

1 **H. B. 2763**

2
3 (By Delegates Perdue, Perry, Ellington,
4 Lawrence, Moye and Staggers)

5 (By Request of the Department of Health and Human Resources)

6 [Introduced February 28, 2013; referred to the
7 Committee on Health and Human Resources then the
8 Judiciary.]

9
10 A BILL to amend and reenact §16-50-2 of the Code of West Virginia,
11 1931, as amended, relating to removing an adult family care
12 home from the definition of a facility for the purposes of the
13 Medication Administration by Unlicensed Personnel Act.

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

15 That §16-50-2 of the Code of West Virginia, 1931, as amended,
16 be amended and reenacted to read as follows:

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

18 **§16-50-2. Definitions.**

19 As used in this article, unless a different meaning appears
20 from the context, the following definitions apply:

21 (a) "Administration of medication" means:

22 (1) Assisting a person in the ingestion, application or
23 inhalation of medications, including prescription drugs, or in the
24 use of universal precautions or rectal or vaginal insertion of

1 medication, according to the legibly written or printed directions
2 of the attending physician or authorized practitioner, or as
3 written on the prescription label; and

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

11 (b) "Authorizing agency" means the department's office of
12 Health Facility Licensure and Certification.

13 (c) "Department" means the Department of Health and Human
14 Resources.

15 (d) "Facility" means an ICF/ID, assisted living, behavioral
16 health group home, private residence in which health care services
17 are provided under the supervision of a registered nurse. ~~or an
18 adult family care home that is licensed by or approved by the
19 department.~~

20 (e) "Facility staff member" means an individual employed by a
21 facility but does not include a health care professional acting
22 within the scope of a professional license or certificate.

23 (f) "Health care professional" means a medical doctor or
24 doctor of osteopathy, a podiatrist, registered nurse, practical

1 nurse, registered nurse practitioner, physician's assistant,
2 dentist, optometrist or respiratory care professional licensed
3 under chapter thirty of this code.

4 (g) "ICF/ID" means an intermediate care facility for
5 individuals with an intellectual disability which is certified by
6 the department.

7 (h) "Location of medication administration" means a facility
8 or location where the resident requires administration of
9 medication or assistance in taking medications.

10 (i) "Medication" means a drug, as defined in section one
11 hundred one, article one, chapter sixty-a of this code, which has
12 been prescribed by a duly authorized health care professional to be
13 ingested through the mouth, applied to the outer skin, eye or ear,
14 or applied through nose drops, vaginal or rectal suppositories.

15 (j) "Registered professional nurse" means a person who holds
16 a valid license pursuant to article seven, chapter thirty of this
17 code.

18 (k) "Resident" means a resident of a facility.

19 (l) "Secretary" means the Secretary of the Department of
20 Health and Human Resources or his or her designee.

21 (m) "Self-administration of medication" means the act of a
22 resident, who is independently capable of reading and understanding
23 the labels of drugs ordered by a physician, in opening and
24 accessing prepackaged drug containers, accurately identifying and

1 taking the correct dosage of the drugs as ordered by the physician,
2 at the correct time and under the correct circumstances.

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

7 (o) "Supervision of self-administration of medication" means
8 a personal service which includes reminding residents to take
9 medications, opening medication containers for residents, reading
10 the medication label to residents, observing residents while they
11 take medication, checking the self administered dosage against the
12 label on the container and reassuring residents that they have
13 obtained and are taking the dosage as prescribed.

NOTE: The purpose of this bill is to remove adult family care homes from the definition of a facility, and therefore coverage, under the Medication Administration by Unlicensed Personnel Act.

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