



414062

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/04/2020	.	
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The Committee on Health Policy (Albritton) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (v) is added to subsection (1) of
section 400.141, Florida Statutes, to read:

400.141 Administration and management of nursing home
facilities.—

(1) Every licensed facility shall comply with all
applicable standards and rules of the agency and shall:



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11 (v) Be allowed to use paid feeding assistants as defined in
12 42 C.F.R. s. 488.301, and in accordance with 42 C.F.R. s.
13 483.60, if the paid feeding assistant has successfully completed
14 a feeding assistant training program developed by the agency.

15 1. The feeding assistant training program must consist of a
16 minimum of 12 hours of education and training and must include
17 all of the topics and lessons specified in the program
18 curriculum.

19 2. The program curriculum must include, but need not be
20 limited to, training in all of the following content areas:

21 a. Feeding techniques.

22 b. Assistance with feeding and hydration.

23 c. Communication and interpersonal skills.

24 d. Appropriate responses to resident behavior.

25 e. Safety and emergency procedures, including the first aid
26 procedure used to treat upper airway obstructions.

27 f. Infection control.

28 g. Residents' rights.

29 h. Recognizing changes in residents which are inconsistent
30 with their normal behavior, and the importance of reporting
31 those changes to the supervisory nurse.

32

33 The agency may adopt rules to implement this paragraph.

34 Section 2. Paragraph (b) of subsection (3) of section
35 400.23, Florida Statutes, is amended to read:

36 400.23 Rules; evaluation and deficiencies; licensure
37 status.—

38 (3)

39 (b) Paid feeding assistants and nonnursing staff providing



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40 eating assistance to residents shall not count toward compliance
41 with minimum staffing standards.

42 Section 3. Subsection (15) of section 400.462, Florida
43 Statutes, is amended to read:

44 400.462 Definitions.—As used in this part, the term:

45 (15) "Home health aide" means a person who is trained or
46 qualified, as provided by rule, and who provides hands-on
47 personal care, performs simple procedures as an extension of
48 therapy or nursing services, assists in ambulation or exercises,
49 ~~or~~ assists in administering medications as permitted in rule and
50 for which the person has received training established by the
51 agency under this part, or performs tasks delegated to him or
52 her under chapter 464 s. 400.497(1).

53 Section 4. Present subsections (5) and (6) of section
54 400.464, Florida Statutes, are redesignated as subsections (6)
55 and (7), respectively, a new subsection (5) is added to that
56 section, and present subsection (6) of that section is amended,
57 to read:

58 400.464 Home health agencies to be licensed; expiration of
59 license; exemptions; unlawful acts; penalties.—

60 (5) If a licensed home health agency authorizes a
61 registered nurse to delegate tasks, including medication
62 administration, to a certified nursing assistant pursuant to
63 chapter 464 or to a home health aide pursuant to s. 400.490, the
64 licensed home health agency must ensure that such delegation
65 meets the requirements of this chapter and chapter 464 and the
66 rules adopted thereunder.

67 (7)(6) Any person, entity, or organization providing home
68 health services which is exempt from licensure under subsection



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69 (6) ~~subsection (5)~~ may voluntarily apply for a certificate of
70 exemption from licensure under its exempt status with the agency
71 on a form that specifies its name or names and addresses, a
72 statement of the reasons why it is exempt from licensure as a
73 home health agency, and other information deemed necessary by
74 the agency. A certificate of exemption is valid for a period of
75 not more than 2 years and is not transferable. The agency may
76 charge an applicant \$100 for a certificate of exemption or
77 charge the actual cost of processing the certificate.

