

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Health & Human Services
2 Committee

3 Representative Tomkow offered the following:

4
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

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

9 400.141 Administration and management of nursing home
10 facilities.—

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

13 (v) Be allowed to use paid feeding assistants in
14 accordance with federal nursing home regulations, if the paid
15 feeding assistant has successfully completed a feeding assistant
16 training program meeting federal nursing home requirements and

Amendment No. 1

17 approved by the agency. The feeding assistant training program
18 must consist of a minimum of 12 hours of education.

19 Section 2. Paragraph (b) of subsection (3) of section
20 400.23, Florida Statutes, is amended to read:

21 400.23 Rules; evaluation and deficiencies; licensure
22 status.—

23 (3)

24 (b) Paid feeding assistants and nonnursing staff providing
25 eating assistance to residents shall not count toward compliance
26 with minimum staffing standards.

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

29 400.462 Definitions.—As used in this part, the term:

30 (15) "Home health aide" means a person who is trained or
31 qualified, as provided by rule, and who provides hands-on
32 personal care, performs simple procedures as an extension of
33 therapy or nursing services, assists in ambulation or exercises,
34 or assists in administering medications as permitted in rule and
35 for which the person has received training established by the
36 agency under this part or performs tasks delegated to him or her
37 pursuant to chapter 464 s. ~~400.497(1)~~.

38 Section 4. Subsections (5) and (6) of section 400.464,
39 Florida Statutes, are renumbered as subsections (6) and (7),
40 respectively, present subsection (6) is amended, and a new
41 subsection (5) is added to that section, to read:

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Amendment No. 1

42 400.464 Home health agencies to be licensed; expiration of
43 license; exemptions; unlawful acts; penalties.—

44 (5) If a licensed home health agency authorizes a
45 registered nurse to delegate tasks, including medication
46 administration, to a certified nursing assistant pursuant to
47 chapter 464 or a home health aide pursuant to s. 400.490, the
48 licensed home health agency must ensure that such delegation
49 meets the requirements of this chapter, chapter 464, and the
50 rules adopted thereunder.

51 (7)~~(6)~~ Any person, entity, or organization providing home
52 health services which is exempt from licensure under subsection
53 (6) ~~(5)~~ may voluntarily apply for a certificate of exemption
54 from licensure under its exempt status with the agency on a form
55 that specifies its name or names and addresses, a statement of
56 the reasons why it is exempt from licensure as a home health
57 agency, and other information deemed necessary by the agency. A
58 certificate of exemption is valid for a period of not more than
59 2 years and is not transferable. The agency may charge an
60 applicant \$100 for a certificate of exemption or charge the
61 actual cost of processing the certificate.

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

64 400.488 Assistance with self-administration of
65 medication.—

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Published On: 2/17/2020 8:08:10 PM

Amendment No. 1

66 (2) Patients who are capable of self-administering their
67 own medications without assistance shall be encouraged and
68 allowed to do so. However, an unlicensed person may, consistent
69 with a dispensed prescription's label or the package directions
70 of an over-the-counter medication, assist a patient whose
71 condition is medically stable with the self-administration of
72 routine, regularly scheduled medications that are intended to be
73 self-administered. Assistance with self-medication by an
74 unlicensed person may occur only upon a documented request by,
75 and the written informed consent of, a patient or the patient's
76 surrogate, guardian, or attorney in fact. For purposes of this
77 section, self-administered medications include both legend and
78 over-the-counter oral dosage forms, topical dosage forms, and
79 topical ophthalmic, otic, and nasal dosage forms, including
80 solutions, suspensions, sprays, ~~and~~ inhalers, intermittent
81 positive pressure breathing treatments, and nebulizer
82 treatments.

83 (3) Assistance with self-administration of medication
84 includes:

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

88 (b) In the presence of the patient, confirming that the
89 medication is intended for that patient, orally advising the
90 patient of the medication name and purpose ~~reading the label,~~

Amendment No. 1

91 opening the container, removing a prescribed amount of
92 medication from the container, and closing the container.

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

96 (d) Applying topical medications, including routine
97 preventive skin care and applying and replacing bandages for
98 minor cuts and abrasions as provided by the agency in rule.

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

100 (f) For intermittent positive pressure breathing
101 treatments or nebulizer treatments, assisting with setting up
102 and cleaning the device in the presence of the patient,
103 confirming that the medication is intended for that patient,
104 orally advising the patient of the medication name and purpose,
105 opening the container, removing the prescribed amount for a
106 single treatment dose from a properly labeled container, and
107 assisting the patient with placing the dose into the medicine
108 receptacle or mouthpiece.

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

111 Section 6. Section 400.489, Florida Statutes, is created
112 to read:

113 400.489 Administration of medication by a home health
114 aide; staff training requirements.-

Amendment No. 1

115 (1) A home health aide may administer oral, transdermal,
116 ophthalmic, otic, rectal, inhaled, enteral, or topical
117 prescription medications if the home health aide has been
118 delegated such task by a registered nurse licensed under chapter
119 464; has satisfactorily completed an initial 6-hour training
120 course approved by the agency; and has been found competent to
121 administer medication to a patient in a safe and sanitary
122 manner. The training, determination of competency, and initial
123 and annual validations required in this section shall be
124 conducted by a registered nurse licensed under chapter 464 or a
125 physician licensed under chapter 458 or chapter 459.

126 (2) A home health aide must annually and satisfactorily
127 complete a 2-hour inservice training course in medication
128 administration and medication error prevention approved by the
129 agency. The inservice training course shall be in addition to
130 the annual inservice training hours required by agency rules.

131 (3) The agency, in consultation with the Board of Nursing,
132 shall establish by rule standards and procedures that a home
133 health aide must follow when administering medication to a
134 patient. Such rules must, at a minimum, address qualification
135 requirements for trainers, requirements for labeling medication,
136 documentation and recordkeeping, the storage and disposal of
137 medication, instructions concerning the safe administration of
138 medication, informed-consent requirements and records, and the
139 training curriculum and validation procedures

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Published On: 2/17/2020 8:08:10 PM

Amendment No. 1

140 Section 7. Section 400.490, Florida Statutes, is created
141 to read:

142 400.490 Nurse delegated tasks.—A certified nursing
143 assistant or home health aide may perform any task delegated by
144 a registered nurse as provided in chapter 464, including, but
145 not limited to, medication administration.

146 Section 8. Section 400.52, Florida Statutes, is created to
147 read:

148 400.52 Excellence in Home Health Program.—

149 (1) There is created within the agency the Excellence in
150 Home Health Program for the purpose of awarding home health
151 agencies that meet the criteria specified in this section.

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

155 1. Patient satisfaction.

156 2. Patients requiring emergency care for wound infections.

157 3. Patients admitted or readmitted to an acute care
158 hospital.

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

160 5. Employee satisfaction.

161 6. Quality of employee training.

162 7. Employee retention rates.

163 8. High performance under federal Medicaid electronic
164 visit verification requirements.

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Amendment No. 1

165 (b) The agency must annually evaluate home health agencies
166 seeking the award which apply on a form and in the manner
167 designated by rule.

168 (3) The home health agency must:

169 (a) Be actively licensed and operating for at least 24
170 months to be eligible to apply for a program award. An award
171 under the program is not transferrable to another license,
172 except when the existing home health agency is being relicensed
173 in the name of an entity related to the current licenseholder by
174 common control or ownership, and there will be no change in the
175 management, operation, or programs of the home health agency as
176 a result of the relicensure.

177 (b) Have had no licensure denials, revocations, or any
178 Class I, Class II, or uncorrected Class III deficiencies within
179 the 24 months preceding the application for the program award.

180 (4) The award designation shall expire on the same date as
181 the home health agency's license. A home health agency must
182 reapply and be approved for the award designation to continue
183 using the award designation in the manner authorized under
184 subsection (5).

185 (5) A home health agency that is awarded under the program
186 may use the designation in advertising and marketing. A home
187 health agency may not use the award designation in any
188 advertising or marketing if the home health agency:

189 (a) Has not been awarded the designation;

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Published On: 2/17/2020 8:08:10 PM

Amendment No. 1

190 (b) Fails to renew the award upon expiration of the award
191 designation;

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

194 (d) Has been notified that it no longer meets the criteria
195 for the award upon reapplication after expiration of the award
196 designation.

197 (6) An application for an award designation under the
198 program is not an application for licensure. A designation award
199 or denial by the agency under this section does not constitute
200 final agency action subject to chapter 120.

201 Section 9. Section 408.064, Florida Statutes, is created
202 to read:

203 408.064 Home Care Services Registry.-

204 (1) As used in this section, the term:

205 (a) "Home care services provider" means a home health
206 agency licensed under part III of chapter 400 or a nurse
207 registry licensed under part III of chapter 400.

208 (b) "Home care worker" means a home health aide as defined
209 in s. 400.462 or a certified nursing assistant certified under
210 part II of chapter 464.

211 (2) The agency shall develop and maintain a voluntary
212 registry of home care workers. The agency shall display a link
213 to the registry on its website homepage.

