**5123.41 Definitions**

**(E) Health Related Activities:**

**The Health Related Activities (HRA) defined here are all nursing tasks that personnel could otherwise be authorized to do by nursing delegation. Their inclusion in this law is to indicate specific tasks that DD personnel authorized by DODD Certification (Category 1) are able to do in limited small settings without nurse delegation (by certification and individual specific training)**

**#6 –** changed external catheter “care” to “cleaning”; this change is to clarify specifically that no other catheter related procedures are considered authorized as an HRA for purposes of this law

**# 8** - Changed from “colostomy care” to just “ostomy care” to avoid confusion on the various types of ostomy stomas – this is a hygiene and receptacle issue; personnel get training specific to the person’s needs – no known problems with staff neglect on this task

**#9 -15 A number of new HRAs are being added.** New tasks added for staff in 5 bed or less to be authorized (by certification) without nurse delegation; currently these are nursing tasks that require delegation because they are not part of Cert. Category 1. With the same kind of training a delegating nurse would provide these are rote activities that can be done according to step by step instructions without nursing judgement.

#**9 -** **Pulse Ox** is helpful in monitoring persons with respiratory issues and can be purchased relatively cheaply without an Rx;

**# 10 - CPAP and Bi-PAP** without Oxygen have been done in the past without delegation in many cases because people didn’t recognize them as a prescribed treatment not currently authorized by Cert 1. DODD currently advises delegation is required; without funding for nurse delegation this can be a hardship in small community home settings. These are simple to use and made to be used by unlicensed lay persons

**# 11 - Percussion vests** - this is a rote task that can be done according to step by step instructions without nursing judgement. In a home setting an individual may need this devise applied a number of times per day and would most likely be also receiving Home Health nursing, and/or other close monitoring by a healthcare professional. This would allow a person to receive this treatment at small adult day services without nurse delegation. In larger (6+ residential or 17+ adult day) nurse delegation would be required.

**# 12 - cough-assist or insufflator; -** see notes on #11

**#13 – application of prescribed compression hosiery** can have significant consequences if not applied correctly however it is routine aid for post-op or routine care of persons with other cardiovascular issues. By adding it as an HRS persons in small community settings could have their personal staff assist as needed. Without funding for nurse delegation it would be unnecessarily restrictive to require nurse delegation in small settings for the application of compression hosiery.

**Additional newly added definitions.** *Note: definitions are here; specific authorization for use in various settings (with or without delegation) is in 5123.42 with other medication authorizations*

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

This was added as a route that was not addressed in original rule / law. Ohio Board of respiratory care and OBN have both confirmed that DODD law does not specifically authorized inhaled medications. Many people need routine metered dose inhalers. Only premeasured inhaler and nebulizer treatments that do not require assessment or judgement would be authorized.

***Definitions (J), (K) & (L)*** *– are to address the long standing roadblocks that prevent persons with IDD in small community settings from having ready access to topical OTC treatments that can be hard to get a prescription for and can be safely used without a prescription. Note: only medicated hygiene products and topical barriers or skin and musculoskeletal comfort products are being added to authorization (definitions are here; authorization for use of these OTC topical preparations is in 5123.42 with other medication authorizations)*

**(J)** **“Over-the-counter medicated products for cleansing, protection and comfort 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.**

This definition is for the authorization of these specific categories of OTCs later in the laws. This category of OTC is listed separately to address hygiene and comfort products that contain ingredients listed by FDA as drugs The definition is to limit topical treatments to those for protection or comfort measures – none are ingestible or to treat conditions that need to diagnosed first (rules will elaborate on limitations and need for medical evaluations for ongoing discomforts).

**(K)- Over the Counter** – added here simply to clarify the term in general for purposes of the other definitions

**(L) “Over-the-Counter topical medications to intact skin for the purposes 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.**

This is another category of limited OTC products being defined for authorization further in the law (5123.42). This category of OTC is listed separately to address a limited category of comfort drugs.

