

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1403 Medication Technicians  
**SPONSOR(S):** Buchanan  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 836

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Facilities Subcommittee	16 Y, 0 N	Guzzo	Lloyd
2) Health & Human Services Committee			

**SUMMARY ANALYSIS**

An assisted living facility (ALF) is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more ongoing personal services to one or more adults who are not relatives of the owner or administrator. ALFs are licensed and regulated by the Agency for Health Care Administration (AHCA).

An unlicensed ALF staff member may provide assistance to a resident with self-administration of a routine, regularly scheduled medication that is intended to be self-administered. Such staff must complete six hours of initial training and at least two hours of continuing education annually on providing assistance with self-administered medications and safe medication practices in an ALF.

Current law does not provide a title for such a staff member, but are referred to as unlicensed staff. The bill designates them as “medication technicians”. The bill also authorizes a medication technician to provide assistance with a resident’s self-administration of a point-of-care device.

The bill requires AHCA to establish minimum requirements for medication technician training, which must address:

- Infection control;
- Safe handling and use of point-of-care devices;
- Communicating with case managers and health care providers;
- Certain standard of care protocols;
- Identification of nursing standards; and
- Methods of assisting residents with the self-administration of medications.

The bill has no fiscal impact on state or local government.

The bill provides an effective date of July 1, 2022.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Assisted Living Facilities

An assisted living facility (ALF) is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.<sup>1</sup> A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.<sup>2</sup> Activities of daily living include ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.<sup>3</sup>

ALFs are licensed and regulated by AHCA under part I of ch. 429, F.S., and part II of ch. 408, F.S., and rule 59A-36, F.A.C. In addition to a standard license, an ALF may have one or more specialty licenses that allow the ALF to provide additional care. These specialty licenses include limited nursing services,<sup>4</sup> limited mental health services,<sup>5</sup> and extended congregate care services.<sup>6</sup>

As of January 24, 2022, there are 3,130 licensed ALFs in Florida.<sup>7</sup>

##### *Assistance to Residents*

An unlicensed ALF staff member may provide assistance to a resident who is medically stable with self-administration of a routine, regularly scheduled medication that is intended to be self-administered if there is a documented request by and the written informed consent of the resident.<sup>8</sup> Assistance with medication includes, among other things, in the presence of the resident, confirming that the medication is intended for the resident, orally advising the resident of the medication name and dosage, opening the container, removing the prescribed amount from the container, and closing the container.<sup>9</sup>

“Point-of-care testing” is a phrase used to describe the location where testing is performed, such as at the bedside or near the site of patient care.<sup>10</sup> A “point of care device” is the device used to perform such point-of-care testing, such as a glucometer, COVID-19 rapid testing kit, hematology testing kit, cholesterol testing kit, urinalysis testing kit, or a fecal occult testing kit.<sup>11</sup> Emerging technological innovations in the point-of-care device market, including smartphone apps, biosensors, lab-on-a chip,

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<sup>1</sup> S. 429.02(5), F.S. An ALF does not include an adult family-care home or a non-transient public lodging establishment.

<sup>2</sup> S. 429.02(18), F.S. Personal services do not include the provision of medical, nursing, dental, or mental health services.

<sup>3</sup> S. 429.02(1), F.S.

<sup>4</sup> S. 429.07(3)(c), F.S. Limited nursing services include acts that may be performed by a person licensed as a nurse but are not complex enough to require 24-hour nursing supervision and may include such services as the application and care of routine dressings, and care of casts, braces, and splints (s. 429.02(13), F.S.).

<sup>5</sup> S. 429.075, F.S. An ALF that serves one or more mental health residents must obtain a limited mental health license.

<sup>6</sup> S. 429.07(3)(b), F.S. Extended congregate care facilities provide services to an individual that would otherwise be ineligible for continued care in an ALF. The primary purpose is to allow a resident the option of remaining in a familiar setting from which they would otherwise be disqualified for continued residency as they become more impaired.

<sup>7</sup> AGENCY FOR HEALTH CARE ADMINISTRATION, *Facility/Provider Search Results – Assisted Living Facilities*, <https://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx> (last visited Jan. 24, 2022).

<sup>8</sup> S. 429.256(2), F.S.

<sup>9</sup> S. 429.256(3)(b), F.S.

<sup>10</sup> Centers for Disease Control and Prevention, *CLIA Test Complexities*, available at <https://www.cdc.gov/clia/test-complexities.html> (last visited Jan. 24, 2022).

