



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

7/1/2020 5:01:13 PM

Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Health TITLE-SERIES: 64-60

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Delegation of Medication Administration and Health Maintenance Tasks to Approved Medication Assistive Personnel

CITE STATUTORY AUTHORITY: 16-5O-11, 16-5AA-6, and 16-1-7

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/31/2020 5 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: April L. Robertson

ADDRESS: One Davis Square, Suite 100 East
Charleston, WV 25301

EMAIL: april.l.robertson@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

This legislative rule prescribes specific standards and procedures to provide for training, competency testing, and the certification of approved medication assistive personnel (AMAP) for the limited administration of medications and performance of health maintenance tasks in specified health care facilities. This rule must be read in conjunction with W. Va. Code 16-5O-1, et seq. and 16-5AA-1, et seq.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

Amendments have been made to be consistent with recent statutory changes to allow AMAPs to practice in nursing homes with a different scope, duties, and training program than AMAPs employed elsewhere.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

n/a

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

n/a

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

n/a

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2020 Increase/Decrease (use "-")	2021 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			0
Personal Services			0
Current Expenses			0
Repairs and Alterations			0
Assets			0
Other			0
2. Estimated Total Revenues			0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

n/a

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

April L Robertson -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 64
LEGISLATIVE RULE
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

SERIES 60
DELEGATION OF MEDICATION ADMINISTRATION AND PERFORMANCE OF HEALTH
MAINTENANCE TASKS BY TO APPROVED MEDICATION ASSISTIVE PERSONNEL

§64-60-1. General.

1.1. Scope. This legislative rule prescribes specific standards and procedures to provide for training, competency testing, and the certification of approved medication assistive personnel (AMAP) for the limited administration of medications and performance of health maintenance tasks in specified health care facilities. This rule must be read in conjunction with W. Va. Code §§ 16-50-1, ~~et seq.~~ et seq., and §§16-5AA-1, et seq.

1.2. Authority. W. Va. Code §§16-50-11, §16-5AA-6, and §16-1-7.

1.3. Filing Date.

1.4. Effective Date.

1.5. Sunset Provision. This rule will terminate and have no further force or effect upon the expiration of five years from its effective date.

1.6. Variances.

1.6.1. The department may grant a variance from any provision of this rule if it determines:

1.6.1.a. Strict compliance would impose a substantial hardship on the licensee;

1.6.1.b. The licensee will otherwise meet the goal of this rule; and

1.6.1.c. A variance will not result in less protection of the health, safety, and welfare of the residents.

1.6.2. A variance shall not be granted from a provision pertaining to residents' rights.

1.6.3. A variance request must be submitted in writing to the authorizing agency.

~~1.5.~~ 1.7. Enforcement. This rule is enforced by the secretary of the West Virginia Department of Health and Human Resources or his or her lawful designee.

§64-60-2. Definitions.

~~2.1. Administration of medications.~~ Definitions incorporated by reference. -- Those terms defined in W. Va. Code §§16-50-1, et seq., and §§ 16-5AA-1, et seq., where applicable, are incorporated herein by reference.

~~2.1.a. Assisting a person in the ingestion, application or inhalation of medications, including both prescription drugs and non prescription drugs, or using universal precautions for rectal or vaginal insertion of medication, according to the legibly written or printed directions of the attending physician or health care professional authorized to prescribe medication and consistent with his or her scope of practice, or as written on the prescription label; and~~

~~2.1.b. Making a written record of such assistance with regard to each medication administered, including the time, route and amount taken. "Administration" does not include:~~

~~2.1.b.1. Judgment, evaluation, assessments;~~

~~2.1.b.2. Injections of medication or any parental medications, except prefilled insulin injections and insulin pens pursuant to W. Va. Code §§ 16-50-10.a. and 16-50-1 et seq.;~~

~~2.1.b.3. Monitoring of medication; or~~

~~2.1.b.4. Self administration of medications, including prescription drugs and self injection of medication by the resident.~~

~~2.2. Approved medication assistive personnel (AMAP). The unlicensed facility staff member, who meets eligibility requirements, has successfully completed the required training and competency testing, and is considered competent by the authorized registered professional nurse to administer medications or perform health maintenance tasks, or both, to residents of the facility in accordance with W. Va. Code § 16-50-1 et seq.~~

~~2.3. 2.2. Assisted living residence. Any living facility or place of accommodation in the state, however named, available for four or more residents, that is advertised, offered, maintained or operated by the ownership or management, for the express or implied purpose of providing personal assistance, supervision, or both to ay residents who are dependent upon the services of others by reason of physical or mental impairment, and who may also require nursing care at a level that is not greater than limited and intermittent nursing care Assisted living residences as defined in W. Va. Code §§16-5D 1, et seq.~~

~~2.4. Authorized registered professional nurse. A person who holds an unencumbered license pursuant to W. Va. Code § 30-7-1 et seq., and meets the requirements to train ad supervise approved medication assistive personnel pursuant to this rule and W. Va. Code § 16-50-1 et seq., and has completed the facility trainer/instructor course developed by the authorizing agency. The curriculum can be accessed at <http://www.ohlfac.org>.~~

~~2.5. Authorizing agency. The department=s Office of Health Facility Licensure and Certification.~~

~~2.6. 2.3. Behavioral health group home. A community-based type of housing that is established for ~~adults/children~~ adults or children with similar needs, levels of independence, and ability which provides services and supervision for people with developmental disabilities, behavioral disorders, or substance addictions; is licensed by the department; and is in compliance with the state fire commission for residential facilities.~~

~~2.7. Department. The Department of Health and Human Resources.~~

~~2.8. Delegation. Transferring to a competent individual, as determined by the registered professional nurse, the authority to perform a selected task in a selected situation.~~

