

# Senate Bill No. 429

(By Senator Stollings)

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[Introduced March 4, 2013;  
referred to the Committee on Health and Human Resources;  
and then to the Committee on the Judiciary.]

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A BILL to amend and reenact §16-5O-2 of the Code of West Virginia, 1931, as amended, relating to removing an adult family care home from the definition of a “facility” for the purposes of the Medication Administration by Unlicensed Personnel Act.

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

That §16-5O-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

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

**§16-5O-2. Definitions.**

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

3 (a) “Administration of medication” means:

- 4 (1) Assisting a person in the ingestion, application or  
5 inhalation of medications, including prescription drugs, or in  
6 the use of universal precautions or rectal or vaginal insertion  
7 of medication, according to the legibly written or printed  
8 directions of the attending physician or authorized  
9 practitioner, or as written on the prescription label; and
- 10 (2) Making a written record of such assistance with  
11 regard to each medication administered, including the time,  
12 route and amount taken. However, for purposes of this  
13 article, “administration” does not include judgment,  
14 evaluation, assessments, injections of medication, monitoring  
15 of medication or self administration of medications,  
16 including prescription drugs and self-injection of medication  
17 by the resident.

18 (b) “Authorizing agency” means the department's Office  
19 of Health Facility Licensure and Certification.

20 (c) “Department” means the Department of Health and  
21 Human Resources.

22 (d) “Facility” means an ICF/ID, assisted living,  
23 behavioral health group home, private residence in which  
24 health care services are provided under the supervision of a  
25 registered nurse. ~~or an adult family care home that is licensed~~  
26 ~~by or approved by the department.~~

27 (e) “Facility staff member” means an individual  
28 employed by a facility but does not include a health care  
29 professional acting within the scope of a professional license  
30 or certificate.

31 (f) “Health care professional” means a medical doctor or  
32 doctor of osteopathy, a podiatrist, registered nurse, practical  
33 nurse, registered nurse practitioner, physician's assistant,  
34 dentist, optometrist or respiratory care professional licensed  
35 under chapter thirty of this code.

36 (g) “ICF/ID” means an intermediate care facility for  
37 individuals with an intellectual disability which is certified  
38 by the department.

39 (h) “Location of medication administration” means a  
40 facility or location where the resident requires administration  
41 of medication or assistance in taking medications.

42 (i) “Medication” means a drug, as defined in section one  
43 hundred one, article one, chapter sixty-a of this code, which  
44 has been prescribed by a duly authorized health care  
45 professional to be ingested through the mouth, applied to the  
46 outer skin, eye or ear, or applied through nose drops, vaginal  
47 or rectal suppositories.

48 (j) “Registered professional nurse” means a person who  
49 holds a valid license pursuant to article seven, chapter thirty  
50 of this code.

51 (k) “Resident” means a resident of a facility.

52 (l) “Secretary” means the Secretary of the Department of  
53 Health and Human Resources or his or her designee.

54 (m) “Self administration of medication” means the act of  
55 a resident, who is independently capable of reading and  
56 understanding the labels of drugs ordered by a physician, in  
57 opening and accessing prepackaged drug containers,  
58 accurately identifying and taking the correct dosage of the  
59 drugs as ordered by the physician, at the correct time and  
60 under the correct circumstances.

61 (n) “Self administration of medication with assistance”  
62 means assisting residents who are otherwise able to self  
63 administer their own medications except their physical  
64 disabilities prevent them from completing one or more steps  
65 in the process.

66 (o) “Supervision of self administration of medication”  
67 means a personal service which includes reminding residents  
68 to take medications, opening medication containers for  
69 residents, reading the medication label to residents,  
70 observing residents while they take medication, checking the

71 self administered dosage against the label on the container  
72 and reassuring residents that they have obtained and are  
73 taking the dosage as prescribed.

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(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.)