5123.41

As used in this section and sections [5123.42](http://codes.ohio.gov/orc/5123.42) to [5123.47](http://codes.ohio.gov/orc/5123.47) of the Revised Code:

(A) "Adult services" has the same meaning as in section [5126.01](http://codes.ohio.gov/orc/5126.01) of the Revised Code.

(B) "Certified supported living provider" means a person or government entity certified under section [5123.161](http://codes.ohio.gov/orc/5123.161) of the Revised Code.

(C) "Drug" has the same meaning as in section [4729.01](http://codes.ohio.gov/orc/4729.01) of the Revised Code.

(D) "Family support services" has the same meaning as in section [5126.01](http://codes.ohio.gov/orc/5126.01) of the Revised Code.

(E) "Health-related activities" means the following:

(1) Taking vital signs;

(2) Application of clean dressings that do not require health assessment;

(3) Basic measurement of bodily intake and output;

(4) Oral suctioning;

(5) Use of glucometers;

(6) External urinary catheter ~~care~~ cleaning;

(7) Emptying and replacing ~~colostomy~~ ostomy bags;

(8) Collection of specimens by noninvasive means.

(9) Pulse oximetry reading;

(10) Use of a Continuous Positive Airway Pressure machine;

(11) Applying Percussion Vests ~~with nurse delegation~~;

(12) Use of a cough-assist or insufflator ~~with nurse delegation~~;

 (13) Application of prescribed compression hosiery.

(F) "Licensed health professional authorized to prescribe drugs" has the same meaning as in section [4729.01](http://codes.ohio.gov/orc/4729.01) of the Revised Code.

(G) "MR/DD personnel" means the employees and the workers under contract who provide specialized services to individuals with mental retardation and developmental disabilities. "MR/DD personnel" includes those who provide the services as follows:

(1) Through direct employment with the department of developmental disabilities or a county board of developmental disabilities;

(2) Through an entity under contract with the department of developmental disabilities or a county board of developmental disabilities;

(3) Through direct employment or by being under contract with private entities, including private entities that operate residential facilities.

(H) “Metered Dose Inhaled Respiratory Medications” means pharmaceutically premeasured medications administered by inhalation using a hand held dispenser or aerosol nebulizer.

(~~H~~) (I) "Nursing delegation" means the process established in rules adopted by the board of nursing pursuant to Chapter 4723. of the Revised Code under which a registered nurse or licensed practical nurse acting at the direction of a registered nurse transfers the performance of a particular nursing activity or task to another person who is not otherwise authorized to perform the activity or task.

(J) “Over-the-counter medicated products for cleansing, protection and comfort ~~treatment~~ of skin, hair, nails, teeth and oral surfaces” means medicated topical creams, ointments, patches, shampoos, soaks and sprays such as sunscreens, barrier creams, cosmetics, insect repellents , toothpastes, denture creams, lip balms, lipsticks, mouth washes, breath fresheners, cough drops or lozenges. These products are for the purpose of cleansing, protecting, comforting or improving the condition of intact topical surfaces and do not include products intended for ingestion, or for treatment of conditions that require medical diagnosis such as fungal infections or open wounds.

(K) “Over-the-Counter Medications” means medications that can be purchased without a prescription.

(L) “Over-the-Counter topical medications to intact skin for the purpose of providing musculoskeletal comfort” means medicated creams, ointments, sprays or patches that are applied topically or may pass through the skin to provide relief from discomfort to muscles, joints or bones.

~~(I)~~ (M) "Prescribed medication" means a drug that is to be administered according to the instructions of a licensed health professional authorized to prescribe drugs.

~~(J)~~ (N) "Residential facility" means a facility licensed under section [5123.19](http://codes.ohio.gov/orc/5123.19) of the Revised Code.

~~(K)~~ (O) "Specialized services" has the same meaning as in section [5123.50](http://codes.ohio.gov/orc/5123.50) of the Revised Code.

