schools, do not recognize training unless it is state-approved training. Based on phone conversations with upset students from these unapproved programs, the students enroll believing they will receive proper training which will prepare them to pass the competency exam and to be ready to work as a Nurse Aide I. Additionally, information from inbound customer phone calls to the HCPEC offices indicate that the lay public, as well as the health care public, expect that all Nurse Aide I training be state-approved and required prior to nurse aide testing. To determine what the training standard is in other states, a recent state by state review by HCPEC (June 2015) of 52 states and US territories showed that 46 (88%) require approved training in order to be eligible to take that state's Nurse Aide I Competency exam.

The purpose of this new rule is to ensure nurse aide training programs offered in North Carolina meet minimum federal requirements pertaining to resident rights, basic nursing, personal care, restorative, mental health, and social service skills, as well as how to care for cognitively impaired residents. As a result of this new rule, successful candidates that are listed on the Nurse Aide I Registry will be better trained which will result in the public receiving safer/more competent hands-on, direct patient/resident/client care.

Impact Analysis

Federal

The total DHSR costs, as described in the "state" section below is \$7,501.78. Funding for this staff is at 75% (\$5,626.34) federal and 25% (\$1,875.44) state. Because the work will be easily absorbed into the current resources, there will be no fiscal impact associated with the adoption of this rule.

State

Division of Health Services Regulation (DHSR)

The Health Care Personnel Education and Credentialing Section (HCPEC) currently has 4 full-time RNs who perform application reviews/approvals of Nurse Aide programs. There are currently 598 state-approved programs in NC. Based on the average number of new program applications each year, it is anticipated that there will be an average increase of 10 additional initial applications submitted for review. Based on the average time it currently takes the staff to complete application reviews, it is estimated that it will take an additional total of 110 RN hours annually at \$34.57 per hour (including salary and fringe) to review and provide a written response to schools submitting these initial applications. (OSHR 2014 compensation information for Nurse Consultants Contributing, and current 2015 fringe rates for State of North Carolina Employees)

Position	Salary	Retirement	Soc Sec	Health Ins	Total Sal and Fringe	Hrs/Yr	Hrly Rt
Nurse Consultant-C	\$53,199	\$1,815	4,070	\$5,435	\$70,519	2040	\$34.57
Admin II	\$41,941	\$6,161	\$3,208	\$5,435	\$56,745	2040	\$27.82
FSC Manager	\$69,629	\$10,229	\$5,327	\$5,435	\$90,620	2040	\$44.72

Of the additional 10 initial applications to be submitted, it is estimated that 3 will meet acceptance criteria and will require an average of additional 60 hours RN hours for a total cost of \$5876.90. This represents a cost for a total of 170 hours of RN work.

It is also estimated that there will be an additional 20 hours needed to complete the clerical support at a cost of \$556.40 and additional supervisory support of 24 hours at a cost of \$1068.48. Clerical support includes managing statistics, providing information to the public via phone, and receiving/directing public complaints.

Staff FTE	Total Number Hours per Year	Cost per Hour	Total Cost per Year
HCPEC RN	170	\$34.57	\$5876.90
HCPEC Admin II	20	\$27.82	\$556.40
HCPEC Manager	24	\$44.42	\$1068.48
Total	210	\$106.81	\$7501.78

The total cost per year for the DHSR HCPEC staff will be \$7501.78 and will easily be absorbed into the current resources. This will result in no fiscal impact to DHSR.

NC Community Colleges System

The NC Nurse Aide I Competency Exam is administered per no cost state contract with a testing vendor, Pearson VUE, Inc. Approximately 18,500 first-time test takers took the Competency Exam in 2014 (2014 NNAAP® Technical Report and Pearson VUE's Cumulative Report to NCDHSR). Of that number approximately 2136 registered as "other trained," thus we can estimate that approximately 2136 additional students will seek training at licensed schools, NC college or universities, local community colleges, and/or approved health care provider* as a result of this rule.

The cost estimates for the community colleges is provided by the North Carolina Community College System, Office of Continuing Education. Currently, the majority of state-approved trained candidates receive their training at community colleges and licensed proprietary schools. Using current trends of enrollment, we predict that 60% (1281) of these additional students would enroll in training at their local community college. The total cost of the addition of 1281 students is estimated to be \$451,199.40, which includes instructor salaries and consumables. In a typical 160 hour Nurse Aide I Training class, there are 20 students and one instructor for 160 hours and an additional instructor for approximately 80 hours (for skills lab and clinical rotations). Using the total number of 1281 students, it is estimated that an additional 64 classes of Nurse Aide I training will be required as a result in this rule. Based on this information, each additional Nurse Aide I training class will cost the community college \$6549.60 in salary dollars. (It is important to note that the majority of Nurse Aide I instructors are employed part-time without benefits.) It is estimated that the cost per student for consumables is \$25 each, for a total of \$32,025. The total cost of \$451,199.40 to teach an additional 1281 students is computed at \$352.22 per student.

