

5123:2-6-07 **General provisions and compliance for performance of health-related activities and administration of prescribed medication.**

(A) Medication administration information system database

- (1) The department shall operate and maintain the medication administration information system database of registered nurse instructors and registered nurse trainers holding valid certification issued in accordance with rule 5123:2-6-04 of the Administrative Code and developmental disabilities personnel holding valid certification issued in accordance with rule 5123:2-6-06 of the Administrative Code in health-related activities and prescribed medication administration, oral prescribed medication via feeding tube by nursing delegation, and subcutaneous insulin injection by nursing delegation.
- (2) The department shall provide read and write access to the medication administration information system database to all registered nurse instructors. Each registered nurse instructor shall enter in the database initial information about each person he or she trained to be a registered nurse trainer in accordance with rule 5123:2-6-04 of the Administrative Code.
- (3) The department shall provide read and write access to the medication administration information system database to all registered nurse trainers. Each registered nurse trainer shall enter in the database current information about developmental disabilities personnel he or she trained in accordance with rule 5123:2-6-06 of the Administrative Code at the time of certification and recertification of the developmental disabilities personnel.
- (4) Each registered nurse trainer shall enter in the medication administration information system database, information about himself or herself at the time of recertification and thereafter, within sixty calendar days of any change of information. Each registered nurse trainer shall enter information required for renewal of his or her registered nurse trainer certification prior to expiration of the certification.
- (5) The department shall provide read only access to the medication administration information system database to the public.

(B) Documentation of performance of health-related activities and administration of prescribed medication by developmental disabilities personnel

- (1) All prescribed medication administered pursuant to this chapter shall be administered according to the written directions of an appropriately licensed health professional authorized to prescribe drugs and according to the training received by developmental disabilities personnel in accordance with rules 5123:2-6-05 and 5123:2-6-06 of the Administrative Code.

- (2) Performance of health-related activities and administration of prescribed medication and treatments shall be documented in a medication/treatment administration record indicating the completion of prescribed orders, including the signature or initials of the developmental disabilities personnel administering the prescribed medication or treatment, date, time, and when appropriate, observations or difficulties noted. This written documentation is required for all prescribed medication and treatments performed, administered, applied, missed, held, or refused, including:
- (a) Routine and as-needed prescribed medication and treatments;
 - (b) Health-related activities; and
 - (c) Subcutaneous insulin injections.
- (3) Medication/treatment administration records shall include at a minimum:
- (a) Name of individual served;
 - (b) All allergies of individual served;
 - (c) Day, month, and year of documentation;
 - (d) Name of drug or treatment;
 - (e) Complete dosage and frequency of prescribed medication;
 - (f) Route of prescribed medication administration;
 - (g) Scheduled/prescribed time or intervals for administration;
 - (h) Any special instructions regarding each medication administration or treatment as provided by the pharmacy, physician, or prescriber; and
 - (i) Parameters provided by the physician or licensed health professional for ordered health-related activities.
- (4) The employer of developmental disabilities personnel shall maintain a means of identifying signatures and initials of developmental disabilities personnel making entries in the medication/treatment administration record. Identification shall be included in the medication/treatment administration record or by using a separate master signatures/initials log.
- (5) Certified developmental disabilities personnel transcribing changes and/or checking the accuracy of changes entered in the medication/treatment administration record shall document when transcription and/or check has

been completed, including date, time, and signature or initials.

(a) Only a licensed nurse or developmental disabilities personnel with health-related activities and prescribed medication administration certification may transcribe changes and/or check the accuracy of changes entered in the medication/treatment administration record.

(b) Checking the accuracy of transcriptions shall include:

(i) Verifying changes are transcribed as specified by the prescriber;

(ii) Verifying special instructions are indicated as instructed by pharmacy or prescriber directives; and

(iii) Ensuring the availability of equipment and/or supplies required to administer medication or perform the task in the setting.

(6) With any change to medication and/or treatment orders, the employer of developmental disabilities personnel or delegating nurse shall ensure the medication/treatment administration record has been checked.

(7) Employers of developmental disabilities personnel and independent providers shall ensure documentation, including the date, time, and signature or initials of certified developmental disabilities personnel who sign the medication/treatment administration record is completed in accordance with this rule.

(C) Requirements for developmental disabilities personnel to report medication/treatment errors

(1) Any medication/treatment error by developmental disabilities personnel in the performance of health-related activities, administration of oral prescribed medication, or application of topical prescribed medication that results in physical harm to the individual shall be immediately reported to an appropriate licensed health care professional. The requirement to immediately report medication/treatment errors applies to errors involving prescribed medication, treatments, over-the-counter medication, and health-related activities.

