

Amendment No.

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WITHDRAWN	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: Healthcare Regulation  
 2 Subcommittee

3 Representative Robinson, W. offered the following:

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

6 Remove everything after the enacting clause and insert:  
 7 Section 1. Subsection (5) is added to section 400.211,  
 8 Florida Status, to read:

9 400.211 Persons employed as nursing assistants;  
 10 certification requirement.—

11 (5) A nursing home, in accordance with chapter 464 and  
 12 rules adopted pursuant to this section, may authorize a  
 13 registered nurse to delegate tasks, including medication  
 14 administration, to a certified nursing assistant who meets the  
 15 requirements of this subsection.

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16        (a) In addition to the initial 6-hour training course and  
17 determination of competency required under s. 464.2035, to be  
18 eligible to administer medication to a resident of a nursing  
19 home facility, a certified nursing assistant must:

20            1. Hold a clear and active certification from the  
21 Department of Health for a minimum of 1 year immediately  
22 preceding the delegation;

23            2. Complete an additional 34-hour training course approved  
24 by the Board of Nursing in medication administration and  
25 associated tasks including, but not limited to, blood glucose  
26 level checks, dialing oxygen flow meters to prescribed settings,  
27 and assisting with continuous positive airway pressure devices;  
28 and

29            3. Demonstrate clinical competency by successfully  
30 completing a supervised clinical practice in medication  
31 administration and associated tasks conducted in the facility.

32        (b) Upon completion of the training, competency, and  
33 initial validation requirements under s. 464.2035 and this  
34 subsection, a certified nursing assistant whose delegated tasks  
35 include medication administration is designated as a qualified  
36 medication aide.

37        (c) A qualified medication aide must satisfactorily  
38 complete the annual validation and 2 hours of inservice training  
39 in medication administration and medication error prevention in  
40 accordance with s. 464.2035.

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41        (d) A qualified medication aide may administer medication  
42 only under the direct supervision of a nurse licensed under part  
43 I of chapter 464.

44        (e) Medication administration must be included in  
45 performance improvement activities in accordance with 42 C.F.R.  
46 s. 483.75(e) (2).

47        (f) The Board of Nursing, in consultation with the agency,  
48 shall adopt rules to implement this subsection.

49        Section 2. Paragraph (b) of subsection (3) of section  
50 400.23, Florida Statutes, is amended to read:

51        400.23 Rules; evaluation and deficiencies; licensure  
52 status.—

53        (3)

54        (b)1. Each facility must determine its direct care  
55 staffing needs based on the facility assessment and the  
56 individual needs of a resident based on the resident's care  
57 plan. At a minimum, staffing must include, for each facility,  
58 the following requirements:

59        a. A minimum weekly average of 3.6 hours of care by direct  
60 care staff per resident per day. As used in this sub-  
61 subparagraph, a week is defined as Sunday through Saturday.

62        b. A minimum of 2.0 hours of direct care by a certified  
63 nursing assistant per resident per day. A facility may not staff  
64 below one certified nursing assistant per 20 residents.

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65 c. A minimum of 1.0 hour of direct care by a licensed  
66 nurse per resident per day. A facility may not staff below one  
67 licensed nurse per 40 residents.

68 2. Nursing assistants employed under s. 400.211(2) may be  
69 included in computing the hours of direct care provided by  
70 certified nursing assistants and may be included in computing  
71 the staffing ratio for certified nursing assistants if their job  
72 responsibilities include only nursing-assistant-related duties.

73 3. Certified nursing assistants performing the duties of a  
74 qualified medication aide under s. 400.211(5) may not be  
75 included in computing the hours of direct care provided by, or  
76 the staffing ratios for, certified nursing assistants or  
77 licensed nurses under sub-subparagraph 1.b. or sub-subparagraph  
78 1.c., respectively.

79 ~~4.3.~~ Each nursing home facility must document compliance  
80 with staffing standards as required under this paragraph and  
81 post daily the names of licensed nurses and certified nursing  
82 assistants on duty for the benefit of facility residents and the  
83 public. Facilities must maintain the records documenting  
84 compliance with minimum staffing standards for a period of 5  
85 years and must report staffing in accordance with 42 C.F.R. s.  
86 483.70(q).

