

CHAPTER 307

HEALTH AND ENVIRONMENT

HOUSE BILL 16-1424

BY REPRESENTATIVE(S) Vigil, Conti, Roupe, Arndt, Esgar, Fields, Ginal, Kraft-Tharp, Pabon, Young, Hulinghorst;
also SENATOR(S) Garcia, Cooke, Lundberg, Martinez Humenik.

AN ACT

**CONCERNING QUALIFICATIONS FOR THE ADMINISTRATION OF MEDICATIONS IN FACILITIES, AND,
IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 25-1.5-301, **amend** (2) (h) and (4) (b) as follows:

25-1.5-301. Definitions. As used in this part 3, unless the context otherwise requires:

(2) "Facility" means:

(h) All services funded through and regulated by the department of ~~human services~~ HEALTH CARE POLICY AND FINANCING pursuant to article ~~10.5~~ 6 of title ~~27~~ 25.5, C.R.S., in support of persons with intellectual and developmental disabilities; and

(4) "Qualified manager" means a person who:

(b) Has completed training in the administration of medications pursuant to section 25-1.5-303 or is a licensed nurse pursuant to article 38 of title 12, C.R.S., a licensed physician pursuant to article 36 of title 12, C.R.S., or a licensed pharmacist pursuant to article 42.5 of title 12, C.R.S. Every unlicensed person who is a "qualified manager" within the meaning of this subsection (4) shall ~~every four years~~, successfully complete a ~~test approved by the department~~ COMPETENCY EVALUATION pertaining to the administration of medications.

SECTION 2. In Colorado Revised Statutes, 25-1.5-302, **amend** (1) introductory

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

portion, (1) (a), (3), and (8); and **add** (9) and (10) as follows:

25-1.5-302. Administration of medications - powers and duties of department - criminal history record checks. (1) The department has, in addition to all other powers and duties imposed upon it by law, the power ~~and duty~~ to establish and maintain by rule ~~and regulation~~ a program for the administration of medications in facilities. ~~which program shall be developed and conducted by the department of human services and the department of corrections, as provided in this part 3~~ THE DEPARTMENT OF HUMAN SERVICES, THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, AND THE DEPARTMENT OF CORRECTIONS SHALL DEVELOP AND CONDUCT A MEDICATION ADMINISTRATION PROGRAM AS PROVIDED IN THIS PART 3. A MEDICATION ADMINISTRATION PROGRAM DEVELOPED PURSUANT TO THIS SUBSECTION (1) MUST BE CONDUCTED within the following guidelines:

(a) As a condition to authorizing or renewing the authorization to operate any facility that administers medications to persons under its care, the authorizing agency shall require that the facility have a staff member qualified pursuant to paragraph (b) of this subsection (1) on duty at any time that the facility administers such medications and that the facility maintain a written record of each medication administered to each resident, including the DATE, time, and ~~the~~ amount of the medication AND THE SIGNATURE OF THE PERSON ADMINISTERING THE MEDICATION. Such record ~~will be~~ IS subject to review by the authorizing agency as a part of ~~its~~ THE AGENCY'S procedure in authorizing the continued operation of the facility. Notwithstanding any exemption enumerated in paragraph (b) of this subsection (1), any facility may establish a policy ~~which~~ THAT requires a person authorized to administer medication to report to, be supervised by, or ~~to~~ be otherwise accountable for the performance of such administration to a registered nurse as defined in section 12-38-103, C.R.S.

(3) ~~If either~~ The department of human services, ~~or~~ THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, AND the department of corrections ~~wishes to use a different training curriculum and competency evaluation procedure for those who administer medications in the facilities whose operation is authorized by those departments, such department shall ensure that such training curriculum and competency evaluation procedure are first submitted to the department of public health and environment for its review. If, after such review, the department of public health and environment has no objection, the submitting department shall assume responsibility for the cost and implementation of such curriculum and evaluation in keeping with the other provisions of this medications administration program for those facilities whose operation is authorized by such department. Any department that administers competency evaluations shall maintain a list of those who have successfully completed such competency evaluation and shall forward a copy of such list to the department of public health and environment within forty-five days after administration of such evaluation~~ MAY DEVELOP AND APPROVE MINIMUM REQUIREMENTS FOR COURSE CONTENT, INCLUDING COMPETENCY EVALUATIONS, FOR INDIVIDUALS WHO ADMINISTER MEDICATIONS IN FACILITIES WHOSE OPERATION IS AUTHORIZED BY THOSE DEPARTMENTS. A DEPARTMENT THAT ADMINISTERS COMPETENCY EVALUATIONS SHALL MAINTAIN A PUBLIC LIST OF INDIVIDUALS WHO HAVE SUCCESSFULLY COMPLETED THE COMPETENCY EVALUATION.

(8) Each owner, operator, or supervisor of a facility who employs a person who

is not licensed to administer medications shall conduct a ~~drug-related~~ criminal background check on each employee prior to employment OR PROMOTION TO A POSITION IN WHICH THE PERSON HAS ACCESS TO MEDICATIONS.

