

AN ACT concerning State government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Mental Health and Developmental Disabilities Administrative Act is amended by changing Section 15.4 as follows:

(20 ILCS 1705/15.4)

Sec. 15.4. Authorization for nursing delegation to permit direct care staff to administer medications.

(a) This Section applies to (i) all residential programs for persons with a developmental disability in settings of 16 persons or fewer that are funded or licensed by the Department of Human Services and that distribute or administer medications, ~~and~~ (ii) all intermediate care facilities for persons with developmental disabilities with 16 beds or fewer that are licensed by the Department of Public Health, and (iii) all day programs certified to serve persons with developmental disabilities by the Department of Human Services. The Department of Human Services shall develop a training program for authorized direct care staff to administer medications under the supervision and monitoring of a registered professional nurse. The training program for authorized direct care staff shall include educational and oversight components

for staff who work in day programs that are similar to those for staff who work in residential programs. This training program shall be developed in consultation with professional associations representing (i) physicians licensed to practice medicine in all its branches, (ii) registered professional nurses, and (iii) pharmacists.

(b) For the purposes of this Section:

"Authorized direct care staff" means non-licensed persons who have successfully completed a medication administration training program approved by the Department of Human Services and conducted by a nurse-trainer. This authorization is specific to an individual receiving service in a specific agency and does not transfer to another agency.

"Medications" means oral and topical medications, insulin in an injectable form, oxygen, epinephrine auto-injectors, and vaginal and rectal creams and suppositories. "Oral" includes inhalants and medications administered through enteral tubes, utilizing aseptic technique. "Topical" includes eye, ear, and nasal medications. Any controlled substances must be packaged specifically for an identified individual.

"Insulin in an injectable form" means a subcutaneous injection via an insulin pen pre-filled by the manufacturer. Authorized direct care staff may administer insulin, as ordered by a physician, advanced practice nurse, or physician assistant, if: (i) the staff has successfully completed a Department-approved advanced training program specific to

insulin administration developed in consultation with professional associations listed in subsection (a) of this Section, and (ii) the staff consults with the registered nurse, prior to administration, of any insulin dose that is determined based on a blood glucose test result. The authorized direct care staff shall not: (i) calculate the insulin dosage needed when the dose is dependent upon a blood glucose test result, or (ii) administer insulin to individuals who require blood glucose monitoring greater than 3 times daily, unless directed to do so by the registered nurse.

"Nurse-trainer training program" means a standardized, competency-based medication administration train-the-trainer program provided by the Department of Human Services and conducted by a Department of Human Services master nurse-trainer for the purpose of training nurse-trainers to train persons employed or under contract to provide direct care or treatment to individuals receiving services to administer medications and provide self-administration of medication training to individuals under the supervision and monitoring of the nurse-trainer. The program incorporates adult learning styles, teaching strategies, classroom management, and a curriculum overview, including the ethical and legal aspects of supervising those administering medications.

"Self-administration of medications" means an individual administers his or her own medications. To be considered capable to self-administer their own medication, individuals

must, at a minimum, be able to identify their medication by size, shape, or color, know when they should take the medication, and know the amount of medication to be taken each time.

"Training program" means a standardized medication administration training program approved by the Department of Human Services and conducted by a registered professional nurse for the purpose of training persons employed or under contract to provide direct care or treatment to individuals receiving services to administer medications and provide self-administration of medication training to individuals under the delegation and supervision of a nurse-trainer. The program incorporates adult learning styles, teaching strategies, classroom management, curriculum overview, including ethical-legal aspects, and standardized competency-based evaluations on administration of medications and self-administration of medication training programs.

(c) Training and authorization of non-licensed direct care staff by nurse-trainers must meet the requirements of this subsection.

(1) Prior to training non-licensed direct care staff to administer medication, the nurse-trainer shall perform the following for each individual to whom medication will be administered by non-licensed direct care staff:

(A) An assessment of the individual's health history and physical and mental status.

(B) An evaluation of the medications prescribed.

