

1 ENGROSSED SENATE
2 BILL NO. 679

By: Jolley of the Senate

3 and

4 Trebilcock of the House

5
6 [certified medication aides - distribute medications
7 or treatments in jails - effective date]
8

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

10 SECTION 1. AMENDATORY 63 O.S. 2001, Section 1-1950.3, as
11 last amended by Section 2, Chapter 79, O.S.L. 2006 (63 O.S. Supp.
12 2010, Section 1-1950.3), is amended to read as follows:

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

21 2. a. Effective November 1, 2004, no nursing facility,
22 specialized facility, continuum of care facility,
23 assisted living center, adult day care or residential
24 home shall employ as a nurse aide, on a full-time,

1 temporary, per diem, or any other basis, any
2 individual who is not certified as a nurse aide in
3 good standing and is not eligible for placement on the
4 nurse aide registry maintained by the State Department
5 of Health.

6 b. The Department may grant a temporary emergency waiver
7 to the provisions of this paragraph to any nursing
8 facility, continuum of care facility, assisted living
9 center or adult day care or residential home which can
10 demonstrate that such facility, home or institution
11 has been unable to successfully meet its staffing
12 requirements related to the provisions of subparagraph
13 a of this paragraph. No later than September 30,
14 2004, the State Board of Health shall promulgate rules
15 related to eligibility for receipt of such waiver, and
16 the process and the conditions for obtaining the
17 waiver.

18 c. From November 1, 2004, until October 31, 2005, the
19 Department shall not issue any monetary penalties nor
20 shall it issue any licensure deficiency related to the
21 provisions of subparagraph a of this paragraph to a
22 nursing facility, specialized facility, continuum of
23 care facility, assisted living center, adult day care
24 or residential care home, which is unable to comply

1 with the requirements and which has applied for a
2 temporary waiver under subparagraph b of this
3 paragraph, whether or not the waiver application has
4 been approved.

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

- 7 a. is enrolled in a Department-approved training and
8 competency evaluation program,
- 9 b. is currently certified and eligible to be listed on
10 the nurse aide registry, or
- 11 c. has completed the requirements for certification and
12 placement on the nurse aide registry.

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

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

20 4. Any nursing facility, specialized facility, continuum of
21 care facility, assisted living center, adult day care or residential
22 care home that employs an individual who is in nurse aide training,
23 as provided in this section, shall ensure that the trainee shall:
24

- 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.

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

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

7 a. correctional facility, as set forth in Section 623 of
8 Title 57 of the Oklahoma Statutes, ~~as well as any~~

9 b. correctional facility operated by a contractor of the
10 Department of Corrections,

11 c. county or municipal jail,

12 d. nursing facility,

13 e. specialized facility,

14 f. continuum of care facility,

15 g. assisted living center,

16 h. adult day care, or

17 i. residential care home.

18 2. Certified medication aides may:

19 a. perform fingerstick blood sugars,

20 b. administer diabetic medications, including
21 subcutaneous injections of insulin, provided that the
22 certified medication aide has completed a Department-
23 approved advanced training program on diabetes and the
24

1 administration of diabetes medications, including
2 injections,

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

7 d. administer oral metered dose inhalers and nebulizers;

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

11 a. competency and practice standards for medication
12 aides,

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

16 c. certification and recertification requirements for
17 medication aides,

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

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

23 4. Each facility shall develop policies and procedures that
24 comply with the provisions of this subsection and rules promulgated

1 by the State Board of Health. This policy shall be reviewed and
2 approved by the facility Medical Director, Director of Nurses and/or
3 Registered Nurse Consultant.

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

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

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

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

19 C. For purposes of this section, "abuse" means practices that
20 result in reimbursement for services that are not medically
21 necessary, including reimbursement for a gross overutilization of
22 services.

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