

SB 403-FN - AS AMENDED BY THE SENATE

03/21/2024 1004s

2024 SESSION

24-2963

09/10

SENATE BILL

403-FN

AN ACT

relative to the health care workforce.

SPONSORS:

Sen. Rosenwald, Dist 13; Sen. Perkins Kwoka, Dist 21; Sen. Soucy, Dist 18; Sen. Whitley, Dist 15; Sen. Altschiller, Dist 24; Sen. Watters, Dist 4; Sen. Chandley, Dist 11; Sen. Fenton, Dist 10; Sen. Prentiss, Dist 5; Sen. D'Allesandro, Dist 20; Rep. Edwards, Rock. 31; Rep. Grote, Rock. 24; Rep. Schapiro, Ches. 16; Rep. Wallner, Merr. 19

COMMITTEE:

Health and Human Services

AMENDED ANALYSIS

This bill:

I. Extends the deadlines of the legislative commission on the interdisciplinary primary care workforce issues.

II. Makes clarifying amendments to the nurse practice act statute.

III. Establishes the position of and regulation of community health workers.

IV. Provides directives to the department of health and human services.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~[in brackets and struckthrough.]~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to the health care workforce.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Purpose and Findings.

I. The state of New Hampshire shall address the health care workforce shortage through establishing programs designed to incentivize students to seek employment in health care and remain in New Hampshire upon graduation; removing career-advancement barriers for our dedicated direct care providers; and equipping health care organizations with the tools necessary to secure skilled clinicians. Voluntary certification of community health workers will aid in addressing the health care workforce shortage.

II. Case managers play a critical role in helping individuals access needed medical, social, educational, and other services, and case managers' ability to serve their clients must be preserved.

2 Commission on the Interdisciplinary Primary Care Workforce Issues; Reports. Amend RSA 126-T:4 to read as follows:

126-T:4 Reports. The commission shall make an interim report on November 1, [2020] **2026** which shall focus on the status of the New Hampshire state loan repayment program and the New Hampshire division of public health service's health professions survey, and a final report on November 1, [2024] **2029**, including its findings and any recommendations for proposed legislation, to the speaker of the house of representatives, the president of the senate, the governor, the oversight committee on health and human services, and the chairpersons of the senate and house executive departments and administration committees.

3 Commission on the Interdisciplinary Primary Care Workforce Issues Extended. Amend 2010, 114:4, I as amended by 2015, 238:4; 2018, 248:3; and 2020, 17:7 to read as follows:

I. Section 3 of this act shall take effect November 1, [2024] **2029**.

4 Nurse Practice Act; Certificate of Medication Administration for Licensed Nursing Assistants. Amend RSA 326-B:27, I to read as follows:

I. The board may issue a certificate of medication administration to a current LNA who:

(a) Has participated in and completed a board-approved medication administration education program;

(b) Has been employed as a licensed nursing assistant for one full year;

~~(b)~~ **(c)** Has passed an examination approved by the board; and

~~(e)~~ **(d)** Has paid the certification fee.

5 New Paragraph; Office of Professional Licensure and Certification; Definitions; Establishment. Amend RSA 310:2 by inserting after paragraph (bbb) the following new paragraph:

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(ccc) Community health workers under RSA 326-N.

6 New Chapter; Community Health Workers. Amend RSA by inserting after chapter 326-M the following new chapter:

CHAPTER 326-N

COMMUNITY HEALTH WORKERS

326-N:1 Definitions.

I. "Applicant" means an individual applying to be certified or recertified as a community health worker.

II. "Certificate" means the document issued by the office of professional licensure and certification to qualified applicants for certification as community health workers.

III. "Certification" means the voluntary process by which the office of professional licensure and certification grants recognition and use of a credential to individuals who are eligible to practice as certified community health workers.

IV. "Certified community health worker" means a community health worker to whom the office of professional licensure and certification has issued a certificate to practice as a certified community health worker.

V. "Commissioner" means the commissioner of the department of health and human services.

VI. "Community health worker" means a public health worker who applies an understanding of the experience, language, and culture of the populations that the individual serves and who provides direct services aimed at optimizing individual and family health outcomes, including:

(a) Informal and motivational counseling and education;

(b) Interventions to maximize social supports;

(c) Community health integration services;

(d) Facilitation of access to health care and social services;

(e) Health screenings; and

(f) Other services that the commissioner defines by rules adopted under RSA 541-A;

VII. "Department" means the department of health and human services.

VIII. "Executive director" means the executive director of the office of professional licensure and certification.

IX. "Recertification" means a renewal of certification.

X. "Telemedicine" means the use of audio, video, or other electronic media for the purpose of optimizing individual and family health outcomes.

326-N:2 Powers and Duties of the Executive Director. The powers and duties of the executive director under this chapter include:

I. Accepting applications for certification under this chapter, and approving or denying such applications.

II. Renewing certifications.

III. Suspending or revoking certification of a certified community health worker upon the grounds listed in RSA 326-N:5, and conducting hearings regarding the denial, suspension, revocation and renewal of certificates as provided in RSA 326-N:8.

