

An Act

ENROLLED SENATE
BILL NO. 388

By: Hall and McCortney of the
Senate

and

Caldwell (Chad) and Fugate
of the House

An Act relating to the Home Care Act; allowing certified nurse aides to assist with self-administration of medication under certain conditions; specifying medications; specifying actions that constitute assistance with self-administration; specifying actions that do not constitute assistance with self-administration; providing that assistance with self-administration does not constitute administration of medication; authorizing State Commissioner of Health to promulgate rules; defining terms; providing for codification; and providing an effective date.

SUBJECT: Home care

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1973 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Patients who are capable of self-administering their own medications without assistance shall be encouraged and allowed to do so. However, a certified nurse aide may assist a patient whose condition is medically stable with the self-administration of

routine, regularly scheduled medications that are intended to be self-administered, if the following conditions are met:

1. For an oral medication, the medication shall have been placed in a medication planner by a registered nurse, a relative of the patient or nursing staff of an Oklahoma licensed home health or hospice agency that is currently serving the patient; and

2. For all other forms, the certified nurse aide shall assist with self-administration consistent with a dispensed prescription's label or the package directions of an over-the-counter medication.

B. For purposes of this section, self-administered medications include both legend and over-the-counter oral dosage forms, topical dosage forms and topical ophthalmic, otic and nasal dosage forms, including solutions, suspensions, sprays and inhalers.

C. Assistance with self-administration of medication by a certified nurse aide may occur only upon a documented request by, and the written informed consent of, a patient or the patient's surrogate, guardian or attorney-in-fact.

D. For purposes of this section, assistance with self-administration of medication includes:

1. Taking an oral medication out of a pill planner and bringing it to the patient;

2. Placing an oral dosage in the patient's hand or placing the dosage in another container and helping the patient by lifting the container to his or her mouth;

3. If ordered by a physician, placing an oral medication in food before the patient self-administers;

4. Crushing an oral medication pursuant to orders given by a physician or health care professional;

5. Applying topical medications; and

6. Keeping a record of when a patient receives assistance with self-administration pursuant to this section.

E. For purposes of this section, assistance with self-administration of medication does not include:

1. Removing oral medication from any container other than a pill planner;
2. Mixing, compounding, converting or calculating medication doses;
3. The preparation of syringes for injection or the administration of medications by any injectable route;
4. Administration of medications through intermittent positive pressure breathing machines;
5. Administration of medications by way of a tube inserted in a cavity of the body;
6. Administration of parenteral preparations;
7. Irrigations or debriding agents used in the treatment of a skin condition;
8. Rectal, urethral, or vaginal preparations;
9. Medications ordered by the physician or health care professional with prescriptive authority to be given "as needed", unless the order is written with specific parameters that preclude independent judgment on the part of the certified nurse aide, and at the request of a competent patient;
10. Medications for which the time of administration, the amount, the strength of dosage, the method of administration or the reason for administration requires judgment or discretion on the part of the certified nurse aide; or
11. Assistance with the self-administration of medication by a certified nurse aide in an assisted living center through home care services as provided for in Section 1-890.8 of Title 63 of the Oklahoma Statutes.

F. Assistance with the self-administration of medication by a certified nurse aide as described in this section does not constitute administration as defined in Section 353.1 of Title 59 of the Oklahoma Statutes.

G. The State Commissioner of Health may by rule establish procedures and interpret terms as necessary to implement the provisions of this section.

H. For purposes of this section:

1. "Informed consent" means advising the patient, or the patient's surrogate, guardian or attorney-in-fact, that the patient may be receiving assistance with self-administration of medication from a certified nurse aide; and

2. "Attorney-in-fact" means an attorney-in-fact authorized to act pursuant to the Uniform Durable Power of Attorney Act, Sections 1071 through 1077 of Title 58 of the Oklahoma Statutes, with authority to act regarding the patient's health and medical care decisions, subject to the limitations under paragraph 1 of subsection B of Section 1072.1 of Title 58 of the Oklahoma Statutes.

SECTION 2. This act shall become effective November 1, 2019.

Passed the Senate the 11th day of March, 2019.

Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of April, 2019.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____