**“Tube Feeding”** is being removed from this law – DODD does not need to authorize the delegation of tube feeding and having the task listed in DODD law leads to confusion of the authority to delegate tube feeding; OBN authorizes nurses to delegate this nursing task (OAC 4723-13). It requires nurse delegation (not DODD Certification) DODD only needs to authorize medication administration via g/j tube.

**5123.42 Authorizations**

This section provides for the authorization of activities by unlicensed personnel in various settings. In summary:

* Adult service is being changed to distinguish between small settings that serve 16 or fewer, and the larger settings. These changes will allow personnel in small settings to administer oral and topical medications and the 13 HRAs without delegation. Larger settings will continue to require nurse delegation for all medications and treatments.
* Insulin will be authorized for delegation in all settings. Not just the currently authorized 1-5 residential. Statistically diabetes is affecting many more people than when this law was incepted and the inability to have insulin administration delegated prevents community inclusion for students and adults (particularly in vocational options). DODD has recorded no known Major Unusual Incidents (death, unscheduled hospitalization, abuse or neglect) related to the administration of insulin. The requirement for nurse delegation of all insulin administration is what provides for unlicensed personnel to safely administer routine dosages that require no judgement on the part of unlicensed personnel.
  + *According to the CDC’s National Diabetes Statics Report 2014, 1.25 million American children and adults have type 1 Diabetes (Type 1 is generally Insulin Dependent and childhood onset). It could be considered restrictive and non-ADA compliant to limit school related participation only to situations where a nurse can be available to administer insulin*.
  + According to currently published CDC data from 2102, 29.1 million people or 9.3% of the U.S. population have diabetes. 21.0 million people are diagnosed with diabetes and another 8.1 million people are undiagnosed. To avoid limiting life choices for people with diabetes it is essential that unlicensed personnel be able to administer insulin under nurse delegation.
* Inhaled insulin was added to the insulin authorization. Inhaled insulin has been on and off the market since the inception of these rules. There is currently an FDA approved inhaled insulin.
* Subcutaneous injection of medications for the treatment of metabolic disorders is being added for authorization and only with nurse delegation. These are medications that are used for diabetes and other conditions that are sometimes not specifically diagnosed as diabetes but are in the arena. Medications such as Victoza® and Byetta® would be covered in this category of treatments. Because these medications may be recommended at meal times or at a specific time (when a nurse may not be readily available in the community) the access to having unlicensed personnel administer the injection is important to preserving options for integrated living, working and playing in the community.
* New authorization was added to allow personnel with training to administer an epi-pen or use a VNS. These are urgent/emergent treatments designed to be used by unlicensed people. Epi-pens were previously referenced as part of the certification activities stipulate in rule. VNS were not in use at the inception of this law and corresponding rule. All DD personnel should be trained and ready to intervene without needing a DODD medication administration certification.
* New authorization for the use of over-the-counter medicated hygiene products and comfort products as defined in the previous section has been added for all DD personnel. There is a long standing problem with regard to access for persons with DD to get assistance with sunscreens, medicated shampoos, chap sticks, toothpastes and other topical hygiene products that may contain ingredients the FDA classifies as drugs. The drug content mandates in current rule. Prescriptions for these products can be difficult as physicians do not understand the need. Certification is likewise cumbersome for just hygiene products.
* New authorization for OTC medications that provide musculoskeletal comfort. Like the other OTC category these common topical comfort measures readily accessible to most citizens can be restricted to persons with DD due to many prescribers reticence to prescribe medications that typically do not require a prescription. In the smaller residential and day/vocational services (residential 5 or fewer and day/vocational of these are authorized by s or fewer) staff would be able to administer by virtue of certification. In schools and larger settings delegation would be required.
* New authorization is added for oxygen and metered dose inhalers. Oxygen is currently delegable (as per ORCB in settings that are not primarily for healthcare). Metered dose inhalers need additional authorization. These would only be in premeasured doses that require no assessment or judgement to administer. In the smaller residential and day/vocational services (residential 5 or fewer and day/vocational of these are authorized by s or fewer) staff would be able to administer by virtue of certification. In schools and larger settings delegation would be required. In small settings where nursing is not funded or readily available it is important for community integration that personnel be able to administer these inhaled medications, and that authorization for delegation of metered dose inhalers be codified.
* All References to Tube Feeding are removed from this section entirely. DODD does not need to authorize the delegation of tube feeding and having the task listed in DODD law leads to confusion of the authority to delegate tube feeding; OBN authorizes nurses to delegate this nursing task (OAC 4723-13). It requires nurse delegation (not DODD Certification) DODD only needs to authorize medication administration via g/j tube.
* In the previous law each setting specified in section (A) was had individually specified authorizations named in section (B). In this version section (B) is new (to address VNS and epi-pen and OTC topical). In the new section (C) the settings were grouped into the applicable authorizations that are the same.
  + *Reader’s note: 4723.42 Section (A) 1-8 Defines the various settings where medication administration may take place; Section (B) is new to authorize some activities without certification; Section (C) breaks down what is authorized in each setting and if delegation in required for the activity.*

