

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-1036.01 Yelana Love x2295

HOUSE BILL 16-1424

HOUSE SPONSORSHIP

Vigil, Conti, Roupe

SENATE SPONSORSHIP

Garcia,

House Committees

Health, Insurance, & Environment

Senate Committees

A BILL FOR AN ACT

101 CONCERNING QUALIFICATIONS FOR THE ADMINISTRATION OF
102 MEDICATIONS IN FACILITIES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Under current law, the department of public health and environment (CDHPE) oversees the administration of medications in prisons, jails, mental health facilities, and other state facilities. **Section 1** of the bill specifies that "facility" also includes all services in support of persons with intellectual and developmental disabilities that are funded through and regulated by the department of health care policy and

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

financing (changed from the department of human services).

Current law requires an unlicensed person who is a qualified manager to successfully complete a test pertaining to the administration of medication every 4 years. Section 1 of the bill eliminates the 4-year testing cycle and substitutes a requirement to successfully complete a competency evaluation.

Sections 2 and 3 of the bill requires the department of human services, the department of health care policy and financing, and the department of corrections to develop and conduct a medication administration program. The bill permits CDPHE to establish the minimum requirements for course content, including competency evaluations, for medication administration and to determine compliance with the requirements for facilities.

Section 4 of the bill prohibits an unlicensed person from filling and labeling medication reminder boxes until the person has successfully completed a competency evaluation from an approved training entity or approved by an authorized agency.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 25-1.5-301, **amend**
3 (2) (h) and (4) (b) as follows:

4 **25-1.5-301. Definitions.** As used in this part 3, unless the context
5 otherwise requires:

6 (2) "Facility" means:

7 (h) All services funded through and regulated by the department
8 of ~~human services~~ HEALTH CARE POLICY AND FINANCING pursuant to
9 article ~~10.5~~ 6 of title ~~27~~ 25.5, C.R.S., in support of persons with
10 intellectual and developmental disabilities; and

11 (4) "Qualified manager" means a person who:

12 (b) Has completed training in the administration of medications
13 pursuant to section 25-1.5-303 or is a licensed nurse pursuant to article 38
14 of title 12, C.R.S., a licensed physician pursuant to article 36 of title 12,
15 C.R.S., or a licensed pharmacist pursuant to article 42.5 of title 12, C.R.S.
16 Every unlicensed person who is a "qualified manager" within the meaning

1 of this subsection (4) shall ~~every four years~~, successfully complete a test
2 ~~approved by the department~~ COMPETENCY EVALUATION pertaining to the
3 administration of medications.

4 **SECTION 2.** In Colorado Revised Statutes, 25-1.5-302, **amend**
5 (1) introductory portion, (1) (a), (3), and (8); and **add** (9) and (10) as
6 follows:

7 **25-1.5-302. Administration of medications - powers and duties**
8 **of department - criminal history record checks.** (1) The department
9 has, in addition to all other powers and duties imposed upon it by law, the
10 power ~~and duty~~ to establish and maintain by rule ~~and regulation~~ a
11 program for the administration of medications in facilities. ~~which~~
12 ~~program shall be developed and conducted by the department of human~~
13 ~~services and the department of corrections, as provided in this part 3~~ THE
14 DEPARTMENT OF HUMAN SERVICES, THE DEPARTMENT OF HEALTH CARE
15 POLICY AND FINANCING, AND THE DEPARTMENT OF CORRECTIONS SHALL
16 DEVELOP AND CONDUCT A MEDICATION ADMINISTRATION PROGRAM AS
17 PROVIDED IN THIS PART 3. A MEDICATION ADMINISTRATION PROGRAM
18 DEVELOPED PURSUANT TO THIS SUBSECTION (1) MUST BE CONDUCTED
19 within the following guidelines:

20 (a) As a condition to authorizing or renewing the authorization to
21 operate any facility that administers medications to persons under its care,
22 the authorizing agency shall require that the facility have a staff member
23 qualified pursuant to paragraph (b) of this subsection (1) on duty at any
24 time that the facility administers such medications and that the facility
25 maintain a written record of each medication administered to each
26 resident, including the DATE, time, and ~~the~~ amount of the medication AND
27 THE SIGNATURE OF THE PERSON ADMINISTERING THE MEDICATION. Such

1 record ~~will be~~ IS subject to review by the authorizing agency as a part of
2 ~~its~~ THE AGENCY'S procedure in authorizing the continued operation of the
3 facility. Notwithstanding any exemption enumerated in paragraph (b) of
4 this subsection (1), any facility may establish a policy ~~which~~ THAT
5 requires a person authorized to administer medication to report to, be
6 supervised by, or ~~to be~~ otherwise accountable for the performance of such
7 administration to a registered nurse as defined in section 12-38-103,
8 C.R.S.

