FILED ON: 3/10/2016

HOUSE . . . . . No. 4067

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to home health and hospice aides.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 9 of chapter 94C of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after figure "112", in line 10, the following words:- a home health aide as limited by section 80B of said chapter 112.

SECTION 2. Section 80B of chapter 112 of the General Laws, as so appearing, is hereby amended by inserting after the tenth paragraph the following 5 paragraphs:-

Registered nurses may delegate the administration of or assistance with the administration of medications in the home to a home health aide, as defined under section 72F of chapter 111 of the General Laws; provided, that the home health aide has completed training on medication administration and meets minimum requirements according to regulations promulgated by the board in conjunction with the department of public health and that the administration or assistance with administration is performed under the supervision of a registered nurse.

The delegation of medication administration to a home health aide permitted under this section shall be limited to medications which are oral, ophthalmic, otic, topical, internasal, transdermal, suppository, prefilled auto-injectables designed for self-administration, or products which are administered by inhalation. The delegation of intramuscular, subcutaneous, intradermal, intraosseous or intravenous administration of medication shall not be permitted.

The board, in conjunction with the department of public health, shall promulgate regulations pertaining to documentation protocols, minimum requirements and training on medication administration. These regulations shall specify that delegation of administration of medication does not alter the responsibility of the home health agency or hospice to teach and the patient or family to participate in learning the self-administration of medications, whenever appropriate.

Home health agencies shall provide training on medication administration to home health aides and nurses and establish protocols on documenting that a home health aide or nurse has completed training according to the nurse delegation model and the board's regulations, which shall be drafted by the board in conjunction with the department of public health. Said regulations shall specify that the registered nurse delegator and the home health aide are accountable for their own actions in the medication delegation process, that the nurse delegator shall take appropriate steps to verify the training of the home health aide, that the delegation shall apply only to the home health aide to whom it was given and shall not be further delegated or transferred, that no registered nurse shall be required to delegate medication administration if the registered nurse determines it is inappropriate to do so and that the nurse delegator may revoke the delegation based on documented professional judgment.

A nurse licensed under this chapter who delegates medication administration in accordance with the regulations shall not be subject to disciplinary action by the board for the performance of a person to whom medication administration was delegated.

SECTION 3. There shall be a special task force convened to conduct a comprehensive study of home health agencies. The task force shall consist of: the commissioner of public health or designee and the secretary of elder affairs or designee, who shall serve as co-chairs; 2 members of the house of representatives, 1 of whom shall be appointed by the house minority leader; 2 members of the senate, 1 of whom shall be appointed by the senate minority leader; and 1 representative of the home care alliance of Massachusetts. The study shall make recommendations regarding licensure and other means to ensure that patients receive high quality care in the commonwealth. The study shall identify the current number of home health care agencies operating in the commonwealth and the number of home health care agencies in the commonwealth certified by the center for medicare and medicaid services.

The final study and recommendations, including any recommended standards for licensing, drafts of recommended legislation and the projected costs of implementing such recommendations, shall be reported to the house and senate committees on ways and means, the joint committee on elder affairs, the joint committee on health care financing, the joint committee on public health and the health planning council, established by section 16T of chapter 6A, not later than January 30, 2017.