214 (3) The registry shall include, at a minimum:

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Published On: 2/17/2020 8:08:10 PM

Amendment No. 1

215 (a) Each home care worker's full name, date of birth,
216 social security number, and a full face, passport-type, color
217 photograph of the home care worker. The home care worker's date
218 of birth and social security number may not be publicly
219 displayed on the website.

220 (b) Each home care worker's preferred contact information.
221 If employed by a home care services provider, the home care
222 worker may use the provider's contact information.

223 (c) Any other identifying information of the home care
224 worker, as determined by the agency.

225 (d) The name of the state-approved training program
226 successfully completed by the home care worker and the date on
227 which such training was completed.

228 (e) The number of years the home care worker has provided
229 home health care services for compensation. The agency may
230 automatically populate employment history as provided by current
231 and previous employers of the home care worker. The agency must
232 provide a method for a home care worker to correct inaccuracies
233 and supplement the automatically populated employment history.

234 (f) For a certified nursing assistant, any disciplinary
235 action taken or pending against the nursing assistant's
236 certification by the Department of Health. The agency may enter
237 into an agreement with the Department of Health to obtain
238 disciplinary history.

Amendment No. 1

239 (g) Whether the home care worker provides services to
240 special populations and the identities of such populations.

241 (4) A home care worker must submit an application on a
242 form adopted by the agency to be included in the registry. The
243 agency shall develop a process by which a home care services
244 provider may include its employees in the registry by providing
245 the information listed in subsection (3).

246 (5) A home care worker who is not employed by a home care
247 services provider must meet the background screening
248 requirements under s. 408.809 and chapter 435 and the training
249 requirements of part III of chapter 400 or part II of chapter
250 464, as applicable, which must be included in the registry.

251 (6) Each page of the registry website shall contain the
252 following notice in at least 14-point boldfaced type:

253
254 NOTICE

255
256 The Home Care Services Registry provides limited
257 information about home care workers. Information
258 contained in the registry is provided by third
259 parties. The Agency for Health Care Administration
260 does not guarantee the accuracy of such third-party
261 information and does not endorse any individual listed
262 in the registry. In particular, the information in the
263 registry may be outdated or the individuals listed in

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Published On: 2/17/2020 8:08:10 PM

Amendment No. 1

264 the registry may have lapsed certifications or may
265 have been denied employment approval due to the
266 results of a background screening. It is the
267 responsibility of those accessing this registry to
268 verify the credentials, suitability, and competency of
269 any individual listed in the registry.

270
271 (7) The agency shall develop rules necessary to implement
272 the requirements of this section.

273 Section 10. Section 408.822, Florida Statutes, is created
274 to read:

275 408.822 Direct care workforce survey.-

276 (1) For purposes of this section, the term "direct care
277 worker" means a certified nursing assistant, home health aide,
278 personal care assistant, companion services or homemaker
279 services provider, paid feeding assistant, or other individuals
280 who provide personal care as defined in s. 400.462 to
281 individuals who are elderly, developmentally disabled, or
282 chronically ill.

283 (2) Beginning January 1, 2021, each licensee that applies
284 for licensure renewal as a nursing home facility licensed under
285 part II of chapter 400; an assisted living facility licensed
286 under part I of chapter 429; or a home health agency, nurse
287 registry, or a companion services or homemaker services provider
288 licensed under part III of chapter 400 must furnish the

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Published On: 2/17/2020 8:08:10 PM

Amendment No. 1

289 following information to the agency in a survey on the direct
290 care workforce:

291 (a) The number of registered nurses, licensed practical
292 nurses, and direct care workers employed the licensee.

293 (b) The turnover and vacancy rates of registered nurses,
294 licensed practical nurses, and direct care workers and
295 contributing factors to the rates.

296 (c) Average wage for registered nurses, licensed practical
297 nurses, and each category of direct care workers.

298 (d) Employment benefits for direct care workers or
299 contractors and average cost to the employer and employee.

300 (e) Type and availability of training for registered
301 nurses, licensed practical nurses, and direct care workers.

302 (3) An administrator or designee shall include the
303 information required in subsection (2) on a survey form
304 developed by the agency in rule which must contain an
305 attestation that the information provided is true and accurate
306 to the best of his or her knowledge.

307 (4) The licensee must submit the completed survey at such
308 time designated by the agency in rule. The agency may not issue
309 a license renewal until the licensee submits a completed survey.

310 (5) The agency shall continually analyze the results of
311 the survey and publish the results on its website. The agency
312 must update the information published on its website monthly.