~~2.9. 2.4. Delegation decision model. Describes the process the authorized registered professional nurse must follow to determine whether or not to delegate a nursing task to an approved medication assistive personnel, in accordance with the applicable provisions of W. Va. Code §§16-50-1, et seq., and 16-5AA-1, et seq., as published by the National Council of the State Boards of Nursing. The delegation decision model currently approved by the West Virginia Board of Examiners for Registered Professional Nurses is a part of the "Criteria for Determining Scope of Practice for Licensed Nurses and Guidelines for Determining Acts that May be Delegated or Assigned by Licensed Nurses." The delegation decision model describes the process the authorized registered professional nurse must follow to determine whether or not to delegate a nursing task to an approved medication assistive personnel. It is the Registered Professional Nurse who makes the determination regarding competency of the approved medication assistive personnel to whom he or she is delegating task.~~

2.5. Department. The West Virginia Department of Health and Human Resources.

~~2.10. 2.6. Facility. An intermediate care facility for individuals with intellectual disabilities, assisted living residences, nursing homes, behavioral health group home, or private residence in which health care services or health maintenance tasks, or both, are provided under the supervision of a an authorized registered professional nurse.~~

~~2.11. 2.7. Facility staff member. An individual employed by a facility, but does not include a health care professional acting within the scope of a professional license or certificate.~~

~~2.12. 2.8. Family. Biological parents, adoptive parents, foster parents, or other immediate family members living within the same household.~~

~~2.13. Health care professional. A medical doctor or doctor of osteopathic medicine, a podiatrist, registered professional nurse, licensed practical nurse, advanced practice registered nurse, physician=s assistant, dentist, optometrist, pharmacist, physical therapist or respiratory care professional licensed under chapter thirty of W. Va. Code.~~

~~2.14. Health maintenance tasks.~~

~~2.14.a. Performing the following tasks according to the legibly written or printed directions of a physician under the provisions of W. Va. Code §§ 30-3-1 et seq. or 30-14-1 et seq. or health care professional authorized to prescribe medication and consistent with his or her scope of practice, or as written on the prescription label and consistent with the delegation decision model and the training curriculum developed by the authorizing agency according to the provisions of this rule, and making a record of that assistance with regard to each health maintenance tasks administered, including but not limited to, the time, route, and amount taken:~~

~~2.14.a.1. Administering glucometer;~~

~~2.14.a.2. Administering gastrostomy tube feeding;~~

~~2.14.a.3. Administering enemas;~~

~~2.14.a.4. Performing ostomy care which includes skin care and changing appliances;~~

~~2.14.a.5. Administering prefilled insulin or insulin pens;~~

~~2.14.a.6. Performing tracheostomy care for residents in a private residence who are living with family or natural supports, or both; and~~

~~2.14.a.7. Performing ventilator care for residents in a private residence who are living with family or natural supports, or both; and~~

~~2.14.b. Health maintenance tasks do not include:~~

~~2.14.b.1. Judgment, evaluation, assessments;~~

~~2.14.b.2. Injections of medication or any parenteral medications, except prefilled insulin injections and insulin pens pursuant to W. Va. Code §§ 16-50-10 a and 16-50-1 et seq.~~

~~2.14.b.3. Monitoring of medication; or~~

~~2.14.b.4. Self administration of medications, including prescription drugs and self injection of medication by the resident.~~

~~2.15.~~ 2.9. Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID). An intermediate care facility for individuals with intellectual disabilities which is certified by the Centers for Medicare and Medicaid Services (CMS) of the United States Department of Health and Human Services to provide health or rehabilitation services to persons with intellectual disabilities or persons with related conditions who are receiving active treatment.

~~2.16.~~ 2.10. Immediate family. A mother, stepmother, father, stepfather, sister, stepsister, brother, stepbrother, spouse, child, grandparent, or grandchild.

2.11. Location of medication administration or performance of health maintenance tasks. A facility or location where the resident requires administration of medication or assistance in taking medications or the performance of health maintenance tasks.

~~2.17. Medication.~~ A drug, as defined in W. Va. Code § 60A-1-101 et seq., which has been prescribed by a health care professional authorized to prescribe and consistent with his or her scope of practice, to be ingested through the mouth; inhaled through the nose or mouth; administered through a gastronomy tube; administered through pre-filled insulin or insulin pen; applied to the outer skin, eye or ear; or applied through nose drops, vaginal or rectal suppositories.

~~2.18.~~ 2.12. Medication error. Any deviation from the "six rights of medication administration," that occurs during medication administration process required by the provisions of this rule. A resident refusal is not considered a medication error.

~~2.19.~~ 2.13. Natural supports. Family, friends, neighbors, or anyone who provides assistance and support to a resident but is not reimbursed.

2.14. Nursing home. Nursing homes as defined in W. Va. Code §§16-5C-1, et seq.

~~2.20.~~ 2.15. Prefilled insulin or insulin pen. A self-contained cartridge that is not drawn up from a bottle.

~~2.21.~~ Primary health care professional. A medical doctor or doctor of osteopathic medicine, advanced practice registered nurse, and physician=s assistant licensed under chapter thirty of the W. Va. Code.

2.16. Prescribing practitioner. An individual who has prescriptive authority as provided in Chapter 30 of W. Va. Code.

~~2.22.~~ Registered professional nurse. A person who holds a valid license pursuant to W. Va. Code § 30-7-1 et seq.

~~2.23.~~ 2.17. Resident. A resident of a facility who for purposes of this rule, is in a stable condition.

~~2.24.~~ 2.18. Secretary. The secretary of the West Virginia Department of Health and Human Resources or his or her designee.

~~2.25.~~ Self administration of medication. The act of a resident, who is independently capable of reading and understanding the labels of drugs ordered by a physician, or an authorized health care professional authorized to prescribe and consistent with his or her scope of practice, in opening and accessing prepackaged drug containers, accurately identifying and taking the correct dosage of the drugs at the correct time and under the correct circumstances.

