

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 679 By: Jolley of the Senate
3 and
4 Trebilcock of the House
5
6

7 [certified medication aides - distribute medications
8 or treatments in jails - effective date]
9

10 AUTHOR: Add the following House Coauthor: Cox

11 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
12 entire bill and insert

13 "An Act relating to the practice of certified
14 medication aides; amending 63 O.S. 2001, Section 1-
15 1950.3, as last amended by Section 2, Chapter 79,
16 O.S.L. 2006 (63 O.S. Supp. 2010, Section 1-1950.3),
17 which relates to nurse aides; permitting certified
18 medication aides to distribute medications or
19 treatments in county or municipal jails; allowing
20 Oklahoma Health Care Authority to administer certain
sanctions to certain individuals; requiring notice
and hearing prior to administration of certain
sanctions; providing for codification; and providing
an effective date.

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

22 SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-1950.3, as
23 last amended by Section 2, Chapter 79, O.S.L. 2006 (63 O.S. Supp.
24 2010, Section 1-1950.3), is amended to read as follows:

1 Section 1-1950.3 A. 1. Until November 1, 2004, no employer or
2 contractor who is subject to the provisions of Section 1-1950.1 or
3 1-1950.2 of this title shall use, on a full-time, temporary, per
4 diem, or other basis, any individual who is not a licensed health
5 professional as a nurse aide for more than four (4) months, unless
6 such individual has satisfied all requirements for certification and
7 is eligible for placement on the nurse aide registry maintained by
8 the State Department of Health.

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

18 b. The Department may grant a temporary emergency waiver
19 to the provisions of this paragraph to any nursing
20 facility, continuum of care facility, assisted living
21 center or adult day care or residential home which can
22 demonstrate that such facility, home or institution
23 has been unable to successfully meet its staffing
24 requirements related to the provisions of subparagraph

1 a of this paragraph. No later than September 30,
2 2004, the State Board of Health shall promulgate rules
3 related to eligibility for receipt of such waiver, and
4 the process and the conditions for obtaining the
5 waiver.

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

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

- 19 a. is enrolled in a Department-approved training and
20 competency evaluation program,
- 21 b. is currently certified and eligible to be listed on
22 the nurse aide registry, or
- 23 c. has completed the requirements for certification and
24 placement on the nurse aide registry.

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

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

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

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

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

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

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

23 C. For purposes of this section, "four (4) months" means the
24 equivalent of four (4) months of full-time employment as a nurse

1 aide by any employer in any nursing facility, specialized facility,
2 continuum of care facility, assisted living center, adult day care
3 or residential care home.

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

- 6 a. such requirement causes an undue hardship for the
7 trainee due to unusual circumstances or illness, and
- 8 b. the trainee has demonstrated a good faith effort to
9 complete the training and competency evaluation
10 program.

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

13 E. 1. Certified medication aides, upon successful completion
14 of competency standards or prescribed training courses, shall be
15 eligible to distribute medications or treatments provided by
16 paragraph 2 of this subsection within a:

- 17 a. correctional facility, as set forth in Section 623 of
18 Title 57 of the Oklahoma Statutes, ~~as well as any~~
- 19 b. correctional facility operated by a contractor of the
20 Department of Corrections,
- 21 c. county or municipal jail,
- 22 d. nursing facility,
- 23 e. specialized facility,
- 24 f. continuum of care facility,

1 g. assisted living center,

2 h. adult day care, or

3 i. residential care home.

4 2. Certified medication aides may:

5 a. perform fingerstick blood sugars,

6 b. administer diabetic medications, including

7 subcutaneous injections of insulin, provided that the

8 certified medication aide has completed a Department-

9 approved advanced training program on diabetes and the

10 administration of diabetes medications, including

11 injections,

12 c. administer medications, first aid treatments and

13 nutrition; by oral, rectal, vaginal, otic, ophthalmic,

14 nasal, skin, topical, transdermal, and

15 nasogastric/gastrostomy tubes routes, and

16 d. administer oral metered dose inhalers and nebulizers;

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

20 a. competency and practice standards for medication
21 aides,

22 b. maintaining a list of skills and functions that

23 medication aides will be able to perform upon

24 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 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5054 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Health Care Authority may administer administrative sanctions to Medicaid recipients who abuse the state Medicaid program.

1 B. Administrative sanctions shall not be administered by the
2 Oklahoma Health Care Authority until notice and hearing have been
3 provided to the Medicaid recipient.

4 C. For purposes of this section, "abuse" means practices that
5 result in reimbursement for services that are not medically
6 necessary, including reimbursement for a gross overutilization of
7 services.

8 SECTION 3. This act shall become effective November 1, 2011."

9 Passed the House of Representatives the 19th day of April, 2011.

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Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2011.

Presiding Officer of the Senate