(2) Non-licensed authorized direct care staff shall meet the following criteria:

(A) Be 18 years of age or older.

(B) Have completed high school or have a high school equivalency certificate.

(C) Have demonstrated functional literacy.

(D) Have satisfactorily completed the Health and Safety component of a Department of Human Services authorized direct care staff training program.

(E) Have successfully completed the training program, pass the written portion of the comprehensive exam, and score 100% on the competency-based assessment specific to the individual and his or her medications.

(F) Have received additional competency-based assessment by the nurse-trainer as deemed necessary by the nurse-trainer whenever a change of medication occurs or a new individual that requires medication administration enters the program.

(3) Authorized direct care staff shall be re-evaluated by a nurse-trainer at least annually or more frequently at the discretion of the registered professional nurse. Any necessary retraining shall be to the extent that is necessary to ensure competency of the authorized direct care staff to administer medication.

(4) Authorization of direct care staff to administer medication shall be revoked if, in the opinion of the registered professional nurse, the authorized direct care staff is no longer competent to administer medication.

(5) The registered professional nurse shall assess an individual's health status at least annually or more frequently at the discretion of the registered professional nurse.

(d) Medication self-administration shall meet the following requirements:

(1) As part of the normalization process, in order for each individual to attain the highest possible level of independent functioning, all individuals shall be permitted to participate in their total health care program. This program shall include, but not be limited to, individual training in preventive health and self-medication procedures.

(A) Every program shall adopt written policies and procedures for assisting individuals in obtaining preventative health and self-medication skills in consultation with a registered professional nurse, advanced practice nurse, physician assistant, or physician licensed to practice medicine in all its branches.

(B) Individuals shall be evaluated to determine their ability to self-medicate by the nurse-trainer

through the use of the Department's required, standardized screening and assessment instruments.

(C) When the results of the screening and assessment indicate an individual not to be capable to self-administer his or her own medications, programs shall be developed in consultation with the Community Support Team or Interdisciplinary Team to provide individuals with self-medication administration.

(2) Each individual shall be presumed to be competent to self-administer medications if:

(A) authorized by an order of a physician licensed to practice medicine in all its branches, an advanced practice nurse, or a physician assistant; and

(B) approved to self-administer medication by the individual's Community Support Team or Interdisciplinary Team, which includes a registered professional nurse or an advanced practice nurse.

(e) Quality Assurance.

(1) A registered professional nurse, advanced practice nurse, licensed practical nurse, physician licensed to practice medicine in all its branches, physician assistant, or pharmacist shall review the following for all individuals:

(A) Medication orders.

(B) Medication labels, including medications listed on the medication administration record for

persons who are not self-medicating to ensure the labels match the orders issued by the physician licensed to practice medicine in all its branches, advanced practice nurse, or physician assistant.

(C) Medication administration records for persons who are not self-medicating to ensure that the records are completed appropriately for:

- (i) medication administered as prescribed;
- (ii) refusal by the individual; and
- (iii) full signatures provided for all initials used.

(2) Reviews shall occur at least quarterly, but may be done more frequently at the discretion of the registered professional nurse or advanced practice nurse.

(3) A quality assurance review of medication errors and data collection for the purpose of monitoring and recommending corrective action shall be conducted within 7 days and included in the required annual review.

(f) Programs using authorized direct care staff to administer medications are responsible for documenting and maintaining records on the training that is completed.

(g) The absence of this training program constitutes a threat to the public interest, safety, and welfare and necessitates emergency rulemaking by the Departments of Human Services and Public Health under Section 5-45 of the Illinois Administrative Procedure Act.

(h) Direct care staff who fail to qualify for delegated authority to administer medications pursuant to the provisions of this Section shall be given additional education and testing to meet criteria for delegation authority to administer medications. Any direct care staff person who fails to qualify as an authorized direct care staff after initial training and testing must within 3 months be given another opportunity for retraining and retesting. A direct care staff person who fails to meet criteria for delegated authority to administer medication, including, but not limited to, failure of the written test on 2 occasions shall be given consideration for shift transfer or reassignment, if possible. No employee shall be terminated for failure to qualify during the 3-month time period following initial testing. Refusal to complete training and testing required by this Section may be grounds for immediate dismissal.

