

1 AN ACT concerning State government.

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

4 Section 5. The Mental Health and Developmental
5 Disabilities Administrative Act is amended by changing Section
6 15.4 as follows:

7 (20 ILCS 1705/15.4)

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

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

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

7 (b) For the purposes of this Section:

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

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

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

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

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

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

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

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

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

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

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

1 (B) An evaluation of the medications prescribed.

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

4 (A) Be 18 years of age or older.

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

7 (C) Have demonstrated functional literacy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (e) Quality Assurance.

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

24 (A) Medication orders.

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

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

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

8 (i) medication administered as prescribed;

9 (ii) refusal by the individual; and

10 (iii) full signatures provided for all
11 initials used.

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

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

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

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

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

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

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

1 all times in any program covered by this Section.

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

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

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

12 Section 10. The MC/DD Act is amended by adding Section
13 3-301.1 as follows:

14 (210 ILCS 46/3-301.1 new)

15 Sec. 3-301.1. Administration of medication by direct care
16 staff at day programs. For the purposes of this Act, violations
17 cited against a facility as a result of actions involving
18 administration of medication by direct care staff of day
19 programs certified to serve persons with developmental
20 disabilities by the Department of Human Services under Section
21 15.4 of the Mental Health and Developmental Disabilities
22 Administrative Act will not result in:

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

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

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

5 (4) denial of the facility's license under Section
6 3-117 of this Act;

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

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

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

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

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

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

24 (210 ILCS 47/3-301.1 new)

1 Sec. 3-301.1. Administration of medication by direct care
2 staff at day programs. For the purposes of this Act, violations
3 cited against a facility as a result of actions involving
4 administration of medication by direct care staff of day
5 programs certified to serve persons with developmental
6 disabilities by the Department of Human Services under Section
7 15.4 of the Mental Health and Developmental Disabilities
8 Administrative Act will not result in:

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

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

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

15 (4) denial of the facility's license under Section
16 3-117 of this Act;

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

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

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

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

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

6 Section 99. Effective date. This Act takes effect January
7 1, 2018.