(9) EVERY UNLICENSED PERSON AND QUALIFIED MANAGER DESCRIBED IN THIS SECTION, AS A CONDITION OF EMPLOYMENT OR PROMOTION TO A POSITION IN WHICH HE OR SHE HAS ACCESS TO MEDICATIONS, SHALL SIGN A DISCLOSURE STATEMENT UNDER PENALTY OF PERJURY STATING THAT HE OR SHE NEVER HAD A PROFESSIONAL LICENSE TO PRACTICE NURSING, MEDICINE, OR PHARMACY REVOKED IN THIS OR ANY OTHER STATE FOR REASONS DIRECTLY RELATED TO THE ADMINISTRATION OF MEDICATIONS.

(10) A PERSON WHO, ON OR BEFORE JULY 1, 2017, IS AUTHORIZED TO ADMINISTER MEDICATION PURSUANT TO THIS SECTION IS NOT REQUIRED TO COMPLETE ADDITIONAL TRAINING BUT IS OTHERWISE SUBJECT TO THIS SECTION.

SECTION 3. In Colorado Revised Statutes, 25-1.5-302, **amend** (2); and **repeal** (4), (5), (6), and (7) as follows:

25-1.5-302. Administration of medications - powers and duties of department - criminal history record checks. (2) (a) ~~The department in cooperation with appropriate agencies or advisory bodies, shall develop or approve training curricula and competency evaluation procedures for those who administer medications in facilities~~ ESTABLISH BY RULE THE MINIMUM REQUIREMENTS FOR COURSE CONTENT, INCLUDING COMPETENCY EVALUATIONS, FOR MEDICATION ADMINISTRATION AND TO DETERMINE COMPLIANCE WITH THE REQUIREMENTS FOR FACILITIES LICENSED UNDER THIS TITLE.

(b) THE DEPARTMENT SHALL APPROVE TRAINING ENTITIES FOR FACILITIES LICENSED UNDER THIS TITLE AND MAINTAIN A LIST OF APPROVED TRAINING ENTITIES. THE DEPARTMENT SHALL ESTABLISH BY RULE THE MINIMUM REQUIREMENTS FOR TRAINING ENTITIES, INCLUDING INSTRUCTOR QUALIFICATIONS AND THE APPROVAL PROCESS. APPROVED TRAINING ENTITIES SHALL PROVIDE THE DEPARTMENT WITH A LIST OF ALL PERSONS WHO HAVE SUCCESSFULLY COMPLETED A COMPETENCY EVALUATION.

(c) TRAINING ENTITIES SHALL ALSO PROVIDE THE DEPARTMENT WITH ANY OTHER PERTINENT INFORMATION REASONABLY REQUESTED BY THE DEPARTMENT PURSUANT TO THE DEPARTMENT'S OBLIGATION AND AUTHORITY UNDER THIS SECTION.

(d) THE DEPARTMENT SHALL PUBLISH AND MAINTAIN A CURRENT LIST OF ALL PERSONS WHO HAVE PASSED A COMPETENCY EVALUATION FROM AN APPROVED TRAINING ENTITY AND PAID THE FEE REQUIRED BY PARAGRAPH (e) OF THIS SUBSECTION (2).

(e) THE DEPARTMENT SHALL SET AND COLLECT A UNIFORM FEE FOR INCLUSION IN THE PUBLIC COMPETENCY LISTING. THE DEPARTMENT SHALL NOT INCLUDE AN INDIVIDUAL ON THE PUBLIC LISTING UNLESS THE INDIVIDUAL HAS SUCCESSFULLY COMPLETED A COMPETENCY EVALUATION FROM AN APPROVED TRAINING ENTITY AND PAID THE FEE ESTABLISHED BY THE DEPARTMENT. THE REVENUE GENERATED FROM THE FEE MUST APPROXIMATE THE DIRECT AND INDIRECT COSTS INCURRED BY

THE DEPARTMENT IN THE PERFORMANCE OF DUTIES UNDER THIS SECTION.

~~(4) The department shall assure that training sessions, each followed by a competency evaluation set to measure basic competency only, are offered at various geographic locations in the state. An individual who does not pass the competency evaluation may apply to retake it. An appropriate fee must be paid each time the competency evaluation is taken. An individual may apply for and take the competency evaluation only once without having first attended a training session approved by the department. If such individual fails to meet a minimum competency level on such first evaluation, the applicant must attend an approved training session before again taking the competency evaluation.~~

~~(5) The department shall set and collect a uniform fee for any training session given and a uniform fee for any competency evaluation administered under the provisions of this section whether the department administers such training or testing or contracts with a private provider pursuant to subsection (7) of this section, so that the revenue generated from such fees approximates the direct and indirect costs incurred by the department in the performance of its duties under this section. No person shall enroll in a training session or take the competency evaluation test until such person applies and makes payment of the appropriate fees to the department.~~

~~(6) If the individual authorized to administer medication pursuant to subsection (1) of this section is found, during the course of any review by the authorizing agency as part of its procedure in authorizing the continued operation of the facility, to be unable or unwilling to comply with the training regimen established for medication administration, the department may order retraining as a remedial measure.~~