IV. Accepting written complaints from the public against registrants and conducting necessary investigations upon such written complaints.

V. Publicizing the complaint procedure.

VI. Adopting such rules under RSA 541-A as are necessary to carry out the purposes of this chapter.

VII. Reporting to the governor and commissioner annually on the activities conducted under this chapter.

326-N:3 Rulemaking.

I. The executive director shall, in consultation with the New Hampshire area health education centers, adopt rules pursuant to RSA 541-A, relating to the following:

(a) Establishment and administration of a voluntary program for certification of community health workers, including criteria for:

(1) Minimum and continuing education;

(2) Training;

(3) Experience; and

(4) Other qualifications that the executive director and the New Hampshire area health education centers deem appropriate in accordance with the provisions of this chapter;

(b) Forms and procedures for the receipt, review, and action upon applications for initial community health worker certification and for biennial recertification;

(c) Establishment of standards for continuing education and other requirements that the commissioner deems appropriate for biennial recertification;

(d) Procedures for disciplinary action relating to applicants or certified community health workers. The rules shall include guidelines for:

(1) Disciplinary action;

(2) Reprimands;

(3) Probation;

(4) The denial, suspension, or revocation of certification or recertification; and

(5) Applicants' appeal rights;

(e) The determination, assessment, and collection of certification fees, recertification fees, and disciplinary fines; and

1 (f) Other matters that the commissioner deems appropriate to carry out the provisions of
2 this chapter.

3 II. The executive director shall apply any fee it collects pursuant to this chapter to cover the
4 costs of administering the community health worker certification program established pursuant to
5 this chapter.

6 326-N:4 Application; Certification Fees; Issuance of Certification; Applicants from Other States.

7 I. Upon approval by the executive director, the executive director shall issue a certification
8 to any person who files an application for such certification within 30 days after the filing of such
9 application.

10 II. Every application for community health worker certification shall be accompanied by a
11 non-refundable registration fee.

12 III. Certification shall be renewed biannually on or before June 30 upon payment of the
13 renewal fee.

14 IV. A certified community health worker shall conspicuously display such certification in the
15 principal place of business for which the certification is issued.

16 V. The executive director may issue a certification to any applicant who is licensed or
17 certified in any other state provided the other state's requirements are substantially equivalent to or
18 more stringent than those of this state. An applicant whose state licensure or certification meets the
19 requirements set forth in this paragraph shall be deemed able to work as a certified community
20 health worker in this state not more than 60 days after the application is received by the executive
21 director pending final approval or denial for other reason by the executive director.

22 326-N:5 Suspension; Revocation or Refusal to Issue Certification. The executive director may
23 deny the application for a certified community health worker and may suspend or revoke the
24 certification issued pursuant to this chapter or refuse to issue a renewal thereof if it is determined
25 after hearing that such applicant or registrant:

26 I. Has made a material false statement or concealed a material fact in connection with his or
27 her application for certification;

28 II. Has had a certificate of registration issued under this chapter revoked or suspended
29 previously;

30 III. Has been found guilty of fraud or fraudulent practices after prosecution;

31 IV. Has failed to comply with any other provision of this chapter or any rules promulgated
32 by the executive director.

33 326-N:6 Use of Certified Community Health Worker Designation; Exemptions.

34 I. In order to use the title "certified community health worker", the initials "CCHW", or
35 other designation indicating that the individual is a certified community health worker, an
36 individual shall be certified pursuant to the provisions of the RSA 326-N:4.

1 II. To ensure compliance with the provisions of this chapter or any rule that the executive
2 director has adopted and promulgated pursuant to this chapter, the office of professional licensure
3 and certification may issue cease-and-desist orders to persons violating the provisions of this
4 chapter.

5 III. A community health worker shall engage only in those activities authorized pursuant to
6 this chapter and by rules adopted pursuant to this chapter. While engaging in practice as a
7 community health worker, an individual shall not engage in or perform any act or service for which
8 another professional certificate, license, or other legal authority is required.

9 IV. Certification as a community health worker is voluntary. Nothing in this section shall
10 be construed as requiring community health workers to be certified for purposes of employment.
11 Nothing in this section shall be construed to prevent or restrict the practice, service, or activities of
12 any individual simultaneously certified as a community health worker and licensed, certified,
13 registered, or otherwise legally authorized in the state to engage in the practice of another profession
14 if that individual does not, while engaged in the authorized practice of another profession, use any
15 name, title, the initials "CCHW", or other designation indicating that the individual is a certified
16 community health worker.

17 326-N:7 Telemedicine. Certified community health workers shall be permitted to provide
18 services through the use of telemedicine.

19 326-N:8 Procedure for Complaints; Hearings; Judicial Review.

