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Testimony Presented to the CT Department of Developmental Services Re:

Notice of Intent to Amend Sections 17a-210-1 to 17a-210-10,
Inclusive, of the Regulations of Connecticut State Agencies

(Administration of Medication Regulations)

Julia Wilcox, Policy Specialist, Connecticut Association of Nonprofits (CT Nonprofits)

Public Hearing Date: February 2, 2009 - Commentary Posting Date: February 18, 2009

Connecticut Association of Nonprofits (CT Nonprofits) is a membership organization that represents more than 525 nonprofit agencies. Approximately 300 of our member agencies contract with State government for a variety of human and social services. The following testimony / commentary, is submitted on behalf of the Developmental Disabilities Division of DDS Funded Providers.

We greatly appreciate the opportunity to submit the attached information, in conjunction with the testimony provided during the Public Hearing, held on February 2, 2009.

As presented during the Public Hearing, we would implore the Department of Developmental Services to utilize the willingness and expertise of the Nonprofit Provider Community, in the review of the proposed amendments to the administration of medication regulations, as well as the development of future amendments. The capable and experienced nursing and healthcare staff who serve the private sector, is a valuable resource, not to be overlooked.

Past experience would indicate that efforts to work collaboratively with the Department in any number of areas of development have resulted in an increased understanding of perspectives – from both sides, and a more productive process and end result.

I thank you for your time and consideration of these critically important issues. As always, please do not hesitate to contact me at any time with any questions, or for additional clarification as follows:

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CT Nonprofits' Testimony Continued: DDS Medication Administration Regulations

Notice of Intent to Amend Sections 17a-210-1 to 17a-210-10,
Inclusive, of the Regulations of Connecticut State Agencies

Submitted By: Julia Wilcox, Policy Specialist - Public Hearing Date: February 2, 2009

Overall Fiscal Impact:

1 *Unanticipated Consequences: Unfunded Mandates:*

Recommendation: Evaluation of impending regulations by DDS, relative to overall fiscal impact upon the provider network. In a time of enormous economic uncertainty, any regulations which would translate to increased responsibility for Providers, would severely impact the financial stability of the DDS funded nonprofit providers. Specifically, initial concerns involve both training and oversight.

While it is understood that DDS intends to provide training at a 'central location,' there are certainly consequences to any additional training requirements. The training concerns are not as much related to 'who' provides the training, as to other areas. Regardless, Providers will need to pay staff for their travel to and from the training site, as well as their staff hours for the time involved in participation. Additional costs are also inherent in oversight required by the agency to ensure that staff are properly completing their medication administration duties.

Example: One singular provider (who has a proportionally large number of individual budgets) estimates that the training component alone, would cost in excess of \$50,000.

Trained, Non-Licensed Personnel:

2 *Trained, Non-Licensed Personnel:*

The concept of introducing "trained, non-licensed personnel" to pass medications under the supervision of a licensed physician seems fundamentally flawed. Given the enormous liability that physicians already face, one is hard pressed to believe that they would readily take on new responsibilities for supervision of staff in family homes or for persons living in non-licensed settings. Similarly, it would be reasonable to assume many families would not be supportive of staff passing medications based on a ten hour training. Receiving a timely response from many physicians is already very difficult. It is hard to imagine that a staff person who has a question about a medication, will receive a response in a fashion that will be of any value.

3 *Medication Error Reporting:*

Assuming that "trained, non-licensed personnel" will reliably participate in an honor system of reporting errors would seem to be very unlikely.

