

By: Truitt

H.B. No. 3611

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Chapter 301, Occupations Code, is amended to add a new Subchapter O to read as follows:

SUBCHAPTER O. ADMINISTRATION OF MEDICATIONS FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.

Sec. 301.701. DEFINITIONS. In this subsection:

(1) "Assistance with self-administered medication" means any needed ancillary aid provided to a client in the client's self-administered medication or treatment regimen, such as reminding a client to take a medication at the prescribed time, opening and closing a medication container, pouring a predetermined quantity of liquid to be ingested, returning a medication to the proper storage area, and assisting in reordering medications from a pharmacy.

(2) "Administration of medication" means the removal of an individual/unit dose from a previously dispensed, properly labeled container, verifying it with the medication order, giving the correct medication and the correct dose to the proper client at the proper time by the proper route; and accurately recording the time and dose given.

(3) "Client" means a person with an intellectual and

1 developmental disability receiving services from a facility or
2 program listed in Section 301.702.

3 (4) "Unlicensed person" means an individual, not
4 licensed as health care provider:

5 (A) who is monetarily compensated to provide
6 certain health related tasks and functions in a complementary or
7 assistive role to the licensed nurse in providing direct client
8 care or carrying out common nursing functions;

9 (B) who provides those tasks and functions as a
10 volunteer but does not qualify as a friend providing gratuitous
11 care for the sick under Section 301.004(1);

12 (C) including, but not limited to, nurse aides,
13 orderlies, assistants, attendants, technicians, home health aides,
14 medication aides permitted by a state agency, and other individuals
15 providing personal care/assistance of health related services; or

16 (D) who is a professional nursing student, not
17 licensed as a nurse, providing care for monetary compensation and
18 not as part of their formal educational program shall be considered
19 to be unlicensed persons and must provide that care in conformity
20 with this chapter.

21 Sec. 301.702. APPLICABILITY. This subsection applies only
22 to administration of medications provided to certain persons with
23 intellectual and developmental disabilities who are served in:

24 (1) a facility licensed and certified under Chapter
25 252, Health and Safety Code; or

26 (2) one of the following Section 1915(c) waiver
27 programs administered by the Department of Aging and Disability

1 Services to serve persons with intellectual and developmental
2 disabilities:

3 (A) Community Living Assistance and Support
4 Services waiver;

5 (B) Home and Community Based Services waiver; or

6 (C) Texas Home Living waiver.

7 Sec. 301.703. ADMINISTRATION OF MEDICATION. (a) The board
8 by rule shall authorize the administration of medication by
9 unlicensed persons without the requirement that a registered nurse
10 delegate each administration of

11 (1) oral medication;

12 (2) topical medication; or

13 (3) metered dose inhaler.

14 (b) Medications that must be administered other than those
15 listed under subsection (a) are subject to the board's rules
16 regarding the delegation of nursing tasks to unlicensed persons in
17 independent living environments such as those listed in Section
18 301.702.

19 (c) The board by rule shall:

20 (1) require that a licensed nurse assess each client
21 with intellectual and developmental disabilities described by
22 Section 301.702 to:

23 (A) determine the appropriate level of
24 assistance the client needs with the administration of medication;
25 and

26 (B) establish criteria related to the necessary
27 skills and knowledge that must be demonstrated to permit the client

1 to have medications administered by an unlicensed person under this
2 subchapter.

3 Sec. 301.704. UNLICENSED PERSONS AUTHORIZED TO PROVIDE
4 ADMINISTRATION OF MEDICATION. (a) An unlicensed person who is a
5 member of the staff of a facility or an employee or contractor of a
6 person licensed or certified to provide Section 1915(c) waiver
7 program services as described by Section 301.702 may be authorized
8 to administer medication to a client described by Section 301.702
9 only if the staff member, employee or contractor:

10 (1) is trained by a registered nurse or licensed
11 vocational nurse under the direction of a registered nurse
12 regarding the requirements to administer medications.

13 SECTION 2. In developing the rules required by Chapter 301,
14 Occupations Code, Subchapter O, as added by this Act, the executive
15 director of the Texas Board of Nursing shall convene a work group of
16 affected stakeholders, including public and private providers and
17 registered and licensed vocational nurses employed by the
18 facilities or providers of services described by Section 301.702,
19 Occupations Code, as added by this Act, and other persons or
20 entities the executive director of the Texas Board of Nursing
21 considers appropriate.

22 SECTION 3. Chapter 161, Human Resources Code, is amended to
23 add a new Section 161.078 to read as follows:

24 Sec. 161.078. ASSISTANCE WITH ADMINISTRATION OF
25 MEDICATIONS FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL
26 DISABILITIES. The department shall ensure that medications
27 administered by an unlicensed person under Chapter 301, Occupations

1 Code, Subchapter O are:

2 (1) overseen by a registered nurse or a licensed
3 vocational nurse under the supervision of a registered nurse;

4 (2) performed after receiving training to address the
5 client's identified skill and knowledge deficits until the client
6 demonstrates competence in independent medication management; and

7 (3) administered in such a way as to ensure the
8 greatest degree of independence in determining the type of
9 assistance needed, including the use of an adaptive or assistive
10 aid, device, or strategy as allowed under program rule.

11 SECTION 4. The Texas Board of Nursing and the Texas
12 Department of Aging and Disability Services shall enter into a
13 Memorandum of Understanding regarding the administration of
14 medications to persons with intellectual and developmental
15 disabilities.

16 SECTION 5. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2011.