Position	Salary	Retirement	Soc Sec	Hlth Ins	Total Salary	Hrs/Yr	Hrly Rate
Training Specialist	\$51,714	N/A	\$3,956	N/A	\$55,670	2040	\$27.29

# Students	Cost of Consumables/student	Total Cost of Consumables
2181	\$25	\$32,025

# Instructors Required	Number Instructional Hours	Instructor Salaries	Total Cost of Instructors
1	160	\$27.29	\$4366.40
1	80	\$27.29	\$2,183.20
Total cost per class	-----	-----	\$6549.60

Total Number of Students	Number of Students in Each Class	Total Number of Additional Classes
1281	20	64

# of classes	Cost of instructor	Total instructor cost	Cost of consumables	Total cost of classes
64	\$6549.60	\$419,174.40	\$32,025	\$451,199.40

NC Community College Office of Proprietary Schools

The North Carolina Community College Office of Proprietary Schools receives and reviews licensure applications for schools classified as proprietary. Through correspondence to HCPEC, they have determined that there will be no fiscal impact on their office as a result of this rule.

Local Government

No fiscal impact associated with the adoption of this rule.

Small Business

As with the NC Community College System, Licensed Proprietary Schools which offer state-approved Nurse Aide I training programs will see an increase in enrollment. We are unable to estimate the increase in number of students who will enroll in specific program types, but based on current testing data in the paragraphs above, it is estimated that 40% (919) of the additional students will seek enrollment in licensed proprietary schools. Using the cost per student estimate stated in previous paragraphs of \$352.22, the total cost of these additional students will be \$323,690.18.

Cost per student	Number of students	Total Estimated Cost
\$352.22	919	\$323,690.18

Private Citizen

Individuals may choose from a variety of school types in which to enroll for approved Nurse Aide I training [see program types mentioned as stated in paragraph above marked with (*)]. Tuition costs vary among programs, but according to our own random sampling of unlicensed school websites and complaint phone calls from students, most are estimated to range from \$300-\$500. Training offered through health care facilities that accept Medicare and Medicaid and through public high schools is free to individuals. Individuals who have previously completed state-approved training, have trained in other states, have completed medical corpsman training in any military branch, or have completed nursing training will not be required to enroll/complete state-approved training. As a result of this rule, the number of “other trained” test candidates who enroll in a state-approved program will pay roughly the same monies for credible, state-approved Nurse Aide I education. To this point, there should be no additional fiscal impact to the private citizen for enrollment costs. Additionally, as a result of completing state-approved training and based on current data provided by our testing vendor, Pearson VUE, Inc. the private citizen will be 19% more likely to pass the Nurse Aide I Competency exam on the first try, resulting in not having to pay for additional testing. Pass rates for test takers completing a state-approved program at a community college or licensed proprietary school averages 72% versus 53% for “other trained.” Citizens who do not pass the exam must pay for each additional attempt at the exam. Additionally, after failing three times, training or re-training is currently required. Based on these statistics, of the 2136 students, 1004 would have to repay to re-test without the rule. If they had completed a state-approved course, only 592 would have to repay to re-test. This represents a cost savings of \$32,055. Therefore, we believe the total fiscal impact to the private citizen will be \$32,055.

Retest Costs for Students WITHOUT Rule Adoption Based on 2,136 Additional Students		
Number students to retest	Price of test	Total costs
40 to retake written/skills	\$101	\$4,040
963 to retake skills	\$77	\$74,151
Total Student Costs	-----	\$78,191

Retest Costs for Students WITH Rule Adoption Based on 2,136 Additional Students		
Number students to retest	Price of test	Total costs
23 to retake written/skills	\$101	\$2,323
569 to retake skills	\$77	\$43,813
Total Student Costs	-----	\$46,136

Citizen (Student) Cost Without Rule	Citizen (Student) Cost Without Rule	Savings
\$78,191	\$46,136	\$32,055

Summary

The additional costs identified for the Health Care Personnel Education and Credentialing section at DHR in adopting this rule will be in a minimal increase in staff workload at an annual cost of \$5876.90. Based on this additional workload, it has been determined that no additional staff is needed and that the cost of this action to the Department can easily be absorbed within the existing budget, thus having no fiscal impact. Additional fiscal impact will be on two of the primary educators of nurse aides. With an estimated increase in the number of additional Nurse Aide I training students who will seek enrollment at a NC Community College System being 1281, the estimated fiscal impact is \$451,199.40. Licensed Proprietary Schools will also see an increase of an estimated 919 students for an estimated fiscal impact of \$323,690. These extra 2136 students (private citizens) will realize a savings of \$32,055

as a result of this rule since more students will pass Nurse Aide I Competency exam the first time, eliminating the need to pay for additional testing. The total fiscal impact is \$806,944.58, as depicted in the table below.

Area of Fiscal Impact	Cost
Federal	-0-
(State) DHSR/HCPEC State	-0-
(State) NC Community College System State	\$451,199.40
(State) Office of Proprietary Schools	-0-
(Private Small Business) Various Licensed Proprietary Schools	\$323,690.18
(Private) Students/Citizens	\$32,055
Total	806,944.58