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**TESTIMONY: H.B. No. 6824 AN ACT CONCERNING THE STATE BUDGET FOR THE BIENNIUM ENDING JUNE THIRTIETH 2017, AND MAKING APPROPRIATIONS THEREFOR AND OTHER PROVISIONS RELATED TO REVENUE.**

Appropriations Committee  
February 27, 2015

Good Day, Senator Bye, Representative Walker and esteemed members Appropriations Committee.

Thank-you for the opportunity to provide testimony on behalf of the Connecticut Nurses' Association (CNA), the professional organization for registered nurses in Connecticut. I am Dr. Mary Jane Williams, past-president of the Connecticut Nurses' Association current chair of the Government Relations Committee and Professor Emeritus from CCSU.

I am providing testimony related to: **H.B. No. 6824 AN ACT CONCERNING THE STATE BUDGET FOR THE BIENNIUM ENDING JUNE THIRTIETH 2017, AND MAKING APPROPRIATIONS THEREFOR AND OTHER PROVISIONS RELATED TO REVENUE.**

“Specifically Restructure Rates to Achieve Medication Administration Savings. The budget for the current biennium had assumed \$20 million in gross savings in both FY 2014 and FY 2015 as a result of nurse delegation and greater use of assistive technology. Due to the minimal amount of delegation, no savings are anticipated. Under this

proposal, rates for medication administration by nurses will be reduced to achieve the savings that was originally included in the enacted budget. Savings figures reflect the state's share of Medicaid expenditures. This proposal will reduce total Medicaid expenditures by \$20.0 million in each year of the biennium.

### **Historical Overview**

In 2012: The Legislature met in Special Session on June 12, 2012. During the regular session, CNA worked with the Governor's Office, Home Health Care agencies and various departments to mitigate any possible negative effects of medication administration by unlicensed personnel. The resulting legislation, though not taken up during regular session, was included in the budget implementer bill, which passed during the Special Session.

HB 6001, Emergency Certification, AN ACT IMPLEMENTING PROVISIONS OF THE STATE BUDGET FOR THE FISCAL YEAR BEGINNING JULY 1, 2012 - PASSED  
Sections 11- 13 —MEDICATION ADMINISTRATION BY UNLICENSED PERSONNEL

The bill permits a registered nurse (RN) to delegate the administration of medications that are not injected into patients to homemaker-home health aides who obtain certification for medication administration. Administration may not be delegated when the prescribing physician specifies that a nurse must administer it. The law already allows residential care homes (RCHs) that admit residents requiring medication administration assistance to employ a sufficient number of certified, unlicensed personnel to perform this function in accordance with DPH regulations (CGS § 19a-495a). DPH Regulations Home Health Care Agency. The bill requires the Department of Public Health (DPH) commissioner to adopt regulations to carry out the medication administration delegation provisions'.

Implementation of this legislation failed. DSS provided Educational seminars and ongoing leadership seminars. However, Nurses failed to sign on to the process because of the fear of litigation and a commitment to there long standing Clients in the community to whom they provide safe, high quality care in the home.

### **Solution**

The remedy to this incomplete implementation of HB 6001 is to revisit the original legislation, work with the appropriate Professional organization to provide easily accessible ongoing education related to the process. Nurses are "Care Providers." The goal is to Educate Nurses in relation to their evolving role in the health care system, which is moving to team approach of community-based care. As the

environment for the provision of care changes the role of the Nurse evolves. It is our proposal that systematic regional, ongoing, easily accessible, outsourced education programs be developed to work with appropriate provider settings to objectively educate nurses appropriately without the perception of coercion to accomplish a legislative mandate.

## **Conclusion**

The provision of health care is moving from hospital-based care to community based care. All provider systems are challenged to provide safe quality care to a growing population of patients across the life span in diverse settings. Care in the community is cost effective however provision of continued care is constantly challenged by the continuing changes in reimbursement. The increase in mental health access and clients needs in our communities, that are growing exponentially will place increased demand on all care including psychiatric assessment, care, treatment, medication administration and follow up care.

