
SENATE COMMITTEE ON HEALTH
Senator Dr. Akilah Weber Pierson, Chair

BILL NO: SB 1057
AUTHOR: Becker
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SUBJECT: Licensing: certified nurse assistants and home health aides

SUMMARY: Revises and recasts a portion of existing law governing the training and certification of certified nurse assistants and home health aides, specifically provisions related to the denial of an application for certification or training, or the suspension or revocation of certification, licensure, or renewal. Aligns these provisions of law for both professions with each other.

Existing law:

- 1) Provides for the certification of certified nurse assistants (CNAs) and home health aides (HHAs) by the California Department of Public Health (CDPH), and establishes minimum qualifications and training requirements for CNAs and HHAs. [HSC §1337, et seq and §1375, et seq]
- 2) Establishes a scope of practice for CNAs as performing basic patient care services directed at the safety, comfort, personal hygiene, and protections of patients, and prohibits CNAs from performing any services which can only be performed by a licensed person, and requires all services to be performed under the supervision of a licensed registered nurse or a licensed vocational nurse. [HSC §1337, et seq]
- 3) Defines “home health aide” as an aide who has successfully completed a state-approved training program, is employed by a home health agency or hospice program, and provides personal care services in a patient’s home. Defines “home health aide services” as personal care services provided by an HHA under a plan of treatment prescribed by the patient’s physician. Requires a certified HHA applicant to:
 - a) Have successfully completed a training program with a minimum of 75 hours or an equivalent competency evaluation program approved by CDPH; and,
 - b) Obtain a criminal record clearance from the Department of Justice (DOJ). [HSC §1727 and §1736.1(a)]
- 4) Requires a criminal record clearance to be conducted for all CNAs by the submission of fingerprint images and related information to CDPH for processing at the DOJ. Requires CDPH to issue an All Facilities Letter (AFL) to facilities when it receives 95% of total responses indicating no evidence of recorded criminal information from the DOJ; and, it processes 95% total responses requiring disqualification, no later than 45 days after the date that the report is received from the DOJ. [HSC 1338.5(a)(1)(A)]
- 5) Prohibits facilities, after the AFL is issued, from allowing CNA trainees or newly hired CNAs to have direct contact with clients or residents prior to completion of the criminal record clearance. Makes a criminal record clearance complete when CDPH has obtained the person’s criminal offender record information from the DOJ and has determined that the

person is not disqualified from engaging in the activity for which clearance is required. [HSC 1338.5(a)(1)(B)]

- 6) Permits CDPH to deny an application for, initiate an action to suspend or revoke a certificate for, or deny a training and examination application for, a CNA/HHA for:
 - a) Unprofessional conduct, including, but not limited to, incompetence, gross negligence, unless due to circumstances beyond the nurse assistant's control, physical, mental, or verbal abuse of patients, or misappropriation of property of patients or others;
 - b) Conviction of a crime substantially related to the qualifications, functions, and duties of a certified nurse assistant if the state department determines that the applicant or certificate holder has not adequately demonstrated that he or she has been rehabilitated and will present a threat to the health, safety, or welfare of patients;
 - c) Conviction for, or use of, any controlled substance, or any dangerous drug, or alcoholic beverages, to an extent or in a manner dangerous or injurious to the CNA/HHA, any other person, or the public, to the extent that this use would impair the ability to conduct, with safety to the public, the practice authorized by a certificate;
 - d) Procuring a certificate by fraud or misrepresentation or mistake;
 - e) Making or giving any false statement or information in conjunction with the application for issuance of a certificate or training and examination application;
 - f) Impersonating any applicant, or acting as proxy for an applicant, in any examination required under this article for the issuance of a certificate;
 - g) Impersonating another CNA/HHA, a licensed vocational nurse, or a registered nurse, or permitting or allowing another person to use a certificate for the purpose of providing nursing services; or
 - h) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of, existing law related to certification. [HSC §1337.9(b) and §1736.5(c)]
- 7) Requires CDPH to take specified factors as evidence of good character and rehabilitation in determining whether or not to deny a CNA/HHA application for licensure or renewal. [HSC §1337.9(c) and §1736.5(c)(2)]

This bill:

- 1) Revises and recasts a portion of existing law governing the training and certification of CNAs and HHAs, including provisions related to the denial of an application for certification or training, or the suspension or revocation of certification, licensure, or renewal. Aligns the two training and certification statutes with each other.
- 2) Permits CDPH to deny an application for, or deny a training and examination application for, a CNA/HHA on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline if either:
 - a) The applicant has been convicted of a crime within the preceding seven years from the date of the application that is directly and adversely related to the qualifications, functions, or duties of a CNA/HHA, regardless of whether the applicant was incarcerated for that crime or the applicant was convicted of a serious felony, as specified, or a sex crime for which registration is required; or,
 - b) The applicant has been subjected to formal discipline by CDPH or a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline, and that is directly and adversely related to the qualifications, functions, or duties of a certified nurse

assistant. Prohibits the prior disciplinary action from being the basis for denial of a training and examination application or certificate if the basis for that disciplinary action was a conviction that has been dismissed, as specified. Permits formal discipline that occurred earlier than seven years preceding the date of the application to be grounds for denial of a certificate only if the formal discipline was for conduct that would have constituted an act of sexual abuse, misconduct, or relations with a patient, as specified.

- 3) Prohibits a person being denied a CNA/HHA certificate or training and examination application on the basis that the person has been convicted of a crime, or on the basis of acts underlying a conviction for a crime, if that person has obtained a certificate of rehabilitation, has been granted clemency or a pardon by a state or federal executive, or has made a showing of good character and rehabilitation, as determined by CDPH.
- 4) Prohibits a person being denied a CNA/HHA certificate or training and examination application on the basis of any conviction, or on the basis of the acts underlying the conviction, that have been dismissed or expunged. Requires the applicant who has a conviction that has been dismissed to provide proof of that, if it is not reflected on the report furnished by the DOJ.
- 5) Prohibits a person from being denied a CNA/HHA certificate or training and examination application on the basis of an arrest that resulted in a disposition other than a conviction, including an arrest that resulted in an infraction, a citation, diversion, deferred entry of judgment, or a juvenile adjudication.
- 6) Permits CDPH to deny a CNA/HHA certificate or training and examination application on the grounds that the applicant knowingly made a false statement of fact that is required to be revealed in the application. Prohibits CDPH from denying a CNA/HHA certificate or training and examination application based solely on an applicant's failure to disclose a fact that would not have been cause for denial had it been disclosed.
- 7) Requires CDPH to follow the following procedures in requesting or acting on an applicant's criminal history information:
 - a) Prohibits CDPH from requiring an applicant to disclose any information or documentation regarding the applicant's criminal history prior to obtaining the person's criminal offender record information search response information from the DOJ;
 - b) Permits CDPH, after it has received the criminal offender record information, to request mitigating information from an applicant regarding their criminal history that is grounds for denial, for purposes of determining direct and adverse relation or demonstrating evidence of rehabilitation, provided that the applicant is informed that disclosure is voluntary and that the applicant's decision not to disclose any information will not be a factor in any decision to grant or deny a certificate for, or a training and examination application;
 - c) Requires CDPH, if it decides to deny a training and examination application, to deny a certificate, or to revoke or suspend a certificate, to notify the applicant in writing, in addition to the reason for the determination and the right to appeal the determination (required under existing law):
 - i) The procedure for the applicant to challenge the determination or to request reconsideration; and,
 - ii) The processes for the applicant to request a copy of their complete conviction history and question the accuracy or completeness of the record.

- 8) Deletes existing law that permits the denial of a certification or training application, or the suspension or revocation of a certificate, on the basis of a conviction for, or use of, controlled substances or alcoholic beverages, as specified.
- 9) Deletes the requirement in existing law that a CNA/HHA, whose application was denied or certificate was suspended or revoked on the basis of a criminal conviction, provide the CDPH with a certified copy of the judgment of each conviction.
- 10) Deletes the requirement in existing law that a CNA/HHA applicant, as part of the background clearance process, provide information as to whether or not they have any prior criminal convictions, any arrests within the past 12-month period, or any active arrests, and certify that, to the best of their knowledge, the information provided is true.
- 11) Make other technical, clarifying changes.

FISCAL EFFECT: This bill has not been analyzed by a fiscal committee.

