

By the Committee on Health Policy; and Senator Burton

588-02324-23

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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 that medication  
14      administration be included in certain performance  
15      improvement activities tracked by nursing homes in  
16      accordance with federal regulations; requiring the  
17      Board of Nursing, in consultation with the Agency for  
18      Health Care Administration, to adopt rules; amending  
19      s. 400.23, F.S.; providing that the time spent by  
20      certified nursing assistants performing the duties of  
21      a qualified medication aide may not be included in the  
22      computing of certain minimum staffing ratio  
23      requirements for direct care provided to residents;  
24      amending s. 464.0156, F.S.; authorizing registered  
25      nurses to delegate to certified nursing assistants the  
26      administration of medication to residents in nursing  
27      home facilities if the certified nursing assistants  
28      meet specified criteria; amending s. 464.2035, F.S.;  
29      authorizing certified nursing assistants to administer

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30 certain medications to residents of nursing home  
31 facilities if they have been delegated such task by a  
32 registered nurse and they meet specified criteria;  
33 requiring the board, in consultation with the agency,  
34 to establish standards and procedures that a certified  
35 nursing assistant must follow when administering  
36 medication to a resident of a nursing home facility;  
37 providing an effective date.

38  
39 Be It Enacted by the Legislature of the State of Florida:

40  
41 Section 1. Subsection (5) is added to section 400.211,  
42 Florida Statutes, to read:

43 400.211 Persons employed as nursing assistants;  
44 certification requirement.—

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

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

54 1. Hold a clear and active certification from the  
55 Department of Health for a minimum of 1 year immediately  
56 preceding the delegation;

57 2. Complete an additional 34-hour training course approved  
58 by the Board of Nursing in medication administration and

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59 associated tasks, including, but not limited to, blood glucose  
60 level checks, dialing oxygen flow meters to prescribed settings,  
61 and assisting with continuous positive airway pressure devices;  
62 and

63 3. Demonstrate clinical competency by successfully  
64 completing a supervised clinical practice in medication  
65 administration and associated tasks conducted in the facility.

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

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

75 (d) A qualified medication aide may administer medication  
76 only under the direct supervision of a nurse licensed under part  
77 I of chapter 464.

78 (e) Medication administration must be included in the  
79 performance improvement activities tracked in accordance with 42  
80 C.F.R. s. 483.75(e) (2).

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

83 Section 2. Paragraph (b) of subsection (3) of section  
84 400.23, Florida Statutes, is amended to read:

85 400.23 Rules; evaluation and deficiencies; licensure  
86 status.—

87 (3)

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88 (b)1. Each facility must determine its direct care staffing  
89 needs based on the facility assessment and the individual needs  
90 of a resident based on the resident's care plan. At a minimum,  
91 staffing must include, for each facility, the following  
92 requirements:

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

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

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

102 2. Nursing assistants employed under s. 400.211(2) may be  
103 included in computing the hours of direct care provided by  
104 certified nursing assistants and may be included in computing  
105 the staffing ratio for certified nursing assistants if their job  
106 responsibilities include only nursing-assistant-related duties.

107 3. Certified nursing assistants performing the duties of a  
108 qualified medication aide under s. 400.211(5) may not be  
109 included in computing the hours of direct care provided by, or  
110 the staffing ratios for, certified nursing assistants or  
111 licensed nurses under sub-subparagraph 1.b. or sub-subparagraph  
112 1.c., respectively.

113 ~~4.3.~~ Each nursing home facility must document compliance  
114 with staffing standards as required under this paragraph and  
115 post daily the names of licensed nurses and certified nursing  
116 assistants on duty for the benefit of facility residents and the

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117 public. Facilities must maintain the records documenting  
118 compliance with minimum staffing standards for a period of 5  
119 years and must report staffing in accordance with 42 C.F.R. s.  
120 483.70(q).

121 ~~5.4.~~ The agency must recognize the use of licensed nurses  
122 for compliance with minimum staffing requirements for certified  
123 nursing assistants if the nursing home facility otherwise meets  
124 the minimum staffing requirements for licensed nurses and the  
125 licensed nurses are performing the duties of a certified nursing  
126 assistant. Unless otherwise approved by the agency, licensed  
127 nurses counted toward the minimum staffing requirements for  
128 certified nursing assistants must exclusively perform the duties  
129 of a certified nursing assistant for the entire shift and not  
130 also be counted toward the minimum staffing requirements for  
131 licensed nurses. If the agency approved a facility's request to  
132 use a licensed nurse to perform both licensed nursing and  
133 certified nursing assistant duties, the facility must allocate  
134 the amount of staff time specifically spent on certified nursing  
135 assistant duties for the purpose of documenting compliance with  
136 minimum staffing requirements for certified and licensed nursing  
137 staff. The hours of a licensed nurse with dual job  
138 responsibilities may not be counted twice.

139 ~~6.5.~~ Evidence that a facility complied with the minimum  
140 direct care staffing requirements under subparagraph 1. is not  
141 admissible as evidence of compliance with the nursing services  
142 requirements under 42 C.F.R. s. 483.35 or s. 483.70.

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

145 464.0156 Delegation of duties.—

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146           (2) (a) A registered nurse may delegate to a certified  
147 nursing assistant the administration of oral, transdermal,  
148 ophthalmic, otic, inhaled, or topical prescription medication to  
149 a resident of a nursing home facility as defined in s. 400.021  
150 if the certified nursing assistant meets the requirements of s.  
151 400.211(5) and s. 464.2035.

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

160           (c) A registered nurse may not delegate the administration  
161 of any controlled substance listed in Schedule II, Schedule III,  
162 or Schedule IV of s. 893.03 or 21 U.S.C. s. 812, except for the  
163 administration of an insulin syringe that is prefilled with the  
164 proper dosage by a pharmacist or an insulin pen that is  
165 prefilled by the manufacturer.

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

168           464.2035 Administration of medication.—

169           (1) A certified nursing assistant may administer oral,  
170 transdermal, ophthalmic, otic, ~~rectal,~~ inhaled, ~~enteral,~~ or  
171 topical prescription medication to a resident of a nursing home  
172 facility as defined in s. 400.021 or may administer oral,  
173 transdermal, ophthalmic, otic, rectal, inhaled, enteral, or  
174 topical prescription medication to a patient of a home health

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175 agency licensed under part III of chapter 400 or to a patient in  
176 a county detention facility as defined in s. 951.23(1) if the  
177 certified nursing assistant has been delegated such task by a  
178 registered nurse licensed under part I of this chapter, has  
179 satisfactorily completed an initial 6-hour training course  
180 approved by the board, and has been found competent to  
181 administer medication to a patient in a safe and sanitary  
182 manner. The training, determination of competency, and initial  
183 and annual validation required under this section must be  
184 conducted by a registered nurse licensed under this chapter or a  
185 physician licensed under chapter 458 or chapter 459.

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

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