(2) Any medication/treatment error by developmental disabilities personnel shall be reported in accordance with rule 5123:2-17-02 of the Administrative Code when the medication/treatment error meets the definition of major unusual incident or unusual incident.

(3) Developmental disabilities personnel who observe, identify, or become aware of a medication/treatment error shall report to the delegating nurse and/or supervisory staff immediately in accordance with the employer's written

policy and procedure. All medication/treatment errors shall be documented in an unusual incident report in accordance with rule 5123:2-17-02 of the Administrative Code.

- (4) The employer of developmental disabilities personnel shall train developmental disabilities personnel in accordance with the employer's written policy and procedure that medication/treatment errors and related plans of prevention shall be documented in an unusual incident report.

(D) Compliance and quality assessment

- (1) Each county board shall employ or enter into a contract with a registered nurse instructor or a registered nurse trainer who will serve as a quality assessment registered nurse to assist with consultation and quality assessment oversight.

- (2) Quality assessment reviews shall be conducted when developmental disabilities personnel perform health-related activities or administer prescribed medication for individuals who:

(a) Receive services from certified supported living providers;

(b) Receive residential support services from certified home and community-based services providers, if the services are received in a community living arrangement that includes not more than four individuals; and

(c) Reside in residential facilities of five or fewer beds, excluding intermediate care facilities for individuals with intellectual disabilities.

- (3) The quality assessment registered nurse shall complete quality assessment reviews so that a review of each individual in the county for whom developmental disabilities personnel perform health-related activities or administer prescribed medication is conducted at least once every three years. The quality assessment registered nurse may conduct more frequent reviews if the quality assessment registered nurse, county board, provider, or department determines there are issues to warrant such.

- (4) Quality assessment reviews shall be completed in a format prescribed by the department.

- (5) Quality assessment reviews shall include, but are not limited to:

(a) Observation of performance of health-related activities and administration of prescribed medication;

(b) Review of the system of communication and supports related to performance of health-related activities and administration of

prescribed medication for the individual being assessed to ensure complete and accurate administration of health care directives given by the individual's health care professionals;

(c) Review of documentation of performance of health-related activities and administration of prescribed medication for completeness of documentation and for documentation of appropriate actions taken based on parameters provided in the health-related activities and prescribed medication administration training program described in rule 5123:2-6-06 of the Administrative Code;

(d) Review of all medication/treatment errors from the past twelve months; and

(e) Review of the system of processes and procedures used by the employer of developmental disabilities personnel or independent provider to monitor and document completeness and correct techniques used during performance of health-related activities, administration of oral prescribed medication, and application of topical prescribed medication.

(6) The quality assessment registered nurse shall provide a copy of the quality assessment review report to the county board and the provider of services within ten business days of the quality assessment review and shall recommend to the county board and the provider of services steps to be taken to improve the functioning of the trained developmental disabilities personnel and maintain compliance with this chapter.

(7) The quality assessment registered nurse shall maintain a copy of each quality assessment review he or she performs in accordance with paragraph (D)(3) of this rule.

(8) The quality assessment registered nurse shall coordinate with, as applicable, the county board, the employer of developmental disabilities personnel, or independent provider to ensure that safety concerns are immediately addressed.

(9) The employer of developmental disabilities personnel or the independent provider, as applicable, shall submit a written plan of improvement to the quality assessment registered nurse that addresses specific rule violations identified in the quality assessment review within thirty calendar days of receipt of the quality assessment review report.

(10) The quality assessment registered nurse shall notify the county board and the department when the employer of developmental disabilities personnel or the independent provider fails to:

(a) Submit a written plan of improvement within sixty calendar days of

receipt of the quality assessment review report; or

(b) Successfully implement the written plan of improvement within sixty calendar days of submission of the plan to the quality assessment registered nurse.

(11) The quality assessment registered nurse shall act as a resource for the county board and providers of services concerning health management issues and may assist in expanding health care services in the community.

(E) Prohibition on performance of health-related activities and administration of prescribed medication by developmental disabilities personnel

(1) If an employer of developmental disabilities personnel believes or is notified by the county board, the department, a delegating nurse, or the quality assessment registered nurse that developmental disabilities personnel have not safely performed or will not safely perform health-related activities, have not safely administered or will not safely administer oral prescribed medication, have not safely applied or will not safely apply topical prescribed medication, have not safely administered or will not safely administer oral prescribed medication via stable labeled gastrostomy tube or stable labeled jejunostomy tube, or have not safely administered or will not safely administer subcutaneous insulin injections, the employer shall prohibit the action from continuing or commencing. Developmental disabilities personnel shall not engage in the action or actions subject to an employer's prohibition.