<sup>11</sup> Kimberly Scott, *What's Next on the Point-of-Care Testing Menu?*, AACC Clinical Laboratory News, May 1, 2021, available at <https://www.aacc.org/cln/articles/2020/may/whats-next-on-the-point-of-care-testing-menu> (last visited Jan. 24, 2022). See also Centers for Disease Control and Prevention, *Guidance for SARS-CoV-2 Point-of-Care and Rapid Testing*, available at <https://www.cdc.gov/coronavirus/2019-ncov/lab/point-of-care-testing.html> (last visited Jan. 24, 2022).

and wearable devices have allowed health care providers to receive test results conveniently and quickly to expedite diagnosis and subsequent treatment.<sup>12</sup>

A facility that uses a “point-of-care device” to perform clinical laboratory tests for residents, including blood glucose testing, must comply with the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA) and part I of ch. 483, F.S.<sup>13</sup> A valid copy of the state clinical laboratory license, if required, and the federal CLIA Certificate must be maintained in the facility. A state license or federal CLIA certificate is not required if residents perform the test themselves or if a third party assists residents in performing the test. The facility is not required to maintain a state clinical laboratory license or a federal CLIA certificate if facility staff assist residents in performing clinical laboratory testing with the residents’ equipment.<sup>14</sup>

An assistive device is any device designed or adapted to help a resident perform an action, task, an activity of daily living, a transfer, prevention of a fall, or recovery from a fall.<sup>15</sup> In 2020, the Legislature authorized an ALF to admit or retain a resident who requires the use of an assistive device.<sup>16</sup> AHCA finalized their rule on standards for the use of assistive devices in August of 2021.<sup>17</sup> The rule requires facilities to:

- Have policies and procedures that include the requirements and methods for assessing the physical condition of an assistive device that may injure the resident;
- Have procedures for recommending repair or replacement for the continuing safety of a resident’s assistive device;
- Document each assistive device a resident uses in the resident’s record;
- Ensure the direct care staff who use assistive devices while rendering personal services to residents know how to operate and utilize the equipment;
- Ensure that all assistive devices are clean, in good repair, and free of hazards; and
- Encourage and allow all residents to function with independence when using an assistive device.<sup>18</sup>

### *Training*

Prior to interacting with residents, each new ALF employee must attend a 2-hour preservice orientation provided by the facility which must cover resident’s rights and the facility’s license type and services offered by the facility.<sup>19</sup>

Unlicensed staff who provide direct care to residents must also receive six hours of training, which must consist of the following:

- One hour of in-service training in infection control, including universal precautions and facility sanitation procedures before providing personal care to residents;
- One hour of in-service training on reporting adverse incidents;
- One hour of in-service training on resident rights and recognizing and reporting abuse, neglect, and exploitation; and
- 3 hours of in-service training on resident behaviors and needs and providing assistance with the activities of daily living.<sup>20</sup>

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<sup>12</sup> Umesh Gami, Dr. Raji Pillai, Dr. Susan Cherian, *Emerging Technologies for Point-of-Care Testing: A Future Outlook for Scientists and Engineers*, Research Gate, Jan. 2018, available at [https://www.researchgate.net/publication/325295218\\_Emerging\\_Technologies\\_for\\_Point-of-Care\\_POCT\\_Testing\\_A\\_future\\_outlook\\_for\\_Scientists\\_and\\_Engineers](https://www.researchgate.net/publication/325295218_Emerging_Technologies_for_Point-of-Care_POCT_Testing_A_future_outlook_for_Scientists_and_Engineers) (last visited Jan. 24, 2022).

<sup>13</sup> 59A-36.008(4)(d), F.A.C.

<sup>14</sup> Id.

<sup>15</sup> S. 429.02(6), F.S.

<sup>16</sup> Ch. 2020-68, Laws of Fla.

<sup>17</sup> AGENCY FOR HEALTH CARE ADMINISTRATION, Notice of Final Adopted Version, available at <https://www.flrules.org/gateway/RuleNo.asp?title=Assisted%20Living%20Facility&ID=59A-36.007> (last visited Jan.. 24, 2022).

<sup>18</sup> Id.

<sup>19</sup> S. 429.52(1), F.S., and rule 59A-36.011(2), F.A.C.

<sup>20</sup> Rule 59A-36.011(3), F.A.C.