78 Section 5. Subsections (2) and (3) of section 400.488,
79 Florida Statutes, are amended to read:

80 400.488 Assistance with self-administration of medication.—

81 (2) Patients who are capable of self-administering their
82 own medications without assistance shall be encouraged and
83 allowed to do so. However, an unlicensed person may, consistent
84 with a dispensed prescription's label or the package directions
85 of an over-the-counter medication, assist a patient whose
86 condition is medically stable with the self-administration of
87 routine, regularly scheduled medications that are intended to be
88 self-administered. Assistance with self-medication by an
89 unlicensed person may occur only upon a documented request by,
90 and the written informed consent of, a patient or the patient's
91 surrogate, guardian, or attorney in fact. For purposes of this
92 section, self-administered medications include both legend and
93 over-the-counter oral dosage forms, topical dosage forms, and
94 topical ophthalmic, otic, and nasal dosage forms, including
95 solutions, suspensions, sprays, ~~and~~ inhalers, intermittent
96 positive pressure breathing treatments, and nebulizer
97 treatments.



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98 (3) Assistance with self-administration of medication
99 includes:

100 (a) Taking the medication, in its previously dispensed,
101 properly labeled container, from where it is stored and bringing
102 it to the patient.

103 (b) In the presence of the patient, confirming that the
104 medication is intended for that patient, orally advising the
105 patient of the medication name and purpose ~~reading the label,~~
106 opening the container, removing a prescribed amount of
107 medication from the container, and closing the container.

108 (c) Placing an oral dosage in the patient's hand or placing
109 the dosage in another container and helping the patient by
110 lifting the container to his or her mouth.

111 (d) Applying topical medications, including providing
112 routine preventative skin care and basic wound care.

113 (e) Returning the medication container to proper storage.

114 (f) For intermittent positive pressure breathing treatments
115 or for nebulizer treatments, assisting with setting up and
116 cleaning the device in the presence of the patient, confirming
117 that the medication is intended for that patient, orally
118 advising the patient of the medication name and purpose, opening
119 the container, removing the prescribed amount for a single
120 treatment dose from a properly labeled container, and assisting
121 the patient with placing the dose into the medicine receptacle
122 or mouthpiece.

123 (g) ~~(f)~~ Keeping a record of when a patient receives
124 assistance with self-administration under this section.

125 Section 6. Section 400.489, Florida Statutes, is created to
126 read:



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127 400.489 Administration of medication by a home health aide;
128 staff training requirements.-

129 (1) A home health aide may administer oral, transdermal,
130 ophthalmic, otic, rectal, inhaled, enteral, or topical
131 prescription medications if the home health aide has been
132 delegated such task by a registered nurse licensed under chapter
133 464; has satisfactorily completed an initial 6-hour training
134 course approved by the agency; and has been found competent to
135 administer medication to a patient in a safe and sanitary
136 manner. The training, determination of competency, and initial
137 and annual validations required in this section shall be
138 conducted by a registered nurse licensed under chapter 464 or a
139 physician licensed under chapter 458 or chapter 459.

140 (2) A home health aide must annually and satisfactorily
141 complete a 2-hour inservice training course approved by the
142 agency in medication administration and medication error
143 prevention. The inservice training course shall be in addition
144 to the annual inservice training hours required by agency rules.

145 (3) The agency, in consultation with the Board of Nursing,
146 shall establish by rule standards and procedures that a home
147 health aide must follow when administering medication to a
148 patient. Such rules must, at a minimum, address qualification
149 requirements for trainers, requirements for labeling medication,
150 documentation and recordkeeping, the storage and disposal of
151 medication, instructions concerning the safe administration of
152 medication, informed-consent requirements and records, and the
153 training curriculum and validation procedures.

154 Section 7. Section 400.490, Florida Statutes, is created to
155 read:



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156 400.490 Nurse-delegated tasks.—A certified nursing
157 assistant or home health aide may perform any task delegated by
158 a registered nurse as authorized in chapter 464, including, but
159 not limited to, medication administration.

160 Section 8. Section 400.52, Florida Statutes, is created to
161 read:

162 400.52 Excellence in Home Health Program.—

163 (1) There is created within the agency the Excellence in
164 Home Health Program for the purpose of awarding program
165 designations to home health agencies that meet the criteria
166 specified in this section.