~~2.26.~~ Self administration of medication with assistance. Assisting residents who are otherwise able to self administer their own medication except their physical disability prevents them from completing one or more steps in the process.

~~2.27.~~ 2.19. Single specific agency. A person or entity operating two or more facilities.

~~2.28.~~ 2.20. Six rights of medication administration. The criteria used to assure that each resident receives the specific medication, prescribed for the person, in ordered amount, at the scheduled time, by the designated route, both as prescribed and prepared, which is accurately recorded in the resident=s record. The six rights of medication administration are: the right resident, the right drug, the right dosage, the right time, the right route, and the right record and documentation. The six rights of medication administration is defined in the curriculum, and can be accessed at <http://www.ohhnc.wv.gov> The right resident, the right drug, the right dosage, the right time, the right route, and the right record and documentation.

~~2.29.~~ Stable. The individual=s health condition is predictable and consistent as determined by the authorized registered professional nurse.

~~2.30.~~ Supervision of self administration of medications. 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, 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.

§ 64-60-3. Facility Administrative Procedures AMAP Program Approval.

~~3.1. Any facility may offer the training and competency evaluation program developed by the department to authorize approved medication assistive personnel. The training and competency program shall be provided by the facility through an authorized registered professional nurse. Any facility may permit the use of AMAPs when supervised by an authorized registered professional nurse, in accordance with this rule and the applicable provisions of W. Va. Code §§16-50-1, et seq., and §§ 16-5AA-1, et seq.~~

~~3.1.a.~~ 3.2. Prior to initiating ~~a training~~ an AMAP program, the facility shall submit to the authorizing agency written notification of the intent to participate in this program, documentation of the credentials of the authorized registered professional nurse who will ~~provide the training~~ oversee the program, and the facility policies and procedures required by ~~the provisions of this rule~~ and the applicable provisions of W. Va. Code §§16-50-1, et seq., and §§ 16-5AA-1, et seq.

~~3.1.b.~~ 3.3. Participation in the program shall only be permitted after review and approval of the authorized registered professional nurse=s credentials and the facility policies and procedures by the authorizing agency, and after the authorized registered professional nurse has completed the facility trainer and instructor orientation course developed by the authorizing agency.

~~3.1.c. Approved medication assistive personnel who have successfully trained and tested in one facility shall, prior to being approved to administer medications or health maintenance tasks, or both, in another facility, be re-evaluated for competency by the authorized registered professional nurse. This re-evaluation of competency shall be determined by using the tasks in the curriculum adopted in policy by the authorizing agency. The curriculum can be accessed at <http://ohfas.wv.gov>.~~

~~3.2. The authorizing agency may contract with an entity to provide facility trainer/instructor orientation training for the authorized registered professional nurse and to test the competency of prospective approved medication assistive personnel. The facility utilizing services shall pay any fees for training and testing.~~

3.4. Prospective AMAPs must successfully complete training and competency testing in accordance with the provisions of this rule and the applicable provisions of W. Va. Code §§16-50-1, et seq., and §§ 16-5AA-1, et seq.

3.5. AMAPs must participate in retraining in accordance with the provisions of this rule and the applicable provisions of W. Va. Code §§16-50-1, et seq., and §§ 16-5AA-1, et seq.

3.6. AMAPs who have successfully trained and tested in one facility must, prior to being approved to perform AMAP tasks, in another facility, be re-evaluated for competency by the authorized registered professional nurse.

3.7. AMAPs who have successfully trained and tested in the non-nursing home AMAP program may not transfer to the AMAP program of a nursing home without prior training and testing in accordance with W. Va. Code §§16-5AA-1, et seq.

3.8. The authorizing agency may contract with an entity to provide facility trainer or instructor orientation training for the authorized registered professional nurse. The facility utilizing services shall pay any fees for training and testing.

§ 64-60-4. Administration of Medications and Performance of Health Maintenance Tasks in Facilities AMAP Program Administration.

4.1. Authorized Registered Professional Nurse.

4.1.1. Each participating facility must have at least one authorized registered professional nurse.

4.1.2. The authorized registered professional nurse, in accordance with the provisions of this rule and the applicable provisions of W. Va. Code §§16-50-1, et seq., and §§ 16-5AA-1, et seq., must:

4.1.2.a. Possess a current, active, and unencumbered license to practice as a registered professional nurse in West Virginia;

4.1.2.b. Have practiced as a registered professional nurse in a position or capacity requiring knowledge of medications for the immediate two years, disregarding short absences, including, but not limited to, vacation or illness;

4.1.2.c. Be familiar with the nursing care needs of the residents assigned to the AMAP;

4.1.2.d. Have successfully completed the authorized registered professional nurse training for the AMAP program; and

4.1.2.e. Have knowledge of all facility policies and procedures pertaining to the AMAP program.

4.1.3. Number of testing opportunities.

4.1.3.a. The prospective authorized registered professional nurse has three opportunities to pass the competency test.

4.1.3.b. If the prospective authorized registered professional nurse does not pass the first testing opportunity, he or she must wait seven calendar days prior to taking the second testing opportunity.

4.1.3.c. If the prospective authorized registered professional nurse does not pass the second testing opportunity, the facility must request a third and final testing opportunity from the authorizing agency.

4.1.3.d. If the prospective authorized registered professional nurse does not pass the third testing opportunity, a fourth opportunity will not be given.

4.1.3.e. If the prospective authorized registered professional nurse does not pass the third testing opportunity, he or she must wait six months to gain more training and experience prior to being able to start the competency testing process a second and final time.