(2) When the employer prohibits the action from continuing or commencing, the employer shall:

(a) Notify the developmental disabilities personnel of the prohibition and immediately make other staffing arrangements so that performance of health-related activities, administration of oral prescribed medication, application of topical prescribed medication, administration of oral prescribed medication via stable labeled gastrostomy tube or stable labeled jejunostomy tube, or administration of subcutaneous insulin injections are completed as prescribed, including compliance with the requirements of this chapter;

(b) Immediately notify the department by making an entry regarding the prohibition of the developmental disabilities personnel in the medication administration information system database;

(c) If applicable, immediately notify the county board via the major unusual incident reporting system in accordance with rule 5123:2-17-02 of the Administrative Code; the county board, as applicable, shall notify the quality assessment registered nurse; and

(d) If applicable, immediately notify the delegating nurse.

(3) The employer shall ensure corrective action is taken prior to allowing the developmental disabilities personnel to resume the performance of health-related activities, administration of oral prescribed medication, application of topical prescribed medication, administration of oral prescribed medication via stable labeled gastrostomy tube or stable labeled jejunostomy tube, or administration of subcutaneous insulin injections.

(4) The employer shall notify the department by making an entry regarding the corrective action and end of prohibition of the developmental disabilities personnel in the medication administration information system database and, as applicable, the county board, the quality assessment registered nurse, and/or the delegating nurse of the corrective action taken.

(F) Procedures for suspending certification of developmental disabilities personnel without a hearing pending the outcome of an investigation

(1) The department may suspend the certification of developmental disabilities personnel issued in accordance with rule 5123:2-6-06 of the Administrative Code without a hearing pending the outcome of an investigation if the developmental disabilities personnel has not or will not safely perform health-related activities, administer oral prescribed medication, apply topical prescribed medication, administer oral prescribed medication via stable labeled gastrostomy tube or stable labeled jejunostomy tube, or administer subcutaneous insulin injections.

(2) Immediately following the suspension of certification, the department shall notify the developmental disabilities personnel and the employer of the developmental disabilities personnel and, as applicable, the county board superintendent or designee, the quality assessment registered nurse, and the delegating nurse.

(3) When the department has suspended certification without a hearing, the department shall expedite the investigation and any revocation proceedings. If the department determines as a result of its investigation or at any other time that the suspension is not warranted, the department shall immediately withdraw the suspension and reinstate the suspended certification. Upon reinstatement, the department shall immediately notify the developmental disabilities personnel and all entities notified in accordance with paragraph (F)(2) of this rule of the reinstatement.

(G) Procedures for revoking certification of developmental disabilities personnel

(1) The department shall revoke the certification of developmental disabilities personnel to perform health-related activities, administer oral prescribed

medication, apply topical prescribed medication, administer oral prescribed medication via stable labeled gastrostomy tube or stable labeled jejunostomy tube, or administer insulin by subcutaneous injections if there is evidence after an investigation that developmental disabilities personnel:

- (a) Have been convicted of or plead guilty to a disqualifying offense as set forth in paragraph (E) of rule 5123:2-2-02 of the Administrative Code and the corresponding exclusionary period has not elapsed;
 - (b) Are included in one or more of the databases described in paragraphs (C)(2)(a) to (C)(2)(e) of rule 5123:2-2-02 of the Administrative Code;
 - (c) Have failed to exercise proper regard for the health, safety, and welfare of an individual;
 - (d) Have failed to maintain continued certification requirements in accordance with rule 5123:2-6-06 of the Administrative Code; or
 - (e) Have failed to take corrective action to maintain compliance with this chapter.
- (2) Prior to revoking the certification of developmental disabilities personnel, the department shall notify the developmental disabilities personnel and the employer of the developmental disabilities personnel, in writing, of its intent to revoke the certification and specify a reason for such action. The department shall also provide notice, as applicable, to the county board superintendent or designee, the quality assessment registered nurse, and the delegating nurse.
- (3) The developmental disabilities personnel may appeal the department's decision to revoke certification by requesting a hearing within seven calendar days of receiving the notification issued in accordance with paragraph (G)(2) of this rule.
- (4) If the developmental disabilities personnel timely requests a hearing, the director shall appoint an independent hearing officer to conduct the hearing. The hearing shall be held within twenty-one calendar days of receiving the request for a hearing. The hearing officer shall hold a hearing at a site mutually agreed upon by the developmental disabilities personnel and the department. Any person shall have the opportunity to present evidence at the hearing. The hearing officer shall determine whether the department's decision to revoke the certification was based upon noncompliance with this chapter by the developmental disabilities personnel. The hearing officer shall issue a written recommendation to the director within ten calendar days of the hearing.
- (5) The director shall issue a written decision to the developmental disabilities

personnel, the employer of the developmental disabilities personnel, and any entities notified in accordance with paragraph (G)(2) of this rule.