87 ~~5.4.~~ The agency must recognize the use of licensed nurses  
88 for compliance with minimum staffing requirements for certified  
89 nursing assistants if the nursing home facility otherwise meets

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Published On: 3/8/2023 6:16:52 PM

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90 the minimum staffing requirements for licensed nurses and the  
91 licensed nurses are performing the duties of a certified nursing  
92 assistant. Unless otherwise approved by the agency, licensed  
93 nurses counted toward the minimum staffing requirements for  
94 certified nursing assistants must exclusively perform the duties  
95 of a certified nursing assistant for the entire shift and not  
96 also be counted toward the minimum staffing requirements for  
97 licensed nurses. If the agency approved a facility's request to  
98 use a licensed nurse to perform both licensed nursing and  
99 certified nursing assistant duties, the facility must allocate  
100 the amount of staff time specifically spent on certified nursing  
101 assistant duties for the purpose of documenting compliance with  
102 minimum staffing requirements for certified and licensed nursing  
103 staff. The hours of a licensed nurse with dual job  
104 responsibilities may not be counted twice.

105 ~~6.5.~~ Evidence that a facility complied with the minimum  
106 direct care staffing requirements under subparagraph 1. is not  
107 admissible as evidence of compliance with the nursing services  
108 requirements under 42 C.F.R. s. 483.35 or s. 483.70.

109 Section 3. Subsection (2) of section 464.0156, Florida  
110 Statutes, is amended to read:

111 464.0156 Delegation of duties.—

112 (2)(a) A registered nurse may delegate to a certified  
113 nursing assistant the administration of oral, transdermal,  
114 ophthalmic, otic, inhaled, or topical prescription medication to

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115 a resident of a nursing home facility as defined in s. 400.021  
116 if the certified nursing assistant meets the requirements of s.  
117 400.211(5) and s. 464.2035.

118 (b) A registered nurse may delegate to a certified nursing  
119 assistant or a home health aide the administration of oral,  
120 transdermal, ophthalmic, otic, rectal, inhaled, enteral, or  
121 topical prescription medications to a patient of a home health  
122 agency licensed under part III of chapter 400 or to a patient in  
123 a local county detention facility as defined in s. 951.23(1), if  
124 the certified nursing assistant or home health aide meets the  
125 requirements of s. 464.2035 or s. 400.489, respectively.

126 (c) A registered nurse may not delegate the administration  
127 of any controlled substance listed in Schedule II, Schedule III,  
128 or Schedule IV of s. 893.03 or 21 U.S.C. s. 812, except for the  
129 administration of an insulin syringe that is prefilled with the  
130 proper dosage by a pharmacist or an insulin pen that is  
131 prefilled by the manufacturer.

132 Section 4. Subsections (1) and (3) of section 464.2035,  
133 Florida Statutes, are amended to read:

134 464.2035 Administration of medication.—

135 (1) A certified nursing assistant may administer oral,  
136 transdermal, ophthalmic, otic, ~~rectal~~, inhaled, ~~enteral~~, or  
137 topical prescription medication to a resident of a nursing home  
138 facility as defined in s. 400.021 or may administer oral  
139 transdermal, ophthalmic, otic, rectal, inhaled, enteral, or

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140 topical prescription medication to a patient of a home health  
141 agency licensed under part III of chapter 400 or to a patient in  
142 a county detention facility as defined in s. 951.23(1) if the  
143 certified nursing assistant has been delegated such task by a  
144 registered nurse licensed under part I of this chapter, has  
145 satisfactorily completed an initial 6-hour training course  
146 approved by the board, and has been found competent to  
147 administer medication to a patient in a safe and sanitary  
148 manner. The training, determination of competency, and initial  
149 and annual validation required under this section must be  
150 conducted by a registered nurse licensed under this chapter or a  
151 physician licensed under chapter 458 or chapter 459.

152 (3) The board, in consultation with the Agency for Health  
153 Care Administration, shall establish by rule standards and  
154 procedures that a certified nursing assistant must follow when  
155 administering medication to a resident of a nursing home  
156 facility or to a patient of a home health agency. Such rules  
157 must, at a minimum, address qualification requirements for  
158 trainers, requirements for labeling medication, documentation  
159 and recordkeeping, the storage and disposal of medication,  
160 instructions concerning the safe administration of medication,  
161 informed-consent requirements and records, and the training  
162 curriculum and validation procedures.

163 Section 5. This act shall take effect July 1, 2023.

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**T I T L E   A M E N D M E N T**

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Remove line 17 and insert:

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nursing assistants the