~~4.1.~~ 4.2. Before delegating the performance of medication administration or health maintenance tasks, or both permitted tasks, the authorized registered professional nurse must decide whether the task

is appropriate to delegate based on the criteria set forth by the “Delegation Decision Model.” Delegation decision model.

~~4.2. Administration of medication or the performance of health maintenance tasks, or both pursuant to this rule shall only be performed by:~~

~~4.2.a. Licensed health care professionals subject to the provisions of their respective licensing law; and~~

~~4.2.b. Approved medication assistive personnel who have been trained and retrained every two years and who are subject to the supervision of and approval by the authorized registered professional nurse.~~

~~4.3. After having assessed the health status of an individual resident, the authorized registered professional nurse, in collaboration with the resident’s primary health care professional and the approved medication assistive personnel, may recommend that the administration of medications or performance of health maintenance tasks, or both, be provided by an approved medication assistive personnel. The authorized registered professional nurse, in collaboration with the resident’s primary care provider, will determine whether the resident is in stable condition relative to the tasks proposed to be delegated to the AMAP.~~

~~4.4. Authorization to administer medications or health maintenance tasks, or both, may only be granted and continued if the approved medication assistive personnel:~~

~~4.4.a. Has successfully completed the approved medication administration or health maintenance tasks, or both, training programs and received a satisfactory competency evaluation as required by the provisions of this rule;~~

~~4.4.b. Is considered by the authorized registered professional nurse to be competent, including satisfactory completion of the training program and competency evaluation and possession of the ability to perform the required tasks to administer medications or health maintenance tasks, or both;~~

~~4.4.c. Consults with the authorized registered professional nurse on a regular basis;~~

~~4.4.d. Is monitored or supervised by the authorized registered professional nurse as required by the provisions of this rule; and~~

~~4.4.e. Participates in the required retraining program at least every two years.~~

~~4.5. 4.4. Any facility which uses approved medication assistive personnel to administer medications or health maintenance tasks, or both, pursuant to the provisions of this rule with an approved AMAP program shall ~~make available to provide~~ the authorizing agency a list of the ~~approved medication assistive personnel~~ AMAPs, upon request, but ~~no~~ not less than annually.~~

~~4.6. 4.5. Any non-nursing home agency or facility employing a health care provider licensed pursuant to chapter thirty of the W. Va. Code for the purposes of supervising the administration of medication or the performance of health maintenance tasks, or both with an approved AMAP program, shall purchase and maintain liability insurance for the licensed care provider and any approved medication assistive personnel who have been trained and are employed to administer medication or perform health~~

~~maintenance, or both~~ for the coverage of the licensed and unlicensed personnel in the delivery of services, pursuant to W. Va. Code §§ 16-50-1, ~~et seq et seq.,~~ and this rule.

~~4.7. The authorized registered professional nurse shall initiate and keep current a file for all approved medication assistive personnel which contains proof of compliance with eligibility requirements as required by the provisions of this rule. This file shall be maintained in the facility and available to representatives of the authorizing agency on request.~~

~~4.8.~~ 4.6. Exclusions from this rule for administration of medications in facilities.

~~4.8.a.~~ 4.6.1. Nothing in this rule may be construed to prohibit any facility staff member from ~~administering medications or performing health maintenance tasks, or both, or providing any other prudent emergency assistance to aid any person who is in acute physical distress or requires emergency assistance, in the absence of trained medical or health care professionals. Examples of emergency assistance of acute physical distress requiring emergency assistance include, but are not limited to, the administration of cardiopulmonary resuscitation, Heimlich maneuver, and administration of naloxone or epinephrine. Facilities without trained medical or health care professionals on site should have the following in place:~~

4.6.1.a. The facility must have a policy related to administering lifesaving medications including, but not limited to, naloxone and epinephrine.

4.6.1.b. The facility policy must include a provision for staff to immediately call 911 prior to or in the process of carrying out lifesaving measures.

4.6.1.c. Staff must receive training on the administration of lifesaving medication and treatment by a qualified instructor.

~~4.8.b.~~ 4.6.2. Supervision of self-administration of medication by facility staff members who are not licensed health care professionals may be permitted in certain circumstances when the substantial purpose of the setting is other than the provision of health care.

~~4.8.c.~~ 4.6.3. Any parent or guardian may administer medication to, or perform health maintenance tasks, or both, for his or her adult or minor child regardless of whether or not the parent or guardian receives compensation for caring for said child.

~~4.9.~~ 4.7. Location where delegated tasks may be performed. For non-nursing homes, ~~the location of medication administration or location where health maintenance where authorized and permitted delegation of tasks are performed is not limited to the facility. Medication administration or health maintenance tasks, or both, must be administered or performed in a manner that protects the facility resident's personal privacy and dignity.~~

4.7.1. The facility must have a standard of practice in place to secure prescribed medications, including controlled substances, within the residential setting.

4.7.2. The facility must have a process in place for the AMAP to sign out the medication for administration when the resident is away from the residential setting.

4.7.3. Once medications are signed out, they must be secured by the AMAP for transportation until the time of administration. The act of signing out the medications is the beginning of the administration process.

4.7.4. The facility must provide appropriate methods for the AMAP to secure medications, including controlled substances and medications requiring specific temperatures.

4.7.5. Delegation of tasks must be performed in a manner that protects the resident's personal privacy and dignity.

§ 64-60-5. ~~Instruction and Training Curriculum and Competency Evaluation.~~

5.1. Curriculum.

~~5.1.a. 5.1.1. The authorizing agency will develop the training curricula in accordance with W. Va. Code §§ 16-50-5 and 16-50-1 et seq~~ The authorizing agency's training curricula shall be based on a nationally recognized model for certified medication aides.

