

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Health Regulation Committee

BILL: SB 1372

INTRODUCER: Senator Storms

SUBJECT: Persons with Developmental Disabilities/Medication

DATE: March 18, 2011

REVISED: 03/22/11

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	O'Callaghan	Stovall	HR	Fav/1 amendment
2.			CF	
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input checked="" type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill amends s. 393.506, F.S., to require a registered nurse or a physician to annually assess and validate the competency of a direct service provider, who is not licensed to administer prescription medication, in certain routes of medication administration, including oral, ophthalmic, rectal, inhaled, and enteral. The bill provides that topical, transdermal, and otic routes of medication administration do not require annual revalidation.

This bill substantially amends s. 393.506, F.S.

II. Present Situation:

Agency for Persons with Disabilities

In October 2004, the Agency for Persons with Disabilities (APD) became an agency separate from the DCF, specifically tasked with serving the needs of Floridians with developmental disabilities.¹ Prior to that time, it existed as the Developmental Disabilities Program.²

The primary purpose of the APD is to work in partnership with local communities to ensure the safety, well-being, and self-sufficiency of the people served by the agency, provide assistance in identifying needs, and funding to purchase supports and services.³

Developmental Disabilities Institutions

Clients of the APD may receive services through home or community settings, private intermediate care facilities, or state-run developmental services institutions. Developmental services institutions provide secure⁴ residential services for individuals who have been charged with a serious crime and who have been found by the court to be incompetent to proceed through the court process due to mental retardation.⁵ There are currently two non-secure developmental services institutions which are staffed by state employees: Marianna Sunland and Tacachale.⁶

Direct Service Provider

A direct service provider is a person 18 years of age or older who has direct face-to-face contact with a client while providing services to the client or has access to a client's living areas or to a client's funds or personal property.⁷

Currently, the APD requires that each direct service provider submit to a Level 2 employment screening pursuant to s. 435.03, F.S.⁸ Section 393.0657, F.S., currently exempts a person who has undergone any portion of the background screening requirements required in s. 393.0655, F.S., within the last year from being required to repeat those screening requirements.

Section 402.3057, F.S., exempts certain individuals from background screening requirements pursuant to ch. 393, F.S. The exemption does not apply to an individual who has had a 90-day break in employment.⁹

¹ Section 393.063(9), Florida Statutes, defines the term "developmental disability" as a disorder or syndrome that is attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.

² Agency for Persons with Disabilities website, <http://apd.myflorida.com/about> (last visited on March 18, 2011).

³ The Florida Legislature's Office of Program Policy Analysis & Government Accountability, *Agency for Persons with Disabilities*, <http://www.oppaga.state.fl.us/profiles/5060> (last visited on March 18, 2011).

⁴ The only secure forensic facility under APD is the Mentally Retarded Defendant Program (MRDP) in Chattahoochee. See APD website: <http://apd.myflorida.com/ddc/mrdp/> (last visited March 18, 2011).

⁵ *Supra* fn. 3.

⁶ Agency for Persons with Disabilities, <http://apd.myflorida.com/ddc/> (last visited March 18, 2011).

⁷ Section 393.063(11), F.S.

⁸ Section 393.0655, F.S.

⁹ Section 402.3057, F.S.

Administration of Medication

Section 393.506, F.S., provides that a direct service provider who is not currently licensed to administer medication may supervise the self-administration of medication or may administer several types of prescription medications to clients, including:¹⁰

- Oral,¹¹
- Transdermal,¹²
- Ophthalmic,¹³
- Otic,¹⁴
- Rectal,¹⁵
- Inhaled,¹⁶
- Enteral,¹⁷ or
- Topical.¹⁸

In order to supervise the self-administration of medication or to administer medications, a direct service provider must satisfactorily complete a training course of not less than 4 hours in medication administration and be found competent to supervise the self-administration of medication by a client or to administer medication to a client in a safe and sanitary manner. Competency must be assessed and validated at least annually by a registered nurse licensed pursuant to ch. 464, F.S., or a physician licensed pursuant to ch. 458 or ch. 459, F.S., in an onsite setting and must include the registered nurse or physician personally observing the direct service provider satisfactorily supervising the self-administration of medication by a client, and administering medication to a client.

¹⁰ Chapter 2006-37, L.O.F.