9 (3) ~~If either~~ The department of human services, ~~or~~ THE
10 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, AND the
11 department of corrections ~~wishes to use a different training curriculum~~
12 ~~and competency evaluation procedure for those who administer~~
13 ~~medications in the facilities whose operation is authorized by those~~
14 ~~departments, such department shall ensure that such training curriculum~~
15 ~~and competency evaluation procedure are first submitted to the~~
16 ~~department of public health and environment for its review. If, after such~~
17 ~~review, the department of public health and environment has no~~
18 ~~objection, the submitting department shall assume responsibility for the~~
19 ~~cost and implementation of such curriculum and evaluation in keeping~~
20 ~~with the other provisions of this medications administration program for~~
21 ~~those facilities whose operation is authorized by such department. Any~~
22 ~~department that administers competency evaluations shall maintain a list~~
23 ~~of those who have successfully completed such competency evaluation~~
24 ~~and shall forward a copy of such list to the department of public health~~
25 ~~and environment within forty-five days after administration of such~~
26 ~~evaluation~~ MAY DEVELOP AND APPROVE MINIMUM REQUIREMENTS FOR
27 COURSE CONTENT, INCLUDING COMPETENCY EVALUATIONS, FOR

1 INDIVIDUALS WHO ADMINISTER MEDICATIONS IN FACILITIES WHOSE
2 OPERATION IS AUTHORIZED BY THOSE DEPARTMENTS. A DEPARTMENT
3 THAT ADMINISTERS COMPETENCY EVALUATIONS SHALL MAINTAIN A
4 PUBLIC LIST OF INDIVIDUALS WHO HAVE SUCCESSFULLY COMPLETED THE
5 COMPETENCY EVALUATION.

6 (8) Each owner, operator, or supervisor of a facility who employs
7 a person who is not licensed to administer medications shall conduct a
8 ~~drug-related~~ criminal background check on each employee prior to
9 employment OR PROMOTION TO A POSITION IN WHICH THE PERSON HAS
10 ACCESS TO MEDICATIONS.

11 (9) EVERY UNLICENSED PERSON AND QUALIFIED MANAGER
12 DESCRIBED IN THIS SECTION, AS A CONDITION OF EMPLOYMENT OR
13 PROMOTION TO A POSITION IN WHICH HE OR SHE HAS ACCESS TO
14 MEDICATIONS, SHALL SIGN A DISCLOSURE STATEMENT UNDER PENALTY OF
15 PERJURY STATING THAT HE OR SHE NEVER HAD A PROFESSIONAL LICENSE
16 TO PRACTICE NURSING, MEDICINE, OR PHARMACY REVOKED IN THIS OR ANY
17 OTHER STATE FOR REASONS DIRECTLY RELATED TO THE ADMINISTRATION
18 OF MEDICATIONS.

19 (10) A PERSON WHO, ON OR BEFORE JULY 1, 2017, IS AUTHORIZED
20 TO ADMINISTER MEDICATION PURSUANT TO THIS SECTION IS NOT REQUIRED
21 TO COMPLETE ADDITIONAL TRAINING BUT IS OTHERWISE SUBJECT TO THIS
22 SECTION.

23 **SECTION 3.** In Colorado Revised Statutes, 25-1.5-302, **amend**
24 **(2); and repeal (4), (5), (6), and (7) as follows:**

25 **25-1.5-302. Administration of medications - powers and duties**
26 **of department - criminal history record checks.** (2) (a) The
27 department in cooperation with appropriate agencies or advisory bodies,

1 shall ~~develop or approve training curricula and competency evaluation~~
2 ~~procedures for those who administer medications in facilities~~ ESTABLISH
3 BY RULE THE MINIMUM REQUIREMENTS FOR COURSE CONTENT, INCLUDING
4 COMPETENCY EVALUATIONS, FOR MEDICATION ADMINISTRATION AND TO
5 DETERMINE COMPLIANCE WITH THE REQUIREMENTS FOR FACILITIES
6 LICENSED UNDER THIS TITLE.

