

EFFECTIVE  
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NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

172 NAC 95

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 95 ADMINISTRATION OF MEDICATIONS BY MEDICATION AIDES AND  
MEDICATION STAFF

001. SCOPE AND AUTHORITY. These regulations govern the safe administration of medications by medication aides and medication staff under Nebraska Revised Statute (Neb. Rev. Stat.) §§ 71-6718 to 71-6742.

002. DEFINITIONS. Definitions are found in Neb. Rev. Stat. § 71-6721 and this chapter.

002.01 CAPABILITY AND CAPACITY. An individual who has knowledge related to the purposes, desired effects, and potential side effects of the medication being administered and has knowledge of the consequences if the medication is not provided and received as prescribed or recommended is considered to have capability and capacity.

002.02 ENTITY. A facility, school, licensed child care facility, or any other business or individual utilizing a medication aide or medication staff.

002.03 MEDICATION STAFF. An individual who is licensed to operate a child care facility, or a staff member of a child care facility, or a staff member of a school and who has been determined to be competent to assist with the administration of medication.

002.04 REVIEWED PERIODICALLY. A review for which the time interval is determined by the caretaker or licensed health care professional based upon the health condition of the recipient, the nature of the additional activity, and the experience of the medication aide in the additional activity. The review should be conducted frequently enough to assure recipient safety.

003. ADMINISTRATION OF MEDICATION BY UNLICENSED INDIVIDUALS. Assistance with the administration of medication may only be performed by the following unlicensed individuals:

- (A) Medication aides;
- (B) Persons licensed to operate a child care facility or staff members of a child care facility;  
and
- (C) Staff members of a school.

003.01 ADDITIONAL DUTIES THAT MAY BE PERFORMED DURING ADMINISTRATION OF MEDICATION BY UNLICENSED INDIVIDUALS. The persons identified in 172 NAC 95-003 may assist with the provision of medication, and with the documentation of the provision of the medication; and, under the specific conditions set forth in 172 NAC 95-007, these persons may also participate in observing and reporting.

004. MINIMUM COMPETENCY AREAS AND STANDARDS. Medication aides and medication staff must meet the following competency standards:

- (A) Does not share confidential information except when it affects the recipient's care and is shared with the appropriate person;
- (B) Does not force recipients to take medication. Uses appropriate measures to encourage

- taking of medications when directed for recipients who are not competent;
- (C) Utilizes appropriate infection control principles when providing medications;
  - (D) Accurately documents all medication provided including the name of the medication, dose, route, and time administered and any refusal of medication, and spoilage;
  - (E) Provides the right medication, to the right person, at the right time, in the right dose, and by the right route;
  - (F) Comprehends written or oral directions;
  - (G) Properly stores and handles all medication in accordance with entity policy;
  - (H) Intervenes when unsafe conditions of the medication indicate a medication should not be provided;
  - (I) Provides medication to recipients in accordance with their age and condition;
  - (J) Knows that they must:
    - (i) Be competent and have been assessed;
    - (ii) Always comply with the 5 rights of provision of medications;
    - (iii) Record all medication provided or refusals; and
    - (iv) Have additional competencies to provide additional activities;
  - (K) Identifies:
    - (i) Occurrences of possible abuse of a vulnerable adult and reports this information to the appropriate person or agency as required by the Adult Protective Services Act; and
    - (ii) Occurrences of possible abuse or neglect of a child and reports this information to the appropriate person or agency as required by Neb. Rev. Stat. §§ 28-710 to 28-727; and
  - (L) Does not misuse recipient property or cause physical harm, pain, or mental anguish to recipients.

004.01 COMPETENCY ASSESSMENT. Medication aides and medication staff must meet the standards set out in 172 NAC 95-004.01. The methods for assessment and those who may complete an assessment of medication aides or medication staff are set out in the following:

- (A) 172 NAC 96 for medication aides;
- (B) 92 NAC 59 for medication staff at schools; and
- (C) 391 NAC 1 - 5 for licensees or medication staff at Family Child Care Homes, medication staff at Child Care Centers, and medication staff at Preschools.