In a state that has been challenged most recently by incidents precipitated by ineffective inaccessible mental health care or unwillingness to participate in psychiatric care we need to maintain the current reimbursement and work on the root issues to correct them effectively and ultimately provide safe quality care in the community with Nurses leading a team with an appropriate mix of providers.

Thank you

Mary Jane M Williams PhD, RN  
Chair, Government Relations Committee Connecticut Nurses Association  
Professor Emeritus, Central Connecticut State University

## Original Bill History and Explanation 2012

The bill permits a registered nurse (RN) to delegate the administration of medications that are not injected into patients to homemaker-home health aides who obtain certification for medication administration. Administration may not be delegated when the prescribing physician specifies that a nurse must administer it. The law already allows residential care homes (RCHs) that admit residents requiring medication administration assistance to employ a sufficient number of certified, unlicensed personnel to perform this function in accordance with DPH regulations (CGS § 19a-495a). DPH Regulations Home Health Care Agency. The bill requires the Department of Public Health (DPH) commissioner to adopt regulations to carry out the medication administration delegation provisions’.

The regulations must require that each home health care agency that serves clients requiring help with medication administration to:

1. adopt practices that increase and encourage client choice, dignity, and independence;
2. establish policies and procedures to ensure that an RN may delegate allowed nursing care tasks, including medication administration to a homemaker-home health aide when the RN determines that it is in the patient's best interest and the homemaker-home health aide is deemed competent to perform the task;
3. designate homemaker-home health aides to obtain certification for medication administration; and
4. ensure that the aides receive the certification. Certification. The bill requires the regulations to establish certification requirements for medication administration and the criteria that the agencies that service clients will use in determining (1) the aides who must obtain certification and (2) education and skill training requirements, including on-going requirements. The education and skill training requirements must include initial orientation, resident rights, identifying the types of medication that unlicensed personnel may administer, behavioral health management, personal care, nutrition and food safety, and health and safety in general.

The bill requires each home health care agency to ensure that by January 1, 2013 they are allowing for delegation of nursing care tasks in home care settings and they have adopted policies for employing homemaker- home health aides to perform these tasks. Current law requires the DPH commissioner to establish regulations governing medication administration by unlicensed personnel in RCHs. The regulations must include criteria that homes must use to determine the appropriate number of unlicensed personnel who will obtain certification. They must also establish ongoing training requirements including initial orientation, residents' rights, behavioral management, personal care, and general health and safety.

## Disciplinary Action Against Licensed Nurses

An RN who delegates the medication administration task cannot be subject to disciplinary action based on the aide's performance of tasks he or she delegated to the aide unless (1) the aide is acting pursuant to the RN's instructions or (2) the RN fails to leave instructions when he or she should have done so. Additionally, the RN must (1) document in the patient's care plan that the aide can properly and safely perform the medication administration, (2) provide initial direction to the aide, and (3) provide ongoing supervision to the aide, including periodically assessing and evaluating the patient's health and safety related to the medication administration.

The bill prohibits an RN from being sued for damages for delegating medication administration to a homemaker-home health aide unless (1) the employee acts under the nurse's specific instructions or (2) the nurse fails to leave instructions when he or she should have done so. Coercion Prohibited: The bill prohibits any person from coercing an RN into compromising patient safety by requiring him or her to delegate medication administration if the nurse's assessment of the patient documents a need for a nurse to do the administration and identifies why the need cannot be safely met through using assistive technology or medication administration by a certified homemaker-home health aide. The bill prohibits an RN who has made a reasonable determination based on such assessment that delegation may compromise patient safety from being subject to any employer reprisal or disciplinary action under the Public Health Code for refusing to delegate or refusing to provide the required training for delegation. Implementation While Regulations Being Adopted  
The bill allows the DPH commissioner to implement policies and procedures necessary to administer these provision while in the process of adopting them in regulation, provided she publishes notice of intent to adopt in the Connecticut Law Journal within 20 days of implementation. These policies and procedures are valid until the time final regulations are adopted. EFFECTIVE DATE: July 1, 2012

