

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative R. Garcia offered the following:

2
3 **Amendment (with directory amendment)**

4 Remove lines 96-157 and insert:

5 400.462 Definitions.--As used in this part, the term:

6 (1) "Administrator" means a direct employee, as defined in
7 subsection (9), who is. ~~The administrator must be a licensed~~
8 ~~physician, physician assistant, or registered nurse licensed to~~
9 ~~practice in this state or an individual having at least 1 year~~
10 ~~of supervisory or administrative experience in home health care~~
11 ~~or in a facility licensed under chapter 395, under part II of~~
12 ~~this chapter, or under part I of chapter 429. An administrator~~
13 ~~may manage a maximum of five licensed home health agencies~~
14 ~~located within one agency service district or within an~~
15 ~~immediately contiguous county. If the home health agency is~~
16 ~~licensed under this chapter and is part of a retirement~~

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17 ~~community that provides multiple levels of care, an employee of~~
18 ~~the retirement community may administer the home health agency~~
19 ~~and up to a maximum of four entities licensed under this chapter~~
20 ~~or chapter 429 that are owned, operated, or managed by the same~~
21 ~~corporate entity. An administrator shall designate, in writing,~~
22 ~~for each licensed entity, a qualified alternate administrator to~~
23 ~~serve during absences.~~

24 (2) "Admission" means a decision by the home health
25 agency, during or after an evaluation visit to the patient's
26 home, that there is reasonable expectation that the patient's
27 medical, nursing, and social needs for skilled care can be
28 adequately met by the agency in the patient's place of
29 residence. Admission includes completion of an agreement with
30 the patient or the patient's legal representative to provide
31 home health services as required in s. 400.487(1).

32 (3) "Advanced registered nurse practitioner" means a
33 person licensed in this state to practice professional nursing
34 and certified in advanced or specialized nursing practice, as
35 defined in s. 464.003.

36 (4) "Agency" means the Agency for Health Care
37 Administration.

38 (5) "Certified nursing assistant" means any person who has
39 been issued a certificate under part II of chapter 464. ~~The~~
40 ~~licensed home health agency or licensed nurse registry shall~~
41 ~~ensure that the certified nursing assistant employed by or under~~
42 ~~contract with the home health agency or licensed nurse registry~~
43 ~~is adequately trained to perform the tasks of a home health aide~~
44 ~~in the home setting.~~

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45 (6) "Client" means an elderly, handicapped, or
46 convalescent individual who receives companion services or
47 homemaker services in the individual's home or place of
48 residence.

49 (7) "Companion" or "sitter" means a person who spends time
50 with or cares for an elderly, handicapped, or convalescent
51 individual and accompanies such individual on trips and outings
52 and may prepare and serve meals to such individual. A companion
53 may not provide hands-on personal care to a client.

54 (8) "Department" means the Department of Children and
55 Family Services.

56 (9) "Direct employee" means an employee for whom one of
57 the following entities pays withholding taxes: a home health
58 agency; a management company that has a contract to manage the
59 home health agency on a day-to-day basis; or an employee leasing
60 company that has a contract with the home health agency to
61 handle the payroll and payroll taxes for the home health agency.

62 (10) "Director of nursing" means a registered nurse who is
63 a direct employee, as defined in subsection (9), of the agency
64 and who is a graduate of an approved school of nursing and is
65 licensed in this state; who has at least 1 year of supervisory
66 experience as a registered nurse; and who is responsible for
67 overseeing the professional nursing and home health aid delivery
68 of services of the agency. ~~A director of nursing may be the~~
69 ~~director of a maximum of five licensed home health agencies~~
70 ~~operated by a related business entity and located within one~~
71 ~~agency service district or within an immediately contiguous~~
72 ~~county. If the home health agency is licensed under this chapter~~

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73 and is part of a retirement community that provides multiple
74 levels of care, an employee of the retirement community may
75 serve as the director of nursing of the home health agency and
76 of up to four entities licensed under this chapter or chapter
77 429 which are owned, operated, or managed by the same corporate
78 entity.

79 (11) "Fair market value" means the value in arms length
80 transactions, consistent with the price that an asset would
81 bring as a result of bona fide bargaining between well-informed
82 buyers and sellers who are not otherwise in a position to
83 generate business for the other party, or the compensation that
84 would be included in a service agreement as a result of bona
85 fide bargaining between well-informed parties to the agreement
86 who are not otherwise in a position to generate business for the
87 other party, on the date of acquisition of the asset or at the
88 time of the service agreement.

89 (12)-(11) "Home health agency" means an organization that
90 provides home health services and staffing services.

91 (13)-(12) "Home health agency personnel" means persons who
92 are employed by or under contract with a home health agency and
93 enter the home or place of residence of patients at any time in
94 the course of their employment or contract.

95 (14)-(13) "Home health services" means health and medical
96 services and medical supplies furnished by an organization to an
97 individual in the individual's home or place of residence. The
98 term includes organizations that provide one or more of the
99 following:

100 (a) Nursing care.

