



414062

LEGISLATIVE ACTION

Senate

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House

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The Committee on Health Policy (Albritton) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (v) is added to subsection (1) of  
section 400.141, Florida Statutes, to read:

400.141 Administration and management of nursing home  
facilities.—

(1) Every licensed facility shall comply with all  
applicable standards and rules of the agency and shall:



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11 (v) Be allowed to use paid feeding assistants as defined in  
12 42 C.F.R. s. 488.301, and in accordance with 42 C.F.R. s.  
13 483.60, if the paid feeding assistant has successfully completed  
14 a feeding assistant training program developed by the agency.

15 1. The feeding assistant training program must consist of a  
16 minimum of 12 hours of education and training and must include  
17 all of the topics and lessons specified in the program  
18 curriculum.

19 2. The program curriculum must include, but need not be  
20 limited to, training in all of the following content areas:

21 a. Feeding techniques.

22 b. Assistance with feeding and hydration.

23 c. Communication and interpersonal skills.

24 d. Appropriate responses to resident behavior.

25 e. Safety and emergency procedures, including the first aid  
26 procedure used to treat upper airway obstructions.

27 f. Infection control.

28 g. Residents' rights.

29 h. Recognizing changes in residents which are inconsistent  
30 with their normal behavior, and the importance of reporting  
31 those changes to the supervisory nurse.

32  
33 The agency may adopt rules to implement this paragraph.

34 Section 2. Paragraph (b) of subsection (3) of section  
35 400.23, Florida Statutes, is amended to read:

36 400.23 Rules; evaluation and deficiencies; licensure  
37 status.—

38 (3)

39 (b) Paid feeding assistants and nonnursing staff providing



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40 eating assistance to residents shall not count toward compliance  
41 with minimum staffing standards.

42 Section 3. Subsection (15) of section 400.462, Florida  
43 Statutes, is amended to read:

44 400.462 Definitions.—As used in this part, the term:

45 (15) "Home health aide" means a person who is trained or  
46 qualified, as provided by rule, and who provides hands-on  
47 personal care, performs simple procedures as an extension of  
48 therapy or nursing services, assists in ambulation or exercises,  
49 ~~or~~ assists in administering medications as permitted in rule and  
50 for which the person has received training established by the  
51 agency under this part, or performs tasks delegated to him or  
52 her under chapter 464 s. 400.497(1).

53 Section 4. Present subsections (5) and (6) of section  
54 400.464, Florida Statutes, are redesignated as subsections (6)  
55 and (7), respectively, a new subsection (5) is added to that  
56 section, and present subsection (6) of that section is amended,  
57 to read:

58 400.464 Home health agencies to be licensed; expiration of  
59 license; exemptions; unlawful acts; penalties.—

60 (5) If a licensed home health agency authorizes a  
61 registered nurse to delegate tasks, including medication  
62 administration, to a certified nursing assistant pursuant to  
63 chapter 464 or to a home health aide pursuant to s. 400.490, the  
64 licensed home health agency must ensure that such delegation  
65 meets the requirements of this chapter and chapter 464 and the  
66 rules adopted thereunder.

67 (7)(6) Any person, entity, or organization providing home  
68 health services which is exempt from licensure under subsection



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69 ~~(6) subsection (5)~~ may voluntarily apply for a certificate of  
70 exemption from licensure under its exempt status with the agency  
71 on a form that specifies its name or names and addresses, a  
72 statement of the reasons why it is exempt from licensure as a  
73 home health agency, and other information deemed necessary by  
74 the agency. A certificate of exemption is valid for a period of  
75 not more than 2 years and is not transferable. The agency may  
76 charge an applicant \$100 for a certificate of exemption or  
77 charge the actual cost of processing the certificate.

78 Section 5. Subsections (2) and (3) of section 400.488,  
79 Florida Statutes, are amended to read:

80 400.488 Assistance with self-administration of medication.—

81 (2) Patients who are capable of self-administering their  
82 own medications without assistance shall be encouraged and  
83 allowed to do so. However, an unlicensed person may, consistent  
84 with a dispensed prescription's label or the package directions  
85 of an over-the-counter medication, assist a patient whose  
86 condition is medically stable with the self-administration of  
87 routine, regularly scheduled medications that are intended to be  
88 self-administered. Assistance with self-medication by an  
89 unlicensed person may occur only upon a documented request by,  
90 and the written informed consent of, a patient or the patient's  
91 surrogate, guardian, or attorney in fact. For purposes of this  
92 section, self-administered medications include both legend and  
93 over-the-counter oral dosage forms, topical dosage forms, and  
94 topical ophthalmic, otic, and nasal dosage forms, including  
95 solutions, suspensions, sprays, ~~and~~ inhalers, intermittent  
96 positive pressure breathing treatments, and nebulizer  
97 treatments.



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98 (3) Assistance with self-administration of medication  
99 includes:

100 (a) Taking the medication, in its previously dispensed,  
101 properly labeled container, from where it is stored and bringing  
102 it to the patient.

103 (b) In the presence of the patient, confirming that the  
104 medication is intended for that patient, orally advising the  
105 patient of the medication name and purpose ~~reading the label,~~  
106 opening the container, removing a prescribed amount of  
107 medication from the container, and closing the container.

108 (c) Placing an oral dosage in the patient's hand or placing  
109 the dosage in another container and helping the patient by  
110 lifting the container to his or her mouth.

111 (d) Applying topical medications, including providing  
112 routine preventative skin care and basic wound care.

113 (e) Returning the medication container to proper storage.