**Specific changes by Section and line #:**

**The beginning date was removed** as this is not a new certification law. The 9 months referenced in old law was there to allow for rules and certification system to be built.

**5123.42 Section (A) - Settings**:

**(A) (2) - Creates a category of Adult Services that serve 17 or more.** Currently all adult day services require staff certification and delegation of all medications and treatments regardless of the number of persons. In (A)(5) we designate adult services settings of 16 or fewer that would allow certified staff to do the same non-delegated activities as residential settings of 5 or less (Oral/Topical/13 HRAs/O2/Metered dose inhalers and limited topical OTCs).

Section: **(A)(5) – Adds adult services of 16 or fewer** that will allow certified staff to do the same non-delegated activities as residential settings of 5 or less (all activities in Cat 1 certification).

*Day/Voc. services are ancillary to a person’s residential supports and do not provide the coordination of an individual’s entire array of medications/treatments and healthcare regimen (as do most residential service settings). This will allow certified staff in small adult day services and integrated vocational setting to administer medications and 13 Health Related Tasks without nurse delegation. G/J tube administration and insulin require delegation in all settings regardless of size.*

**Section 5123: (B) – Authorizations for all DD Personnel**

**(B) specifies that personnel in all settings and without nurse delegation or certification may follow manufacturer’s instruction to:**

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

**(B)(2)** Use of **commercially packaged epinephrine auto-injectors** with documented training**.**

These two activities are currently being regarded an urgent/emergent actions. Epi-pen is currently taught routinely as a part of Red Cross First Aid and is in Cert 1 training. VNS has been confirmed by manufacturer and data as being safe to use with training negligible ability to cause harm.

**(B)(3) Use of topical OTC topical hygiene products.**

This authorization is added to clarify that personnel may use this category of medicated products without the product requiring a prescription or the personnel needing to be certified. Individuals support staff needs to be able to apply sunscreen and use other medicated hygiene and cosmetic products without having to acquire a prescription or have the 14 hour curriculum of medication administration. All are topical and used safely and widely for the population at large.

**5123.42 Section (C) - setting specific authorizations:**

Section (C) is referencing setting (A)(1) which is **Early Intervention, preschool and school-aged services.** All activities require nurse delegation and for minor children parent/guardian consent.

**(C) (1) (b) adds authority for delegation of oxygen and metered dose inhaled respiratory medications**

**(C) (1) (c) – authorizes OTC topical medications as per definitions in 5123.41**

**(C) (1) (f) – authorizing insulin by certification with nurse delegation including inhaled insulin.**

**Section (C)(2)** is referencing authorization in settings **(A)(2)** {17+ Adult Services regardless of funding}**, (A)(6)** {any setting not called out in other sections} **and (A)(8)** {residential settings of 6-16 people}. **All activities require nurse delegation** (note Adult service of 16 or fewer Day services or Vocational support is added to what will be (C(4) below)