~~5.1.b. 5.1.2. The curriculum adopted in policy by the authorizing agency utilized to train prospective approved medication assistive personnel shall be the West Virginia Department of Health and Human Resources Curriculum for Unlicensed Approved Medication Assistive Personnel. The curriculum may be obtained from the authorizing agency, and the curriculum can be accessed at <http://www.dhhr.wv.gov>~~ The authorized registered professional nurse must develop person-centered, resident-specific training for AMAPs to learn how to provide specific delegated tasks. This training must be face-to-face.

5.2. Competency evaluation.

~~5.2.a. 5.2.1. The authorizing agency will develop the competency evaluation in accordance with W. Va. Code §§ 16-50-5 and 16-50-1 et seq~~ The prospective AMAP must pass a national Medication Aide Certification Examination offered by the National Council of State Boards of Nurses.

~~5.2.b. 5.2.2. The administration of the competency test to the prospective approved medication assistive personnel shall be by the authorized registered professional nurse. The authorized registered professional nurse shall handle competency tests in accordance with the instructions of the authorizing agency~~ The authorizing agency will develop policy for the implementation of the competency evaluation component.

~~5.2.c. 5.2.3. Competency evaluation includes the prospective approved medication assistive personnel and his or her;~~ The authorizing agency may contract with an entity to provide the competency evaluation to the prospective AMAP. The facility utilizing services shall pay any fees for competency evaluation testing.

~~5.2.c.1. Satisfactory completion and demonstration of all tasks in the curriculum; and~~

~~5.2.c.2. Satisfactory completion of a competency test approved by the authorizing agency.~~

~~5.2.d. The prospective approved medication assistive personnel shall be allowed two opportunities to satisfactorily complete a competency test, utilizing a different test for each opportunity.~~

~~A third and final competency test may only be given if the prospective approved medication assistive personnel repeats the training program. The decision to repeat the training course will be at the discretion of the authorized registered professional nurse.~~

5.3. Retraining program.

~~5.3.a. 5.3.1. Retraining of the approved medication administration personnel AMAP shall be conducted every two years by the authorized registered professional nurse.~~

~~5.3.b. 5.3.2. The retraining shall include the curriculum and documentation of the required AMAP observation by the authorized registered professional nurse of medication administration or performance of health maintenance tasks or both. Retraining of the AMAP must consist of a four-hour course developed by the authorized registered professional nurse to include areas identified through required monitoring and supervision activities, and best practices.~~

~~5.4. Requirements of the authorized registered professional nurse.~~

~~5.4.a. The authorized registered professional nurse shall train approved medication assistive personnel to administer medications or perform health maintenance tasks, or both and shall:~~

~~5.4.a.1. Possess a current valid and unencumbered West Virginia license in good standing to practice as a registered professional nurse;~~

~~5.4.a.2. Have practiced as a registered professional nurse in a position or capacity requiring knowledge of medications and health maintenance tasks for the immediate two years prior to being authorized to train approved medication assistive personnel;~~

~~5.4.a.2.a. As used in this section, "immediate two years" means the two years prior, disregarding short absences, including, but not limited to, vacation or illness.~~

~~5.4.a.3. Be familiar with the nursing care needs of the residents of the facility;~~

~~5.4.a.4. Have completed the facility trainer and instructor orientation course developed by the authorizing agency;~~

~~5.4.a.5. Have knowledge of all facility policies and procedures pertaining to medication administration and health maintenance tasks;~~

~~5.4.a.6. Have knowledge of the provisions in this rule; and~~

~~5.4.a.7. Have competencies for health maintenance tasks reassessed and documented annually by the employer of record to ensure continued competency.~~

§ 64-60-6. Eligibility Requirements for ~~Approved Medication Assistive Personnel~~ AMAP to be Trained.

6.1. A facility may permit a facility staff member to be trained as an ~~approved medication assistive personnel to administer medications or health maintenance tasks, or both~~ AMAP, in a single specific agency only after compliance with all of the following the provisions of this rule and when the following criteria are met:

~~6.1.a. 6.1.1.~~ The facility determines there is no statement on the state administered nurse aide registry indicating that the facility staff member has been the subject of a finding of abuse or neglect of a long-term care facility resident or convicted of the misappropriation of such a resident's property. The facility staff member is deemed competent by the authorized registered professional nurse to perform specific and permitted delegated tasks;

~~6.1.b. 6.1.2.~~ The facility staff member has had a criminal background check or if applicable, a check of the state police abuse registry, establishing that the individual has not been convicted of any crimes against persons or drug-related crimes. The facility staff member received an eligibility fitness determination or variance from the West Virginia Clearance for Access: Registry and Employment Screening;

~~6.1.c. 6.1.3.~~ The facility staff member holds a high school diploma or a general education diploma the equivalent;

~~6.1.d. 6.1.4.~~ The facility staff member has successfully completed the training curriculum and passed the competency evaluation developed by the authorizing agency. The facility staff member has not been the subject of a finding of abuse, neglect, or misappropriation of a long-term care resident on the West Virginia Nurse Aide Abuse and Neglect Registry;

~~6.1.e. 6.1.5.~~ The approved medication assistive personnel is currently certified in cardiopulmonary resuscitation and first aid. For nursing homes, the facility staff member must have at least one-year experience as a nurse aide in a long-term care facility; and

~~6.1.f. 6.1.6.~~ The approved medication assistive personnel participates in a restraining program every two years; and The facility staff member is certified in cardiopulmonary resuscitation and first aid.

~~6.1.g.~~ The approved medication assistive personnel must have competencies for health maintenance tasks reassessed and documented annually by the authorized registered professional nurse and maintained by the employer of record to ensure continued competency.

~~§ 64-60-7. Facility Oversight of Medication Administration and Health Maintenance Tasks by Approved Medication Assistive Personnel~~ Minimum Policy and Procedure Requirements for AMAP Programs.

~~7.1. Administrative policy requirements~~ Policy Development and Approval Procedures.

~~7.1.a. 7.1.1.~~ The facility or single specific agency must ~~submit~~ develop policies and procedures pertaining to medication administration and health maintenance tasks to the authorizing agency for approval, prior to receiving authorization to train facility staff members as approved medication assistive personnel for the implementation of the AMAP program, including, but not limited to, the minimum requirements within the provisions of this rule and the applicable provisions of W. Va. Code §§16-50-1, et seq., and §§ 16-5AA-1, et seq.

~~7.1.b. 7.1.2.~~ An authorized registered professional nurse shall participate in development and revision of ~~these~~ AMAP program policies and procedures.

~~7.1.c. 7.1.3. The policies and procedures shall include at least the following: Facilities are not permitted to implement an AMAP program prior to the authorizing agency's approval of the AMAP program's policies and procedures.~~

~~7.1.c.1. Eligibility requirements for the authorized registered professional nurse and approved medication assistive personnel participating in medication administration or health maintenance tasks, or both;~~

~~7.1.c.2. Limitations on the functions of the approved medication assistive personnel;~~

~~7.1.c.3. Requirements for documentation in personnel records;~~

~~7.1.c.4. Requirements for documentation in resident medical records, shall include at least the following:~~

~~7.1.c.4.A. Each facility shall maintain a medication or a treatment administration record, or both, for each resident, to be maintained as a part of the permanent medical record. This record shall be available for review by the authorized registered professional nurse, representatives of the authorizing agency, and other authorized persons. This record shall include:~~

~~7.1.c.4.A.1. The name of the resident to receive the medication or health maintenance task, or both;~~

~~7.1.c.4.A.2. The name of the medication or health maintenance task, or both the dosage to be administered and the route of administration;~~

~~7.1.c.4.A.3. The time or intervals at which the medication or health maintenance task, or both, is to be administered or performed;~~

~~7.1.c.4.A.4. The date the medication or health maintenance task, or both, is to begin and cease;~~

~~7.1.c.4.A.5. The printed name, the initials and the signature of the individual who administered the medication or performed health maintenance task, or both; and~~

~~7.1.c.4.A.6. Any special instructions for handling or administering the medication or performing health maintenance task, or both, including instructions for maintaining aseptic conditions and appropriate storage.~~

~~7.1.c.4.B. Written, signed and dated orders by the physician or authorized health care professional shall be present in the medical record of each resident, for each medication to be administered, including over the counter medications. Verbal orders may only be taken by the authorized registered professional nurse and must be countersigned by the physician or authorized health care professional within the designated timeframe not to exceed 14 days.~~

~~7.1.c.4.C. Written, signed and dated by the physician or authorized health care professional orders shall be present in the medical record of each resident, for each authorized health maintenance task to be performed. Verbal orders may only be taken by the authorized registered~~

~~professional nurse and must be countersigned by the physician or authorized health care professional within the designated timeframe not to exceed 14 days.~~

~~7.1.c.4.D. Written, signed and dated verification of physician or authorized health care professional collaboration in the decision to allow medication administration or health maintenance tasks, or both, by approved medication assistive personnel shall be present in the medical record of each resident.~~

~~7.1.c.5. Requirements for the monitoring and supervision of the approved medication assistive personnel by the authorized registered professional nurse employed or contracted by the facility shall include at least the following:~~

~~7.1.c.5.A. The authorized registered professional nurse coverage to respond to questions related to any aspect of medication administration or health maintenance tasks, or both by approved medication assistive personnel;~~

~~7.1.c.5.B. The number of approved medication assistive personnel, residents, and sites the authorized registered professional nurse will supervise;~~

~~7.1.c.5.C. The number of residents and sites for which the approved medication assistive personnel will administer medications or health maintenance tasks, or both;~~

~~7.1.c.5.D. The furthest distance the authorized registered professional nurse will be expected to travel to a site and between sites;~~

~~7.1.c.5.E. Periodic and ongoing observation and supervision, not less frequently than quarterly, of the medication administration or health maintenance tasks, or both;~~

~~7.1.c.5.F. The training and approval process for an approved medication assistive personnel to administer medications or health maintenance tasks, or both, at different sites within a specific agency;~~

~~7.1.c.5.G. Ongoing review of the physician=s or authorized health care professional=s order, medication administration records, and medication labels by the authorized registered professional nurse for consistency and documentation of such; ongoing review of medication error reports and medication related incident reports by the authorized registered professional nurse and the primary health care professional; and~~

~~7.1.c.5.H. The withdrawal of approval for an approved medication assistive personnel to administer medication or perform health maintenance tasks, or both, including the reasons for the withdrawal of approval.~~

~~7.1.c.6. Requirements for communication and monitoring between the approved medication assistive personnel and the authorized registered professional nurse in situations where a condition arises which may create a risk to the resident=s health and safety, shall include at least the following:~~

~~7.1.c.6.A. Any change in a resident=s condition;~~

~~7.1.c.6.B. Any discrepancy between the pharmacy label and the medication administration record;~~

~~7.1.c.6.C. Any deviation from the six rights of medication administration;~~

~~7.1.c.6.D. Any doubt or question about the medication administration or health maintenance tasks processes;~~

~~7.1.c.6.E. Resident refusal of medication or health maintenance tasks, or both;~~

~~7.1.c.6.F. Any question about a medication or health maintenance task, or both ordered to be given "as needed";~~

~~7.1.c.6.G. Any question about a medication or health maintenance task, or both looking different or unusual;~~

~~7.1.c.6.H. Receipt of any change in the physician's or authorized health care professional's orders, and the need for disposal of medications; and~~

~~7.1.c.6.I. The type and frequency of monitoring and the training requirements for management of these occurrences shall be determined through the nurse delegation decision model.~~