005. PROVISION OF DIRECTION AND MONITORING. Medications may be provided by medication aides and medication staff only when direction and monitoring is provided and documented.

005.01 DIRECTION AND MONITORING. Direction and monitoring must be provided by 1 of the following:

- (A) A competent recipient;
- (B) A caretaker; or
- (C) A licensed health care professional. A licensed health care professional who provides direction and monitoring must do so within the prevailing practice standards of the profession. Licensed Practical Nurses must do so under direction and in accordance with the Nurse Practice Act.

005.02 MAY NOT PROVIDE DIRECTION AND MONITORING. A medication aide or medication staff may not provide direction and monitoring but may participate in observing and reporting as provided in 172 NAC 95-007.

005.03 DIRECTION AND MONITORING ACCEPTANCE BY COMPETENT RECIPIENTS. Acceptance of responsibility for direction and monitoring for a competent recipient may be provided by the recipient themselves, a caretaker, or a licensed health care professional.

005.04 DIRECTION AND MONITORING ACCEPTANCE FOR NON-COMPETENT RECIPIENTS. Acceptance of responsibility for direction and monitoring for recipients who are not competent may be provided by a caretaker or a licensed health care professional.

005.05 DIRECTION AND MONITORING ACCEPTANCE FOR NON-COMPETENT RECIPIENTS AND RECIPIENTS WITH NO CARETAKERS. For recipients who are not competent and for whom there are no caretakers, acceptance of responsibility for direction and monitoring must be provided by a licensed health care professional. Documentation may be accomplished by any of the following methods:

- (A) When licensed health care professionals are employees, entities may identify on an individual basis or by title and job description or role delineation the licensed health care professional or the classifications of licensed health care professionals who are responsible to provide direction and monitoring. Written acceptance of responsibility is not required to be recipient-specific and can be through acceptance of title and job description or role delineation;
- (B) When licensed health care professionals are not employees, entities must identify the licensed health care professional who is designated to provide direction and monitoring by name, profession, and license number. Written acceptance of responsibility must be recipient-specific; or
- (C) A licensed health care professional who provides direction and monitoring directly to a recipient, rather than indirectly through employment by a facility or other entity, must have a documented professional relationship with the recipient, or with a responsible party on behalf of the recipient. The documentation must include the health care professional's acceptance of the responsibility for direction and monitoring.

006. ACTIVITIES IN THE PROVISION OF MEDICATIONS. All medication aides and medication staff, when directed and monitored in accordance with 172 NAC 95-005, may provide routine medications by the following routes:

- (A) Oral, which includes any medication given by mouth, including sublingual placing under the tongue, and buccal which is placing between the cheek and gum, and oral sprays;
- (B) Inhalation, which includes inhalers and nebulizers. Oxygen may be given by inhalation;
- (C) Topical application of sprays, creams, ointments, and lotions and transdermal patches; and
- (D) Instillation by drops, ointments, and sprays into the eyes, ears, and nose.

006.01 RECORD OF PROVISION OF MEDICATION. All medication aides and medication staff must make an accurate record of their provision of medication. The record of provision of medication must include:

- (A) Identification of the recipient;
- (B) Name of the medication given;

- (C) The date, time, dosage, and route for each medication provided;
- (D) Identification of the person who provided the medication; and
- (E) Any refusal by the recipient to take or receive a medication.

006.02 MEDICATION RECORD RETENTION. The record must be given to the entity employing the medication aide or medication staff. The record must be kept and maintained as required by 172 NAC 95-011.

006.03 MEDICATION ERRORS. Any medication error must be reported to the person responsible for providing direction and monitoring immediately upon discovery of the error.

007. ADDITIONAL ACTIVITIES IN THE PROVISION OF MEDICATIONS. In addition to the activities specified in 172 NAC 95-006, medication aides and medication staff may provide optional additional activities in accordance with this chapter. Any additional activity must be done under the direction and monitoring required in 172 NAC 95-005. Before an additional activity may be provided, the following requirements must each be met:

- (A) The specific medication aide or medication staff must be determined to be competent to perform the specific activity, and the determination must be documented as set out in 172 NAC 95-008.
- (B) There must be written direction for each additional activity and for each recipient as described in 172 NAC 95-009.
- (C) A licensed health care professional must determine that these activities can be done safely for the specific recipient, and the determination must be documented as set out in 172 NAC 95-010.

007.01 OPTIONAL ADDITIONAL ACTIVITIES. The optional additional activities which may be provided by a medication aide or a medication staff include:

- (A) Provision of as needed (PRN) medications,
- (B) Provision of medications by routes in addition to those identified in 172 NAC 95-006 but not including provision of medications or fluids intravenously. Acceptable additional routes may include gastrostomy tube; injections including subcutaneous, intradermal, and intramuscular; rectal; and vaginal; and
- (C) Participation in direction and monitoring by observing for identified recipient responses and reporting these responses as directed.

007.02 ADDITIONAL ACTIVITIES RECORDKEEPING. All medication aides and medication staff must comply with the record keeping and reporting requirements of 172 NAC 95-006, including reporting of errors.

008. DETERMINATION OF COMPETENCY FOR A MEDICATION AIDE OR MEDICATION STAFF TO PERFORM AN ADDITIONAL ACTIVITY. Medication aides or medication staff may provide as needed (PRN) medication, provide medication by an additional route, or participate in monitoring if there is a written statement from a competent recipient, caretaker, or licensed health care professional that the medication aide or medication staff is competent to perform such duties. The following documentation is required:

- (A) For competent recipients, a statement indicating informed determination that each medication aide or medication staff who provides the additional activity is competent. In the situation of a competent recipient who is making their own determination of need and

- (B) effectiveness regarding medications, written documentation is not required for as needed PRN medication or for participation in monitoring.
- (C) For recipients who are not competent but for whom there are caretakers, a statement from the caretaker indicating their determination that a medication aide or medication staff is competent to provide the additional activity. Competency determination of the medication aide or medication staff by the caretaker must be determined on a recipient-specific basis and the documentation must be on an individual-specific basis for each medication aide or medication staff and not by title or job description.
- (D) For recipients who are not competent and for whom there are not caretakers, a statement from a licensed health care professional stating their determination that a medication aide or medication staff is competent to provide the additional activity. This requirement must be met in one of the following methods:
  - (i) An entity which employs licensed health care professionals may identify on an individual basis or by written title and job description both the licensed health care professional who has made the competency determination and those medication aides and medication staff who have been determined competent for each additional activity;
  - (ii) An entity which does not employ licensed health care professionals must identify by name, profession, and license number the licensed health care professional who has made the competency determination and those medication aides and medication staff who have been determined competent for each additional activity. Such persons may be identified on an individual basis or by written title and job description; or
  - (iii) A licensed health care professional who provides services directly to a recipient, rather than indirectly through entity employment or contract, must specify those medication aides and medication staff who have been determined competent to provide each additional activity. Such persons must be identified on an individual basis.

**009. WRITTEN DIRECTION FOR AN ADDITIONAL ACTIVITY.** There must be written direction whenever a medication aide or medication staff provides as needed (PRN) medication(s), provides medication by an additional route, or participates in observing and reporting. The written direction must be specific to each recipient, and provided by a caretaker or licensed health care professional. There is no requirement for written direction when direction and monitoring is provided by a competent recipient. Documentation may be accomplished by any of the following methods:

- (A) Direction for as needed (PRN) medication must include instructions for the recipient-specific criteria under which a specific medication may be provided and the reporting requirements associated with the as needed (PRN) provision of said medication. The instructions must be for each as needed (PRN) medication provided and must be readily available for reference by and reviewed periodically with the medication aide or medication staff to assure continued safe provision of as needed (PRN) medications;
- (B) Directions for an additional route must include instructions for the recipient-specific procedure and must be readily available at all times for reference and reviewed periodically with the medication aide or medication staff to assure continued safe provision of medication by an additional route; or
- (C) Direction for participation in observing and reporting must include instructions for recipient-specific criteria for which the medication aide or medication staff is to observe and report. Instructions must include time lines for observing and reporting, and must

identify the person to be notified. Instruction must be readily available for reference and be reviewed periodically with the medication aide or medication staff to assure continued safe monitoring.