167 (2) (a) The agency shall adopt rules establishing criteria
168 for the program which must include, at a minimum, meeting
169 standards relating to:

170 1. Patient satisfaction.

171 2. Patients requiring emergency care for wound infections.

172 3. Patients admitted or readmitted to an acute care
173 hospital.

174 4. Patient improvement in the activities of daily living.

175 5. Employee satisfaction.

176 6. Quality of employee training.

177 7. Employee retention rates.

178 (b) The agency shall annually evaluate home health agencies
179 seeking the program designation which apply on a form and in the
180 manner designated by rule.

181 (3) To receive a program designation, the home health
182 agency must:

183 (a) Be actively licensed and have been operating for at
184 least 24 months before applying for the program designation. A



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185 designation awarded under the program is not transferrable to
186 another licensee, unless the existing home health agency is
187 being relicensed in the name of an entity related to the current
188 licenseholder by common control or ownership and there will be
189 no change in the management, operation, or programs of the home
190 health agency as a result of the relicensure.

191 (b) Have not had any licensure denials, revocations, or
192 Class I, Class II, or uncorrected Class III deficiencies within
193 the 24 months before the application for the program
194 designation.

195 (4) The program designation expires on the same date as the
196 home health agency's license. A home health agency must reapply
197 and be approved biennially for the program designation to
198 continue using the program designation in the manner authorized
199 under subsection (5).

200 (5) A home health agency that is awarded a designation
201 under the program may use the designation in advertising and
202 marketing. A home health agency may not use the program
203 designation in any advertising or marketing if the home health
204 agency:

205 (a) Has not been awarded the designation;

206 (b) Fails to renew the designation upon expiration of the
207 awarded designation;

208 (c) Has undergone a change in ownership that does not
209 qualify for an exception under paragraph (3) (a); or

210 (d) Has been notified that it no longer meets the criteria
211 for the award upon reapplication after expiration of the awarded
212 designation.

213 Section 9. Section 408.822, Florida Statutes, is created to



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214 read:

215 408.822 Direct care workforce survey.-

216 (1) For purposes of this section, the term "direct care
217 worker" means a certified nursing assistant, a home health aide,
218 a personal care assistant, a companion services or homemaker
219 services provider, a paid feeding assistant trained under s.
220 400.141(1)(v), or another individual who provides personal care
221 as defined in s. 400.462 to individuals who are elderly,
222 developmentally disabled, or chronically ill.

223 (2) Beginning January 1, 2021, each licensee that applies
224 for licensure renewal as a nursing home facility licensed under
225 part II of chapter 400; an assisted living facility licensed
226 under part I of chapter 429; or a home health agency, nurse
227 registry, or companion services or homemaker services provider
228 licensed under part III of chapter 400 shall furnish the
229 following information to the agency in a survey on the direct
230 care workforce:

231 (a) The number of registered nurses and the number of
232 direct care workers by category employed by the licensee.

233 (b) The turnover and vacancy rates of registered nurses and
234 direct care workers and the contributing factors to these rates.

235 (c) The average employee wage for registered nurses and
236 each category of direct care worker.

237 (d) Employment benefits for registered nurses and direct
238 care workers and the average cost of such benefits to the
239 employer and the employee.

240 (e) Type and availability of training for registered nurses
241 and direct care workers.

242 (3) An administrator or designee shall include the



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243 information required in subsection (2) on a survey form
244 developed by the agency by rule which must contain an
245 attestation that the information provided is true and accurate
246 to the best of his or her knowledge.

247 (4) The licensee must submit the completed survey prior to
248 the agency issuing the license renewal.

249 (5) The agency shall continually analyze the results of the
250 surveys and publish the results on its website. The agency shall
251 update the information published on its website monthly.

