

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: CS/SB 836

INTRODUCER: Health Policy Committee and Senator Brodeur

SUBJECT: Medication Technicians

DATE: January 26, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	Fav/CS
2.			AHS	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 836 amends s. 429.256, F.S., to replace the definition of “unlicensed person” with a new definition of “medication technician.” The new definition is functionally the same as the previous definition but includes the use of point-of-care devices. The bill requires that a medication technician must have six hours of training and amends s. 429.52, F.S., to specify what must be included in the training. The bill also allows a medication technician to assist a resident in an assisted living facility (ALF) with his or her self-administration of medications and with his or her use of point-of-care devices (PCD).

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

II. Present Situation:

An 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.¹ A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.² Activities of daily living include ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.³

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

² Section 429.02(18), F.S.

³ Section 429.02(1), F.S.

An ALF is required to provide care and services that are appropriate to the needs of the residents who are accepted for admission to the facility.⁴ The owner or facility administrator determines whether an individual is appropriate for admission to the facility based on a number of criteria.⁵ If, as determined by the facility administrator or health care provider, a resident no longer meets the criteria for continued residency or the facility is unable to meet the resident's needs, the resident must be discharged in accordance with the Resident Bill of Rights.⁶

There are currently 3,129 licensed ALFs in Florida with a total of 114,919 beds.⁷ An ALF must have a standard license issued by the Agency for Health Care Administration (AHCA) under part I of ch. 429, F.S., and part II of ch. 408, F.S. In addition to a standard license, an ALF may have one or more specialty licenses that allow an ALF to provide additional care. These specialty licenses include limited nursing services (LNS),⁸ limited mental health services (LMH),⁹ and extended congregate care services (ECC).¹⁰

Assistance with the Self-Administration of Medications

Section 429.256, F.S., establishes requirements for the assistance with the self-administration of medication. Residents who are capable of administering their own medications are encouraged to do so, but an unlicensed person who is 18 years of age or older and has completed the required six hours of training may,¹¹ consistent with a dispensed prescription's label or the package directions of an over-the-counter medication, assist a resident whose condition is medically stable with the self-administration of routine, regularly scheduled medications that are intended to be self-administered. Assistance with self-medication by an unlicensed person may occur only upon a documented request by, and the written informed consent of, a resident or the resident's surrogate, guardian, or attorney in fact.

The section specifies that the 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. The resident may sign a written waiver to opt out of being orally advised of the medication name and dosage. The waiver must identify all of the medications intended for the resident, including names and dosages of such medications, and must immediately be updated each time the resident's medications or dosages change.

⁴ See Fla. Admin. Code R. 59A-36.007 (2019), for specific minimum standards.

⁵ Section 429.26, F.S., and Fla. Admin. Code R. 59A-36.006 (2019).

⁶ Section 429.28, F.S.

⁷ Florida health finder data, available at <https://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx> (last visited Jan 13, 2022).

⁸ Section 429.07(3)(c), F.S.

⁹ Section 429.075, F.S.

¹⁰ Section 429.07(3)(b), F.S.

¹¹ See Fla. Admin. Code R. 59A-36.008(3)(a) (2019).

- 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 under this section.
- Assisting with the use of a nebulizer, including removing the cap of a nebulizer, opening the unit dose of nebulizer solution, and pouring the prescribed premeasured dose of medication into the dispensing cup of the 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.
- Assisting with colostomy bags.

The section also specifies that assistance with self-administration does not include:

- Mixing, compounding, converting, or calculating medication doses, except for measuring a prescribed amount of liquid medication or breaking a scored tablet or crushing a tablet as prescribed.
- The preparation of syringes for injection or the administration of medications by any injectable route.
- Administration of medications by way of a tube inserted in a cavity of the body.
- Administration of parenteral preparations.
- The use of irrigations or debriding agents used in the treatment of a skin condition.
- Assisting with rectal, urethral, or vaginal preparations.
- Assisting with medications ordered by the physician or health care professional with prescriptive authority to be given “as needed,” unless the order is written with specific parameters that preclude independent judgment on the part of the unlicensed person, and the resident requesting the medication is aware of his or her need for the medication and understands the purpose for taking the medication.
- Medications for which the time of administration, the amount, the strength of dosage, the method of administration, or the reason for administration requires judgment or discretion on the part of the unlicensed person.

Point-of-Care Devices

A PCD is a device that allows for diagnostic tests to be performed at or near where the patient is located or at the site where care or treatment is provided. Devices for point-of-care tests come in an array of forms. They may use basic dipsticks as with urinalysis, handheld devices like glucose meters, or sophisticated molecular analyzers to detect infectious diseases. The most common point-of-care tests are blood glucose monitoring and home pregnancy tests. Many point-of-care

tests can be performed by the patient at home, including the two mentioned above, as well as rapid HIV tests and colorectal cancer screening.¹²

III. Effect of Proposed Changes:

CS/SB 836 amends s. 429.256, F.S., to replace the definition of “unlicensed person” with a new definition of “medication technician.” The new definition is functionally the same as the previous definition but includes the use of point-of-care devices. The bill requires that a medication technician must have six hours of training and amends s. 429.52, F.S., to specify that the training must include infection control, safe handling and use of PCDs, 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 allows a medication technician to assist a resident in an ALF with his or her self-administration of medications and with his or her use of PCDs.

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

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.

¹² *What is point-of-care testing?* Testing.com, 11/9/21, available at <https://www.testing.com/articles/point-of-care-testing/> (last visited Jan. 14, 2022).

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 429.256 and 429.52.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Health Policy on January 26, 2022:

The CS moves the definition of “Medication Technician” from s. 429.02, F.S., to s. 429.256, F.S., and replaces the definition of “unlicensed person” in order to clarify that medication technicians will be the only staff authorized to assist with the self-administration of medications in an ALF. The CS also makes conforming changes in s. 429.256, F.S.

B. Amendments:

None.