7 (b) THE DEPARTMENT SHALL APPROVE TRAINING ENTITIES FOR
8 FACILITIES LICENSED UNDER THIS TITLE AND MAINTAIN A LIST OF
9 APPROVED TRAINING ENTITIES. THE DEPARTMENT SHALL ESTABLISH BY
10 RULE THE MINIMUM REQUIREMENTS FOR TRAINING ENTITIES, INCLUDING
11 INSTRUCTOR QUALIFICATIONS AND THE APPROVAL PROCESS. APPROVED
12 TRAINING ENTITIES SHALL PROVIDE THE DEPARTMENT WITH A LIST OF ALL
13 PERSONS WHO HAVE SUCCESSFULLY COMPLETED A COMPETENCY
14 EVALUATION.

15 (c) TRAINING ENTITIES SHALL ALSO PROVIDE THE DEPARTMENT
16 WITH ANY OTHER PERTINENT INFORMATION REASONABLY REQUESTED BY
17 THE DEPARTMENT PURSUANT TO THE DEPARTMENT'S OBLIGATION AND
18 AUTHORITY UNDER THIS SECTION.

19 (d) THE DEPARTMENT SHALL PUBLISH AND MAINTAIN A CURRENT
20 LIST OF ALL PERSONS WHO HAVE PASSED A COMPETENCY EVALUATION
21 FROM AN APPROVED TRAINING ENTITY AND PAID THE FEE REQUIRED BY
22 PARAGRAPH (e) OF THIS SUBSECTION (2).

23 (e) THE DEPARTMENT SHALL SET AND COLLECT A UNIFORM FEE FOR
24 INCLUSION IN THE PUBLIC COMPETENCY LISTING. THE DEPARTMENT SHALL
25 NOT INCLUDE AN INDIVIDUAL ON THE PUBLIC LISTING UNLESS THE
26 INDIVIDUAL HAS SUCCESSFULLY COMPLETED A COMPETENCY EVALUATION
27 FROM AN APPROVED TRAINING ENTITY AND PAID THE FEE ESTABLISHED BY

1 THE DEPARTMENT. THE REVENUE GENERATED FROM THE FEE MUST
2 APPROXIMATE THE DIRECT AND INDIRECT COSTS INCURRED BY THE
3 DEPARTMENT IN THE PERFORMANCE OF DUTIES UNDER THIS SECTION.

4 ~~(4) The department shall assure that training sessions, each~~
5 ~~followed by a competency evaluation set to measure basic competency~~
6 ~~only, are offered at various geographic locations in the state. An~~
7 ~~individual who does not pass the competency evaluation may apply to~~
8 ~~retake it. An appropriate fee must be paid each time the competency~~
9 ~~evaluation is taken. An individual may apply for and take the competency~~
10 ~~evaluation only once without having first attended a training session~~
11 ~~approved by the department. If such individual fails to meet a minimum~~
12 ~~competency level on such first evaluation, the applicant must attend an~~
13 ~~approved training session before again taking the competency evaluation.~~

14 ~~(5) The department shall set and collect a uniform fee for any~~
15 ~~training session given and a uniform fee for any competency evaluation~~
16 ~~administered under the provisions of this section whether the department~~
17 ~~administers such training or testing or contracts with a private provider~~
18 ~~pursuant to subsection (7) of this section, so that the revenue generated~~
19 ~~from such fees approximates the direct and indirect costs incurred by the~~
20 ~~department in the performance of its duties under this section. No person~~
21 ~~shall enroll in a training session or take the competency evaluation test~~
22 ~~until such person applies and makes payment of the appropriate fees to~~
23 ~~the department.~~

24 ~~(6) If the individual authorized to administer medication pursuant~~
25 ~~to subsection (1) of this section is found, during the course of any review~~
26 ~~by the authorizing agency as part of its procedure in authorizing the~~
27 ~~continued operation of the facility, to be unable or unwilling to comply~~

1 with the training regimen established for medication administration, the
2 department may order retraining as a remedial measure.

3 (7) (a) ~~If the department determines that it is not able to provide~~
4 ~~the training and administer competency evaluations pursuant to this~~
5 ~~section, the department may contract with a private provider or instructor~~
6 ~~to provide such training and administer such competency evaluations.~~

7 (b) ~~Before any private contractor may offer training pursuant to~~
8 ~~this subsection (7), such private contractor shall be reviewed by the~~
9 ~~department. Only those private contractors approved by the department~~
10 ~~may offer training. Any such approved private contractor shall offer only~~
11 ~~a medication administration training program which has been approved~~
12 ~~by the department. The department shall maintain a list of approved~~
13 ~~medication administration contractors. The department shall compensate~~
14 ~~contractors from the fees collected from each trainee in attendance at any~~
15 ~~such privately contracted training session or competency evaluation.~~

