

By Senator Burton

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1 A bill to be entitled
2 An act relating to certified nursing assistants;
3 amending s. 400.211, F.S.; authorizing nursing home
4 facilities to allow their registered nurses to
5 delegate certain tasks to certified nursing assistants
6 who meet specified criteria; providing for the
7 designation of such certified nursing assistants as
8 qualified medication aides; requiring qualified
9 medication aides to complete annual validation and
10 inservice training requirements; providing that
11 qualified medication aides may administer medication
12 to residents only under the direct supervision of a
13 licensed nurse; requiring the Board of Nursing, in
14 consultation with the Agency for Health Care
15 Administration, to adopt rules; amending s. 400.23,
16 F.S.; providing that the time spent by certified
17 nursing assistants performing the duties of a
18 qualified medication aide may not be included in the
19 computing of certain minimum staffing ratio
20 requirements for direct care provided to residents;
21 amending s. 464.0156, F.S.; authorizing registered
22 nurses to delegate to certified nursing assistants the
23 administration of medication to residents in nursing
24 home facilities if the certified nursing assistants
25 meet specified criteria; amending s. 464.2035, F.S.;
26 authorizing certified nursing assistants to administer
27 certain medications to residents of nursing home
28 facilities if they have been delegated such task by a
29 registered nurse and they meet specified criteria;

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30 requiring the board, in consultation with the agency,
31 to establish standards and procedures that a certified
32 nursing assistant must follow when administering
33 medication to a resident of a nursing home facility;
34 providing an effective date.

35
36 Be It Enacted by the Legislature of the State of Florida:

37
38 Section 1. Subsection (5) is added to section 400.211,
39 Florida Statutes, to read:

40 400.211 Persons employed as nursing assistants;
41 certification requirement.—

42 (5) A nursing home, in accordance with chapter 464 and
43 rules adopted pursuant to this section, may authorize a
44 registered nurse to delegate tasks, including medication
45 administration, to a certified nursing assistant who meets the
46 requirements of this subsection.

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

51 1. Hold a clear and active certification from the
52 Department of Health for a minimum of 1 year immediately
53 preceding the delegation;

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

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59 and

60 3. Demonstrate clinical competency by successfully
61 completing a supervised clinical practice in medication
62 administration and associated tasks conducted in the facility.

63 (b) Upon completion of the training, competency, and
64 initial validation requirements under s. 464.2035 and this
65 subsection, a certified nursing assistant whose delegated tasks
66 include medication administration is designated as a qualified
67 medication aide.

68 (c) A qualified medication aide must satisfactorily
69 complete the annual validation and 2 hours of inservice training
70 in medication administration and medication error prevention in
71 accordance with s. 464.2035.

72 (d) A qualified medication aide may administer medication
73 only under the direct supervision of a nurse licensed under part
74 I of chapter 464.

75 (e) The Board of Nursing, in consultation with the agency,
76 shall adopt rules to implement this subsection.

77 Section 2. Paragraph (b) of subsection (3) of section
78 400.23, Florida Statutes, is amended to read:

79 400.23 Rules; evaluation and deficiencies; licensure
80 status.—

81 (3)

82 (b)1. Each facility must determine its direct care staffing
83 needs based on the facility assessment and the individual needs
84 of a resident based on the resident's care plan. At a minimum,
85 staffing must include, for each facility, the following
86 requirements:

87 a. A minimum weekly average of 3.6 hours of care by direct

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88 care staff per resident per day. As used in this sub-
89 subparagraph, a week is defined as Sunday through Saturday.

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

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

96 2. Nursing assistants employed under s. 400.211(2) may be
97 included in computing the hours of direct care provided by
98 certified nursing assistants and may be included in computing
99 the staffing ratio for certified nursing assistants if their job
100 responsibilities include only nursing-assistant-related duties.

101 3. Certified nursing assistants performing the duties of a
102 qualified medication aide under s. 400.211(5) may not be
103 included in computing the hours of direct care provided by, or
104 the staffing ratios for, certified nursing assistants or
105 licensed nurses under sub-subparagraph 1.b. or sub-subparagraph
106 1.c., respectively.