Unlicensed staff who assist residents with the self-administration of medication<sup>21</sup> must receive an additional 6 hours of training provided by a registered nurse or a licensed pharmacist.<sup>22</sup> Self-administered medications include legend and over-the-counter oral dosage forms, topical dosage forms, and transdermal patches.<sup>23</sup> Such unlicensed staff must demonstrate in person, both physically and verbally, the ability to:

- Use a glucometer to perform blood glucose testing;
- Assist residents with insulin syringes that are prefilled with the proper dosage by a pharmacist and insulin pens that are prefilled by the manufacturer by taking the medication, in its previously dispensed, properly labeled container, from where it is stored, and bringing it to the resident for self-injection;
- Assist with nebulizers;
- Read and understand a prescription label;
- Assist with oral dosage forms, topical dosage forms, and topical ophthalmic, otic and nasal dosage forms;
- Measure liquid medications, break scored tablets, and crush tablets in accordance with prescription directions;
- Recognize the need to obtain clarification of an “as needed” prescription order;
- Recognize a medication order which requires judgment or discretion, and to advise the resident, resident’s health care provider or facility employer of inability to assist in the administration of such orders;
- Complete a medication observation record;
- Retrieve and store medication;
- Recognize the general signs of adverse reactions to medications and report such reactions;
- Assist residents with oxygen nasal cannulas and continuous positive airway pressure (CPAP) devices, excluding the titration of oxygen levels;
- Apply and remove anti-embolism stockings and hosiery;
- Place and remove colostomy bags, excluding the removal of the flange or manipulation of the stoma site; and
- Measure blood pressure, heart rate, temperature, and respiratory rate.<sup>24</sup>

Unlicensed staff who assist residents with the self-administration of medication must also complete at least two hours of continuing education training on providing assistance with self-administered medications and safe medication practices in an ALF. The two hours of continuing education training may be provided online.<sup>25</sup>

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<sup>21</sup> S. 429.256(3), F.S., assistance with self-administration of medication includes: taking the medication, in its previously dispensed, properly labeled container, including an insulin syringe that is prefilled with the proper dosage by a pharmacist and an insulin pen that is prefilled by the manufacturer, from where it is stored, and bringing it to the resident; in the presence of the resident, confirming that the medication is intended for that resident, orally advising the resident of the medication name and dosage, opening the container, removing a prescribed amount of medication from the container, and closing the container; placing an oral dosage in the resident’s hand or placing the dosage in another container and helping the resident by lifting the container to his or her mouth; applying topical medications; returning the medication container to proper storage; keeping a record of when a resident receives assistance with self-administration; assisting with the use of a nebulizer; using a glucometer to perform blood-glucose level checks; assisting with putting on and taking off antiembolism stockings; assisting with applying and removing an oxygen cannula but not with titrating the prescribed oxygen settings; assisting with the use of a continuous positive airway pressure device but not with titrating the prescribed setting of the device; assisting with measuring vital signs; and assisting with colostomy bags.

<sup>22</sup> S. 429.52(6), F.S.

<sup>23</sup> S. 429.256(2), F.S.

<sup>24</sup> Rule 59A-36.011(6), F.A.C.

<sup>25</sup> S. 429.52(6), F.S., and rule 59A-36.011(6)(c), F.A.C.

## Effect of the Bill

Current law does not provide a title for unlicensed ALF staff who provide assistance with self-administration of medication. Instead they are referred to as “unlicensed staff”. The bill designates such staff as “medication technicians.”

The bill also authorizes a medication technician to provide assistance with a resident’s self-administration of a point-of-care device. As a result, residents may be able to avoid leaving the facility to undergo diagnostic testing that may be available at the facility with a point-of-care device.

The bill requires AHCA to establish minimum requirements for medication technician training, which must address:

- Infection control;
- Safe handling and use of point-of-care devices;
- Communicating with case managers and health care providers;
- Standard of care protocols for the provision of care in a licensed ALF;
- Identification of nursing standards; and
- Methods of assisting residents with the self-administration of medications.

The bill provides an effective date of July 1, 2022.

### B. SECTION DIRECTORY:

**Section 1:** Amends s. 429.02, F.S., relating to definitions.

**Section 2:** Amends s. 429.52, F.S., relating to staff training and educational requirements.

**Section 3:** Provides an effective date of July 1, 2021.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

AHCA has sufficient rulemaking authority to implement the bill.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES