

1                                   A bill to be entitled  
2           An act relating to home health aides for medically  
3           fragile children; amending s. 400.462, F.S.; providing  
4           definitions; amending s. 400.464, F.S.; requiring home  
5           health agencies to ensure that any tasks delegated to  
6           home health aides for medically fragile children meet  
7           specified requirements; amending s. 400.476, F.S.;  
8           requiring that home health aides for medically fragile  
9           children employed by or under contract with home  
10          health agencies be adequately trained to perform  
11          delegated tasks; providing certain individuals an  
12          exemption from costs associated with specified  
13          training; creating s. 400.4765, F.S.; providing  
14          legislative findings and intent; providing  
15          requirements for a family caregiver to be employed as  
16          a home health aide for medically fragile children;  
17          requiring the Agency for Health Care Administration,  
18          in consultation with the Board of Nursing, to develop  
19          a home health aide for medically fragile children  
20          training programs; providing requirements for the  
21          program; requiring home health aides for medically  
22          fragile children to complete inservice training as a  
23          condition of employment; requiring home health aides  
24          for medically fragile children to maintain  
25          documentation demonstrating compliance with such

26 training requirements; exempting home health agencies  
27 from civil liability for terminating or denying  
28 employment to a home health aide for medically fragile  
29 children under certain circumstances; extending the  
30 exemption to certain agents of the home health  
31 agencies; prohibiting home health agencies or their  
32 agents from using certain criminal records or juvenile  
33 records other than for a specified purpose; requiring  
34 the agency to maintain confidentiality of certain  
35 confidential and exempt records; providing  
36 requirements for services provided by a home health  
37 aide for medically fragile children; authorizing the  
38 agency, in consultation with the board, to adopt rules  
39 to implement the act; requiring the agency to modify  
40 any state Medicaid plans and implement any federal  
41 waivers necessary to implement this act and establish  
42 a specified Medicaid fee schedule for home health  
43 agencies employing a home health aide for medically  
44 fragile children; ss. 400.489 and 400.490, F.S.;

45 conforming provisions to changes made by the act;  
46 amending; creating s. 400.54, F.S.; requiring the  
47 Agency for Health Care Administration to conduct an  
48 annual assessment related to the certified health aide  
49 program; providing requirements for the assessment;  
50 requiring the agency to submit a report to the

51 Governor and the Legislature annually, by and  
 52 beginning on a specified date; amending s. 408.822,  
 53 F.S.; conforming a provision to changes made by the  
 54 act; amending s. 464.0156, F.S.; conforming provisions  
 55 to changes made by the act; providing appropriations;  
 56 providing an effective date.

57

58 Be It Enacted by the Legislature of the State of Florida:

59

60 Section 1. Subsections (5) through (10) of section  
 61 400.462, Florida Statutes, are renumbered as subsections (6)  
 62 through (11), present subsection (11) is renumbered as  
 63 subsection (13), present subsections (12), (13), and (14) are  
 64 renumbered as subsections (15), (16), and (17), and present  
 65 subsections (15) through (29) are renumbered as subsections (19)  
 66 through (33), respectively, subsection (1) and present  
 67 subsection (10) are amended, and new subsections (5), (12),  
 68 (14), and (18), are added to that section, to read:

69 400.462 Definitions.—As used in this part, the term:

70 (1) "Administrator" means a direct employee, as defined in  
 71 subsection (10) ~~(9)~~, who is a licensed physician, physician  
 72 assistant, or registered nurse licensed to practice in this  
 73 state or an individual having at least 1 year of supervisory or  
 74 administrative experience in home health care or in a facility  
 75 licensed under chapter 395, under part II of this chapter, or

76 | under part I of chapter 429.

77 |       (5) "Approved training program" means a course of training  
 78 | approved by the agency, in consultation with the Board of  
 79 | Nursing, to train a family caregiver as a home health aide for  
 80 | medically fragile children.

