

1-1 By: Brown (Senate Sponsor - Ogden) H.B. No. 1615
1-2 (In the Senate - Received from the House May 4, 2011;
1-3 May 5, 2011, read first time and referred to Committee on Health
1-4 and Human Services; May 16, 2011, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 7,
1-6 Nays 0; May 16, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1615 By: Rodriguez

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the administering of medications to children in certain
1-11 facilities; providing criminal penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. This Act shall be known as Nathan's Law.

1-14 SECTION 2. Subchapter C, Chapter 42, Human Resources Code,
1-15 is amended by adding Section 42.065 to read as follows:

1-16 Sec. 42.065. ADMINISTERING MEDICATION. (a) In this
1-17 section, "medication" means a drug that may be obtained with or
1-18 without a prescription, excluding a topical ointment obtained
1-19 without a prescription.

1-20 (b) This section applies only to a day-care center, group
1-21 day-care home, before-school or after-school program, school-age
1-22 program, or family home regardless of whether the facility or
1-23 program is licensed, registered, or listed.

1-24 (c) A director, owner, operator, caretaker, employee, or
1-25 volunteer of a child-care facility subject to this section may not
1-26 administer a medication to a child unless:

1-27 (1) the child's parent or guardian has submitted to the
1-28 child-care facility a signed and dated document that authorizes the
1-29 facility to administer the medication for not longer than one year;
1-30 and

1-31 (2) the authorized medication:

1-32 (A) is administered as stated on the label
1-33 directions or as amended in writing by a practitioner, as defined by
1-34 Section 551.003, Occupations Code; and

1-35 (B) is not expired.

1-36 (d) Notwithstanding Subsection (c)(1), a director, owner,
1-37 operator, caretaker, employee, or volunteer of a child-care
1-38 facility subject to this section may administer medication to a
1-39 child under this section without a signed authorization if the
1-40 child's parent or guardian:

1-41 (1) submits to the child-care facility an
1-42 authorization in an electronic format that is capable of being
1-43 viewed and saved; or

1-44 (2) authorizes the child-care facility by telephone to
1-45 administer a single dose of a medication.

1-46 (e) An authorization under Subsection (d)(1) expires on the
1-47 first anniversary of the date the authorization is provided to the
1-48 child-care facility.

1-49 (f) This section does not apply to a person that administers
1-50 a medication to a child in a medical emergency to prevent the death
1-51 or serious bodily injury of the child if the medication is
1-52 administered as prescribed, directed, or intended.

1-53 (g) A person commits an offense if the person administers a
1-54 medication to a child in violation of this section. If conduct
1-55 constituting an offense under this section also constitutes an
1-56 offense under a section of the Penal Code, the actor may be
1-57 prosecuted under either section or both sections.

1-58 (h) An offense under this section is a Class A misdemeanor.

1-59 SECTION 3. This Act takes effect September 1, 2011.

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