WEST VIRGINIA CODE CHAPTER 16B ARTICLE 14

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§16B-14-1. Definitions.

For the purposes of this article:

"Administration of medication" means assisting a person in the ingestion, application, or inhalation of medications, or the supervision of or the providing of assistance with self-administered medication, both according to the legibly written or printed directions of the health care professional, or as written on the prescription label. "Administration" does not include judgment, evaluation, assessments, or injections of medication.

"Approved medication assistive personnel (AMAP)" means a staff member who meets eligibility requirements, has successfully completed a nationally recognized model curriculum for certified medication assistants, has passed a national medication aide certification examination approved by the National Council of State Boards of Nursing, and is considered competent by the authorized registered professional nurse to administer medications to residents of the nursing home in accordance with this article.

"Authorized practitioner" means a physician actively licensed under the provisions of §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code, an advanced practice registered nurse with prescriptive authority actively licensed under the provisions of §30-7-1 *et seq.* of this code, a physician's assistant actively licensed under the provisions of §30-3E-1 *et seq.* of this code, an optometrist actively licensed under the provisions of §30-8-1 *et seq.* of this code, or a dentist actively licensed under the provisions of §30-4-1 *et seq.* of this code.

"Authorized registered professional nurse" means a person who is actively licensed pursuant to §30-7-1 *et seq.* of this code and meets the requirements to train and supervise approved medication assistive personnel pursuant to this article, and has completed and passed the facility trainer/instructor course developed by the authorizing agency.

"Authorizing agency" means the Office of Health Facility Licensure and Certification.

"Delegation" means transferring to a competent individual, as determined by the authorized registered professional nurse, the authority to administer medications or perform a health maintenance task.

"Director" means the Director of the Office of Health Facility Licensure and Certification, or his or her designee.

"Health care professional" means an allopathic physician, osteopathic physician, registered professional nurse, advanced practice registered nurse, physician's assistant, dentist, optometrist, or respiratory therapist licensed pursuant to the provisions of chapter 30 of this code.

"Health maintenance tasks" means: Administering glucometer tests; administering gastrostomy tube feedings; administering enemas; and performing tracheostomy and ventilator care for residents.

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"Inspector General" means the Inspector General of the Office of the Inspector General as described in §16B-2-1 of this code, or his or her designee.

"Medication" means a drug, as defined in §60A-1-101 of this code, which has been prescribed by a health care professional to be ingested through the mouth, inhaled through the nose or mouth using an inhaler or nebulizer, applied to the outer skin, eye, or ear, or applied through nose drops, or applied through vaginal or rectal suppositories. Medication does not mean a controlled substance listed in Schedule I as provided in §60A-2-204 of this code, Schedule II as provided in §60A-2-206 of this code, buprenorphine, or benzodiazepines.

"Medication reconciliation" means the process of creating an accurate list of all medications a resident is taking, including drug name, dosage, frequency, and route, so correct medications are being provided to the resident.

"Nursing home" means the same as it is defined in §16B-4-1 of this code.

"Office of Health Facility Licensure and Certification" means the West Virginia Office of Health Facility Licensure and Certification within the Office of Inspector General.

"Prescribing practitioner" means an individual who has prescriptive authority as provided in chapter 30 of this code.

"Registered professional nurse" means a person who is actively licensed pursuant to §30-7-1 *et seq.* of this code.

"Resident" means a person living in a nursing home who is in stable condition.

"Self-administration of medication" means the act of a resident, who is independently capable of reading and understanding the labels of medication ordered by an authorized practitioner, opening, and accessing prepackaged drug containers, and accurately identifying and taking the correct dosage of the drugs as ordered by the health care professional at the correct time and under the correct circumstances.

"Self-administration of medication with assistance" means assisting residents who are otherwise able to self-administer their own medications, except their physical disabilities prevent them from completing one or more steps in the process.

"Stable" means the resident’s health condition is predictable and consistent as determined by the registered professional nurse, and the resident’s medications have been reconciled.

"Staff member" means an individual employed by a nursing home but does not include a health care professional acting within his or her scope of practice.

"Supervision of self-administration of medication" means a personal service which includes reminding residents to take medications, opening medication containers for residents, reading the medication label to residents, observing residents while they take medication,

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checking the self-administered dosage against the label on the container, and reassuring residents that they have obtained and are taking the dosage as prescribed.

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§16B-14-2. Administration of medications.

(a) The authorizing agency shall create a program for the administration of medications in nursing homes.

(b) Administration of medication shall be performed by an approved medication assistive personnel (AMAP) who has been trained and retrained every two years, passed a national medication aide certification examination, and who is subject to the supervision of, and approval by, an authorized registered professional nurse.

(c) After assessing the health status of a resident, a registered professional nurse, in collaboration with the resident's prescriber, may allow an AMAP to administer medication.

(d) Nothing in this article prohibits a staff member from administering medications or performing health maintenance tasks or providing any other prudent emergency assistance to aid any person who is in acute physical distress or requires emergency assistance.