¹¹ Oral means medication taken by mouth. *See* Merriam-Webster, Medline Plus Medical Dictionary, available at: <http://www.merriam-webster.com/medlineplus/Oral> (last visited on March 19, 2011).

¹² Transdermal means relating to, being, or supplying a medication in a form for absorption through the skin into the bloodstream. *See* Merriam-Webster, Medline Plus Medical Dictionary, available at: <http://www.merriam-webster.com/medlineplus/Transdermal> (last visited on March 19, 2011).

¹³ Ophthalmic means of, relating to, or situated near the eye (meaning administration of medicine to the eye). *See* Merriam-Webster, Medline Plus Medical Dictionary, available at: <http://www.merriam-webster.com/medlineplus/Ophthalmic> (last visited on March 19, 2011).

¹⁴ Otic means of, relating to, or located in the region of the ear (meaning the administration of medicine to the ear). *See* Merriam-Webster, Medline Plus Medical Dictionary, available at: <http://www.merriam-webster.com/medlineplus/otic> (last visited on March 19, 2011).

¹⁵ Rectal means relating to, affecting, or being near the rectum (meaning the administration of medicine to the rectum). *See* Merriam-Webster, Medline Plus Medical Dictionary, available at: <http://www.merriam-webster.com/medlineplus/rectal> (last visited on March 19, 2011).

¹⁶ Inhaled means medicine that is administered by being breathed in. *See* Merriam-Webster, Medline Plus Medical Dictionary, available at: <http://www.merriam-webster.com/medlineplus/Inhaled%20> (last visited on March 19, 2011).

¹⁷ Enteral or enteric means being or possessing a coating designed to pass through the stomach unaltered and to disintegrate in the intestines (meaning medication is administered usually by tube in order to pass through the stomach and into the intestines). *See* Merriam-Webster, Medline Plus Medical Dictionary, available at: <http://www.merriam-webster.com/medlineplus/enteric> (last visited on March 19, 2011).

¹⁸ Topical means designed for or involving application to or action on the surface of a part of the body (meaning the application of medicine on the surface of the body). *See* Merriam-Webster, Medline Plus Medical Dictionary, available at: <http://www.merriam-webster.com/medlineplus/topical> (last visited on March 19, 2011).

The client or the client's guardian or legal representative must give his or her informed consent to self-administering medication under the supervision of an unlicensed direct service provider or to receiving medication administered by an unlicensed direct service provider.

III. Effect of Proposed Changes:

This bill amends s. 393.506, F.S., to require a registered nurse licensed under ch. 464, F.S., or an allopathic physician or an osteopathic physician to annually assess and validate the competency of a direct service provider who is not licensed to administer prescription medication in the administration of oral, ophthalmic, rectal, inhaled and enteral prescription medications, in an onsite setting with an actual client. For topical, transdermal, and otic routes of medication administration, a direct service provider's competency in these routes of medication administration may be validated by simulation during a training course required under s. 393.506(2), F.S.,¹⁹ and do not require annual revalidation.

The bill provides that it shall take effect on July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Direct service providers may save money as they will no longer be required to have a registered nurse licensed under ch. 464, F.S., or a physician licensed under ch. 458 or ch.

¹⁹ A direct service provider who is not licensed to administer medication must satisfactorily complete a training course of not less than 4 hours in medication administration and be found competent to supervise the self-administration of medication by a client or to administer medication to a client in a safe and sanitary manner.

459, F.S., perform an annual validation of the administration of certain medicines by the unlicensed direct service provider.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

There is an inconsistency in subsection (4) of this bill and subsection (2) in s. 393.506, F.S. This bill exempts an annual revalidation for the topical, transdermal, and otic routes of administration. However, subsection (2) requires that the competency of a direct service provider be assessed and validated at least annually in an onsite setting and must include personally observing the direct service provider satisfactorily supervising the self-administration of medication by a client and administering medication to a client.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

Barcode 815108 by Health Regulation on March 22, 2011:

Requires the Department of Children and Families (department) to submit a recommended order after the conclusion of an administrative hearing to the Agency for Persons with Disabilities (agency) and the agency must issue a final order after the recommendation is made. This amendment clarifies that the final order authority rests with the agency after a hearing is conducted by department on behalf of the agency.

(WITH TITLE AMENDMENT)