~~7.1.c.7. The medication delivery system to be utilized by the facility shall include at least the following: the type of medication packaging required; medication storage; how the six rights of medication administration are assured; disposal of medications; and special procedures for controlled substances;~~

~~7.1.c.8. Infection control, including: universal precautions, use of personal protective equipment, and medical aseptic practices;~~

~~7.1.c.9. The process for resident identification; and~~

~~7.1.c.10. The process to prevent drug diversion.~~

~~7.1.d. 7.1.4. Each facility shall have available the most current published resource information on all drugs being administered by the facility, including the risks and possible side effects Facilities or single specific agencies must submit proposed policies and procedures to the authorizing agency at least 60 days prior to the proposed implementation date of the AMAP program.~~

~~7.1.e. 7.1.5. The authorizing agency shall require alterations to facility policy if the determination is made that medication administration or health maintenance task, or both, is not being administered in accordance with the nurse delegation decision model or if potentially unsafe conditions exist Facilities or single specific agencies with approved policies and procedures must review the policies and procedures at least once a year for any needed revisions or updates.~~

~~7.1.f. 7.1.6. Failure by the facility to provide oversight of medication administration or health maintenance tasks, or both, as required by this rule or by facility policies may result in penalties, including the denial of participation in this program Facilities or single specific agencies with approved policies and~~

procedures must submit any proposed changes to the authorizing agency 30 days prior to implementing proposed changes.

~~7.1.g. 7.1.7. Have competencies for health maintenance tasks reassessed and documented annually by the employer of record to ensure continued competency for the authorized registered professional nurse and approved medication assistive personnel~~ The authorizing agency may require alterations to the facility's or single specific agencies policy when a determination is made that the delegated tasks are not being monitored or performed in a safe manner or under unsafe conditions.

7.1.8. Failure by the facility or single specific agencies to develop and implement an effective policy and procedure for the AMAP program, as required by this rule may result in penalties, including the suspension or denial of participation in the AMAP program.

7.2. Personnel Records. Requirements for documentation in the personnel record must include at least the following related to the AMAP program:

7.2.1. Applications for participating as an authorized registered professional nurse;

7.2.2. Training records for all AMAP training received by the AMAP and the authorized registered professional nurse;

7.2.3. Competency testing attempts and successful completion;

7.2.4. Monitoring and supervision reviews by the authorized registered professional nurse;

7.2.5. Retraining records for the AMAP and authorized registered professional nurse;

7.2.6. Any disciplinary action taken related to AMAP or authorized registered professional nurse performance in carrying out duties and responsibilities; and

7.2.7. For nursing homes, proof of one year of full-time experience as a nurse aide in a long-term care facility.

7.3. Resident medical records. Requirements for documentation in the resident medical record must include at least the following related to the AMAP program:

7.3.1. Each facility shall maintain a medication administration record (MAR) for each resident, to be maintained as a part of the permanent medical record. This record must be available for review by the authorized registered professional nurse, representatives of the authorizing agency, and other authorized persons. This record shall include:

7.3.1.a. The name of the resident to receive the medication;

7.3.1.b. Listing of each medication, to include at least the following:

7.3.1.b.1. The name of the medication;

7.3.1.b.2. The dosage to be administered;

7.3.1.b.3. The time and frequency for administration;

7.3.1.b.4. The diagnosis for which the medication was ordered;

7.3.1.b.5. The route of administration;

7.3.1.b.6. The date the medication was ordered; and

7.3.1.b.7. The date the medication is to cease, if indicated on the physician's order;

7.3.1.c. The printed name, the initials, and the signature of the individual who administered the medication;

7.3.1.d. Name and phone number of the physician;

7.3.1.e. A listing of allergies the resident may have;

7.3.1.f. Space for each day of the month to record the administration of medication;

7.3.1.g. Any special instructions for handling or administering the medication, including instructions for maintaining aseptic conditions and appropriate storage;

7.3.1.h. Written, signed, and dated orders by the physician or authorized health care professional shall be present in the medical record for each medication to be administered, including over-the-counter medications. Verbal orders may only be taken by the authorized registered professional nurse and must be countersigned by the physician or authorized health care professional within the designated timeframe not to exceed 14 days; and

7.3.1.i. Written, signed, and dated verification of physician or authorized health care professional collaboration in the decision to allow medication administration shall be present in the medical record of each resident.

7.3.2. Each facility must maintain a treatment administration record (TAR) for each resident, to be maintained as a part of the permanent medical record. This record must be available for review by the authorized registered professional nurse, representatives of the authorizing agency, and other authorized persons. The TAR must include:

7.3.2.a. The name of the resident to receive the health maintenance task, or medication to be administered;

7.3.2.b. Listing of the specific health maintenance task, or medication to be administered to include at least the following:

7.3.2.b.1. Instructions for performing the specific health maintenance task, or medication to be administered;

7.3.2.b.2. The time or intervals at which the health maintenance task, or medication to be administered is to be administered or performed;

7.3.2.b.3. The date the health maintenance task, or medication to be administered is to begin; and

7.3.2.b.4. The date the health maintenance task, or medication to be administered is to cease, if indicated on the physician's order;

7.3.2.c. Any special instructions for performing health maintenance task, or medication to be administered, including but not limited to, instructions for maintaining aseptic conditions and appropriate storage;

7.3.2.d. The printed name, the initials, and the signature of the individual who performed health maintenance task, or medication to be administered;

7.3.2.e. Name and phone number of the physician;

7.3.2.f. A listing of allergies the resident may have;

7.3.2.g. Space for each day of the month to record the performance of the health maintenance task, or medication to be administered;

7.3.2.h. Written, signed, and dated orders by the physician or authorized health care professional for each authorized health maintenance task to be performed, or medication to be administered. Verbal orders may only be taken by the authorized registered professional nurse and must be countersigned by the physician or authorized health care professional within the designated timeframe not to exceed 14 days; and

7.3.2.i. Written, signed, and dated verification of physician or authorized health care professional collaboration in the decision to allow health maintenance tasks, or medication to be administered by an AMAP must be present in the medical record of each resident.