4	<p><u>Nursing Board of Examiners Guidelines:</u></p> <p>Regulations require that certified non-licensed personnel work under the delegation of the supervising nurse. Trained non-licensed personnel have the same responsibility and training, however there is no supervised nurse identified in the regulations. It is not clear how this meets the Nursing Board of Examiners guidelines.</p>
5	<p><u>Overarching Training Concerns:</u></p> <p>The issue of DDS adding new Medication Certification training is one of serious concern. Currently, the Medication Certificate training and testing system is severely strained. To add an additional program would require additional RN resources that DDS can neither find nor sufficiently reimburse.</p>
6	<p><u>Clarification Regarding Documentation Requirement:</u></p> <p>Clarification is requested, related to the following regulation: "In individual and family support settings and in a CTH, trained non-licensed personnel shall document the administration of medication to consumer in accordance with the consumers individual plan". The individual plan does not historically identify medication administration records or documentation. There should be a consistent practice identified in the regulations.</p>
7	<p><u>General Commentary Re: Trained, Non-Licensed Personnel:</u></p> <p>In summary, the introduction of "trained non-licensed personnel" into the service system for individuals not living in licensed facilities would seem to be ill advised. While it is very desirable that DDS is considering less rigorous methods to train staff to pass medications, this solution does not appear to be the best solution possible. Perhaps consulting with private providers would yield a better plan.</p>
	<p><i>Concerns Related to Community Training Home (CTH) Services:</i></p>
8	<p><u>Training Issues Specific to CTH Providers:</u></p> <p>To implement the proposed amendments with those who have been CTH Providers and their Respite Providers for over 20 years would be very difficult, in several areas as follows:</p> <ul style="list-style-type: none"> A. The providers would some how have to be paid for their time in training. In addition, Agencies do not have the capacity to provide medication classes to all individuals who would be required to be trained under regulations. <i>(also listed page 1, comment #1)</i> B. It appears that all CTH providers now must be trained in medication administration. Proposed regulations are not clear on this point. C. The Providers would in most cases, need to pay respite providers to care for their consumers while in training. D. All respite providers (which could be a substantial number) would also have to receive this training. E. Many providers employ staff for whom English is the second language – always an issue with Med training. F. It is unclear if there would be a competency testing. This could be an issue for many. G. In the event that it is determined that a provider of many years is not capable of being responsible for the Medications: What would happens to the consumer, and where would the money and man power come from to move this individual?



9	<p><u>Additional Nursing Requirements:</u></p> <p>Presently Providers do not need medication orders in the CTH. It is our understanding, that they would need more nursing oversight which is not in place now, and would be difficult to afford in the future. Those who do have nursing as of now, barely have enough for what they need. Oversight of the medication pourers would only be an additional burden/barrier.</p>
10	<p><u>CTH Providers as Employees:</u></p> <p>The regulations refer to the CTH providers as ‘employees’, which they are not. Providers work very hard to keep that distinction in place.</p>
11	<p><u>General Commentary Re: CTH Programs:</u></p> <ul style="list-style-type: none"> A. In general, Providers believe that the proposed regulations, would result in over - regulating the CTH program, and in an economy that is in need of more cost effective programs such as CTHs , over-regulation would defeat this purpose. B. The requirement for the storage of medication in the family home or CTH home are not addressed in the proposed regulations. C. Regulations do not ‘grandfather in’ any individual who presently are providing family support services or any CTH Providers. This presents a significant concern
	<p><i>General Commentary:</i></p>
12	<p><u>Doctors’ Orders:</u></p> <p>The requirement of an original doctors’ order at both the day and residential program for the same individual is perceived as excessive documentation.</p>
13	<p><u>Overall Expense of Implementation:</u></p> <p>Many Providers have expressed concern related to the overall expense of implementation.</p> <p>The following comment from a Provider, speaks to the concerns of many as follows:</p> <p>“I would quote from the Governor's recent Budget address: "And we can do with fewer laws on the books. We not only need a leaner government but a less intrusive one as well. We have 14,000 pages of state laws in existence. Surely we can do with fewer. I am proposing that we take 130 unnecessary laws off the books. We should take others off as well. We can certainly make do with less."</p> <p>“While I'm sure her vision did not necessarily include DDS Medication Administration Regulations, the point remains that these proposed regulations are ill conceived in concept, incomplete in their design and most definitely are yet another unfunded mandate.”</p>
	<p><i>Your consideration is greatly appreciated. For additional information, Please do not hesitate to contact:</i></p> <p><i>Julia Wilcox, Policy Specialist, CT Nonprofits: jwilcox@ctnonprofits.org or 860.525.5080 ext.25</i></p>