

## **\*\*\*Proposed Revisions - September 18, 2023\*\*\***

**~~5123:2-6-03~~ 5123-6-03 Authorization of developmental disabilities personnel to perform health-related activities and administer prescribed medication.**

### (A) Purpose

This rule sets forth conditions under which developmental disabilities personnel may perform health-related activities and administer prescribed medication.

### ~~(A)~~ (B) Individuals for whom developmental disabilities personnel may perform health-related activities and administer prescribed medication

Developmental disabilities personnel who are not specifically authorized by other provisions of the Revised Code to perform health-related activities or administer prescribed medication may do so pursuant to section 5123.42 of the Revised Code and rules adopted by the department under this chapter as part of the specialized services the developmental disabilities personnel provide to individuals who:

- (1) Are receiving early intervention, preschool, and school age services offered or provided pursuant to Chapter 5123. or Chapter 5126. of the Revised Code;
- (2) Are receiving adult services offered or provided pursuant to Chapter 5123. or Chapter 5126. of the Revised Code in a setting where seventeen or more individuals are receiving the services;
- (3) Are receiving adult services offered or provided pursuant to Chapter 5123. or Chapter 5126. of the Revised Code in a setting where sixteen or fewer individuals are receiving the services;
- (4) Are receiving family support services offered or provided pursuant to Chapter 5123. or Chapter 5126. of the Revised Code;
- (5) Are receiving services from certified supported living providers, if the services are offered or provided pursuant to Chapter 5123. or Chapter 5126. of the Revised Code;
- (6) Are receiving residential support services from certified home and community-based services providers, if the services are received in a community living arrangement that includes not more than four individuals and the services are offered or provided pursuant to Chapter 5123. or Chapter 5126. of the Revised Code;
- (7) Are receiving services not described in paragraphs ~~(A)(1) to (A)(6)~~ (B)(1) to (B)(6) of this rule that are offered or provided pursuant to Chapter 5123. or Chapter 5126. of the Revised Code;
- (8) Reside in a residential facility with five or fewer beds; or
- (9) Reside in a residential facility with six or more beds.

### ~~(B)~~ (C) Authorization of developmental disabilities personnel to activate a vagus nerve stimulator, use an epinephrine auto-injector, and administer topical over-the-counter

## \*\*\*Proposed Revisions - September 18, 2023\*\*\*

medication for the purpose of cleaning, protecting, or comforting the skin, hair, nails, teeth, or oral surfaces

In the case of individuals receiving services described in paragraphs ~~(A)(1) to (A)(9)~~ (B)(1) to (B)(9) of this rule, developmental disabilities personnel, without nursing delegation and without certification issued in accordance with rule ~~5123:2-6-06~~ 5123-6-06 of the Administrative Code, may:

- (1) Activate a vagus nerve stimulator ~~or use an epinephrine auto-injector for urgent or emergency treatment of allergic reaction and anaphylaxis if all provisions of paragraphs (A) and (B) of rule 5123:2-6-05~~ if all provisions of paragraph (B) of rule 5123-6-05 of the Administrative Code are being followed;
- (2) Use an epinephrine auto-injector for urgent or emergency treatment of allergic reaction and anaphylaxis if all provisions of paragraph (C) of rule 5123-6-05 of the Administrative Code are being followed; or
- ~~(2)~~ (3) Administer topical over-the-counter medication for the purpose of cleaning, protecting, or comforting the skin, hair, nails, teeth, or oral surfaces provided that:
  - (a) The topical over-the-counter medication is not being applied to an open wound;
  - (b) The topical over-the-counter medication is not being applied for specific treatment of a condition that requires a medical diagnosis including fungal infections; and
  - (c) All provisions of rule ~~5123:2-6-05~~ 5123-6-05 of the Administrative Code and paragraph ~~(C)~~ (D) of this rule are being followed.
- ~~(C)~~ (D) Authorization of developmental disabilities personnel to perform health-related activities and administer prescribed medication
- (1) In the case of individuals receiving services described in paragraph ~~(A)(1)~~ (B)(1) of this rule, trained and certified developmental disabilities personnel may, with nursing delegation:
  - (a) Perform health-related activities;
  - (b) Administer oral prescribed medication, administer topical prescribed medication, and administer topical over-the-counter musculoskeletal medication;
  - (c) Administer oxygen and metered dose inhaled medication;
  - (d) Administer prescribed medication through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled; and
  - (e) Administer prescribed insulin through subcutaneous injection, inhalation, and insulin pump.
- (2) In the case of individuals receiving services described in paragraphs ~~(A)(2), (A)(7),~~

## \*\*\*Proposed Revisions - September 18, 2023\*\*\*

~~and (A)(9)~~ (B)(2), (B)(7), and (B)(9) of this rule, trained and certified developmental disabilities personnel may, with nursing delegation:

- (a) Perform health-related activities;
  - (b) Administer oral prescribed medication, administer topical prescribed medication, and administer topical over-the-counter musculoskeletal medication;
  - (c) Administer oxygen and metered dose inhaled medication;
  - (d) Administer prescribed medication through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled;
  - (e) Administer prescribed insulin through subcutaneous injection, inhalation, and insulin pump; and
  - (f) Administer prescribed medication for the treatment of metabolic glycemic disorders through subcutaneous injection.
- (3) In the case of individuals receiving services described in paragraphs ~~(A)(3), (A)(4), (A)(5), (A)(6), and (A)(8)~~ (B)(3), (B)(4), (B)(5), (B)(6), and (B)(8) of this rule:
- (a) Without nursing delegation, trained and certified developmental disabilities personnel may:
    - (i) Perform health-related activities;
    - (ii) Administer oral prescribed medication, administer topical prescribed medication, and administer topical over-the-counter musculoskeletal medication; and
    - (iii) Administer oxygen and metered dose inhaled medication.
  - (b) With nursing delegation, trained and certified developmental disabilities personnel may:
    - (i) Administer prescribed medication through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled;
    - (ii) Administer prescribed insulin through subcutaneous injection, inhalation, and insulin pump; and
    - (iii) Administer prescribed medication for the treatment of metabolic glycemic disorders through subcutaneous injection.
- (4) In the case of individuals living in a family home receiving services from an unlicensed in-home care worker providing the care through ~~an~~ employment or other arrangement entered into directly with a family member of the individual and who is not otherwise employed by or under contract with a person or government entity to provide services to individuals with developmental disabilities, the family member

## \*\*\*Proposed Revisions - September 18, 2023\*\*\*

living in the home may be able to delegate health care tasks according to the provisions of section 5123.47 of the Revised Code.

~~(D)~~ (E) Requirements that apply when developmental disabilities personnel activate a vagus nerve stimulator, use an epinephrine auto-injector, or administer topical over-the-counter medication for the purpose of cleaning, protecting, or comforting the skin, hair, nails, teeth, or oral surfaces pursuant to section 5123.42 of the Revised Code

- (1) Developmental disabilities personnel ~~shall~~ will successfully complete, initially and annually thereafter, a training course or courses as specified in rule ~~5123:2-6-05~~ 5123-6-05 of the Administrative Code.
- (2) Developmental disabilities personnel may activate a vagus nerve stimulator, use an epinephrine auto-injector, or administer topical over-the-counter medication for the purpose of cleaning, protecting, or comforting the skin, hair, nails, teeth, or oral surfaces only as authorized by the training courses completed and according to manufacturer's instructions and individual-specific indications.
- (3) If an employer of developmental disabilities personnel or a county board believes the developmental disabilities personnel have not or will not safely activate a vagus nerve stimulator or use an epinephrine auto-injector, the employer or county board ~~shall~~ will prohibit the developmental disabilities personnel from continuing or commencing to do so and make appropriate arrangements for emergency interventions by another means for individuals who have a specified need for activation of a vagus nerve stimulator or use of an epinephrine auto-injector.
- (4) If an employer of developmental disabilities personnel or a county board believes the developmental disabilities personnel have not or will not safely administer topical over-the-counter medication for the purpose of cleaning, protecting, or comforting the skin, hair, nails, teeth, or oral surfaces, the employer or county board ~~shall~~ will prohibit the developmental disabilities personnel from continuing or commencing to do so.
- (5) Developmental disabilities personnel ~~shall~~ will not engage in an action or actions subject to an employer's or county board's prohibition.

~~(E)~~ (F) Requirements that apply when developmental disabilities personnel perform health-related activities and administer prescribed medication pursuant to section 5123.42 of the Revised Code

- (1) To perform health-related activities; administer oral prescribed medication; administer topical prescribed medication; administer topical over-the-counter musculoskeletal medication; administer oxygen and metered dose inhaled medication; administer prescribed medication through stable labeled gastrostomy and jejunostomy tubes; administer prescribed insulin through subcutaneous injection, inhalation, and insulin pump; and administer prescribed medication for the treatment of metabolic glycemic disorders through subcutaneous injection for individuals in the categories specified in paragraphs ~~(A)(1) to (A)(9)~~ (B)(1) to (B)(9) of this rule and in accordance with

## \*\*\*Proposed Revisions - September 18, 2023\*\*\*

paragraph ~~(C)~~ (D) of this rule:

- (a) Developmental disabilities personnel ~~shall~~ will obtain the ~~certificate or certificates~~ certification or certifications required by the department and issued in accordance with rule ~~5123:2-6-06~~ 5123-6-06 of the Administrative Code;
  - (b) Developmental disabilities personnel ~~shall~~ will perform health-related activities and administer prescribed medication only as authorized by the ~~certificate or certificates~~ certification or certifications held;
  - (c) Developmental disabilities personnel ~~shall~~ will not perform health-related activities or administer prescribed medication for any individual for whom they have not received individual-specific training; and
  - (d) When nursing delegation is required in accordance with paragraph ~~(C)~~ (D) of this rule, developmental disabilities personnel ~~shall~~ will not act without nursing delegation or act in a manner that is inconsistent with nursing delegation.
- (2) Prior to delegating to developmental disabilities personnel under this rule and in accordance with all standards and conditions set forth in Chapter 4723-13 of the Administrative Code, the delegating nurse ~~shall~~ will:
- (a) Assess the individual and complete an evaluation of the conditions under which the delegated tasks or delegated prescribed medication administration will be done.
  - (b) Select developmental disabilities personnel that, as applicable:
    - (i) Are certified pursuant to rule ~~5123:2-6-06~~ 5123-6-06 of the Administrative Code; and
    - (ii) Comply with all standards and conditions set forth in Chapter 4723-13 of the Administrative Code.
  - (c) Ensure developmental disabilities personnel have received individual-specific training for each individual for whom they perform health-related activities, administer oral prescribed medication; administer topical prescribed medication; administer topical over-the-counter musculoskeletal medication, administer oxygen and metered dose inhaled medication; administer prescribed medication through stable labeled gastrostomy and jejunostomy tubes; administer prescribed insulin through subcutaneous injection, inhalation, and insulin pump; or administer prescribed medication for the treatment of metabolic glycemic disorders through subcutaneous injection.
  - (d) Document the assessment of the individual and individual-specific training.
  - (e) Comply with all standards and conditions for nursing delegation in accordance with Chapter 4723-13 of the Administrative Code.

## \*\*\*Proposed Revisions - September 18, 2023\*\*\*

- (3) When delegating nursing tasks that are not taught as part of the curriculum specified in rule ~~5123:2-6-06~~ [5123-6-06](#) of the Administrative Code, the delegating nurse ~~shall~~ [will](#) train and verify the skills of developmental disabilities personnel in accordance with Chapter 4723-13 of the Administrative Code.
- (4) The employer of developmental disabilities personnel or the county board for independent providers ~~shall~~ [will](#) ensure that developmental disabilities personnel have received individual-specific training for each individual for whom they perform health-related activities or administer prescribed medication. Developmental disabilities personnel ~~shall~~ [will](#) not perform health-related activities or administer prescribed medication for any individual for whom they have not been specifically trained.
- (5) In situations in which nursing delegation is required, the delegating nurse ~~shall~~ [will](#) also ensure that developmental disabilities personnel have received individual-specific training provided by the delegating nurse or by another licensed nurse for each individual for whom the developmental disabilities personnel perform health-related activities or administer prescribed medication.
- (6) If the employer of developmental disabilities personnel believes or is notified by the county board, the department, a delegating nurse, or the quality assessment registered nurse that developmental disabilities personnel have not safely performed or will not safely perform health-related activities, or have not safely administered or will not safely administer prescribed medication, the employer ~~shall~~ [will](#):
- (a) Prohibit the action from commencing or continuing;
  - (b) Immediately make other staffing arrangements so that performance of health-related activities or administration of prescribed medication are completed as prescribed, including compliance with the requirements of this chapter;
  - (c) If applicable, immediately notify the county board via the major unusual incident reporting system pursuant to rule ~~5123:2-17-02~~ [5123-17-02](#) of the Administrative Code; if applicable, the county board ~~shall~~ [will](#) notify the quality assessment registered nurse; and
  - (d) If applicable, immediately notify the delegating nurse.
  - (e) Enter a notation in the certification record of the developmental disabilities personnel in the medication administration information system database described in rule ~~5123:2-6-07~~ [5123-6-07](#) of the Administrative Code.
- (7) If the delegating nurse believes that developmental disabilities personnel have not safely performed or will not safely perform health-related activities or have not safely administered or will not safely administer prescribed medication, the delegating nurse ~~shall~~ [will](#):
- (a) Prohibit the action from commencing or continuing;

### \*\*\*Proposed Revisions - September 18, 2023\*\*\*

- (b) Immediately notify the employer of the developmental disabilities personnel;
  - (c) If applicable, immediately notify the county board via the major unusual incident reporting system pursuant to rule ~~5123:2-17-02~~ [5123-17-02](#) of the Administrative Code; if applicable, the county board ~~shall~~ [will](#) notify the quality assessment registered nurse; and
  - (d) Enter a notation in the certification record of the developmental disabilities personnel in the medication administration information system database described in rule ~~5123:2-6-07~~ [5123-6-07](#) of the Administrative Code.
- (8) Developmental disabilities personnel ~~shall~~ [will](#) not engage in an action or actions subject to an employer's prohibition or a delegating nurse's prohibition.
- (9) A registered nurse ~~shall~~ [will](#) reassess nursing delegation and the needs of the individual on an ongoing basis, but at least annually. The reassessment may be more frequent if necessary in the judgment of the delegating registered nurse. The reassessment ~~shall~~ [will](#) include a determination that:
- (a) Nursing delegation continues to be necessary;
  - (b) The individual and circumstances continue to adhere to standards and conditions for nursing delegation in accordance with Chapter 4723-13 of the Administrative Code; and
  - (c) The developmental disabilities personnel continue to demonstrate the skill to accurately perform the nursing tasks, health-related activities, and prescribed medication administration being delegated.