~~(L)~~ ~~"Tube feeding" means the provision of nutrition to an individual through a gastrostomy tube or a jejunostomy tube.~~

5123.42

(A) ~~Beginning nine months after March 31, 2003,~~ MR/DD personnel who are not specifically authorized by other provisions of the Revised Code to administer prescribed medications~~,~~ over-the-counter topical medications to intact skin for the purpose of providing musculoskeletal comfort or perform health-related activities~~, or perform tube feedings~~ may do so pursuant to this section as part of the specialized services the MR/DD personnel provide to individuals with mental retardation and developmental disabilities in the following categories:

(1) Recipients of early intervention, preschool, and school-age services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(2) Recipients of adult services in settings where seventeen or more individuals are served and the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(3) Recipients of family support services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(4) Recipients of services from certified supported living providers, if the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(5) Recipients of 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 with mental retardation and developmental disabilities, or adult services in settings where up to sixteen individuals are served and the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(6) Recipients of services not included in divisions (A)(1) to (5) of this section that are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(7) Residents of a residential facility with five or fewer resident beds;

(8) Residents of a residential facility with at least six but not more than sixteen resident beds;

(9) Residents of a residential facility with seventeen or more resident beds who are on a field trip from the facility, if all of the following are the case:

(a) The field trip is sponsored by the facility for purposes of complying with federal medicaid statutes and regulations, state medicaid statutes and rules, or other federal or state statutes, regulations, or rules that require the facility to provide habilitation, community integration, or normalization services to its residents.

(b) Not more than ten field trip participants are residents who have health needs requiring the administration of prescribed medications, excluding participants who self-administer prescribed medications or receive assistance with self-administration of prescribed medications.

(c) The facility staffs the field trip with MR/DD personnel in such a manner that one person will administer prescribed medications~~,~~ or perform health-related activities~~, or perform tube feedings~~ for not more than four participants if one or more of those participants have health needs requiring the person to administer prescribed medications through a gastrostomy or jejunostomy tube.

(d) According to the instructions of a health care professional acting within the scope of the professional's practice, the health needs of the participants who require administration of prescribed medications by MR/DD personnel are such that the participants must receive the medications during the field trip to avoid jeopardizing their health and safety.

(B) In the case of recipients of services specified in divisions (A)(1) to (A)(9) of this section MR/DD personnel without a certificate from the department of developmental disabilities and without nursing delegation may follow manufacturer’s packaging instructions to:

(1) Activate a vagal nerve stimulator after having had person specific training to do so;

(2) Use commercially packaged epinephrine auto-injector for the treatment of symptoms of anaphylactic allergic reaction after having documented training in the use of epinephrine auto-injectors.

(3) Use of over-the-counter medicated products for cleansing, protection and comfort of skin, hair, nails, teeth and oral surfaces.

~~(1)~~(C)(1) In the case of recipients of early intervention, preschool, and school-age services, as specified in division (A)(1) of this section, all of the following apply:

(a) With nursing delegation, MR/DD personnel may perform health-related activities.

(b) With nursing delegation, MR/DD personnel may administer oral and topical prescribed medications, oxygen, and metered dose inhaled respiratory medications.

(c) With nursing delegation, MR/DD personnel may administer over-the-counter topical medications to intact skin for the purpose of providing musculoskeletal comfort;

~~(c)~~ (d) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

~~(d)~~ ~~With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.~~

(e) With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps and inhaled insulin.

(2) In the case of recipients of ~~adult~~ services, as specified in division (A)(2), (A)(6) and (A)(8) of this section, all of the following apply:

(a) With nursing delegation, MR/DD personnel may perform health-related activities.

(b) With nursing delegation, MR/DD personnel may administer oral and topical prescribed medications, oxygen, and metered dose inhaled respiratory medications.

(c) With nursing delegation, MR/DD personnel may administer over the counter topical medications to intact skin for the purpose of providing musculoskeletal comfort.

~~(c)~~ (d) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

~~(d)~~ ~~With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.~~

(e) With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections, insulin pumps and inhaled insulin.

(f) With nursing delegation, MR/DD personnel may administer subcutaneous injectable medications for the treatment of metabolic glycemic disorders.

(3) In the case of recipients of ~~family support~~ services, as specified in division (A)(3), (A)(4), (A)(5) and (A)(7) of this section, all of the following apply:

(a) Without nursing delegation, MR/DD personnel may perform health-related activities.

(b) Without nursing delegation, MR/DD personnel may administer oral and topical prescribed medications, oxygen, and metered dose inhaled respiratory medications.