20 I. No certification shall be suspended or revoked until after a hearing before the executive
21 director, which shall be held in accordance with RSA 541-A, and upon written notice mailed to the
22 registrant by certified or registered mail. However, when a notice of hearing is mailed to a
23 registrant at the address shown in the records of the department and such a registrant fails to
24 attend such hearing, the executive director may suspend his or her registration without a hearing
25 pending his or her attendance at such hearing. Upon the denial of an application for a certificate of
26 registration, the executive director shall grant a hearing to an applicant upon receipt of a request for
27 a hearing made within 30 days after the applicant is notified of denial. The executive director shall
28 have the power to require the attendance of witnesses and issue subpoenas duces tecum in the
29 conduct of such hearing. If a certification is revoked or suspended or an application is denied, no
30 such certification shall be issued to such former registrant or applicant for at least 6 months, or
31 thereafter except at the discretion of the executive director. The applicant may be heard in person or
32 by counsel. The executive director shall notify the applicant of the time and place of the hearing.
33 The executive director shall have the power to subpoena any person in this state, or document,
34 record, or other relevant evidence, and to administer an oath to and take the testimony of any such
35 person or to cause his deposition to be taken.

36 II. Appeals from an order of suspension or revocation or a denial of an application of
37 certification shall be made pursuant to the provisions of RSA 541.

1 7 Department of Health and Human Services; Division of Public Health Services; Department
2 Directives.

3 I. The department of health and human services, division of public health services, may
4 contract with community-based organizations, including community health centers and family
5 resource centers, to deploy and sustain community health workers that connect families and patients
6 with needed health and supportive services.

7 II. The department may use federal funds where available and general funds within the
8 department's existing budget upon approval of the fiscal committee to sustain the work of
9 community health workers through the fiscal year ending June 30, 2025.

10 III. The department shall develop a brief plan that articulates potential funding alternatives
11 if federal funding is no longer available.

12 IV. The department shall develop a plan to be part of its budget submission in 2025 to fund
13 community health workers at community based organizations including community health centers
14 and family resource centers.

15 8 Medicaid Reimbursement for Certified Community Health Workers; State Plan Amendment.
16 The commissioner of the department of health and human services shall submit a Title XIX
17 Medicaid state plan amendment to the federal Centers for Medicare and Medicaid Services to allow
18 for reimbursement for the services provided by certified community health workers. Upon approval
19 of the state plan amendment, and as of the effective date of the state plan amendment, the
20 department shall reimburse for services provided by certified community health workers.

21 9 Effective Date.

22 I. Section 6 of this act shall take effect January 1, 2025.

23 II. The remainder of this act shall take effect upon its passage.

SB 403-FN- FISCAL NOTE
AS AMENDED BY THE SENATE (AMENDMENT #2024-1004s)

AN ACT relative to the health care workforce.

FISCAL IMPACT: ☒ State ☐ County ☐ Local ☐ None

Estimated State Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
Revenue	\$0	\$4,650	\$4,650	\$9,300
Revenue Fund(s)	General Fund			
Expenditures	\$0	Approximately \$4.2 million	Indeterminable Increase	Indeterminable Increase
Funding Source(s)	Federal ARPA funds; state general funds			
Appropriations	\$0	\$0	\$0	\$0
Funding Source(s)	None			

- Does this bill provide sufficient funding to cover estimated expenditures? ☒ See Below
- Does this bill authorize new positions to implement this bill? ☒ No

METHODOLOGY:

This bill establishes various new programs and disciplines in order to address health care workforce shortages in the State. In particular, the bill:

- Extends the work of the Commission on the Interdisciplinary Primary Care Workforce until 2029;
- Allows the Board of Nursing to issue a certificate of medication administration to current Licensed Nursing Assistants (LNA) who meet certain criteria specified in the bill;
- Creates a new chapter (RSA 326-N) establishing and regulating community health workers;
- Allows the Division of Public Health Services within the Department of Health and Human Services to contract with community-based organizations to connect individuals and families with proper supports to manage health care; and
- Requires the Department of Health and Human Services to submit a Title XIX Medicaid state plan amendment to allow for reimbursement of services provided by certified community health workers.

As amended, the bill does not include an appropriation, but rather directs the Department of Health and Human Services to use federal funds where available, as well as general funds within the Department's existing budget (with the approval of the Fiscal Committee) to sustain the work of community mental health workers through the end of FY25. The Department

anticipates that approximately \$4.2 million of federal funds and general funds will be available to use for these purposes.

The Office of Professional Licensure and Certification (OPLC) states that the bill creates obligations and grants authority to the OPLC, in cooperation with the NH area health education centers, to draft rules for a new occupational certification and creates obligations for the executive director to establish fees, create standards of investigations, and procedures for disciplinary action. There may be additional administrative costs to the OPLC in the form of OPLC rule promulgation and legal support. There may also be costs associated with investigation and enforcement. The OPLC is unable to estimate these costs.

The OPLC states that it is unable to determine the number of applicants for the voluntary certification established by the bill. The OPLC assumes the certification fee would be \$155.00 for two years and estimates 30 individuals will choose to be certified in year one and this number will increase each year thereafter. OPLC assumes the increase in revenue will be as follows:

- FY 2024: Not in effect
- FY 2025: \$4,650 (30 new licenses * \$155)
- FY 2026: \$4,650 (30 new licenses * \$155)
- FY 2027: \$9,300 (30 new licenses plus 30 renewals * \$155)

AGENCIES CONTACTED:

Department of Health and Human Services and Office of Professional Licensure and Certification