

THE FLORIDA SENATE
2020 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/CS/HB 607 — Direct Care Workers

by Health and Human Services Committee; Health Quality Subcommittee; Rep. Pigman and others (CS/CS/SB 1676 by Appropriations Committee; Health Policy Committee; and Senator Albritton)

The bill (Chapter 2020-9, L.O.F.) expands the scope of practice, and defines relevant terms for, registered nurses (RN), certified nursing assistants (CNA), home health aides (HHA), and advanced practice registered nurses (APRN). Effective upon the bill becoming a law, the bill:

- Authorizes nursing home facilities to use paid feeding assistants who have completed a 12-hour program developed by the Agency for Health Care Administration (AHCA). The bill specifies that paid feeding assistants do not count toward a nursing home's minimum staffing standards.
- Authorizes an RN to delegate tasks, including the administration of medications, except controlled substances, to a CNA or HHA for a patient of a home health agency if the RN determines that the CNA or HHA is competent to perform the task, the task is delegable under federal law, and certain other requirements are met.
- Requires the AHCA, in consultation with the Board of Nursing (BON), to establish standards and procedures by rule that a CNA and HHA must follow when administering medication to a patient of a home health agency.
- Establishes disciplinary actions for RNs who knowingly delegate responsibilities to a person that is not qualified by training, experience, certification, or licensure to perform them.
- Requires the AHCA to establish an Excellence in Home Health Program and a Nurse Registry Excellence Program to award home health agencies and nurse registries, respectively, based on the achievement of specific standards. The AHCA must adopt rules to establish the criteria for the programs and annually evaluate the home health agencies or nurse registries that apply for the programs.
- Requires the AHCA to create a direct care workforce survey to be completed and submitted at the biennial license renewal by nursing homes, assisted living facilities, home health agencies, and homemaker and companion service providers. The AHCA must analyze the results of the survey and publish the information monthly on its website.

Effective July 1, 2020, the bill:

- Creates s. 464.0123, F.S., which authorizes an APRN to engage in “autonomous practice” in primary care, including family medicine, general pediatrics, and general internal medicine, as defined by the BON, or, if the APRN is also certified by the American College of Nurse Midwives and as a certified nurse midwife, he or she may engage in the “autonomous practice” of midwifery.
- Defines “autonomous practice” to mean advanced nursing practice by an APRN who is registered under s. 464.0123, F.S., and who is not subject to supervision by a physician or a supervisory protocol, after documenting the following with the BON:
 - An active, unencumbered license under s. 464.012, F.S.;
 - No disciplinary action against his or her license in last five years;

This summary is provided for information only and does not represent the opinion of any Senator, Senate Officer, or Senate Office.
--

- Three thousand clinical hours supervised by a physician in the past five years;
- Completion of six college semester hours within the last five years, with three in pharmacology and three in differential diagnosis;
- Financial responsibility to pay claims and costs arising out of the rendering of or the failure to render nursing care, treatment, or services in an amount not less than \$100,000 per claim with a minimum annual aggregate of not less than \$300,000; and
- Any additional requirements the BON may impose by rule.
- Creates a nine-member Council on Advanced Practice Registered Nurse Autonomous Practice with four physicians, four experienced APRNs, and the State Surgeon General or his or her designee as chair.
- Requires an APRN registered under s. 464.0123, F.S., who wishes to remain registered to renew his or her registration, biennially, with his or her APRN license; and complete at least 10 hours of continuing education approved by the BON, in addition to completing the 30 hours of continuing education requirements established by BON rule, regardless of whether the registrant is otherwise required to complete this requirement. However, if the initial renewal period occurs before January 1, 2021, a registrant is not required to complete these continuing education requirements until the following biennial renewal period.
- Requires the Department of Health (DOH) to conspicuously distinguish an APRN registered under s. 464.0123, F.S., on the registrant's practitioner profile.
- Requires an APRN registered under s. 464.0123, F.S., and practicing autonomously to disclose to new patients in writing the nature of autonomous practice at the practitioner's initial visit with the patient.
- Requires an APRN registered under s. 464.0123, F.S., and practicing autonomously to report to the DOH defined adverse incidents within 15 days by certified mail.
- Creates additional grounds for discipline for APRNs registered under s. 464.0123, F.S., and practicing autonomously, including:
 - Paying or receiving any commission, bonus, kickback, or rebate from, or engaging in any split-fee arrangement with a health care practitioner, organization, agency, or person, directly or implicitly, for referring patients to providers of health care goods or services;
 - Exercising undue influence on a relationship with a patient for purposes of engaging a patient in sexual activity.
 - Making deceptive, untrue, or fraudulent representations, or employing a trick or scheme, in advanced or specialized nursing practice.
 - Soliciting patients by the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct;
 - Failing to keep legible medical records that identify the APRN who is responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient;
 - Exercising undue influence on a patient to exploit the patient for financial gain of the APRN or a third party;
 - Performing unauthorized professional services, except as provided in ss. 766.103 or 768.13, F.S.;

- Performing any procedure or prescribing any therapy that, by the prevailing standards of advanced or specialized nursing practice in the community, would constitute experimentation on a human subject, without first obtaining full, informed, and written consent;
- Delegating professional responsibilities to a person not qualified by training, experience, or licensure to perform such responsibilities when the APRN knows, or should have known, the person is not qualified;
- Committing, or conspiring to commit, an act that would tend to coerce, intimidate, or preclude another APRN from advertising his or her services;
- Advertising or holding himself or herself out as having certification in a specialty that he or she has not received;
- Failing to comply with ss. 381.026 and 381.0261, F.S., relating to providing patients with information about their rights and how to file a complaint; and
- Providing deceptive or fraudulent expert witness testimony related to advanced or specialized nursing practice.
- Prohibits a major medical, group, blanket, or franchise health insurance policy, small employer health benefit plan, or health maintenance organization contract, any of which is delivered, issued, or renewed on or after January 1, 2021, from requiring an insured or subscriber, as applicable, to receive services from an APRN registered under s. 464.0123, F.S., instead of a physician.
- Amends the Health Care Education Reimbursement and Loan Repayment Program and adds APRNs registered to practice autonomously to the list of health care practitioners who may participate. The bill requires the DOH, from the funds available for the program, to make payments of up to \$15,000 per year to such APRNs who demonstrate, according to rules of the Department of Education, active employment providing primary care services in a public health program, in independent practice, or a group practice that serves Medicaid recipients and other low-income patients and that is located in a primary care health professional shortage area, as defined in the bill. Only the costs of tuition, books, medical equipment and supplies, uniforms, and living expenses may be covered.
- Appropriates for the 2020-2021 fiscal year:
 - The sum of \$5 million in recurring funds from the General Revenue Fund to the DOH for the Health Care Education Reimbursement and Loan Repayment Program for APRNs registered under s. 464.0123, F.S.;
 - Funds from the DOH's Medical Quality Assurance Trust Fund for the DOH to hire 3.5 full-time equivalent (FTE) positions for the purpose of implementing s. 464.0123, F.S., relating to the registration and regulation of APRN autonomous practice; and
 - Funds from the AHCA's Health Care Trust Fund for the AHCA to hire two FTE positions for the purpose of implementing the Excellence in Home Health Program, the Nurse Registry Excellence Program, and the direct care workforce survey, all of which are created under the bill.

The bill became law upon approval of the Governor on March 11, 2020.

Vote: Senate 30-10; House 107-8