(c) Without nursing delegation, MR/DD personnel may administer over the counter topical medications to intact skin for the purpose of providing musculoskeletal comfort.

~~(c)~~ (d) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

~~(d)~~ ~~With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.~~

(e) With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections, ~~and~~ insulin pumps and inhaled insulin.

(f) With nursing delegation, MR/DD personnel may administer subcutaneous injectable medications for the treatment of metabolic glycemic disorders.

~~(4)~~ ~~In the case of recipients of services from certified supported living providers, as specified in division (A)(4) of this section, all of the following apply:~~

~~(a)~~ ~~Without nursing delegation, MR/DD personnel may perform health-related activities.~~

~~(b)~~ ~~Without nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.~~

 ~~(c)~~ ~~With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.~~

~~(d)~~ ~~With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.~~

~~(e)~~ ~~With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps.~~

~~(5)~~ ~~In the case of recipients of residential support services from certified home and community-based services providers, as specified in division (A)(5) of this section, all of the following apply:~~

~~(a)~~ ~~Without nursing delegation, MR/DD personnel may perform health-related activities.~~

~~(b)~~ ~~Without nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.~~

~~(c)~~ ~~With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled~~.

~~(d)~~ ~~With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.~~

~~(6)~~ ~~In the case of recipients of services not included in divisions (A)(1) to (5) of this section, as specified in division (A)(6) of this section, all of the following apply:~~

~~(a)~~ ~~With nursing delegation, MR/DD personnel may perform health-related activities.~~

~~(b)~~ ~~With nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.~~

~~(c)~~ ~~With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.~~

~~(d)~~ ~~With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.~~

~~(7)~~ ~~In the case of residents of a residential facility with five or fewer beds, as specified in division (A)(7) of this section, all of the following apply:~~

~~(a)~~ ~~Without nursing delegation, MR/DD personnel may perform health-related activities.~~

~~(b)~~ ~~Without nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.~~

 ~~(c)~~ ~~With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.~~

~~(d)~~ ~~With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.~~

~~(e)~~ ~~With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps.~~

~~(8)~~ ~~In the case of residents of a residential facility with at least six but not more than sixteen resident beds, as specified in division (A)(8) of this section, all of the following apply:~~

~~(a)~~ ~~With nursing delegation, MR/DD personnel may perform health-related activities.~~

~~(b)~~ ~~With nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.~~

~~(c)~~ ~~With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.~~

~~(d)~~ ~~With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.~~

~~(9)~~ (4) In the case of residents of a residential facility with seventeen or more resident beds who are on a field trip from the facility, all of the following apply during the field trip, subject to the limitations specified in division (A)(9) of this section:

(a) With nursing delegation, MR/DD personnel may perform health-related activities.

(b) With nursing delegation, MR/DD personnel may administer oral and topical prescribed medications, oxygen, and metered dose inhaled medications.

(c) With nursing delegation, MR/DD personnel may administer over-the-counter topical medications to intact skin for the purpose of providing musculoskeletal comfort.

~~(c)~~ (d) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

~~(d)~~ ~~With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.~~

(e) With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections, ~~and~~ insulin pumps and inhaled insulin.

(f) With nursing delegation, MR/DD personnel may administer subcutaneous injectable medications for the treatment of metabolic glycemic disorders.

~~(C)~~ (D) Except as specified in division (B) of this section, the ~~The~~ authority of MR/DD personnel to administer prescribed medications~~,~~ ,over-the-counter topical medications to intact skin for the purpose of providing musculoskeletal comfort and perform health-related activities~~, and perform tube feedings~~ pursuant to this section is subject to all of the following:

(1) To administer prescribed medications~~,~~ ,over-the-counter topical medications to intact skin for the purpose of providing musculoskeletal comfort or perform health-related activities~~, or perform tube feedings~~ for individuals in the categories specified under divisions (A)(1) to (8) of this section, MR/DD personnel shall obtain the certificate or certificates required by the department of developmental disabilities and issued under section [5123.45](http://codes.ohio.gov/orc/5123.45) of the Revised Code. MR/DD personnel shall administer prescribed medication~~,~~ over-the-counter topical medications to intact skin for purpose of providing musculoskeletal comfort and perform health-related activities~~, and perform tube feedings~~ only as authorized by the certificate or certificates held.