(i) No authorized direct care staff person delegated to administer medication shall be subject to suspension or discharge for errors resulting from the staff person's acts or omissions when performing the functions unless the staff person's actions or omissions constitute willful and wanton conduct. Nothing in this subsection is intended to supersede paragraph (4) of subsection (c).

(j) A registered professional nurse, advanced practice nurse, physician licensed to practice medicine in all its branches, or physician assistant shall be on duty or on call at

all times in any program covered by this Section.

(k) The employer shall be responsible for maintaining liability insurance for any program covered by this Section.

(l) Any direct care staff person who qualifies as authorized direct care staff pursuant to this Section shall be granted consideration for a one-time additional salary differential. The Department shall determine and provide the necessary funding for the differential in the base. This subsection (l) is inoperative on and after June 30, 2000.

(Source: P.A. 98-718, eff. 1-1-15; 98-901, eff. 8-15-14; 99-78, eff. 7-20-15; 99-143, eff. 7-27-15; 99-581, eff. 1-1-17.)

Section 10. The MC/DD Act is amended by adding Section 3-301.1 as follows:

(210 ILCS 46/3-301.1 new)

Sec. 3-301.1. Administration of medication by direct care staff at day programs. For the purposes of this Act, violations cited against a facility as a result of actions involving administration of medication by direct care staff of day programs certified to serve persons with developmental disabilities by the Department of Human Services under Section 15.4 of the Mental Health and Developmental Disabilities Administrative Act will not result in:

(1) the facility being issued a "Type AA" violation as defined in Section 1-128.5 of this Act;

(2) the facility being issued a "Type A" violation as defined in Section 1-129 of this Act;

(3) the facility being issued a "Type B" violation as defined in Section 1-130 of this Act;

(4) denial of the facility's license under Section 3-117 of this Act;

(5) the facility being placed on the Department's quarterly list of facilities which the Department has taken action against prepared under Section 3-304 of this Act;

(6) the facility being assessed a penalty or fine under Section 3-305 of this Act;

(7) the facility being issued a conditional license under Section 3-311 of this Act; or

(8) the Department's suspension or revocation of a facility's license or refusal to renew a facility's license under Section 3-119 of this Act.

The Department shall notify the Division of Developmental Disabilities of the Department of Human Services when it becomes aware of a medication error at a day program or that a resident is injured or is subject to alleged abuse or neglect at a day program.

Section 15. The ID/DD Community Care Act is amended by adding Section 3-301.1 as follows:

(210 ILCS 47/3-301.1 new)

Sec. 3-301.1. Administration of medication by direct care staff at day programs. For the purposes of this Act, violations cited against a facility as a result of actions involving administration of medication by direct care staff of day programs certified to serve persons with developmental disabilities by the Department of Human Services under Section 15.4 of the Mental Health and Developmental Disabilities Administrative Act will not result in:

(1) the facility being issued a "Type AA" violation as defined in Section 1-128.5 of this Act;

(2) the facility being issued a "Type A" violation as defined in Section 1-129 of this Act;

(3) the facility being issued a "Type B" violation as defined in Section 1-130 of this Act;

(4) denial of the facility's license under Section 3-117 of this Act;

(5) the facility being placed on the Department's quarterly list of facilities which the Department has taken action against prepared under Section 3-304 of this Act;

(6) the facility being assessed a penalty or fine under Section 3-305 of this Act;

(7) the facility being issued a conditional license under Section 3-311 of this Act; or

(8) the Department's suspension or revocation of a facility's license or refusal to renew a facility's license under Section 3-119 of this Act.

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The Department shall notify the Division of Developmental Disabilities of the Department of Human Services when it becomes aware of a medication error at a day program or that a resident is injured or is subject to alleged abuse or neglect at a day program.

Section 99. Effective date. This Act takes effect January 1, 2018.