81 |       ~~(11)~~~~(10)~~ "Director of nursing" means a registered nurse  
 82 | who is a direct employee, as defined in subsection (10) ~~(9)~~, of  
 83 | the agency and who is a graduate of an approved school of  
 84 | nursing and is licensed in this state; who has at least 1 year  
 85 | of supervisory experience as a registered nurse; and who is  
 86 | responsible for overseeing the delivery of professional nursing  
 87 | and home health aide ~~aid~~ ~~delivery of~~ services of the agency.

88 |       (12) "Eligible relative" means a patient 21 years of age  
 89 | or younger who has an underlying physical, mental, or cognitive  
 90 | impairment that prevents him or her from safely living  
 91 | independently, is eligible to receive skilled care or respite  
 92 | care services under the Medicaid program, and is related to his  
 93 | or her family caregiver.

94 |       (14) "Family caregiver" means a person who provides or  
 95 | intends to provide significant personal care to an eligible  
 96 | relative.

97 |       (18) "Home health aide for medically fragile children"  
 98 | means a family caregiver who meets the qualifications specified  
 99 | in this part and who performs tasks delegated to him or her  
 100 | under chapter 464 while caring for an eligible relative, and

101 provides care relating to activities of daily living, including  
102 those associated with personal care; maintaining mobility;  
103 nutrition and hydration; toileting and elimination; assistive  
104 devices; safety and cleanliness; data gathering; reporting  
105 abnormal signs and symptoms; postmortem care; patient  
106 socialization and reality orientation; end-of-life care;  
107 cardiopulmonary resuscitation and emergency care; residents' or  
108 patients' rights; documentation of services performed; infection  
109 control; safety and emergency procedures; hygiene, grooming,  
110 skin care, and pressure sore prevention; wound care; portable  
111 oxygen use and safety and other respiratory procedures;  
112 tracheostomy care; enteral care and therapy; peripheral  
113 intravenous assistive activities and alternative feeding  
114 methods; and any other tasks delegated to the family caregiver  
115 under chapter 464.

116 Section 2. Subsection (5) and paragraph (d) of subsection  
117 (6) of section 400.464, Florida Statutes, are amended to read:

118 400.464 Home health agencies to be licensed; expiration of  
119 license; exemptions; unlawful acts; penalties.—

120 (5) If a licensed home health agency authorizes a  
121 registered nurse to delegate tasks, including medication  
122 administration, to a certified nursing assistant pursuant to  
123 chapter 464 or to a home health aide or a home health aide for  
124 medically fragile children pursuant to s. 400.490, the licensed  
125 home health agency must ensure that such delegation meets the

126 requirements of this chapter and chapter 464 and the rules  
 127 adopted thereunder.

128 (6) The following are exempt from licensure as a home  
 129 health agency under this part:

130 (d) A home health aide, home health aide for medically  
 131 fragile children, or certified nursing assistant who is acting  
 132 in his or her individual capacity, within the definitions and  
 133 standards of his or her occupation, and who provides hands-on  
 134 care to patients in their homes.

135 Section 3. Subsection (3) of section 400.476, Florida  
 136 Statutes, is amended to read:

137 400.476 Staffing requirements; notifications; limitations  
 138 on staffing services.—

139 (3) TRAINING.—A home health agency shall ensure that each  
 140 certified nursing assistant employed by or under contract with  
 141 the home health agency and each home health aide or home health  
 142 aide for medically fragile children employed by or under  
 143 contract with the home health agency is adequately trained to  
 144 perform the tasks of a home health aide or home health aide for  
 145 medically fragile children in the home setting. A parent,  
 146 guardian, or family member who is seeking training required  
 147 under s. 400.4765 to become a home health aide for medically  
 148 fragile children is not required to repay or reimburse the home  
 149 health agency for the costs associated with the home health aide  
 150 for medically fragile children training program.