(2) To administer prescribed medications~~,~~ ,over-the-counter topical medications to intact skin for the purpose of providing musculoskeletal comfort or perform health-related activities~~, or perform tube feedings~~ for individuals in the category specified under division (A)(9) of this section, MR/DD personnel shall successfully complete the training course or courses developed under section [5123.43](http://codes.ohio.gov/orc/5123.43) of the Revised Code for the MR/DD personnel. MR/DD personnel shall administer prescribed medication~~,~~ over-the-counter topical medications to intact skin for the purpose of providing musculoskeletal comfort and perform health-related activities~~, and perform tube feedings~~ only as authorized by the training completed.

(3) If nursing delegation is required under division ~~(B)~~ (C) of this section, MR/DD personnel shall not act without nursing delegation or in a manner that is inconsistent with the delegation.

(4) The employer of MR/DD personnel shall ensure that MR/DD personnel have been trained specifically with respect to each individual for whom they administer prescribed medications over-the-counter topical medications to intact skin for the purpose of providing musculoskeletal comfort and perform health-related activities~~, or perform tube feedings~~. MR/DD personnel shall not administer prescribed medications~~,~~ over-the-counter topical medications to intact skin for the purpose of providing musculoskeletal comfort or perform health-related activities~~, or perform tube feedings~~ for any individual for whom they have not been specifically trained.

(5) If the employer of MR/DD personnel believes that MR/DD personnel have not or will not safely administer prescribed medications, over-the-counter topical medications to intact skin for the purpose of providing musculoskeletal comfort or perform health-related activities~~, or perform tube feedings~~, the employer shall prohibit the action from continuing or commencing. MR/DD personnel shall not engage in the action or actions subject to an employer's prohibition.

~~(D)~~ (E) In accordance with section [5123.46](http://codes.ohio.gov/orc/5123.46) of the Revised Code, the department of developmental disabilities shall adopt rules governing its implementation of this section. The rules shall include the following:

(1) Requirements for documentation of the administration of prescribed medications, over-the-counter topical medications to intact skin for the purpose of providing musculoskeletal comfort and performance of health-related activities~~, and performance of tube feedings~~ by MR/DD personnel pursuant to the authority granted under this section;

(2) Procedures for reporting errors that occur in the administration of prescribed medications, over-the-counter topical medications to intact skin for the purpose of providing musculoskeletal comfort and performance of health-related activities~~, and performance of tube feedings~~ by MR/DD personnel pursuant to the authority granted under this section;

(3) Other standards and procedures the department considers necessary for implementation of this section.

5123.421

The department of developmental disabilities shall accept complaints from any person or government entity regarding the administration of prescribed medications, and performance of health-related activities, and performance of tube feedings by MR/DD personnel pursuant to the authority granted under section 5123.42 of the Revised Code. The department shall conduct investigations of complaints as it considers appropriate. The department shall adopt rules in accordance with section 5123.46 of the Revised Code establishing procedures for accepting complaints and conducting investigations under this section.

5123.43

(A) The department of developmental disabilities shall develop courses for the training of MR/DD personnel in the administration of prescribed medications~~,~~ and performance of health-related activities ~~and performance of tube feedings~~ pursuant to the authority granted under section [5123.42](http://codes.ohio.gov/orc/5123.42) of the Revised Code. The department may develop separate or combined training courses for the administration of prescribed medications, performance of health-related activities and the administration of prescribed medications through gastrostomy and jejunostomy tubes~~, and performance of tube feedings~~. ~~Training in the administration of prescribed medications through gastrostomy and jejunostomy tubes~~ ~~may be included in a course providing training in tube feedings.~~ Training in the administration of insulin and subcutaneous injections for metabolic glycemic disorders may be developed as a separate course or included in a course providing training in the administration of other prescribed medications.

(B)

(1) The department shall adopt rules in accordance with section [5123.46](http://codes.ohio.gov/orc/5123.46) of the Revised Code that specify the content and length of the training courses developed under this section. The rules may include any other standards the department considers necessary for the training courses.

