

By: Miller of Erath

H.B. No. 3265

A BILL TO BE ENTITLED

AN ACT

relating to the assisted administration of medications for persons with intellectual and developmental disabilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle G, Title 4, Health and Safety Code, is amended by adding Chapter 325 to read as follows:

CHAPTER 325. ASSISTANCE WITH ADMINISTRATION OF MEDICATION

Sec. 325.001. DEFINITIONS. In this chapter:

(1) "Assistance" means assistance relating to medication, including assisting a person with ordering or reordering medication, assisting a person with selecting the correct medication, and assisting a person with taking the correct dosage of the medication.

(2) "Assisted administration of medication" means the taking or applying of medication, by the individual for whom the medication is prescribed or obtained, with the assistance of an unlicensed person.

(3) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(4) "Medication management" means the comprehensive management of medications for the entire course of the medication therapy by a person receiving medication therapy or for a person receiving medication therapy, including management of over-the-counter and prescription medications.

1       Sec. 325.002. APPLICABILITY. This chapter applies only to  
2 assistance provided to certain persons with intellectual and  
3 developmental disabilities who are served:

4           (1) in a facility licensed under Chapter 252, Health  
5 and Safety Code; or

6           (2) by a Section 1915(c) waiver program, as defined by  
7 Section 531.001, Government Code, administered by the Department of  
8 Aging and Disability Services.

9       Sec. 325.003. ASSISTED ADMINISTRATION OF MEDICATION. (a)  
10 The executive commissioner by rule shall authorize the assisted  
11 administration of medication without the requirement that a  
12 registered nurse delegate or oversee each administration.

13           (b) The executive commissioner by rule shall:

14           (1) require that each person described by Section  
15 325.002 be assessed to determine the appropriate level of  
16 assistance the person needs with the administration of medication,  
17 including an assessment of the person's skills and knowledge of  
18 over-the-counter and prescription medications;

19           (2) establish criteria related to the necessary skills  
20 and knowledge that must be demonstrated to permit the person to  
21 receive assisted administration of medication;

22           (3) require that each person who receives assisted  
23 administration of medications receive ongoing training to address  
24 the person's identified skill and knowledge deficits until the  
25 person demonstrates competence in independent medication  
26 management; and

27           (4) ensure that each person who receives assisted

1 administration of medication has the greatest degree of  
2 independence in determining the type of assistance needed,  
3 including through the use of any necessary adaptive or assistive  
4 aid, device, or strategy.

5 Sec. 325.004. UNLICENSED PERSONS AUTHORIZED TO PROVIDE  
6 ASSISTED ADMINISTRATION OF MEDICATION. (a) An unlicensed person  
7 who is a member of the staff of a facility described by Section  
8 325.002 or an employee of a person licensed or certified to provide  
9 Section 1915(c) waiver program services may be authorized to  
10 provide assisted administration of medication to a person described  
11 by Section 325.002 only if the staff member or employee:

- 12 (1) is trained by a registered nurse regarding:  
13 (A) the role of providing assisted  
14 administration of medication;  
15 (B) the responsibilities involved in providing  
16 assisted administration of medication;  
17 (C) basic pharmacology;  
18 (D) medication side effects; and  
19 (E) techniques for providing assisted  
20 administration of medication; and

21 (2) receives ongoing oversight by a registered nurse  
22 to ensure continued competence and appropriate performance of the  
23 staff member's or employee's duties in providing assisted  
24 administration of medication.

25 (b) An unlicensed person providing assisted administration  
26 of medication shall verify that the correct medication is  
27 administered in the correct dosage at the correct time of day

1 through the correct administration route.

2 Sec. 325.005. LICENSED PERSONS REQUIRED TO PROVIDE  
3 ASSISTANCE WITH ADMINISTRATION OF MEDICATION TO CERTAIN PERSONS. A  
4 licensed or certified person who is a member of the staff of a  
5 facility described by Section 325.002 or an employee of a person  
6 licensed or certified to provide Section 1915(c) waiver program  
7 services shall administer medications to a person who does not meet  
8 the criteria prescribed by Section 325.003(b)(2) to receive  
9 assisted administration of medication and, as appropriate,  
10 identify and address the person's skill and knowledge deficits to  
11 prepare the person to receive assisted administration of medication  
12 in the future.

13 SECTION 2. In developing the rules required by Chapter 325,  
14 Health and Safety Code, as added by this Act, the executive  
15 commissioner of the Health and Human Services Commission shall  
16 convene a work group of affected stakeholders, including public and  
17 private providers and registered and licensed vocational nurses  
18 employed by the facilities or providers described by Section  
19 325.002, Health and Safety Code, as added by this Act, and other  
20 persons or entities the executive commissioner considers  
21 appropriate.

22 SECTION 3. This Act takes effect immediately if it receives  
23 a vote of two-thirds of all the members elected to each house, as  
24 provided by Section 39, Article III, Texas Constitution. If this  
25 Act does not receive the vote necessary for immediate effect, this  
26 Act takes effect September 1, 2011.