

2023558er

1
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

2023558er

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

2023558er

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)

2023558er

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

2023558er

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.—

2023558er

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)~~7~~ 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

2023558er

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.