

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1551 Medication Technicians  
**SPONSOR(S):** Finance & Facilities Subcommittee, Buchanan  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Facilities Subcommittee	16 Y, 1 N, As CS	Guzzo	Lloyd
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

An assisted living facility (ALF) is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more ongoing personal services to one or more adults who are not relatives of the owner or administrator. ALFs are licensed and regulated by the Agency for Health Care Administration (AHCA).

An unlicensed ALF staff member may provide assistance to a resident with self-administration of a routine, regularly scheduled medication that is intended to be self-administered. Such staff must complete six hours of initial training and at least two hours of continuing education annually on providing assistance with self-administered medications and safe medication practices in an ALF.

Current law does not provide a title for such a staff member. They are just referred to as unlicensed staff. The bill designates them as "medication technicians." The bill also authorizes a medication technician to provide assistance with a resident's self-administration of a point-of-care device.

The bill requires AHCA to establish minimum requirements for medication technician training, which must address:

- Infection control;
- Safe handling and use of point-of-care devices;
- Communicating with case managers and health care providers;
- Certain standard of care protocols;
- Identification of nursing standards; and
- Methods of assisting residents with the self-administration of medications.

The bill has no fiscal impact on state or local government.

The bill provides an effective date of July 1, 2021.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### Assisted Living Facilities

An assisted living facility (ALF) is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.<sup>1</sup> A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.<sup>2</sup> Activities of daily living include ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.<sup>3</sup>

ALFs are licensed and regulated by AHCA under part I of ch. 429, F.S., and part II of ch. 408, F.S., and rule 59A-36, F.A.C. In addition to a standard license, an ALF may have one or more specialty licenses that allow the ALF to provide additional care. These specialty licenses include limited nursing services,<sup>4</sup> limited mental health services,<sup>5</sup> and extended congregate care services.<sup>6</sup>

As of March 21, 2021, there are 3,145 licensed ALFs in Florida.<sup>7</sup>

##### *Assistance to Residents*

An unlicensed ALF staff member may provide assistance to a resident who is medically stable with self-administration of a routine, regularly scheduled medication that is intended to be self-administered if there is a documented request by and the written informed consent of the resident.<sup>8</sup> Assistance with medication includes, among other things, in the presence of the resident, confirming that the medication is intended for the resident, orally advising the resident of the medication name and dosage, opening the container, removing the prescribed amount from the container, and closing the container.<sup>9</sup>

A facility that uses a diagnostic device known as a “point-of-care device” to perform clinical laboratory tests for residents, including blood glucose testing, must be in compliance with the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA) and part I of ch. 483, F.S.<sup>10</sup> A valid copy of the state clinical laboratory license, if required, and the federal CLIA Certificate must be maintained in the facility. A state license or federal CLIA certificate is not required if residents perform the test themselves or if a third party assists residents in performing the test. The facility is not required to maintain a state clinical laboratory license or a federal CLIA certificate if facility staff assist residents in performing clinical laboratory testing with the residents’ equipment.<sup>11</sup>

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<sup>1</sup> S. 429.02(5), F.S. An ALF does not include an adult family-care home or a non-transient public lodging establishment.

<sup>2</sup> S. 429.02(18), F.S. Personal services do not include the provision of medical, nursing, dental, or mental health services.

<sup>3</sup> S. 429.02(1), F.S.

<sup>4</sup> S. 429.07(3)(c), F.S. Limited nursing services include acts that may be performed by a person licensed as a nurse but are not complex enough to require 24-hour nursing supervision and may include such services as the application and care of routine dressings, and care of casts, braces, and splints (s. 429.02(13), F.S.).

<sup>5</sup> S. 429.075, F.S. An ALF that serves one or more mental health residents must obtain a limited mental health license.

<sup>6</sup> S. 429.07(3)(b), F.S. Extended congregate care facilities provide services to an individual that would otherwise be ineligible for continued care in an ALF. The primary purpose is to allow a resident the option of remaining in a familiar setting from which they would otherwise be disqualified for continued residency as they become more impaired.

<sup>7</sup> AGENCY FOR HEALTH CARE ADMINISTRATION, *Facility/Provider Search Results – Assisted Living Facilities*, <http://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx> (last visited Mar. 21, 2021).

<sup>8</sup> S. 429.256(2), F.S.

<sup>9</sup> S. 429.256(3)(b), F.S.

<sup>10</sup> 59A-36.008(4)(d), F.A.C.

<sup>11</sup> Id.