~~(7) (a) If the department determines that it is not able to provide the training and administer competency evaluations pursuant to this section, the department may contract with a private provider or instructor to provide such training and administer such competency evaluations.~~

~~(b) Before any private contractor may offer training pursuant to this subsection (7), such private contractor shall be reviewed by the department. Only those private contractors approved by the department may offer training. Any such approved private contractor shall offer only a medication administration training program which has been approved by the department. The department shall maintain a list of approved medication administration contractors. The department shall compensate contractors from the fees collected from each trainee in attendance at any such privately contracted training session or competency evaluation.~~

~~(c) All private contractors shall provide the department with a list of all persons who have taken such contractor's approved training sessions or have passed the competency evaluation or both. Such contractors shall also provide the department with any other pertinent information reasonably requested by the department pursuant to its obligations and authority under this section. The department shall maintain a listing of all persons who have passed the competency evaluation on its web site.~~

SECTION 4. In Colorado Revised Statutes, 25-1.5-303, **amend** (1), (2), (3), and (5) (c) as follows:

25-1.5-303. Medication reminder boxes or systems - medication cash fund - repeal. (1) Medication reminder boxes or systems may be used if such containers have been filled and properly labeled by a pharmacist licensed pursuant to article 42.5 of title 12, C.R.S., a nurse licensed pursuant to article 38 of title 12, C.R.S., or an unlicensed person trained pursuant to this section or filled and properly labeled through the gratuitous care by members of one's family or friends. Nothing in this section authorizes or shall be construed to authorize the practice of pharmacy, as defined in section 12-42.5-102 (31), C.R.S. ~~No~~ An unlicensed person shall NOT fill and label medication reminder boxes pursuant to this section until ~~such~~ THE person has SUCCESSFULLY completed ~~appropriate training approved by the department,~~ A COMPETENCY EVALUATION FROM AN APPROVED TRAINING ENTITY OR HAS BEEN APPROVED BY AN AUTHORIZED AGENCY, and no facility shall use an unlicensed person to perform such services unless ~~such~~ THE facility has a qualified manager to oversee the work of ~~such~~ THE unlicensed person or persons. ~~Every unlicensed person and qualified manager described in this section shall sign a disclosure statement under penalty of perjury stating that he or she never had a professional license to practice nursing, medicine, or pharmacy revoked in this or any other state for reasons directly related to the administration of medications.~~

(2) The department has, in addition to all other powers and duties imposed upon it by law, the powers and duties provided in this section to develop and implement ~~policies and procedures~~ RULES with respect to the provisions in subsection (1) of this section concerning the administration of medication reminder boxes.

(3) The executive directors of the departments that control the facilities defined in section 25-1.5-301 (2) (a) and (2) (b) may direct the unlicensed staff of any such facility to monitor medications in any part of any such facility. Administration of medications in any such facility shall be allowed only in those areas of any such facility that have a licensed physician or other licensed practitioner on duty. Notwithstanding other training requirements established in this section, the operator or administrator of every facility that hires an unlicensed person to administer medications pursuant to this section shall provide on-the-job training for such person, and all such unlicensed persons hired on or after July 1, ~~1998~~ 2017, shall be adequately supervised until they have SUCCESSFULLY completed ~~such~~ THE training. ~~Such~~ THE on-the-job training shall MUST be appropriate to the job responsibilities of each trainee. Facility operators and administrators shall require each unlicensed person who administers medication in the facility to pass ~~the~~ A competency evaluation ~~developed or approved by the department~~ pursuant to section 25-1.5-302 (2) as a condition of employment in that facility. ~~at least once every five years.~~ Facility operators and administrators shall document each unlicensed person's satisfactory completion of on-the-job training and passage of the competency evaluation in his or her permanent personnel file.

(5) (c) (I) Any ~~moneys~~ MONEY collected by the department from persons taking a training program or a competency examination from a private contractor approved pursuant to section 25-1.5-302 (7) shall be transmitted to the state treasurer, who shall credit the same to the medication administration cash fund created in paragraph (a) of this subsection (5). Such ~~moneys~~ MONEY collected from the fees

charged for any such training program or competency examination shall be annually appropriated by the general assembly to the department for the purpose of paying private contractors for services rendered and for paying the department's direct and indirect costs incurred pursuant to section 25-1.5-302 (7).

(II) THIS PARAGRAPH (c) IS REPEALED, EFFECTIVE JULY 1, 2017.

SECTION 5. Appropriation. For the 2016-17 state fiscal year, \$30,298 is appropriated to the department of public health and environment for use by the health facilities and emergency medical services division. This appropriation is from the medication administration cash fund created in section 25-1.5-303 (5) (a), C.R.S., and is based on an assumption that the division will require an additional 0.5 FTE. To implement this act, the division may use this appropriation for administration and operations.

SECTION 6. Effective date. This act takes effect July 1, 2016; except that section 3 of this act takes effect July 1, 2017.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 10, 2016