COMMENTS:

- 1) *Author's statement.* According to the author, this bill is a crucial step toward ensuring a fair opportunity for people with past records to pursue meaningful caregiving careers while also addressing California's direct care workforce shortage. People living with past convictions face lasting barriers to sustainable work, safe housing, education and other opportunities to succeed and care for their families. AB 2138 (Chiu, Chapter 995, Statutes of 2018) vastly improved the ability of people with a conviction history to navigate the occupational licensing process for a range of different boards and bureaus regulated by the Department of Consumer Affairs (DCA), which include registered and vocational nursing, physicians and surgeons, clinical social workers, counselors and many more. While these standards ensure a fair opportunity for people with records to obtain a range of DCA-regulated patient care licenses, people seeking certifications regulated by CDPH for similar roles, such as CNAs and HHAs, are not afforded the same protections. This bill would close this gap and ensure that people with records seeking these certifications, including entry into training programs, are afforded the same opportunity as those seeking similar DCA-regulated patient care professions, and consideration of their past convictions be subject to the same standards already approved by the Legislature.
- 2) *Direct care workers.* HHAs and CNAs are categorized by the U.S. Bureau of Labor Statistics (BLS) as "direct care workers," which include HHAs, CNAs, and personal care aides. In general, personal care aides provide custodial care, while HHAs and CNAs provide both custodial and limited skilled care. According to a January 2023 California Health Care Foundation (CHCF) Issue Brief, direct care workers are paid to provide essential, hands-on, daily, and long-term assistance to older adults and people with disabilities. They work in a range of settings (from private homes to community and congregate settings), assisting their clients to maximize their quality of life and supporting their clients' ability to remain in their own homes or communities when possible. Many of California's direct care workers come from historically marginalized backgrounds: 80% are women, almost half (47%) are immigrants, and over three-quarters are people of color (38% Latino; 24% Asian, Native Hawaiian, and Pacific Islander; and 12% Black).

According to the CHCF Issue Brief, getting an accurate count of California's direct care workforce is challenging. One reason is that the estimates include those employed by home health agencies and elder care service providers, but may not include independent providers. Additionally, direct care workers may have multiple jobs in different job categories, which could lead to double-counting. For example, a worker might have a full-time job at a nursing home as a CNA and pick up shifts as a personal care assistant at a second job. Finally, a hidden gray market for direct care workers occurs when consumers hire their own workers outside of a regulated program, making accurate counts of direct care workers even more complicated. According to the BLS, California had 978,490 direct care workers in May of 2024, including 875,110 personal care aides and HHAs (counted as a single category), and 102,380 CNAs.

- 3) *Training requirements and licensure.* Applicants for both CNA and HHA certificates must be at least 16 years old and have completed a CDPH-approved training program. CNA certification requires a minimum of 160 hours of training, with 60 classroom hours and 100 clinical hours, obtained through facility-based clinical training. HHA certification requires 120 hours of training, only 75 of which can be classroom-based. HHA clinical training takes place in health facilities or through home health agencies. CDPH approves two different types of training programs for HHAs: a shorter "40-hour" program for applicants that are already CNAs, and therefore have already completed some related training, and the full 120-hour program for applicants without prior certification as a CNA. CDPH maintains a list of approved HHA and CNA training programs, which are offered through community colleges, private nursing schools and career colleges, public school districts, and health care facilities.

Beyond completing the training program and passing the competency evaluation examination, applicants for CNA and HHA certificates must obtain criminal record clearance from CDPH's Criminal Background Section. This process includes an applicant's disclosure of their criminal history and the submission of fingerprints to the DOJ. The DOJ provides the applicant's criminal records to CDPH, which reviews the information and examines supporting documentation from courts and law enforcement as necessary. Decisions are made on a case-by-case basis that consider the nature and severity of the crime, the amount of time since the most recent conviction, and any evidence of rehabilitation. CNA and HHA licenses must be renewed every two years and require disclosure of any criminal conviction or health-related licensing, certification, or disciplinary authority action.

- 4) *Workforce shortages.* According to the CHCF Issue Brief, over the next decade, demand for direct care workers will outpace supply in California. Growing demand is driven by an aging and increasingly diverse population, fewer working-aged adults and family caregivers to support this aging population, a growing desire to remain in home and community-based settings, and an increased need for complex care provided in facility-based long-term care settings. California's Employment Development Department ranks HHAs and personal care aides as the fifth-fastest growing occupation from 2023 to 2033, projecting a 31% growth to 1.8 million positions in 2033. CNAs are also projected to grow by 8.4% to 150,000 positions in 2033. Despite the increased demand, the Public Policy Institute of California reports that projected direct care workforce shortages range from 600,000 to over three million workers over the next decade. Several factors constrain the supply of direct care workers. Direct care work is physically and emotionally demanding, yet wages remain low (around \$5 to \$10 below the state median of \$27.38/hour), with 26% of workers earning under 150% of the federal poverty level and 40% qualifying for CalFresh. A high proportion of part-time positions also contributes to burnout and exhaustion, as some direct care workers take on

multiple part-time jobs or take extra shifts at night or on weekends. Moreover, direct care workers on the front line during the COVID-19 pandemic received little support, supplies, or resources from their employers, further contributing to high rates of burnout, turnover, and fewer people willing to perform these jobs. According to a report from West Health, direct care workforce shortages strain families, who may need to choose between careers and caregiving due to a lack of direct care workers, and finances, as workforce shortages drive up costs and limit affordability.

