

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2497**

BY DELEGATES ELLINGTON, CRISS

AND ROHRBACH

[Introduced February 16, 2017; Referred  
to the Committee on Health and Human Resources  
then the Judiciary.]

1 A BILL to repeal §30-7D-1, §30-7D-2, §30-7D-3, §30-7D-4, §30-7D-5, §30-7D-6, §30-7D-7, §30-  
 2 7D-8, §30-7D-9, §30-7D-10, §30-7D-11, §30-7D-12 and §30-7D-13 of the Code of West  
 3 Virginia, 1931, as amended; and to amend and reenact §16-5O-2 of said code, all relating  
 4 to permitting medication administration by unlicensed personnel in nursing homes.

*Be it enacted by the Legislature of West Virginia:*

1 That §30-7D-1, §30-7D-2, §30-7D-3, §30-7D-4, §30-7D-5, §30-7D-6, §30-7D-7, §30-7D-  
 2 8, §30-7D-9, §30-7D-10, §30-7D-11, §30-7D-12 and §30-7D-13 of the Code of West  
 3 Virginia, 1931, as amended, be repealed; and that §16-5O-2 of said code be amended and  
 4 reenacted, all to read as follows:

**ARTICLE 50. MEDICATION ADMINISTRATION BY UNLICENSED PERSONNEL.**

**§16-5O-2. Definitions.**

1 As used in this article the following definitions apply:

2 ~~(a)~~ (1) "Administration of medication" means:

3 ~~(4)~~ (A) Assisting a person in the ingestion, application or inhalation of medications,  
 4 including prescription drugs, or in the use of universal precautions or rectal or vaginal insertion of  
 5 medication, according to the legibly written or printed directions of the attending physician or the  
 6 health care professional in accordance with subdivision sixty-one, section four, article five, chapter  
 7 thirty of this code, or as written on the prescription label; and

8 ~~(2)~~ (B) Making a written record of such assistance with regard to each medication  
 9 administered, including the time, route and amount taken. However, for purposes of this article,  
 10 "administration" does not include judgment, evaluation, assessments, injections of medication  
 11 (except for prefilled insulin or insulin pens), or monitoring of medication or self-administration of  
 12 medications, such as prescription drugs and self-injection of medication by the resident.

13 ~~(b)~~ (2) "Approved medication assistive personnel (AMAP)" means unlicensed facility staff  
 14 member, who meets eligibility requirements, has successfully completed the required training and  
 15 competency testing, and is considered competent by the authorized registered professional nurse

16 to administer medications or perform health maintenance tasks, or both, to residents of the facility  
17 in accordance with this article.

18 ~~(e)~~ (3) "Authorized practitioner" means a physician licensed under the provisions of article  
19 three, chapter thirty of this code or article fourteen, chapter thirty of this code.

20 ~~(d)~~ (4) "Authorized registered professional nurse" means a person who holds an  
21 unencumbered license pursuant to article seven, chapter thirty, and meets the requirements to  
22 train and supervise approved medication assistive personnel pursuant to this article, and has  
23 completed and passed the facility trainer/instructor course developed by the authorizing agency.

24 ~~(e)~~ (5) "Authorizing agency" means the Office of Health Facility Licensure and Certification.

25 ~~(f)~~ (6) "Delegation" means transferring to a competent individual, as determined by the  
26 authorized registered professional nurse, the authority to perform a selected task in a selected  
27 situation.

28 ~~(g)~~ (7) "Delegation decision model" means the process the authorized registered  
29 professional nurse must follow to determine whether or not to delegate a nursing task to an  
30 approved medication assistive personnel. The delegation decision model is approved by the West  
31 Virginia Board of Examiners for Registered Professional Nurses.

32 ~~(h)~~ (8) "Department" means the Department of Health and Human Resources.

33 ~~(i)~~ (9) "Facility" means an intermediate care facility for individuals with an intellectual  
34 disability, assisted living, nursing home, behavioral health group home, private residence in which  
35 health care services and health maintenance tasks are provided under the supervision of a  
36 registered professional nurse as defined in article seven, chapter thirty of this code.

37 ~~(j)~~ (10) "Facility staff member" means an individual employed by a facility but does not  
38 include a health care professional acting within his or her scope of practice.