***Additions to this section (C) (2):***

**(C)(2)(b) – Oxygen and metered dose inhalers** are added to oral and topical medications {with nurse delegation}

**(C)(2)(c) - OTC topical treatments for musculoskeletal comfort** {with nurse delegation}

**(C)(2)(f) – Insulin** {with nurse delegation}

**(C)(2)(g) – injectable medications for the treatment of metabolic glycemic disorders** {with nurse delegation}

**Section (C)(3) includes (A)(3)** {Family Support Services}, **(A)(4)** {Certified Supported Living – always 5 or less}**, (A)(5)** {4 or fewer in residential and 16 or fewer adult day services}, **and (A)(7)** {licensed settings of 5 or fewer}.These are settings that will allow some medications **(oral, topical, O2, metered dose inhalers limited OTCs and 13 HRAs) to be done by certification only**. Note: all settings require delegation of g/j tube actions and insulin/injectable metabolic disorder medications.

***Additions to this section:***

**(C)(3)(b) – oxygen and metered dose inhalers** {with certification}

**(C)(3)(c) - OTC topical for musculoskeletal comfort** {with certification}

**(C)(3)(f) – Inhaled Insulin –** insulin was already authorized in this section only inhaled route added {with certification and delegation}

**(C)(2)(g) – injectable medications for the treatment of glycemic disorders**{with certification and delegation}

**The following sections (C) (4) – (C) (8) are being deleted as each setting is added to the (C) section that has the same authorizations.**

**(C)(4)** – removed ***Section (C)(4)*** *was the previous authorization category for* ***certified supported living (A)(4),*** *which has been* ***added now to the (C)(3)*** *setting that have the same authorities and requirements.*

**(C)(5) – removed *Section (C) (5)*** *was for residential support services through HCB services waivers* ***(A) (5)*** *{4 or fewer in residential and 16 or fewer adult day services} which has been* ***added now to settings listed in (C) (3)*** *that have the same authorities and requirements.*

**(C)(6) – removed *Section (C)(6)*** *was for* ***settings (A)(6)*** *{ settings not otherwise referenced}* ***added now to the settings listed in (C)(2)*** *that have the same authorities and requirements.*

**(C)(8) - removed *Section (C) (8)*** *was for* ***settings (A)(8)*** *{6-16 bed residential}* ***added now to settings listed in (C)(2)*** *that have the same authorities and requirements.*

***Newly numbered Section (C)(4) includes setting (A)(9)*** *{people living in 17+ facility only when on outings}. The expansion of authorizations is only to provide for community integration. All activities must be delegated and only by unlicensed personnel if an individual is on an outing (not in 17+ facility).*

***Additions to this section:***

**(C)(4)(b) – oxygen and metered dose inhalers**

**(C)(4)(c) - OTC topical treatments**

**(C)(4)(f) –Insulin**

**(C)(4)(g) – Injectable medications for the treatment of glycemic disorders.**

**5123.43 Development of training courses**

**(A) – removed references to tube feeding**

**5123.45 Issuing of certifications/certificates**

**(B)(2)** Removing old language from law for starting the certification process in 2003.

**(D)(3)** Adding new language to address literacy issues for certification requirements.

**5123.452 Denial, Revocation and suspension of certifications**

This entire section is newly added to codify the authority of DODD to deny, revoke or suspend certification

**5123.47 Family delegation**

**Clarification of specific routes and contingencies related to tasks that families may delegate**. These provisions were patterned after the provisions unlicensed personnel in the other sections, and nurse delegation in OBN rule (OAC 4723-13)

**(A)(6)** Clarification and parameters added to the definition of healthcare tasks to make clear that unlicensed personnel cannot be authorized to do any and all tasks regardless of complexity as long as the task is indicated by a healthcare professional; only tasks that meet the guidelines in new wording:

*{Tasks}* **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)** Clarification of what medications and routes a family may delegate to an independent provider who is not otherwise certified or delegated.

“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:”