16 (c) ~~All private contractors shall provide the department with a list~~
17 ~~of all persons who have taken such contractor's approved training~~
18 ~~sessions or have passed the competency evaluation or both. Such~~
19 ~~contractors shall also provide the department with any other pertinent~~
20 ~~information reasonably requested by the department pursuant to its~~
21 ~~obligations and authority under this section. The department shall~~
22 ~~maintain a listing of all persons who have passed the competency~~
23 ~~evaluation on its web site.~~

24 **SECTION 4.** In Colorado Revised Statutes, 25-1.5-303, **amend**
25 (1), (2), (3), and (5) (c) as follows:

26 **25-1.5-303. Medication reminder boxes or systems -**
27 **medication cash fund - repeal.** (1) Medication reminder boxes or

1 systems may be used if such containers have been filled and properly
2 labeled by a pharmacist licensed pursuant to article 42.5 of title 12,
3 C.R.S., a nurse licensed pursuant to article 38 of title 12, C.R.S., or an
4 unlicensed person trained pursuant to this section or filled and properly
5 labeled through the gratuitous care by members of one's family or friends.
6 Nothing in this section authorizes or shall be construed to authorize the
7 practice of pharmacy, as defined in section 12-42.5-102 (31), C.R.S. ~~No~~
8 An unlicensed person shall NOT fill and label medication reminder boxes
9 pursuant to this section until ~~such~~ THE person has SUCCESSFULLY
10 completed ~~appropriate training approved by the department,~~ A
11 COMPETENCY EVALUATION FROM AN APPROVED TRAINING ENTITY OR HAS
12 BEEN APPROVED BY AN AUTHORIZED AGENCY, and no facility shall use an
13 unlicensed person to perform such services unless ~~such~~ THE facility has
14 a qualified manager to oversee the work of ~~such~~ THE unlicensed person
15 or persons. ~~Every unlicensed person and qualified manager described in~~
16 ~~this section shall sign a disclosure statement under penalty of perjury~~
17 ~~stating that he or she never had a professional license to practice nursing,~~
18 ~~medicine, or pharmacy revoked in this or any other state for reasons~~
19 ~~directly related to the administration of medications.~~

20 (2) The department has, in addition to all other powers and duties
21 imposed upon it by law, the powers and duties provided in this section to
22 develop and implement ~~policies and procedures~~ RULES with respect to the
23 provisions in subsection (1) of this section concerning the administration
24 of medication reminder boxes.

25 (3) The executive directors of the departments that control the
26 facilities defined in section 25-1.5-301 (2) (a) and (2) (b) may direct the
27 unlicensed staff of any such facility to monitor medications in any part of

1 any such facility. Administration of medications in any such facility shall
2 be allowed only in those areas of any such facility that have a licensed
3 physician or other licensed practitioner on duty. Notwithstanding other
4 training requirements established in this section, the operator or
5 administrator of every facility that hires an unlicensed person to
6 administer medications pursuant to this section shall provide on-the-job
7 training for such person, and all such unlicensed persons hired on or after
8 July 1, ~~1998~~ 2017, shall be adequately supervised until they have
9 SUCCESSFULLY completed ~~such~~ THE training. ~~Such~~ THE on-the-job
10 training ~~shall~~ MUST be appropriate to the job responsibilities of each
11 trainee. Facility operators and administrators shall require each unlicensed
12 person who administers medication in the facility to pass ~~the~~ A
13 competency evaluation ~~developed or approved by the department~~
14 pursuant to section 25-1.5-302 (2) as a condition of employment in that
15 facility. ~~at least once every five years.~~ Facility operators and
16 administrators shall document each unlicensed person's satisfactory
17 completion of on-the-job training and passage of the competency
18 evaluation in his or her permanent personnel file.

19 (5) (c) (I) Any ~~moneys~~ MONEY collected by the department from
20 persons taking a training program or a competency examination from a
21 private contractor approved pursuant to section 25-1.5-302 (7) shall be
22 transmitted to the state treasurer, who shall credit the same to the
23 medication administration cash fund created in paragraph (a) of this
24 subsection (5). Such ~~moneys~~ MONEY collected from the fees charged for
25 any such training program or competency examination shall be annually
26 appropriated by the general assembly to the department for the purpose
27 of paying private contractors for services rendered and for paying the

1 department's direct and indirect costs incurred pursuant to section
2 25-1.5-302 (7).

3 (II) THIS PARAGRAPH (c) IS REPEALED, EFFECTIVE JULY 1, 2017.

4 **SECTION 5. Effective date.** This act takes effect July 1, 2016;
5 except that section 3 of this act takes effect July 1, 2017.

6 **SECTION 6. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.