39 ~~(k)~~ (11) "Family" means biological parents, adoptive parents, foster parents, or other  
40 immediate family members living within the same household.

41 ~~(l)~~ (12) "Health care professional" means a medical doctor or doctor of osteopathy, a

42 podiatrist, registered professional nurse, practical nurse, advanced practice registered nurse,  
43 physician's assistant, dentist, optometrist or respiratory care professional licensed under chapter  
44 thirty of this code.

45 ~~(m)~~ (13) "Health maintenance tasks" means performing the following tasks according to  
46 the legibly written or printed directions of a health care professional or as written on the  
47 prescription label, and making a written record of that assistance with regard to each health  
48 maintenance task administered, including the time, route and amount taken:

49 ~~(1)~~ (A) Administering glucometer tests;

50 ~~(2)~~ (B) Administering gastrostomy tube feedings;

51 ~~(3)~~ (C) Administering enemas;

52 ~~(4)~~ (D) Performing ostomy care which includes skin care and changing appliances; and

53 ~~(5)~~ (E) Performing tracheostomy and ventilator care for residents in a private residence  
54 who are living with family and/or natural supports.

55 "Health maintenance tasks" do not include judgment, evaluation, assessments, injections  
56 of medication, except for prefilled insulin or insulin pens, or monitoring of medication or self-  
57 administration of medications, such as prescription drugs and self-injection of medication by the  
58 resident.

59 ~~(n)~~ (14) "Immediate family" means mother, stepmother, father, stepfather, sister,  
60 stepsister, brother, stepbrother, spouse, child grandparent and grandchildren.

61 ~~(o)~~ (15) "Location of medication administration or location where health maintenance tasks  
62 are performed" means a facility or location where the resident requires administration of  
63 medication or assistance in taking medications or the performance of health maintenance tasks.

64 ~~(p)~~ (16) "Medication" means a drug, as defined in section one hundred one, article one,  
65 chapter sixty-a of this code, which has been prescribed by a health care professional to be  
66 ingested through the mouth, inhaled through the nose or mouth, administered through a  
67 gastrostomy tube, applied to the outer skin, eye or ear, or applied through nose drops, vaginal or

68 rectal suppositories.

69 ~~(q)~~ (17) "Natural supports" means family, friends, neighbors or anyone who provides  
70 assistance and support to a resident but is not reimbursed.

71 (18) "Nursing home" means an institution, residence or place, or any part or unit thereof,  
72 which is advertised, offered, maintained or operated, for the accommodations and care, for a  
73 period of more than twenty-four hours, for four or more persons who are ill or otherwise  
74 incapacitated and in need of extensive, ongoing nursing care due to physical or mental  
75 impairment or which provides services for the rehabilitation of persons who are convalescing from  
76 illness or incapacitation.

77 ~~(r)~~ (19) "Registered professional nurse" means a person who holds a valid license  
78 pursuant to article seven, chapter thirty of this code.

79 ~~(s)~~ (20) "Resident" means a resident of a facility who for purposes of this article, is in a  
80 stable condition.

81 ~~(t)~~ (21) "Secretary" means the Secretary of the department or his or her designee.

82 ~~(u)~~ (22) "Self-administration of medication" means the act of a resident, who is  
83 independently capable of reading and understanding the labels of drugs ordered by an authorized  
84 practitioner, in opening and accessing prepackaged drug containers, accurately identifying and  
85 taking the correct dosage of the drugs as ordered by the health care professional, at the correct  
86 time and under the correct circumstances.

87 ~~(v)~~ (23) "Self-administration of medication with assistance" means assisting residents who  
88 are otherwise able to self-administer their own medications except their physical disabilities  
89 prevent them from completing one or more steps in the process.

90 ~~(w)~~ (24) "Stable" means the individual's health condition is predictable and consistent as  
91 determined by the registered professional nurse.

92 ~~(x)~~ (25) "Supervision of self-administration of medication" means a personal service which  
93 includes reminding residents to take medications, opening medication containers for residents,

- 94 reading the medication label to residents, observing residents while they take medication,  
95 checking the self-administered dosage against the label on the container and reassuring residents  
96 that they have obtained and are taking the dosage as prescribed.

NOTE: The purpose of this bill is to permit medication administration by unlicensed personnel in nursing homes.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.