252 Section 10. Section 464.0156, Florida Statutes, is created
253 to read:

254 464.0156 Delegation of duties.—

255 (1) A registered nurse may delegate a task to a certified
256 nursing assistant certified under part II of this chapter or a
257 home health aide as defined in s. 400.462, if the registered
258 nurse determines that the certified nursing assistant or the
259 home health aide is competent to perform the task, the task is
260 delegable under federal law, and the task:

261 (a) Is within the nurse's scope of practice.

262 (b) Frequently recurs in the routine care of a patient or
263 group of patients.

264 (c) Is performed according to an established sequence of
265 steps.

266 (d) Involves little or no modification from one patient to
267 another.

268 (e) May be performed with a predictable outcome.

269 (f) Does not inherently involve ongoing assessment,
270 interpretation, or clinical judgment.

271 (g) Does not endanger a patient's life or well-being.



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272 (2) A registered nurse may delegate to a certified nursing
273 assistant or a home health aide the administration of oral,
274 transdermal, ophthalmic, otic, rectal, inhaled, enteral, or
275 topical prescription medications, if the certified nursing
276 assistant or home health aide meets the requirements of s.
277 464.2035 or s. 400.489, respectively. A registered nurse may not
278 delegate the administration of any controlled substance listed
279 in Schedule II, Schedule III, or Schedule IV of s. 893.03 or 21
280 U.S.C. s. 812.

281 (3) The board, in consultation with the Agency for Health
282 Care Administration, shall adopt rules to implement this
283 section.

284 Section 11. Paragraph (r) is added to subsection (1) of
285 section 464.018, Florida Statutes, to read:

286 464.018 Disciplinary actions.—

287 (1) The following acts constitute grounds for denial of a
288 license or disciplinary action, as specified in ss. 456.072(2)
289 and 464.0095:

290 (r) Delegating professional responsibilities to a person
291 when the nurse delegating such responsibilities knows or has
292 reason to know that such person is not qualified by training,
293 experience, certification, or licensure to perform them.

294 Section 12. Section 464.2035, Florida Statutes, is created
295 to read:

296 464.2035 Administration of medication.—

297 (1) A certified nursing assistant may administer oral,
298 transdermal, ophthalmic, otic, rectal, inhaled, enteral, or
299 topical prescription medication to a patient of a home health
300 agency if the certified nursing assistant has been delegated



301 such task by a registered nurse licensed under part I of this
302 chapter, has satisfactorily completed an initial 6-hour training
303 course approved by the board, and has been found competent to
304 administer medication to a patient in a safe and sanitary
305 manner. The training, determination of competency, and initial
306 and annual validations required under this section must be
307 conducted by a registered nurse licensed under this chapter or a
308 physician licensed under chapter 458 or chapter 459.

309 (2) A certified nursing assistant shall annually and
310 satisfactorily complete 2 hours of inservice training in
311 medication administration and medication error prevention
312 approved by the board, in consultation with the Agency for
313 Health Care Administration. The inservice training is in
314 addition to the other annual inservice training hours required
315 under this part.

316 (3) The board, in consultation with the Agency for Health
317 Care Administration, shall establish by rule standards and
318 procedures that a certified nursing assistant must follow when
319 administering medication to a patient. Such rules must, at a
320 minimum, address qualification requirements for trainers,
321 requirements for labeling medication, documentation and
322 recordkeeping, the storage and disposal of medication,
323 instructions concerning the safe administration of medication,
324 informed-consent requirements and records, and the training
325 curriculum and validation procedures.