(2) In adopting rules that specify the content of a training course or part of a training course that trains MR/DD personnel in the administration of prescribed medications, the department shall ensure that the content includes all of the following:

(a) Infection control and universal precautions;

(b) Correct and safe practices, procedures, and techniques for administering prescribed medication;

(c) Assessment of drug reaction, including known side effects, interactions, and the proper course of action if a side effect occurs;

(d) The requirements for documentation of medications administered to each individual;

(e) The requirements for documentation and notification of medication errors;

(f) Information regarding the proper storage and care of medications;

(g) Information about proper receipt of prescriptions and transcription of prescriptions into an individual's medication administration record, except when the MR/DD personnel being trained will administer prescribed medications only to residents of a residential facility with seventeen or more resident beds who are participating in a field trip, as specified in division (A)(9) of section [5123.42](http://codes.ohio.gov/orc/5123.42) of the Revised Code;

(h) Course completion standards that require successful demonstration of proficiency in administering prescribed medications;

(i) Any other material or course completion standards that the department considers relevant to the administration of prescribed medications by MR/DD personnel.

5123.45

(A) The department of developmental disabilities shall establish a program under which the department issues certificates to the following:

(1) MR/DD personnel, for purposes of meeting the requirement of division (C)(1) of section [5123.42](http://codes.ohio.gov/orc/5123.42) of the Revised Code to obtain a certificate or certificates to administer prescribed medications~~,~~ and perform health-related activities~~, and perform tube feedings~~;

(2) Registered nurses, for purposes of meeting the requirement of division (B)(1) of section [5123.441](http://codes.ohio.gov/orc/5123.441) of the Revised Code to obtain a certificate or certificates to provide the MR/DD personnel training courses developed under section [5123.43](http://codes.ohio.gov/orc/5123.43) of the Revised Code.

(B)

(1) Except as provided in division (B)(2) of this section, to receive a certificate issued under this section, MR/DD personnel and registered nurses shall successfully complete the applicable training course or courses and meet all other applicable requirements established in rules adopted pursuant to this section. The department shall issue the appropriate certificate or certificates to MR/DD personnel and registered nurses who meet the requirements for the certificate or certificates.

(2) ~~The department shall include provisions in the program for issuing certificates to MR/DD personnel and registered nurses who were required to be included in the certificate program pursuant to division (B)(2) of this section as that division existed immediately before the effective date of this amendment.~~ MR/DD personnel who receive a certificate under division (B)(2) of this section shall not administer insulin until they have been trained by a registered nurse who has received a certificate under this section that allows the registered nurse to provide training courses to MR/DD personnel in the administration of insulin . A registered nurse who receives a certificate under division (B)(2) of this section shall not provide training courses to MR/DD personnel in the administration of insulin unless the registered nurse completes a course developed under section [5123.44](http://codes.ohio.gov/orc/5123.44) of the Revised Code that enables the registered nurse to receive a certificate to provide training courses to MR/DD personnel in the administration of insulin.

(C) Certificates issued to MR/DD personnel are valid for one year and may be renewed. Certificates issued to registered nurses are valid for two years and may be renewed.

To be eligible for renewal, MR/DD personnel and registered nurses shall meet the applicable continued competency requirements and continuing education requirements specified in rules adopted under division (D) of this section. In the case of registered nurses, continuing nursing education completed in compliance with the license renewal requirements established under Chapter 4723. of the Revised Code may be counted toward meeting the continuing education requirements established in the rules adopted under division (D) of this section.

(D) In accordance with section [5123.46](http://codes.ohio.gov/orc/5123.46) of the Revised Code, the department shall adopt rules that establish all of the following:

(1) Requirements that MR/DD personnel and registered nurses must meet to be eligible to take a training course;

(2) Standards that must be met to receive a certificate, including requirements pertaining to an applicant's criminal background;

(3) Requirements that certificate holders be able to read, write and understand English at a level sufficient to comply with all requirements contained in sections 5123.41 to 5123.45 and any rules adopted thereunder;

~~(3)~~ (4) Procedures to be followed in applying for a certificate and issuing a certificate;

~~(4)~~ (5) Standards and procedures for renewing a certificate, including requirements for continuing education and, in the case of MR/DD personnel who administer prescribed medications, standards that require successful demonstration of proficiency in administering prescribed medications;

~~(5)~~ ~~Standards and procedures for suspending or revoking a certificate;~~

~~(6)~~ ~~Standards and procedures for suspending a certificate without a hearing pending the outcome of an investigation~~;

~~(7)~~ (6) Any other standards or procedures the department considers necessary to administer the certification program.