010. WRITTEN DOCUMENTATION OF RECIPIENT SAFETY WHEN AN ADDITIONAL ACTIVITY IS PROVIDED. There must be a written statement by a licensed health care professional stating that it is safe for a medication aide or medication staff to provide as needed (PRN) medication, medication by an additional route, or participate in observing and reporting except when the medication is non-prescription and the monitoring is provided by a competent recipient for themselves or by a caretaker. The licensed health care professional making the decision of recipient safety must do so within their scope of practice. Licensed Practical Nurses must do so under direction and in accordance with the Nurse Practice Act. Documentation of safety may be accomplished by any of the following methods in this section.

010.01 COMPETENT RECIPIENTS. There must be a statement from a licensed health care professional as identified in 172 NAC 95-010 that it is safe for a medication aide or medication staff to provide as needed (PRN) prescription medication or to provide prescription medication by an additional route.

010.02 RECIPIENTS WHO ARE NOT COMPETENT BUT FOR WHOM THERE ARE CARETAKERS. There must be a written statement obtained from a licensed health care professional as identified in 172 NAC 95-010 indicating that it is safe for a medication aide or medication staff to provide an as needed (PRN) prescription medication, a prescription medication by an additional route, or to participate in observing and reporting for the identified recipient.

010.03 RECIPIENTS WHO ARE NOT COMPETENT AND FOR WHOM THERE ARE NO CARETAKERS. There must be documentation by a licensed health care professional as identified in 172 NAC 95-010 who has made recipient-specific determination that it is safe for a medication aide or medication staff to provide an as needed (PRN) medication, a medication by an additional route, or participate in observing and reporting for the identified recipient. This requirement must be met in one of the following methods:

- (A) An entity which employs licensed health care professionals may identify on an individual basis or by written title and job description the licensed health care professional who has made the recipient-specific safety determination for each additional activity;
- (B) An entity which does not employ licensed health care professionals must identify by name, profession, and license number of the licensed health care professional who has made the recipient-specific safety determination for each additional activity; or
- (C) A licensed health care professional who provides services directly to a recipient may identify determination of recipient safety through the written records or plan of care for the recipient.

011. RECORD RETENTION FOR ENTITIES. All other entities, including licensed health care professionals providing services through contract, must establish policies for record maintenance and retention, and maintain the records for a minimum of two years after the service has been provided. This regulation does not affect the entity's obligation to retain the records for any other purpose.

012. STORAGE AND HANDLING OF MEDICATION. Any entity responsible for administering or providing medication must ensure appropriate storage and handling of medications.

012.01 MEDICATION STORAGE AND PROTECTION. All medications that an entity is responsible for administering or providing must be:

- (A) Protected from theft, tampering, and inappropriate use; and
- (B) Stored in accordance with the manufacturers or dispensing pharmacist's instructions.

012.02 ACCESS TO MEDICATION. Only authorized personnel who are designated by the entity responsible for administration or provision of medications may have access to the medications.

012.03 ENTITY NOT RESPONSIBLE FOR PROVISION OF MEDICATION. When the entity is not responsible for administering or providing medications, this chapter does not preclude an entity from allowing a recipient to possess and take the recipient's own medications; however, the entity is not required to allow such possession. Examples include minor students in schools, minor children in child care facilities, and incompetent adults in assisted-living facilities.

012.04 HANDLING. The entity must ensure the proper handling of medications it is responsible for administering or providing.

012.05 MEDICATION INTEGRITY. Loss, waste, or spoilage of medication must be recorded according to entity policy.

012.06 TEMPORARY ABSENCE. Medications sent with a recipient for temporary absences must be in containers identified for the recipient with directions for the right dose, right time, and right route. The medication container must be given only to a competent recipient, to a resident-specific caretaker, or other designated responsible person.