(H) Procedures for revoking certification of a registered nurse instructor or registered nurse trainer

(1) The department shall revoke the certification of a registered nurse instructor or the certification of a registered nurse trainer if there is evidence after an investigation that the registered nurse instructor or registered nurse trainer:

(a) Has been convicted of or plead guilty to a disqualifying offense as set forth in paragraph (E) of rule 5123:2-2-02 of the Administrative Code and the corresponding exclusionary period has not elapsed;

(b) Is included in one or more of the databases described in paragraphs (C)(2)(a) to (C)(2)(e) of rule 5123:2-2-02 of the Administrative Code;

(c) Has failed to maintain valid licensure in good standing with the Ohio board of nursing to practice as a registered nurse;

(d) Has failed to adhere to requirements of this chapter; or

(e) Has falsified documentation or records or falsified entries to the medication administration information system database required by this chapter.

(2) Except as otherwise provided by statute, all hearing and adjudication proceedings shall be conducted in accordance with the requirements set forth in Chapter 119. of the Revised Code.

(3) If the registered nurse instructor or registered nurse trainer timely requests a hearing, the director shall appoint an independent hearing officer to conduct the hearing.

(I) Procedures for accepting complaints and conducting investigations

(1) Any complaint regarding the performance of health-related activities or administration of prescribed medication by developmental disabilities personnel pursuant to the authority granted under section 5123.42 of the Revised Code or compliance with rules adopted under this chapter shall be made to the department using the process set forth in rule 5123:2-17-01 of the Administrative Code. This paragraph shall not be construed to allow developmental disabilities personnel, a representative of developmental disabilities personnel, or an employee organization as defined in Chapter 4117. of the Revised Code to make a complaint to the department regarding a personnel action.

- (2) Any complaints related to the scope of nursing practice shall be referred to the Ohio board of nursing.
- (3) Any complaints regarding registered nurses related to training of developmental disabilities personnel shall be referred to the department.
- (4) When a quality assessment registered nurse receives a complaint or identifies concerns based on a quality assurance review conducted pursuant to paragraph (D) of this rule related to the performance or qualifications of developmental disabilities personnel, the quality assessment registered nurse shall conduct an initial investigation which shall include a discussion with the developmental disabilities personnel and his or her employer. After completing the initial investigation, the quality assessment registered nurse shall contact and work with the department's designee to ensure that the cases are handled in a consistent manner statewide.

(J) Corrective action

- (1) In the event that an investigation conducted pursuant to paragraph (I) of this rule results in a finding of failure to comply with the requirements of this chapter, the county board shall work with the employer of developmental disabilities personnel to ensure immediate action is taken to correct the issue and assist the county board or the employer of developmental disabilities personnel in achieving compliance with this chapter.
- (2) The department shall review alleged violations of this chapter by a county board. The department may make recommendations to assist the county board in achieving compliance.
- (3) If a provider is found to be in violation of this chapter, the department may make recommendations to assist the provider in achieving compliance.
- (4) The department shall review compliance within thirty calendar days of the corrective action. If the department determines that corrective action does not bring the county board or provider into substantial compliance with this chapter, the department may revoke a certification issued in accordance with rule 5123:2-6-06 of the Administrative Code, or take other actions as authorized by the Revised Code or Administrative Code.
- (5) A county board or other providers of services may appeal the findings of the department within seven calendar days of receipt of notification by the department.
 - (a) The appeal shall be made in writing to the director and shall explain the basis for the appeal.

- (b) The director shall review the appeal within fourteen calendar days of the receipt of the request. The purpose of the review shall be to determine if the findings were based upon noncompliance with this chapter by the county board and/or other providers of services including the employer of developmental disabilities personnel.
- (c) Within seven calendar days of the date of review of the appeal by the director, the decision of the director shall be made in writing to the county board or other providers of service including the employer of developmental disabilities personnel. The decision of the director shall be based on his or her review of the evidence and shall be final.

(K) Immunity from liability

Developmental disabilities personnel who perform health-related activities or administer prescribed medication pursuant to the authority granted under section 5123.42 of the Revised Code and rule 5123:2-6-03 of the Administrative Code are not liable for any injury caused by performing the health-related activity or administering the prescribed medication when:

- (1) The developmental disabilities personnel acted in accordance with the methods taught in training completed in compliance with section 5123.42 of the Revised Code and rules 5123:2-6-05 and 5123:2-6-06 of the Administrative Code; and
- (2) The developmental disabilities personnel did not act in a manner that constitutes wanton or reckless misconduct.

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