

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 Committee on Health Policy

BILL: SB 1132

INTRODUCER: Senator Bean

SUBJECT: Personal Care Attendants

DATE: March 16, 2021

REVISED: 03/16/21

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	Pre-meeting
2.			CF	
3.			AP	

I. Summary:

SB 1132 amends ss. 400.141 and 400.211, F.S., to allow nursing homes to employ personal care attendants (PCA) and to allow a PCA to work as a nursing assistant (and count as a certified nursing assistant for the purposes of staffing requirements) for a period of up to four months. The bill defines a PCA as a person who provides care to and assists residents with tasks related to the activities of daily living¹ and who meets specified training requirements. The bill establishes training requirements for PCAs and requires the Agency for Health Care Administration (AHCA), in consultation with the Board of Nursing (BON), to develop a training program for PCAs which must consist of a minimum of eight hours of education.

The bill takes effect upon becoming law.

II. Present Situation:

Nursing Home Staffing Standards

Section 400.23(3), F.S., requires the AHCA to adopt rules² providing minimum staffing requirements for nursing home facilities. The requirements must include:

¹ Although not defined in nursing home statutes, activities of daily living are defined in other health care and facility statutes. For example, for assisted living facilities activities of daily living are defined as “the functions and tasks for self-care, including eating bathing grooming, dressing, ambulating, and other similar tasks. *See* s. 429.65(1), F.S., and for home health care activities of daily living are included in the definition of personal care and include bathing, dressing, eating, personal hygiene, assistance in physical transfer, ambulation, and in administering medications permitted by rule. *See* s. 400.462(23), F.S.

² AHCA rule 59A-4.108(4), F.A.C., simply requires that “in accordance with the requirements outlined in subsection 400.23(3)(a), F.S., the nursing home licensee must have sufficient nursing staff, on a 24-hour basis to provide nursing and related services to residents in order to maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care.”

- A minimum weekly average of 3.6 hours of direct care per resident per day provided by a combination of certified nursing assistants (CNA) and licensed nursing staff. A week is defined as Sunday through Saturday.
- A minimum of 2.5 hours of direct care per resident per day provided by CNA staff. A facility may not staff at a ratio of less than one CNA per 20 residents.
- A minimum of 1.0 hour of direct care per resident per day provided by licensed nursing staff. A facility may not staff at a ratio of less than one licensed nurse per 40 residents.
- Nursing assistants employed under s. 400.211(2), F.S., may be included in computing the staffing ratio for certified nursing assistants if their job responsibilities include only nursing-assistant-related duties.
- Each nursing home facility must document compliance with staffing standards and post daily the names of staff on duty for the benefit of facility residents and the public.
- Licensed nurses may be used to meet staffing requirements for CNAs if the licensed nurses are performing the duties of a CNA and the facility otherwise meets minimum staffing requirements for licensed nurses.
- Non-nursing staff providing eating assistance to residents do not count toward compliance with minimum staffing standards.

COVID-19 Personal Care Attendant Program

On March 28, 2020, in response to a request from the Florida Health Care Association to help with a shortage of skilled nursing services during the COVID-19 pandemic, the AHCA approved skilled nursing facilities to temporarily use PCAs to perform resident care procedures usually delivered by CNAs. The goal is to provide nursing centers with additional staff to care for residents during the COVID-19 state of emergency and to train new workers to obtain skills necessary to become a CNA. The Temporary COVID-19 Personal Care Attendant Program is an 8-Hour Preservice Course (5-Hour Classroom and 3-Hour Simulation/Competency Check-Off) with continued on-the-job training. The program has been extended to correspond with COVID-19 state of emergency, or until such time AHCA finds it necessary to extend or discontinue the program to meet needs of crisis.³

III. Effect of Proposed Changes:

SB 1132 amends s. 400.141, F.S., to allow a nursing home to employ PCAs if the PCAs have successfully completed the PCA training program developed by the AHCA, in consultation with the BON. The bill requires the training program to be at least eight hours in length and include at least the following topics:

- Residents' rights.
- Confidentiality of residents' personal information and medical records.
- Control of contagious and infectious diseases.
- Emergency response measures.
- Assistance with activities of daily living.
- Measuring vital signs.
- Skin care and pressure sore prevention.
- Portable oxygen use and safety.

³ See https://www.fhca.org/facility_operations/pcaprogram, (last visited Mar. 8, 2021).

- Nutrition and hydration.
- Dementia care.

The bill also amends s. 400.211, F.S., to allow a nursing home to hire a PCA, who has completed the training as detailed above, to work as a nursing assistant (and count as a CNA for the purposes of staffing requirements) for a period of up to four months. The bill defines a PCA as a person who meets the above training requirements and who provides care to residents and assists residents with tasks related to the activities of daily living.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have an indeterminate fiscal impact on nursing homes that utilize the PCA program created under the bill. The bill may also positively impact persons in a fiscal sense who are employed as PCAs under the program.

C. Government Sector Impact:

SB 1132 may have an indeterminate negative fiscal impact on the AHCA related to developing the PCA training program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 400.141 and 400.211.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.