7.4. Monitoring and Supervision. Requirements for the monitoring and supervision of the AMAP by the authorized registered professional nurse employed or contracted by the facility shall include at least the following:

7.4.1. The authorized registered professional nurse must be available onsite or on-call 24-hours per day, seven days per week, to respond to questions or concerns related to any aspect of the delegation process from the AMAP;

7.4.2. The number of AMAPs, residents, and sites the authorized registered professional nurse will supervise, including their location;

7.4.3. The number of residents and sites for which the AMAP will perform delegated tasks;

7.4.4. The furthest distance the authorized registered professional nurse will be expected to travel to a site and between sites; and

7.4.5. Periodic and ongoing observation and supervision, to verify competencies, not less frequently than quarterly, of the AMAP performing delegated tasks. In-person and face-to-face

observation and supervision between the AMAP and the authorized registered professional nurse under the following conditions:

7.4.5.a. The authorized registered professional nurse may use video conferencing for observations and communication with the AMAP when it permits the same access as face-to-face interaction;

7.4.5.b. Video conferencing must ensure the privacy and confidentiality of the resident;

7.4.5.c. Video conferencing must not be used for consecutive monitoring events; and

7.4.5.d. Video conferencing should be limited to emergency situations, including inclement weather and other emergencies.

7.5. Multiple Site Coverage. The facility shall have policies and procedures for the training and approval process for AMAPs to perform authorized and permitted delegated tasks at different sites within a specific agency.

7.6. Review of Physician Orders. The facility shall have policies and procedures for ongoing review of the prescribing practitioner's orders, MARs, TARs, medication labels for consistency and documentation of such; and ongoing review of medication error reports and medication related incident reports by the authorized registered professional nurse and the prescribing practitioner.

7.7. Withdrawal of Approval. The facility shall have policies and procedure for the withdrawal of approval for an AMAP to perform authorized and permitted delegated tasks, including the reasons for the withdrawal of approval and the date of the withdrawal.

7.8. Communication. Requirements for communication and monitoring between the AMAP and the authorized registered professional nurse shall include at the following situations:

7.8.1. Any change in a resident's condition;

7.8.2. Any discrepancy between the pharmacy label and the MAR;

7.8.3. Any discrepancy between the physician or health care provider's order and the TAR;

7.8.4. Any deviation from the six rights of medication administration;

7.8.5. Any doubt or question about the performance of any delegated task;

7.8.6. Any resident refusal of the delegated task;

7.8.7. Any change in the prescribing practitioner's order;

7.8.8. Any need for the disposal of medications; and

7.8.9. The type and frequency of additional monitoring and training in response of these occurrences will be determined by the authorized registered professional nurse.

7.9. Medication Delivery System. The authorized registered professional nurse must provide AMAPs with the possible risks, side effects, and contraindications for each medication prescribed to the resident. The medication delivery system policy used by the facility must include at least the following:

7.9.1. The type of medication packaging;

7.9.2. The method of medication storage;

7.9.3. How the six rights of medication administration are implemented;

7.9.4. The process for resident identification;

7.9.5. The process to prevent drug diversion;

7.9.6. The disposal method used;

7.9.7. The procedures used to handle, monitor, protect, store, and track controlled substances;
and

7.9.8. The infection control prevention and mitigation program, including, but not limited to, universal precautions, use of personal protective equipment, and medical aseptic practice.

§ 64-60-8. Withdrawal of Authorization.

8.1. The authorized registered professional nurse may withdraw the authorization for the ~~approved medication assistive personnel~~ AMAP if the authorized registered professional nurse determines that the ~~approved medication assistive personnel~~ AMAP is not performing in accordance with the training and written instructions.

8.2. The withdrawal of authorization, ~~and~~ the reasons for the withdrawal, ~~with~~ and any corresponding evidence, shall be documented and ~~shall be~~ relayed to the facility and the authorizing agency in order to remove the ~~approved medication assistive personnel~~ AMAP from the list of authorized individuals.

§ 64-60-9. Limitations on Medication Administration and Health Maintenance Tasks Approved Medication Assistive Personnel.

9.1. The medication to be administered shall be received and maintained in the original container in which it was dispensed by a pharmacist or the physician until such time as it is administered to the resident.

9.2. No injections nor any parental medications shall be administered, except that prefilled insulin or insulin pens may be administered in non-nursing home facilities.

9.3. No irrigations nor debriding agents used in the treatment of a skin condition or minor abrasions shall be administered.

9.4. No verbal medication orders shall be accepted, ~~nor~~ No new medication or treatment orders or health maintenance task orders, or both, shall be transcribed, No first dosages of medication shall be administered. ~~and~~ No drug medication dosages shall be converted or calculated.

9.5. Medications ordered by the ~~physician or a health care professional with legal prescriptive authority~~ prescribing practitioner to be given as needed shall be ~~administered~~ delegated only if the order is written with specific parameters which preclude independent judgment.

9.6. Delegation of tracheostomy care and ventilator care is not permitted in an intermediate care facility for individuals with an intellectual disability, nursing homes, assisted living, behavioral health group home, or private residence where the resident is not residing with family, ~~and/or~~ natural supports, or both.

9.7. The delegation of health maintenance tasks is prohibited in nursing homes.

§ 64-60-10. Administrative Due Process.

10.1. Those persons adversely affected by the enforcement of this rule may submit a written request for a desk review to determine whether the privileges were appropriately withdrawn in a manner prescribed by the policy developed by the authorizing agency.