107 ~~4.3.~~ Each nursing home facility must document compliance
108 with staffing standards as required under this paragraph and
109 post daily the names of licensed nurses and certified nursing
110 assistants on duty for the benefit of facility residents and the
111 public. Facilities must maintain the records documenting
112 compliance with minimum staffing standards for a period of 5
113 years and must report staffing in accordance with 42 C.F.R. s.
114 483.70(q).

115 ~~5.4.~~ The agency must recognize the use of licensed nurses
116 for compliance with minimum staffing requirements for certified

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117 nursing assistants if the nursing home facility otherwise meets
118 the minimum staffing requirements for licensed nurses and the
119 licensed nurses are performing the duties of a certified nursing
120 assistant. Unless otherwise approved by the agency, licensed
121 nurses counted toward the minimum staffing requirements for
122 certified nursing assistants must exclusively perform the duties
123 of a certified nursing assistant for the entire shift and not
124 also be counted toward the minimum staffing requirements for
125 licensed nurses. If the agency approved a facility's request to
126 use a licensed nurse to perform both licensed nursing and
127 certified nursing assistant duties, the facility must allocate
128 the amount of staff time specifically spent on certified nursing
129 assistant duties for the purpose of documenting compliance with
130 minimum staffing requirements for certified and licensed nursing
131 staff. The hours of a licensed nurse with dual job
132 responsibilities may not be counted twice.

133 ~~6.5.~~ Evidence that a facility complied with the minimum
134 direct care staffing requirements under subparagraph 1. is not
135 admissible as evidence of compliance with the nursing services
136 requirements under 42 C.F.R. s. 483.35 or s. 483.70.

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

139 464.0156 Delegation of duties.—

140 (2)(a) A registered nurse may delegate to a certified
141 nursing assistant the administration of oral, transdermal,
142 ophthalmic, otic, inhaled, or topical prescription medication to
143 a resident of a nursing home facility as defined in s. 400.021
144 if the certified nursing assistant meets the requirements of s.
145 400.211(5) and s. 464.2035.

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146 **(b)** A registered nurse may delegate to a certified nursing
147 assistant or a home health aide the administration of oral,
148 transdermal, ophthalmic, otic, rectal, inhaled, enteral, or
149 topical prescription medications to a patient of a home health
150 agency licensed under part III of chapter 400 or to a patient in
151 a local county detention facility as defined in s. 951.23(1), if
152 the certified nursing assistant or home health aide meets the
153 requirements of s. 464.2035 or s. 400.489, respectively.

154 **(c)** A registered nurse may not delegate the administration
155 of any controlled substance listed in Schedule II, Schedule III,
156 or Schedule IV of s. 893.03 or 21 U.S.C. s. 812, except for the
157 administration of an insulin syringe that is prefilled with the
158 proper dosage by a pharmacist or an insulin pen that is
159 prefilled by the manufacturer.

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

162 464.2035 Administration of medication.—

163 (1) A certified nursing assistant may administer oral,
164 transdermal, ophthalmic, otic, ~~rectal~~, inhaled, ~~enteral~~, or
165 topical prescription medication to a resident of a nursing home
166 facility as defined in s. 400.021 or may administer oral,
167 transdermal, ophthalmic, otic, rectal, inhaled, enteral, or
168 topical prescription medication to a patient of a home health
169 agency licensed under part III of chapter 400 or to a patient in
170 a county detention facility as defined in s. 951.23(1) if the
171 certified nursing assistant has been delegated such task by a
172 registered nurse licensed under part I of this chapter, has
173 satisfactorily completed an initial 6-hour training course
174 approved by the board, and has been found competent to

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175 administer medication to a patient in a safe and sanitary
176 manner. The training, determination of competency, and initial
177 and annual validation required under this section must be
178 conducted by a registered nurse licensed under this chapter or a
179 physician licensed under chapter 458 or chapter 459.

180 (3) The board, in consultation with the Agency for Health
181 Care Administration, shall establish by rule standards and
182 procedures that a certified nursing assistant must follow when
183 administering medication to a resident of a nursing home
184 facility or to a patient of a home health agency. Such rules
185 must, at a minimum, address qualification requirements for
186 trainers, requirements for labeling medication, documentation
187 and recordkeeping, the storage and disposal of medication,
188 instructions concerning the safe administration of medication,
189 informed-consent requirements and records, and the training
190 curriculum and validation procedures.

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