ENROLLED HOUSE
BILL NO. 2518

By: Cox and Nance of the House

and

Paddack of the Senate

An Act relating to Department of Corrections; amending 57 O.S. 2001, Section 623, as amended by Section 1, Chapter 56, O.S.L. 2002 (57 O.S. Supp. 2005, Section 623), which relates to on-site primary medical treatment programs; authorizing employment of certified medication aides; amending 63 O.S. 2001, Section 1-1950.3, as last amended by Section 12, Chapter 460, O.S.L. 2005 (63 O.S. Supp. 2005, Section 1-1950.3), which relates to nurses and medication aides; allowing certified medication aides to distribute medications in correctional facilities; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 57 O.S. 2001, Section 623, as amended by Section 1, Chapter 56, O.S.L. 2002 (57 O.S. Supp. 2005, Section 623), is amended to read as follows:

Section 623. A. The Department of Corrections is authorized to operate on-site primary medical treatment programs using employed or contracted providers at facilities operated by the Department.

B. Any registered nurse or licensed practical nurse, as defined in Section 567.3a of Title 59 of the Oklahoma Statutes, who is employed under such medical treatment programs may administer nonprescription drugs, as defined in Section 353.1 of Title 59 of the Oklahoma Statutes, to inmates without specific physician authorization.

C. Any certified medication aide, as provided for in subsection E of Section 1-1950.3 of Title 63 of the Oklahoma Statutes, may be employed by the Department of Corrections or a contractor of the Department of Corrections and work in the manner as set forth in that section during the term of said employment.

SECTION 2. AMENDATORY 63 O.S. 2001, Section 1-1950.3, as last amended by Section 12, Chapter 460, O.S.L. 2005 (63 O.S. Supp. 2005, Section 1-1950.3), is amended to read as follows:

Section 1-1950.3 A. 1. Until November 1, 2004, no employer or contractor who is subject to the provisions of Section 1-1950.1 or 1-1950.2 of this title shall use, on a full-time, temporary, per diem, or other basis, any individual who is not a licensed health professional as a nurse aide for more than four (4) months, unless

such individual has satisfied all requirements for certification and is eligible for placement on the nurse aide registry maintained by the State Department of Health.

2. a. Effective November 1, 2004, no nursing facility, specialized facility, continuum of care facility, assisted living center, adult day care or residential home shall employ as a nurse aide, on a full-time, temporary, per diem, or any other basis, any individual who is not certified as a nurse aide in good standing and is not eligible for placement on the nurse aide registry maintained by the State Department of Health.

b. The Department may grant a temporary emergency waiver to the provisions of this paragraph to any nursing facility, continuum of care facility, assisted living center or adult day care or residential home which can demonstrate that such facility, home or institution has been unable to successfully meet its staffing requirements related to the provisions of subparagraph a of this paragraph. No later than September 30, 2004, the State Board of Health shall promulgate rules related to eligibility for receipt of such waiver, and the process and the conditions for obtaining the waiver.

c. From November 1, 2004, until October 31, 2005, the Department shall not issue any monetary penalties nor shall it issue any licensure deficiency related to the provisions of subparagraph a of this paragraph to a nursing facility, specialized facility, continuum of care facility, assisted living center, adult day care or residential care home, which is unable to comply with the requirements and which has applied for a temporary waiver under subparagraph b of this paragraph, whether or not the waiver application has been approved.

B. 1. Until November 1, 2004, no person shall use an individual as a nurse aide unless the individual:

a. is enrolled in a Department-approved training and competency evaluation program,

b. is currently certified and eligible to be listed on the nurse aide registry, or

c. has completed the requirements for certification and placement on the nurse aide registry.

2. An individual employed as a nurse aide who is enrolled in a Department-approved training and competency evaluation program for nurse aides shall successfully complete such training and competency evaluations within four (4) months of entering the training program.

3. The individual shall obtain certification, and the Department shall place the nurse aide on the registry within thirty (30) days after demonstration of competency.

4. Any nursing facility, specialized facility, continuum of care facility, assisted living center, adult day care or residential care home that employs an individual who is in nurse aide training, as provided in this section, shall ensure that the trainee shall:

a. complete the required training and competency program as provided in rules prior to any direct contact with a resident or client,

b. not perform any service for which the trainee has not trained and been determined proficient by the instructor, and

c. be supervised at all times by no less than a licensed practical nurse.

5. No employer may use as a nurse aide an individual who has not completed the nurse aide training and competency program within the required four-month period.

C. For purposes of this section, "four (4) months" means the equivalent of four (4) months of full-time employment as a nurse aide by any employer in any nursing facility, specialized facility, continuum of care facility, assisted living center, adult day care or residential care home.

D. 1. The Department may grant a trainee a one-time extension of the four-month training requirement if:

a. such requirement causes an undue hardship for the trainee due to unusual circumstances or illness, and

b. the trainee has demonstrated a good faith effort to complete the training and competency evaluation program.

2. The State Board of Health shall promulgate rules related to the review of and the process and conditions for such an extension.

E. 1. Certified medication aides, upon successful completion of competency standards or prescribed training courses, shall be eligible to distribute medications or treatments provided by paragraph 2 of this subsection within a <u>correctional facility, as set forth in Section 623 of Title 57 of the Oklahoma Statutes, as well as any correctional facility operated by a contractor of the Department of Corrections,</u> nursing facility, specialized facility, continuum of care facility, assisted living center, adult day care or residential care home.

2. Certified medication aides may:

a. perform fingerstick blood sugars,

b. administer diabetic medications, including subcutaneous injections of insulin, provided that the certified medication aide has completed a Department-approved advanced training program on diabetes and the administration of diabetes medications, including injections,

c. administer medications, first aid treatments and nutrition; by oral, rectal, vaginal, otic, ophthalmic, nasal, skin, topical, transdermal, and nasogastric/gastrostomy tubes routes, and

d. administer oral metered dose inhalers and nebulizers;

3. The State Board of Health shall establish rules necessary to ensure the safety of medication administration by certified medication aides, including but not limited to:

a. competency and practice standards for medication aides,

b. maintaining a list of skills and functions that medication aides will be able to perform upon completion of certification course work,

c. certification and recertification requirements for medication aides,

d. development of criteria and procedures for approval or disapproval of training and competency evaluation programs, and

e. procedures for denying, suspending, withdrawing, or refusing to renew certification for a medication aide;

4. Each facility shall develop policies and procedures that comply with the provisions of this subsection and rules promulgated by the State Board of Health. This policy shall be reviewed and approved by the facility Medical Director, Director of Nurses and/or Registered Nurse Consultant.

F. Any person convicted of violating any of the provisions of this section or Section 1-1950.1 of this title shall be guilty of a misdemeanor, punishable by a fine of not less than One Hundred Dollars ($100.00) nor more than Three Hundred Dollars ($300.00), imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 15th day of March, 2006.

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Presiding Officer of the House of Representatives

Passed the Senate the 17th day of April, 2006.

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Presiding Officer of the Senate