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§16B-14-3. Exemption from licensure; statutory construction.

(a) A staff member who is not authorized by law to administer medication may do so in a nursing home if he or she meets the requirements of this article.

(b) An approved medication assistive personnel is exempt from the licensing requirements of chapter 30 of this code.

(c) A health care professional remains subject to his or her respective licensing laws.

(d) This article shall not be construed to violate or conflict with chapter 30 of this code.

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§16B-14-4. Instruction and training.

(a) The authorizing agency's training curricula shall be based on a nationally recognized model curriculum for certified medication assistants. The authorizing agency shall consult with the West Virginia Board of Respiratory Care Practitioners in developing the training curricula relating to the use of an inhaler or nebulizer. The certification examination must be a national Medication Aide Certification Examination.

(b) The program developed by the authorizing agency shall require that a person who applies to act as an approved medication assistive personnel shall:

(1) Hold a high school diploma or its equivalent;

(2) Be a nurse aide with at least one year of full-time experience;

(3) Be certified in cardiopulmonary resuscitation and first aid;

(4) Participate in the initial training program as set forth in §16B-14-1 of this code;

(5) Pass a national certification examination as set forth in §16B-14-1 of this code;

(6) Not have a statement on the stated administered nurse aide registry indicating that the staff member has been the subject of finding of abuse or neglect of a long-term care nursing home resident or convicted of the misappropriation of a resident's property; and

(7) Participate in a retraining program every two years.

(c) A nursing home may offer the training program developed by the authorizing agency to its staff members. The training shall be provided by the nursing home through a registered professional nurse.

(d) A registered professional nurse who is authorized to train staff members to administer medications in nursing homes shall:

(1) Possess a current active license as set forth in §30-7-1 *et seq.* of this code to practice as a registered professional nurse;

(2) Have practiced as a registered professional nurse in a position or capacity requiring knowledge of medications for the immediate two years prior to being authorized to train staff members;

(3) Be familiar with the nursing care needs of the residents as described in this article; and

(4) Have completed and passed the nursing home trainer/instructor course developed by the authorizing agency.

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§16B-14-5. Eligibility requirements of nursing home staff.

In order to administer medication, an approved medication assistive personnel (AMAP) shall:

(1) Determine the medication to be administered is in its original container in which it was dispensed by a pharmacist or the physician;

(2) Make a written record of assistance of medication with regard to each medication administered, including the time, route, and amount taken;

(3) Display the title Approved Medication Assistive Personnel; and

(4) Comply with the legislative rules promulgated by the authorizing agency pursuant to §29A-3-1 *et seq.* of this code relating to the provisions of this article, which shall address, at a minimum, the supervision provided by the registered professional nurse to the AMAP.

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§16B-14-6. Oversight of approved medication assistive personnel.

A nursing home using an approved medication assistive personnel shall establish an administrative monitoring system and shall comply with the applicable provisions of the legislative rules promulgated pursuant to §16B-10-11 of this code.

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§16B-14-7. Withdrawal of authorization.

(a) The registered professional nurse who supervises an approved medication assistive personnel (AMAP) may withdraw authorization for an AMAP to administer medications if the nurse determines that the AMAP is not performing the function in accordance with the training and written instructions.

(b) The withdrawal of the authorization shall be documented and relayed to the nursing home and the authorizing agency. The agency shall remove the AMAP from the list of authorized individuals. The Office of Health Facility Licensure and Certification shall maintain a list of the names of persons whose authorization has been withdrawn and the reasons for withdrawal of authorization. The list may be accessed by registered professional nurses and administrative personnel of nursing homes.

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§16B-14-8. Fees.

The authorizing agency may set and collect any appropriate fees necessary for the implementation of the provisions of this article pursuant to the legislative rules authorized by this article.

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§16B-14-9. Limitations on medication administration.

(a) An approved medication assistive personnel (AMAP) may not:

(1) Administer the first dose of a medication;

(2) Perform an injection;

(3) Administer irrigations or debriding agents to treat a skin condition or minor abrasions;

(4) Act upon verbal medication orders;

(5) Transcribe medication orders;

(6) Convert or calculate drug dosages;

(7) Administer medications to be given "as needed" as ordered by the health care professional, unless the supervising nurse has first performed and documented a bedside assessment, and then the AMAP may administer the medication based on the written order with specific parameters which preclude independent judgment; or

(8) Perform health maintenance tasks.

(b) An AMAP may not be assigned to both medication administration duty and typical nurse aide duties related to resident care and assistance with activities of daily living simultaneously. When assigned to medication administration, the AMAP’s responsibility shall be to administer medication and tasks related to the administration of medication. An AMAP may be assigned to other resident care and assistance with activities of daily living during such times that the AMAP is not engaged in, or scheduled to be engaged in, the administration of medication.

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§16B-14-10. Permissive participation.

The provisions of this article are not mandatory upon any nursing home or nursing home employee. A nursing home may not, as a condition of employment, require a nurse aide to become an approved medication assistive personnel (AMAP) or require its health care professionals to use AMAPs.

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