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101 (b) Physical, occupational, respiratory, or speech
102 therapy.

103 (c) Home health aide services.

104 (d) Dietetics and nutrition practice and nutrition
105 counseling.

106 (e) Medical supplies, restricted to drugs and biologicals
107 prescribed by a physician.

108 ~~(15)-(14)~~ "Home health aide" means a person who is trained
109 or qualified, as provided by rule, and who provides hands-on
110 personal care, performs simple procedures as an extension of
111 therapy or nursing services, assists in ambulation or exercises,
112 or assists in administering medications as permitted in rule and
113 for which the person has received training established by the
114 agency under s. 400.497(1). ~~The licensed home health agency or~~
115 ~~licensed nurse registry shall ensure that the home health aide~~
116 ~~employed by or under contract with the home health agency or~~
117 ~~licensed nurse registry is adequately trained to perform the~~
118 ~~tasks of a home health aide in the home setting.~~

119 ~~(16)-(15)~~ "Homemaker" means a person who performs household
120 chores that include housekeeping, meal planning and preparation,
121 shopping assistance, and routine household activities for an
122 elderly, handicapped, or convalescent individual. A homemaker
123 may not provide hands-on personal care to a client.

124 (17) "Home infusion therapy" means the administration of
125 intravenous pharmacological or nutritional products to a patient
126 in his or her home.

127 ~~(18)-(16)~~ "Home infusion therapy provider" means an
128 organization that employs, contracts with, or refers a licensed
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129 professional who has received advanced training and experience
130 in intravenous infusion therapy and who administers infusion
131 therapy to a patient in the patient's home or place of
132 residence.

133 (19) "Immediate family member" means a husband or wife; a
134 birth or adoptive parent, child, or sibling; a stepparent,
135 stepchild, stepbrother, or stepsister; a father-in-law, mother-
136 in-law, son-in-law, daughter-in-law, brother-in-law, or sister-
137 in-law; a grandparent or grandchild; or a spouse of a
138 grandparent or grandchild.

139 (20)~~(18)~~ "Nurse registry" means any person that procures,
140 offers, promises, or attempts to secure health-care-related
141 contracts for registered nurses, licensed practical nurses,
142 certified nursing assistants, home health aides, companions, or
143 homemakers, who are compensated by fees as independent
144 contractors, including, but not limited to, contracts for the
145 provision of services to patients and contracts to provide
146 private duty or staffing services to health care facilities
147 licensed under chapter 395, this chapter, or chapter 429 or
148 other business entities.

149 (21)~~(19)~~ "Organization" means a corporation, government or
150 governmental subdivision or agency, partnership or association,
151 or any other legal or commercial entity, any of which involve
152 more than one health care professional discipline; a health care
153 professional and a home health aide or certified nursing
154 assistant; more than one home health aide; more than one
155 certified nursing assistant; or a home health aide and a
156 certified nursing assistant. The term does not include an entity

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157 that provides services using only volunteers or only individuals
158 related by blood or marriage to the patient or client.

159 ~~(22)~~~~(20)~~ "Patient" means any person who receives home
160 health services in his or her home or place of residence.

161 ~~(23)~~~~(21)~~ "Personal care" means assistance to a patient in
162 the activities of daily living, such as dressing, bathing,
163 eating, or personal hygiene, and assistance in physical
164 transfer, ambulation, and in administering medications as
165 permitted by rule.

166 ~~(24)~~~~(22)~~ "Physician" means a person licensed under chapter
167 458, chapter 459, chapter 460, or chapter 461.

168 ~~(25)~~~~(23)~~ "Physician assistant" means a person who is a
169 graduate of an approved program or its equivalent, or meets
170 standards approved by the boards, and is licensed to perform
171 medical services delegated by the supervising physician, as
172 defined in s. 458.347 or s. 459.022.

173 ~~(26)~~ "Remuneration" means any payment or other benefit
174 made directly or indirectly, overtly or covertly, in cash or in
175 kind.

176 ~~(27)~~~~(24)~~ "Skilled care" means nursing services or
177 therapeutic services required by law to be delivered by a health
178 care professional who is licensed under part I of chapter 464;
179 part I, part III, or part V of chapter 468; or chapter 486 and
180 who is employed by or under contract with a licensed home health
181 agency or is referred by a licensed nurse registry.

182 ~~(28)~~~~(25)~~ "Staffing services" means services provided to a
183 health care facility, school, or other business entity on a
184 temporary or school-year basis pursuant to a written contract by

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185 licensed health care personnel and by certified nursing
186 assistants and home health ~~heath~~ aides who are employed by, or
187 work under the auspices of, a licensed home health agency or who
188 are registered with a licensed nurse registry. ~~Staffing services~~
189 ~~may be provided anywhere within the state.~~

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D I R E C T O R Y A M E N D M E N T

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Remove lines 94-95 and insert:

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Section 2. Section 400.462, Florida Statutes, is amended

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to read: