



SPONSOR: Sen. Walsh & Rep. Baumbach
Sens. Bonini, Cloutier, Delcollo, Hansen, Hocker,
Lawson, Lopez, Pettyjohn, Richardson, Sokola, Sturgeon,
Townsend, Wilson; Reps. Brady, Briggs King, Bush,
Chukwuocha, Dorsey Walker, Heffernan, Kowalko,
Osienski, K. Williams

DELAWARE STATE SENATE
150th GENERAL ASSEMBLY

SENATE BILL NO. 27

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO NURSING.

WHEREAS, as Delaware's population ages, an increasing number of older Delawareans and individuals with disabilities need assistance to continue to live at home with help from family and other caregivers; and

WHEREAS, many family caregivers have full-time jobs and cannot be home to manage their loved one's medications throughout the day; and

WHEREAS, family caregivers often must pay for expensive nursing care to ensure their loved one's needs are met at home throughout the day; and

WHEREAS, it is less expensive to provide this care to individuals in their homes than to support the individuals in an institutional setting; and

WHEREAS, the General Assembly finds that one solution to this situation is to allow direct care workers to administer medications to an adult individual who resides in the individual's own residence.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 1921, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1921. Applicability of chapter.

(a) This chapter does not apply to the following situations:

(4) The incidental care of the sick in private homes by members of the family, friends, domestic servants or persons primarily employed as housekeepers;

(15) A competent individual who does not reside in a medical facility or a facility regulated pursuant to Chapter 11 of Title 16, may delegate to unlicensed persons performance of health-care acts, unless of a nature excluded by the Board through regulations, provided:

a. The acts are those individuals could normally perform themselves but for functional limitations; and

23 b. The delegation decision is entirely voluntary.

24 c. Nothing contained herein shall diminish any legal or contractual entitlement to receive health-care
25 services from licensed or certified personnel;

26 (16) The limited lay administration of medications pursuant to § 1932 of this title.

27 (17)a. The administration of prescription or nonprescription medications by a direct care worker to an adult
28 individual who resides in the adult individual's own residence if the administration is authorized by a responsible
29 caregiver and all of the following apply:

30 1. The responsible caregiver prepackages the medication to be given by the direct care worker by
31 date and time and provides the direct care worker with written instructions regarding the administration
32 procedure. The responsible caregiver may decide which medication is to be given by the direct care worker to
33 the adult individual.

34 2. The responsible caregiver and a personal assistance services agency enter into an agreement
35 regarding the administration of medication under this paragraph (a)(17) of this section. The agreement must
36 include confirmation by the responsible caregiver that both the medication to be administered and the process
37 for administering the medication are safe and appropriate.

38 b. For purposes of this paragraph (a)(17) of this section:

39 1. "Direct care worker" means an individual employed by or under contract to a personal assistance
40 services agency to provide a consumer with personal care services, companion services, homemaker services,
41 transportation services, and those services authorized by this paragraph (a)(17) of this section.

42 2. "Residence" means a dwelling considered to be home by an adult individual. "Residence" does not
43 include any facility licensed by the Department of Health and Social Services under Title 16 or Title 29.

44 3. "Responsible caregiver" means an individual 18 years old or older who provides care for another.

45 c. This paragraph (a)(17) of this section applies to the administration of prescription or nonprescription
46 medications by any route except the following:

47 1. Injection.

48 2. Intravenous therapy.

49 3. Through the rectum or vagina.

50 4. Through a catheter.

51 5. Through a feeding tube, including nasogastric, gastrostomy, or jejunostomy tubes.

52 d. A direct care worker who administers medication under this paragraph (a)(17) of this section shall
53 document, in writing, the medications administered.

54 e. A personal assistance services agency, or its employees or authorized agents, is not liable for the death
55 of or injury to an adult individual caused by an act or omission of a direct care worker under this paragraph (a)(17)
56 of this section, unless the adult individual's death or injury was caused in part or solely by the negligence of the
57 personal assistance services agency, or its employees or authorized agents.

58 f. In any action for negligence based upon a claim of a failure to adequately train or instruct a direct care
59 worker, it is a defense that the direct care worker was given and following instructions provided under this
60 paragraph (a)(17)a. of this section.

61 Section 2. This Act may be known and cited as the "Share the Care Act."

SYNOPSIS

This Act, named the Share the Care Act, permits an individual employed by a personal assistance services agency to administer medications to an adult individual who resides in the individual's own home if a responsible caregiver does the following:

1. Authorizes the direct care worker to do so.
2. Prepackages the medication by date and time.
3. Provides written instructions regarding the administration procedure.
4. Enters into an agreement with a personal assistance services agency governing the administration of the medication by the direct care worker.

Author: Senator Walsh