313 The analysis must include the:

300073 - h7053-strike.docx

Published On: 2/17/2020 8:08:10 PM

Amendment No. 1

314 (a) Number of direct workers in the state, including the
315 number of full-time workers and the number of part-time workers.

316 (b) Turnover rate and causes of turnover.

317 (c) Vacancy rate.

318 (d) Average hourly wage.

319 (e) Benefits offered.

320 (f) Availability of post-employment training.

321 Section 11. Section 464.0156, Florida Statutes, is created
322 to read:

323 464.0156 Delegation of duties.—

324 (1) A registered nurse may delegate a task to a certified
325 nursing assistant certified under part II of this chapter or a
326 home health aide as defined in s. 400.462, if the registered
327 nurse determines that the certified nursing assistant or home
328 health aide is competent to perform the task, the task is
329 delegable under federal law, and the task:

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

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

333 (c) Is performed according to an established sequence of
334 steps.

335 (d) Involves little or no modification from one patient to
336 another.

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

Amendment No. 1

338 (f) Does not inherently involve ongoing assessment,
339 interpretation, or clinical judgement.

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

341 (2) A registered nurse may delegate to a certified nursing
342 assistant or a home health aide the administration of medication
343 of oral, transdermal, ophthalmic, otic, rectal, inhaled,
344 enteral, or topical prescription medications to a patient of a
345 home health agency if the certified nursing assistant or home
346 health aide meets the requirements of s. 464.2035 or s. 400.489,
347 respectively. A registered nurse may not delegate the
348 administration of any controlled substance listed in Schedule
349 II, Schedule III, or Schedule IV of s. 893.03 or 21 U.S.C. s.
350 812.

351 (3) The board, in consultation with the Agency for Health
352 Care Administration, shall adopt rules to implement this
353 section.

354 Section 12. Paragraph (r) is added to subsection (1) of
355 section 464.018, Florida Statutes, to read:

356 464.018 Disciplinary actions.—

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

360 (r) Delegating professional responsibilities to a person
361 when the nurse delegating such responsibilities knows or has

Amendment No. 1

362 reason to know that such person is not qualified by training,
363 experience, certification, or licensure to perform them.

364 Section 13. Section 464.2035, Florida Statutes, is created
365 to read:

366 464.2035 Administration of medication.—

367 (1) A certified nursing assistant may administer oral,
368 transdermal, ophthalmic, otic, rectal, inhaled, enteral, or
369 topical prescription medication to a patient of a home health
370 agency if the certified nursing assistant has been delegated
371 such task by a registered nurse licensed under part I of this
372 chapter, has satisfactorily completed an initial 6-hour training
373 course approved by the board, and has been found competent to
374 administer medication to a patient in a safe and sanitary
375 manner. The training, determination of competency, and initial
376 and annual validations required in this section shall be
377 conducted by a registered nurse licensed under this chapter or a
378 physician licensed under chapter 458 or chapter 459.

379 (2) A certified nursing assistant must annually and
380 satisfactorily complete 2 hours of inservice training in
381 medication administration and medication error prevention
382 approved by the board, in consultation with the Agency for
383 Health Care Administration. The inservice training is in
384 addition to the annual inservice training hours required under
385 this part.

Amendment No. 1

386 (3) The board, in consultation with the Agency for Health
387 Care Administration, shall establish by rule standards and
388 procedures that a certified nursing assistant must follow when
389 administering medication to a patient of a home health agency.
390 Such rules must, at a minimum, address qualification
391 requirements for trainers, requirements for labeling medication,
392 documentation and recordkeeping, the storage and disposal of
393 medication, instructions concerning the safe administration of
394 medication, informed-consent requirements and records, and the
395 training curriculum and validation procedures.

396 Section 14. For the 2020-2021 fiscal year, four full-time
397 equivalent positions with associated salary rate of 166,992 are
398 authorized and the sums of \$643,659 in recurring and \$555,200 in
399 nonrecurring funds from the Health Care Trust Fund are
400 appropriated to the Agency for Health Care Administration for
401 the purpose of implementing this act

402 Section 15. This act shall take effect upon becoming a
403 law.

404

405

406

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

407

Remove lines 3-10 and insert:

408

400.141, F.S.; authorizing a nursing home facility to use paid

409

feeding assistants in accordance with federal law under certain

410

circumstances; amending s. 400.23, F.S.; prohibiting paid

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Published On: 2/17/2020 8:08:10 PM

Amendment No. 1

411 feeding assistants from counting toward compliance with minimum
412 staffing standards;