151 Section 4. Section 400.4765, Florida Statutes, is created  
 152 to read:

153 400.4765 Home health aide for medically fragile children  
 154 program.—

155 (1) LEGISLATIVE FINDINGS AND INTENT.—The home health aide  
 156 for medically fragile children program is hereby established in  
 157 response to the existing national health care provider shortage  
 158 and the impact that the shortage has on medically fragile  
 159 children and the family caregivers. This program is created to  
 160 decrease the hospitalization and institutionalization of  
 161 medically fragile children, reduce state expenditures, and  
 162 provide an opportunity for a family caregiver to receive  
 163 training and gainful employment.

164 (2) ELIGIBILITY REQUIREMENTS.—A home health agency may  
 165 employ as a home health aide for medically fragile children any  
 166 person 18 years of age or older who meets all of the following  
 167 requirements. A person must:

- 168 (a) Be a family caregiver of an eligible relative.
- 169 (b) Demonstrate a minimum competency to read and write.
- 170 (c) Complete an approved training program as set forth in  
 171 this section or have graduated from an accredited prelicensure  
 172 nursing education program and are waiting to take the state  
 173 licensing exam.
- 174 (d) Successfully pass the required background screening  
 175 pursuant to s. 400.215. If the person has successfully passed

176 the required background screening pursuant to s. 400.215 or s.  
177 408.809 within 90 days before applying for a certificate to  
178 practice and the person's background screening results are not  
179 retained in the clearinghouse created under s. 435.12, the  
180 agency shall waive the requirement that the applicant  
181 successfully pass an additional background screening pursuant to  
182 s. 400.215.

183 (3) TRAINING.—

184 (a) The agency, in consultation with the Board of Nursing,  
185 shall approve home health aide for medically fragile children  
186 training programs developed by home health agencies in  
187 accordance with 42 C.F.R. ss. 483.151-483.154 and 484.80 to  
188 train family caregivers as home health aides for medically  
189 fragile children to increase the health care provider workforce  
190 and to authorize persons to provide trained nursing services as  
191 delegated by a registered nurse to eligible relatives. The  
192 program must consist of at least 85 hours of training,  
193 including, but not limited to, all of the following:

194 1. A minimum of 40 hours of theoretical instruction in  
195 nursing, including, but not limited to, instruction on all of  
196 the following:

- 197 a. Person-centered care.  
198 b. Communication and interpersonal skills.  
199 c. Infection control.  
200 d. Safety and emergency procedures.



- 201 e. Assistance with activities of daily living.
- 202 f. Mental health and social service needs.
- 203 g. Care of cognitively impaired individuals.
- 204 h. Basic restorative care and rehabilitation.
- 205 i. Patient rights and confidentiality of personal
- 206 information and medical records.
- 207 j. Relevant legal and ethical issues.

208

209 Such instruction must be offered in various formats, and any

210 interactive instruction must be provided during various times of

211 the day.

212 2. A minimum of 20 hours of skills training on basic

213 nursing skills, including, but not limited to:

- 214 a. Hygiene, grooming, and toileting.
- 215 b. Skin care and pressure sore prevention.
- 216 c. Nutrition and hydration.
- 217 d. Measuring vital signs, height, and weight.
- 218 e. Safe lifting, positioning, and moving of patients.
- 219 f. Wound care.
- 220 g. Portable oxygen use and safety and other respiratory
- 221 procedures.
- 222 h. Tracheostomy care.
- 223 i. Enteral care and therapy.
- 224 j. Peripheral intravenous assistive activities and
- 225 alternative feeding methods.

226        k. Urinary catheterization and ostomy care.  
 227        3. At least 16 hours of clinical training under direct  
 228 supervision of a licensed registered nurse.  
 229        4. Training concerning HIV infections and AIDS and is  
 230 required to obtain and maintain a current certificate in  
 231 cardiopulmonary resuscitation.  
 232        (b) If a home health aide for medically fragile children  
 233 allows 24 consecutive months to pass without providing any  
 234 personal care related services for an eligible relative, the  
 235 family caregiver must complete an approved training program  
 236 before providing personal care related services as a home health  
 237 aid for medically fragile children.  
 238        (4) EMPLOYMENT.—A home health agency that employs a home  
 239 health aide for medically fragile children must ensure that the  
 240 home health aide for medically fragile children completes 12  
 241 hours of inservice training during each 12-month period as a  
 242 condition of employment. The training concerning HIV infections  
 243 and AIDS and the cardiopulmonary training may count toward  
 244 meeting the 12 hours of inservice training. The home health  
 245 agency shall maintain documentation demonstrating compliance  
 246 with this subsection.  
 247        (5) LIABILITY.—If a home health agency terminates or  
 248 denies employment to a home health aide for medically fragile  
 249 children who fails to maintain the requirements of this part or  
 250 whose name appears on a criminal screening report of the

251 Department of Law Enforcement, the home health agency is not  
252 civilly liable for such termination and a cause of action may  
253 not be brought against the home health agency for damages. There  
254 may not be any monetary liability on the part of, and a cause of  
255 action for damages may not arise against, any licensed facility  
256 or its governing board or members thereof, medical staff,  
257 disciplinary board, agents, investigators, witnesses, employees,  
258 or any other person for any action taken in good faith, without  
259 intentional fraud, to comply with this part.

260 (6) CONFIDENTIALITY.—A home health agency, or an agent  
261 thereof, may not use criminal records or juvenile records  
262 relating to vulnerable adults for any purpose other than  
263 determining if the person meets the requirements of this part.  
264 The agency shall maintain the confidentiality of any such  
265 records and information it obtains which are confidential and  
266 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
267 Constitution.

268 (7) SERVICES.—Services provided by a home health aide for  
269 medically fragile children must reduce an eligible relative's  
270 private duty nursing service hours. Such services may not be  
271 provided concurrently with any private duty nursing service.

272 (8) RULES.—The agency, in consultation with the Board of  
273 Nursing, may adopt rules to implement this section.

274 (9) FEE SCHEDULE.—The agency shall modify any state  
275 Medicaid plans and implement any federal waivers necessary to

276 implement this section and shall establish a Medicaid fee  
 277 schedule for home health agencies employing a home health aide  
 278 for medically fragile children at \$25 per hour with a  
 279 utilization cap of no more than 8 hours per day.

280 Section 5. Section 400.489, Florida Statutes, is amended  
 281 to read:

282 400.489 Administration of medication by a home health aide  
 283 or home health aide for medically fragile children; staff  
 284 training requirements.—

285 (1) A home health aide or home health aide for medically  
 286 fragile children may administer oral, transdermal, ophthalmic,  
 287 otic, rectal, inhaled, enteral, or topical prescription  
 288 medications if the home health aide or home health aide for  
 289 medically fragile children has been delegated such task by a  
 290 registered nurse licensed under chapter 464, has satisfactorily  
 291 completed an initial 6-hour training course approved by the  
 292 agency, and has been found competent to administer medication to  
 293 a patient in a safe and sanitary manner. The training,  
 294 determination of competency, and initial and annual validations  
 295 required in this section shall be conducted by a registered  
 296 nurse licensed under chapter 464 or a physician licensed under  
 297 chapter 458 or chapter 459.

298 (2) A home health aide or home health aide for medically  
 299 fragile children must annually and satisfactorily complete a 2-  
 300 hour inservice training course approved by the agency in

301 medication administration and medication error prevention. The  
 302 inservice training course shall be in addition to the annual  
 303 inservice training hours required by agency rules.

304 (3) The agency, in consultation with the Board of Nursing,  
 305 shall establish by rule standards and procedures that a home  
 306 health aide or home health aide for medically fragile children  
 307 must follow when administering medication to a patient. Such  
 308 rules must, at a minimum, address qualification requirements for  
 309 trainers, requirements for labeling medication, documentation  
 310 and recordkeeping, the storage and disposal of medication,  
 311 instructions concerning the safe administration of medication,  
 312 informed-consent requirements and records, and the training  
 313 curriculum and validation procedures.

314 Section 6. Section 400.490, Florida Statutes, is amended  
 315 to read:

316 400.490 Nurse-delegated tasks.—A certified nursing  
 317 assistant, home health aide for medically fragile children, or  
 318 home health aide may perform any task delegated by a registered  
 319 nurse as authorized in this part and in chapter 464, including,  
 320 but not limited to, medication administration.

321 Section 7. Section 400.54, Florida Statutes, is created to  
 322 read:

323 400.54 Annual assessment of the home health aide for  
 324 medically fragile children program.—The agency shall conduct an  
 325 annual assessment of the home health aide for medically fragile

326 children program. The assessment must report caregiver  
327 satisfaction with the program, identify additional support that  
328 may be needed by the home health aide for medically fragile  
329 children, and assess the rate and extent of hospitalization of  
330 children in home health services who are attended by a home  
331 health aide for medically fragile children compared to those in  
332 home health services without a home health aide for medically  
333 fragile children. By January 1 of each year, beginning January  
334 1, 2025, the agency shall report its findings to the Governor,  
335 the President of the Senate, and the Speaker of the House of  
336 Representatives.

337 Section 8. Subsection (1) of section 408.822, Florida  
338 Statutes, is amended to read:

339 408.822 Direct care workforce survey.—

340 (1) For purposes of this section, the term "direct care  
341 worker" means a certified nursing assistant, a home health aide,  
342 a home health aide for medically fragile children a personal  
343 care assistant, a companion services or homemaker services  
344 provider, a paid feeding assistant trained under s.  
345 400.141(1)(v), or another individual who provides personal care  
346 as defined in s. 400.462 to individuals who are elderly,  
347 developmentally disabled, or chronically ill.

348 Section 9. Subsections (1) and (2) of section 464.0156,  
349 Florida Statutes, are amended to read:

350 464.0156 Delegation of duties.—

351 (1) A registered nurse may delegate a task to a certified  
 352 nursing assistant certified under part II of this chapter or a  
 353 home health aide or a home health aide for medically fragile  
 354 children as defined in s. 400.462 if the registered nurse  
 355 determines that the certified nursing assistant or the home  
 356 health aide is competent to perform the task, the task is  
 357 delegable under federal law, and the task meets all of the  
 358 following criteria:

- 359 (a) Is within the nurse's scope of practice.
- 360 (b) Frequently recurs in the routine care of a patient or  
 361 group of patients.
- 362 (c) Is performed according to an established sequence of  
 363 steps.
- 364 (d) Involves little or no modification from one patient to  
 365 another.
- 366 (e) May be performed with a predictable outcome.
- 367 (f) Does not inherently involve ongoing assessment,  
 368 interpretation, or clinical judgment.

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

370 (2) A registered nurse may delegate to a certified nursing  
 371 assistant, ~~or a home health aide,~~ or a home health aide for  
 372 medically fragile children the administration of oral,  
 373 transdermal, ophthalmic, otic, rectal, inhaled, enteral, or  
 374 topical prescription medications to a patient of a home health  
 375 agency or in a local county detention facility as defined in s.

376 951.23(1), if the certified nursing assistant or home health  
377 aide meets the requirements of s. 464.2035 or s. 400.489,  
378 respectively. A registered nurse may not delegate the  
379 administration of any controlled substance listed in Schedule  
380 II, Schedule III, or Schedule IV of s. 893.03 or 21 U.S.C. s.  
381 812, except for the administration of an insulin syringe that is  
382 prefilled with the proper dosage by a pharmacist or an insulin  
383 pen that is prefilled by the manufacturer.

384 Section 10. For the 2023-2024 fiscal year, four full-time  
385 equivalent positions, with associated salary rate of 186,483,  
386 are authorized and the sums of \$353,589 in recurring funds and  
387 \$118,728 in nonrecurring funds from the Health Care Trust Fund  
388 are appropriated to the Agency for Health Care Administration  
389 for the purpose of implementing this act.

390 Section 11. This act shall take effect upon becoming a  
391 law.