



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5937

by Rep. Randy Frese

SYNOPSIS AS INTRODUCED:

20 ILCS 1705/15.4

Amends the Mental Health and Developmental Disabilities Administrative Act. Provides that the provision requiring the Department of Human Services to develop a training program for authorized direct care staff to administer medications under the supervision and monitoring of a registered professional nurse applies to (i) all residential (rather than all 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 day programs certified to serve persons with developmental disabilities by the Department of Human Services. Effective January 1, 2017.

LRB099 16173 RLC 40499 b

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. This training program shall be developed in
23 consultation with professional associations representing (i)

1 physicians licensed to practice medicine in all its branches,
2 (ii) registered professional nurses, and (iii) pharmacists.

3 (b) For the purposes of this Section:

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

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

17 "Insulin in an injectable form" means a subcutaneous
18 injection via an insulin pen pre-filled by the manufacturer.
19 Authorized direct care staff may administer insulin, as ordered
20 by a physician, advanced practice nurse, or physician
21 assistant, if: (i) the staff has successfully completed a
22 Department-approved advanced training program specific to
23 insulin administration developed in consultation with
24 professional associations listed in subsection (a) of this
25 Section, and (ii) the staff consults with the registered nurse,
26 prior to administration, of any insulin dose that is determined

1 based on a blood glucose test result. The authorized direct
2 care staff shall not: (i) calculate the insulin dosage needed
3 when the dose is dependent upon a blood glucose test result, or
4 (ii) administer insulin to individuals who require blood
5 glucose monitoring greater than 3 times daily, unless directed
6 to do so by the registered nurse.

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

20 "Self-administration of medications" means an individual
21 administers his or her own medications. To be considered
22 capable to self-administer their own medication, individuals
23 must, at a minimum, be able to identify their medication by
24 size, shape, or color, know when they should take the
25 medication, and know the amount of medication to be taken each
26 time.

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

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

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

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

23 (B) An evaluation of the medications prescribed.

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

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

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

3 (C) Have demonstrated functional literacy.

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

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

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

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

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

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

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

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

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

21 (B) Individuals shall be evaluated to determine
22 their ability to self-medicate by the nurse-trainer
23 through the use of the Department's required,
24 standardized screening and assessment instruments.

25 (C) When the results of the screening and
26 assessment indicate an individual not to be capable to

1 self-administer his or her own medications, programs
2 shall be developed in consultation with the Community
3 Support Team or Interdisciplinary Team to provide
4 individuals with self-medication administration.

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

7 (A) authorized by an order of a physician licensed
8 to practice medicine in all its branches; and

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

13 (e) Quality Assurance.

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

19 (A) Medication orders.

20 (B) Medication labels, including medications
21 listed on the medication administration record for
22 persons who are not self-medicating to ensure the
23 labels match the orders issued by the physician
24 licensed to practice medicine in all its branches,
25 advanced practice nurse, or physician assistant.

26 (C) Medication administration records for persons

1 who are not self-medicating to ensure that the records
2 are completed appropriately for:

3 (i) medication administered as prescribed;

4 (ii) refusal by the individual; and

5 (iii) full signatures provided for all
6 initials used.

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

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

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

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

22 (h) Direct care staff who fail to qualify for delegated
23 authority to administer medications pursuant to the provisions
24 of this Section shall be given additional education and testing
25 to meet criteria for delegation authority to administer
26 medications. Any direct care staff person who fails to qualify

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

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

19 (j) A registered professional nurse, advanced practice
20 nurse, physician licensed to practice medicine in all its
21 branches, or physician assistant shall be on duty or on call at
22 all times in any program covered by this Section.

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

25 (l) Any direct care staff person who qualifies as
26 authorized direct care staff pursuant to this Section shall be

1 granted consideration for a one-time additional salary
2 differential. The Department shall determine and provide the
3 necessary funding for the differential in the base. This
4 subsection (1) is inoperative on and after June 30, 2000.

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

7 Section 99. Effective date. This Act takes effect January
8 1, 2017.