In 2020, the legislature authorized an ALF to admit or retain a resident who requires the use of an assistive device.<sup>12</sup> An assistive device is any device designed or adapted to help a resident perform an action, task, an activity of daily living, a transfer, prevention of a fall, or recovery from a fall.<sup>13</sup> AHCA is currently in the rule-making process to develop standards for the use of assistive devices.<sup>14</sup>

### *Training*

Prior to interacting with residents, each new ALF employee must attend a 2-hour preservice orientation provided by the facility which must cover resident's rights and the facility's license type and services offered by the facility.<sup>15</sup>

Unlicensed staff who provide direct care to residents must receive six hours of training, which must consist of the following:

- One hour of in-service training in infection control, including universal precautions and facility sanitation procedures before providing personal care to residents;
- One hour of in-service training on reporting adverse incidents;
- One hour of in-service training on resident rights and recognizing and reporting abuse, neglect, and exploitation; and
- 3 hours of in-service training on resident behaviors and needs and providing assistance with the activities of daily living.<sup>16</sup>

Unlicensed staff who assist residents with the self-administration of medication are required to receive an additional 6 hours of training provided by a registered nurse or a licensed pharmacist.<sup>17</sup> Such unlicensed staff must demonstrate in person, both physically and verbally, the ability to:

- Use a glucometer to perform blood glucose testing;
- Assist residents with insulin syringes that are prefilled with the proper dosage by a pharmacist and insulin pens that are prefilled by the manufacturer by taking the medication, in its previously dispensed, properly labeled container, from where it is stored, and bringing it to the resident for self-injection;
- Assist with nebulizers;
- Read and understand a prescription label;
- Assist with oral dosage forms, topical dosage forms, and topical ophthalmic, otic and nasal dosage forms;
- Measure liquid medications, break scored tablets, and crush tablets in accordance with prescription directions;
- Recognize the need to obtain clarification of an "as needed" prescription order;
- Recognize a medication order which requires judgment or discretion, and to advise the resident, resident's health care provider or facility employer of inability to assist in the administration of such orders;
- Complete a medication observation record;
- Retrieve and store medication;
- Recognize the general signs of adverse reactions to medications and report such reactions;
- Assist residents with oxygen nasal cannulas and continuous positive airway pressure (CPAP) devices, excluding the titration of oxygen levels;
- Apply and remove anti-embolism stockings and hosiery;
- Place and remove colostomy bags, excluding the removal of the flange or manipulation of the stoma site; and

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<sup>12</sup> Ch. 2020-68, Laws of Fla.,

<sup>13</sup> S. 429.02(7), F.S.

<sup>14</sup> AGENCY FOR HEALTH CARE ADMINISTRATION, Notice of Development of Rulemaking, vol. 46/432 (Dec. 1, 2020), available at <https://www.flrules.org/gateway/RuleNo.asp?title=Assisted%20Living%20Facility&ID=59A-36.007> (last visited Mar. 22, 2021).

<sup>15</sup> S. 429.52(1), F.S., and rule 59A-36.011(2), F.A.C.

<sup>16</sup> Rule 59A-36.001(3), F.A.C.

<sup>17</sup> S. 429.52(6), F.S.

- Measure blood pressure, heart rate, temperature, and respiratory rate.<sup>18</sup>

Unlicensed staff who assist residents with the self-administration of medication must also complete at least two hours of continuing education training on providing assistance with self-administered medications and safe medication practices in an ALF. The two hours of continuing education training may be provided online.<sup>19</sup>

### **Effect of the Bill**

Current law does not provide a title for unlicensed ALF staff who provide assistance with self-administration of medication. Instead they are referred to as “unlicensed staff.” The bill designates such staff as “medication technicians.” The bill also authorizes a medication technician to provide assistance with a resident’s self-administration of a point-of-care device.

The bill requires AHCA to establish minimum requirements for medication technician training, which must address:

- Infection control;
- Safe handling and use of point-of-care devices;
- Communicating with case managers and health care providers;
- Standard of care protocols for the provision of care in a licensed ALF;
- Identification of nursing standards; and
- Methods of assisting residents with the self-administration of medications.

The bill provides an effective date of July 1, 2021.

### **B. SECTION DIRECTORY:**

**Section 1:** Amends s. 429.02, F.S., relating to definitions.

**Section 2:** Amends s. 429.52, F.S., relating to staff training and educational requirements.

**Section 3:** Provides an effective date of July 1, 2021.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

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<sup>18</sup> Rule 59A-36.011(6), F.A.C.

<sup>19</sup> S. 429.52(6), F.S., and rule 59A-36.011(6)(c), F.A.C.

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

AHCA has sufficient rule-making authority to implement the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 24, 2021, the Finance & Facilities Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removes the requirement for AHCA to adopt rules to approve training curriculums and providers.

The analysis is drafted to the committee substitute as passed by the Finance & Facilities Subcommittee.