- 5) *Broadening pathways for direct care work.* According to the National Employment Law Project, expanding opportunities for people with past criminal records—around eight million Californians, as estimated by the California Policy Lab—could help bolster the direct care workforce. A national survey from the Alliance for Safety and Justice found that more than half of adults with a past felony conviction found it difficult to find a job, maintain employment, or make a living after completing their sentence. Careers that do not require college education and offer on-the-job training, like CNA or HHA positions, offer promising pipelines to stable careers. Some prisons provide training opportunities for inmates to gain relevant experience in the field, like the California Men’s Colony Gold Coats program, which trains healthy inmates to care for older inmates with dementia and cognitive impairments.
- 6) *Prior legislation.* AB 1495 (Valencia, Chapter 400, Statutes of 2025) establishes requirements and standards for online training, distance learning training, or in-service training for HHAs; requires a person who provides training for an HHA to be either a registered nurse (RN) with at least two years nursing experience (with at least one year in home health care) or a licensed vocational nurse under the general supervision of the RN.

AB 2131 (Valencia, Chapter 380, Statutes of 2024) requires CDPH, twice a year, to update and publish on its website, a list of approved training programs for CNAs and requires CDPH to solicit applications from vendors to provide the CNA exam in Spanish.

AB 2069 (Villapudua of 2022) would have established the California Home Health Aide Training Scholarship Act, administered by the Department of Health Care Access and Information (HCAI), to incentivize enrollment in home health aide training programs by awarding \$1,500 scholarships. *AB 2069 was vetoed by Governor Newsom, who stated, in part: I support the author's goal of expanding the home health aide workforce. However, this bill duplicates existing HCAI programs that provide funding and scholarships to support and expand the home health aide workforce throughout the state. An individual interested in becoming a home health aide can apply to HCAI's Allied Healthcare Scholarship Program for financial assistance.*

AB 2138 (Chiu, Chapter 995, Statutes of 2018) limits a regulatory board's discretion to deny a new license application to cases where the applicant was formally convicted of a substantially related crime or subjected to formal discipline by a licensing board, with offenses older than seven years not eligible for license denial, with several exemptions.

SB 1384 (Mitchell, Chapter 847, Statutes of 2014) deletes the requirement that CDPH deny, suspend, or revoke a certificate of a CNA if the applicant or certificate holder had been convicted of a violation or attempted violation of one or more specified crimes.

- 7) *Support.* Californians for Safety and Justice, the sponsors of the bill, state that Californians living with past convictions face lasting barriers to sustainable work, safe housing, education and other opportunities to succeed. The passage of AB 2138 improved the ability of those with a conviction history to navigate occupational licensing process for many boards within DCA but did not include CDPH-regulated CNA and HHA certification, professions that can provide a vital pathway to sustainable employment through accessible, short-term training programs. This bill would ensure that people with records seeking CNA or HHA certification are afforded the same opportunity as those in similar patient care professions, aligning the consideration of their past convictions to the same standards already approved by the legislature. These sentiments are echoed by organizing networks, social service providers, and criminal justice advocacy groups. The California Primary Care Association Advocates also share that community health centers often serve communities where individuals are seeking pathways to stable employment. By clarifying standards and due process protections in the CNA and HHA certification system, this bill will help community health centers recruit and retain critical staff to provide timely care, support aging populations, and address growing demand for home- and community-based services.

SUPPORT AND OPPOSITION:

Support: Californians for Safety and Justice (sponsor)
 All of Us or None
 California Primary Care Association Advocates
 Center for Employment Opportunities
 Community Legal Services in East Palo Alto
 Courage California
 Felony Murder Elimination Project
 GLIDE
 Legal Services for Prisoners with Children
 Rubicon Program
 Transitions Clinic Network

Oppose: None received.

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