326 Section 13. This act shall take effect upon becoming a law.
327

328 ===== T I T L E A M E N D M E N T =====

329 And the title is amended as follows:



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330 Delete everything before the enacting clause
331 and insert:

332 A bill to be entitled
333 An act relating to direct care workers; amending s.
334 400.141, F.S.; authorizing a nursing home facility to
335 use paid feeding assistants in accordance with
336 specified federal law under certain circumstances;
337 providing training program requirements; authorizing
338 the Agency for Health Care Administration to adopt
339 rules; amending s. 400.23, F.S.; prohibiting paid
340 feeding assistants from counting toward compliance
341 with minimum staffing standards; amending s. 400.462,
342 F.S.; revising the definition of the term "home health
343 aide"; amending s. 400.464, F.S.; requiring a licensed
344 home health agency that authorizes a registered nurse
345 to delegate tasks to a certified nursing assistant to
346 ensure that certain requirements are met; amending s.
347 400.488, F.S.; authorizing an unlicensed person to
348 assist with self-administration of certain treatments;
349 revising the requirements for such assistance;
350 creating s. 400.489, F.S.; authorizing a home health
351 aide to administer certain prescription medications
352 under certain conditions; requiring the home health
353 aide to meet certain training and competency
354 requirements; requiring the training, determination of
355 competency, and annual validations of home health
356 aides to be conducted by a registered nurse or a
357 physician; requiring a home health aide to complete
358 annual inservice training in medication administration



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359 and medication error prevention, in addition to
360 existing annual inservice training requirements;
361 requiring the Agency for Health Care Administration,
362 in consultation with the Board of Nursing, to
363 establish by rule standards and procedures for
364 medication administration by home health aides;
365 creating s. 400.490, F.S.; authorizing a certified
366 nursing assistant or home health aide to perform tasks
367 delegated by a registered nurse; creating s. 400.52,
368 F.S.; creating the Excellence in Home Health Program
369 within the agency; requiring the agency to adopt rules
370 establishing program criteria; requiring the agency to
371 annually evaluate certain home health agencies that
372 apply for a program designation; providing program
373 designation eligibility requirements; providing that a
374 program designation is not transferrable, with an
375 exception; providing for the expiration of awarded
376 designations; requiring home health agencies to
377 reapply biennially to renew the awarded program
378 designation; authorizing a program designation award
379 recipient to use the designation in advertising and
380 marketing; prohibiting a home health agency from using
381 a program designation in advertising or marketing
382 under certain circumstances; creating s. 408.822,
383 F.S.; defining the term "direct care worker";
384 requiring certain licensees to provide specified
385 information about their employees in a survey
386 beginning on a specified date; requiring that the
387 survey be completed on a form adopted by the agency by



388 rule and include a specified attestation; requiring
389 licensees to submit such survey before the agency
390 renews their licenses; requiring the agency to
391 continually analyze the results of such surveys and
392 publish the results on the agency's website; requiring
393 the agency to update such information monthly;
394 creating s. 464.0156, F.S.; authorizing a registered
395 nurse to delegate certain tasks to a certified nursing
396 assistant or home health aide under certain
397 conditions; providing the criteria that a registered
398 nurse must consider in determining if a task may be
399 delegated to a certified nursing assistant or a home
400 health aide; authorizing a registered nurse to
401 delegate prescription medication administration to a
402 certified nursing assistant or home health aide,
403 subject to certain requirements; providing an
404 exception for certain controlled substances; requiring
405 the Board of Nursing, in consultation with the agency,
406 to adopt rules; amending s. 464.018, F.S.; subjecting
407 a registered nurse to disciplinary action for
408 delegating certain tasks to a person the registered
409 nurse knows or has reason to know is unqualified to
410 perform such tasks; creating s. 464.2035, F.S.;
411 authorizing certified nursing assistants to administer
412 certain prescription medications under certain
413 conditions; requiring the certified nursing assistants
414 to meet certain training and competency requirements;
415 requiring the training, determination of competency,
416 and annual validations of certified nursing assistants



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417 to be conducted by a registered nurse or a physician;
418 requiring a certified nursing assistant to complete
419 annual inservice training in medication administration
420 and medication error prevention in addition to
421 existing annual inservice training requirements;
422 requiring the board, in consultation with the agency,
423 to adopt rules for medication administration by
424 certified nursing assistants; providing an effective
425 date.