5123.452

(A) If good cause exists as specified in division (B) of this section, the director of developmental disabilities may issue an adjudication order requiring that one of the following actions be taken against a person seeking or holding a certificate issued pursuant to section 5123.45 of the Revised Code:

(1) Refusal to issue or renew a certificate;

(2) Revocation of a certificate;

(3) Suspension of certificate holder’s authority to do either of the following:

1. Begin or continue to administer prescribed medications and perform health-related activities
2. Begin or continue to provide the training course or courses to MR/DD personnel

(B) The following constitutes good cause for taking action under division (A) of this section against a person seeking or holding a certificate:

(1) The person has failed to comply with section 5123.41 to 5123.45 of the Revised

Code or any rules adopted under those sections;

(2) The name of the person appears in the registry of employees guilty of abuse, neglect, or misappropriation established under section 5123.52 of the Revised Code.

(3) The person has been convicted of or pleaded guilty to any of the offense listed in section 5123.081 of the Revised Code.

(4) Misfeasance;

(5) Malfeasance;

(6) Nonfeasance

(7) Confirmed abuse or neglect;

(8) In the case of an registered nurse, the board of nursing has denied, revoked, suspended or placed restriction on the nursing license or reprimanded or otherwise disciplined the holder of a nursing license

(9) Other conduct the director determines is or would be injurious to individuals.

(C) The director shall issue an adjudication order under division (A) of this section in accordance with Chapter 119. of the Revised Code.

5123.47

(A) As used in this section:

(1) "In-home care" means the supportive services provided within the home of an individual with mental retardation or a developmental disability who receives funding for the services through a county board of developmental disabilities, including any recipient of residential services funded as home and community-based services, family support services provided under section [5126.11](http://codes.ohio.gov/orc/5126.11) of the Revised Code, or supported living provided in accordance with sections [5126.41](http://codes.ohio.gov/orc/5126.41) to [5126.47](http://codes.ohio.gov/orc/5126.47) of the Revised Code. "In-home care" includes care that is provided outside an individual's home in places incidental to the home, and while traveling to places incidental to the home, except that "in-home care" does not include care provided in the facilities of a county board of developmental disabilities or care provided in schools.

(2) "Parent" means either parent of a child, including an adoptive parent but not a foster parent.

(3) "Unlicensed in-home care worker" means an individual who provides in-home care but is not a health care professional.

(4) "Family member" means a parent, sibling, spouse, son, daughter, grandparent, aunt, uncle, cousin, or guardian of the individual with mental retardation or a developmental disability if the individual with mental retardation or developmental disabilities lives with the person and is dependent on the person to the extent that, if the supports were withdrawn, another living arrangement would have to be found.

(5) "Health care professional" means any of the following:

(a) A dentist who holds a valid license issued under Chapter 4715. of the Revised Code;

(b) A registered or licensed practical nurse who holds a valid license issued under Chapter 4723. of the Revised Code;

(c) An optometrist who holds a valid license issued under Chapter 4725. of the Revised Code;

(d) A pharmacist who holds a valid license issued under Chapter 4729. of the Revised Code;

(e) A person who holds a valid certificate issued under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited brand of medicine;

(f) A physician assistant who holds a valid license issued under Chapter 4730. of the Revised Code;

(g) An occupational therapist or occupational therapy assistant or a physical therapist or physical therapist assistant who holds a valid license issued under Chapter 4755. of the Revised Code;

(h) A respiratory care professional who holds a valid license issued under Chapter 4761. of the Revised Code.

(6) "Health care task" means a task that is prescribed, ordered, delegated, or otherwise directed by a health care professional acting within the scope of the professional's practice that can be completed by an unlicensed in-home care worker according to written step by step instructions and the task meets the following requirements:

(a) The task requires no judgment based on specialized health care knowledge and expertise on the part of the unlicensed in-home care worker performing the task;

(b) The results of the task are reasonably predictable;

 (c) The task can be safely performed according to exact, unchanging directions, with no need to alter the standard procedures for performing the task;

(d) The performance of the task does not require that complex observations or critical decisions be made with respect to the task;

(e) The consequence of performing the task improperly are minimal and not life-threatening.

 (B) Except as provided in division (E) of this section, a family member of an individual with mental retardation or a developmental disability may authorize an unlicensed in-home care worker to administer oral and topical prescribed medications, nutrition and medication through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled, to administer oxygen, metered dose inhaled respiratory medications, prescribed dose of insulin via subcutaneous injection, pump or inhalation, and prescribed subcutaneous injections for treatment of metabolic disorders and to ~~or~~ perform other health care tasks as part of the in-home care the worker provides to the individual, if all of the following apply:

(1) The family member is the primary supervisor of the care.

(2) The unlicensed in-home care worker has been selected by the family member or the individual receiving care and is under the direct supervision of the family member.

(3) The unlicensed in-home care worker is providing the care through an employment or other arrangement entered into directly with the family member and is not otherwise employed by or under contract with a person or government entity to provide services to individuals with mental retardation and developmental disabilities.

(C) A family member shall obtain a prescription, if applicable, and written instructions from a health care professional for the care to be provided to the individual. The family member shall authorize the unlicensed in-home care worker to provide the care by preparing a written document granting the authority. The family member shall provide the unlicensed in-home care worker with appropriate training and written instructions in accordance with the instructions obtained from the health care professional. The family member or health care professional shall be available, at least by telecommunication, at all times when the healthcare tasks are performed and medications are administered.

(D) A family member who authorizes an unlicensed in-home care worker to administer ~~oral and topical~~ prescribed medications or perform other health care tasks retains full responsibility for the health and safety of the individual receiving the care and for ensuring that the worker provides the care appropriately and safely. No entity that funds or monitors the provision of in-home care may be held liable for the results of the care provided under this section by an unlicensed in-home care worker, including such entities as the county board of developmental disabilities and the department of developmental disabilities.

An unlicensed in-home care worker who is authorized under this section by a family member to provide care to an individual may not be held liable for any injury caused in providing the care, unless the worker provides the care in a manner that is not in accordance with the training and instructions received or the worker acts in a manner that constitutes wanton or reckless misconduct.

(E) A county board of developmental disabilities may evaluate the authority granted by a family member under this section to an unlicensed in-home care worker at any time it considers necessary and shall evaluate the authority on receipt of a complaint. If the board determines that a family member has acted in a manner that is inappropriate for the health and safety of the individual receiving the care, the authorization granted by the family member to an unlicensed in-home care worker is void, and the family member may not authorize other unlicensed in-home care workers to provide the care. In making such a determination, the board shall use appropriately licensed health care professionals and shall provide the family member an opportunity to file a complaint under section [5126.06](http://codes.ohio.gov/orc/5126.06) of the Revised Code.

5123.452

(A) If good cause exists as specified in division (B) of this section, the director of developmental disabilities may issue an adjudication order requiring that one of the following actions be taken against a person seeking or holding a certificate issued pursuant to section 5123.45 of the Revised Code:

(1) Refusal to issue or renew a certificate;

(2) Revocation of a certificate;

(3) Suspension of certificate holder’s authority to do either of the following:

1. Begin or continue to administer prescribed medications and perform health-related activities
2. Begin or continue to provide the training course or courses to MR/DD personnel

(B) The following constitutes good cause for taking action under division (A) of this section against a person seeking or holding a certificate:

(1) The person has failed to comply with section 5123.41 to 5123.45 of the Revised

Code or any rules adopted under those sections;

(2) The name of the person appears in the registry of employees guilty of abuse, neglect, or misappropriation established under section 5123.52 of the Revised Code.

(3) The person has been convicted of or pleaded guilty to any of the offense listed in section 5123.081 of the Revised Code.

(4) Misfeasance;

(5) Malfeasance;

(6) Nonfeasance

(7) Confirmed abuse or neglect;

(8) In the case of an registered nurse, the board of nursing has denied, revoked, suspended or placed restriction on the nursing license or reprimanded or otherwise disciplined the holder of a nursing license

(9) Other conduct the director determines is or would be injurious to individuals.

(C) The director shall issue an adjudication order under division (A) of this section in accordance with Chapter 119. of the Revised Code.