114 (f) For intermittent positive pressure breathing treatments  
115 or for nebulizer treatments, assisting with setting up and  
116 cleaning the device in the presence of the patient, confirming  
117 that the medication is intended for that patient, orally  
118 advising the patient of the medication name and purpose, opening  
119 the container, removing the prescribed amount for a single  
120 treatment dose from a properly labeled container, and assisting  
121 the patient with placing the dose into the medicine receptacle  
122 or mouthpiece.

123 (g) ~~(f)~~ Keeping a record of when a patient receives  
124 assistance with self-administration under this section.

125 Section 6. Section 400.489, Florida Statutes, is created to  
126 read:



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127       400.489 Administration of medication by a home health aide;  
128 staff training requirements.-

129       (1) A home health aide may administer oral, transdermal,  
130 ophthalmic, otic, rectal, inhaled, enteral, or topical  
131 prescription medications if the home health aide has been  
132 delegated such task by a registered nurse licensed under chapter  
133 464; has satisfactorily completed an initial 6-hour training  
134 course approved by the agency; and has been found competent to  
135 administer medication to a patient in a safe and sanitary  
136 manner. The training, determination of competency, and initial  
137 and annual validations required in this section shall be  
138 conducted by a registered nurse licensed under chapter 464 or a  
139 physician licensed under chapter 458 or chapter 459.

140       (2) A home health aide must annually and satisfactorily  
141 complete a 2-hour inservice training course approved by the  
142 agency in medication administration and medication error  
143 prevention. The inservice training course shall be in addition  
144 to the annual inservice training hours required by agency rules.

145       (3) The agency, in consultation with the Board of Nursing,  
146 shall establish by rule standards and procedures that a home  
147 health aide must follow when administering medication to a  
148 patient. Such rules must, at a minimum, address qualification  
149 requirements for trainers, requirements for labeling medication,  
150 documentation and recordkeeping, the storage and disposal of  
151 medication, instructions concerning the safe administration of  
152 medication, informed-consent requirements and records, and the  
153 training curriculum and validation procedures.

154       Section 7. Section 400.490, Florida Statutes, is created to  
155 read:



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156       400.490 Nurse-delegated tasks.—A certified nursing  
157 assistant or home health aide may perform any task delegated by  
158 a registered nurse as authorized in chapter 464, including, but  
159 not limited to, medication administration.

160       Section 8. Section 400.52, Florida Statutes, is created to  
161 read:

162       400.52 Excellence in Home Health Program.—

163       (1) There is created within the agency the Excellence in  
164 Home Health Program for the purpose of awarding program  
165 designations to home health agencies that meet the criteria  
166 specified in this section.

167       (2) (a) The agency shall adopt rules establishing criteria  
168 for the program which must include, at a minimum, meeting  
169 standards relating to:

170       1. Patient satisfaction.

171       2. Patients requiring emergency care for wound infections.

172       3. Patients admitted or readmitted to an acute care  
173 hospital.

174       4. Patient improvement in the activities of daily living.

175       5. Employee satisfaction.

176       6. Quality of employee training.

177       7. Employee retention rates.

178       (b) The agency shall annually evaluate home health agencies  
179 seeking the program designation which apply on a form and in the  
180 manner designated by rule.

181       (3) To receive a program designation, the home health  
182 agency must:

183       (a) Be actively licensed and have been operating for at  
184 least 24 months before applying for the program designation. A



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185 designation awarded under the program is not transferrable to  
186 another licensee, unless the existing home health agency is  
187 being relicensed in the name of an entity related to the current  
188 licenseholder by common control or ownership and there will be  
189 no change in the management, operation, or programs of the home  
190 health agency as a result of the relicensure.

191 (b) Have not had any licensure denials, revocations, or  
192 Class I, Class II, or uncorrected Class III deficiencies within  
193 the 24 months before the application for the program  
194 designation.

195 (4) The program designation expires on the same date as the  
196 home health agency's license. A home health agency must reapply  
197 and be approved biennially for the program designation to  
198 continue using the program designation in the manner authorized  
199 under subsection (5).

200 (5) A home health agency that is awarded a designation  
201 under the program may use the designation in advertising and  
202 marketing. A home health agency may not use the program  
203 designation in any advertising or marketing if the home health  
204 agency:

205 (a) Has not been awarded the designation;

206 (b) Fails to renew the designation upon expiration of the  
207 awarded designation;

208 (c) Has undergone a change in ownership that does not  
209 qualify for an exception under paragraph (3) (a); or

210 (d) Has been notified that it no longer meets the criteria  
211 for the award upon reapplication after expiration of the awarded  
212 designation.

213 Section 9. Section 408.822, Florida Statutes, is created to





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214 read:

215 408.822 Direct care workforce survey.-

216 (1) For purposes of this section, the term "direct care  
217 worker" means a certified nursing assistant, a home health aide,  
218 a personal care assistant, a companion services or homemaker  
219 services provider, a paid feeding assistant trained under s.  
220 400.141(1)(v), or another individual who provides personal care  
221 as defined in s. 400.462 to individuals who are elderly,  
222 developmentally disabled, or chronically ill.

223 (2) Beginning January 1, 2021, each licensee that applies  
224 for licensure renewal as a nursing home facility licensed under  
225 part II of chapter 400; an assisted living facility licensed  
226 under part I of chapter 429; or a home health agency, nurse  
227 registry, or companion services or homemaker services provider  
228 licensed under part III of chapter 400 shall furnish the  
229 following information to the agency in a survey on the direct  
230 care workforce:

231 (a) The number of registered nurses and the number of  
232 direct care workers by category employed by the licensee.

233 (b) The turnover and vacancy rates of registered nurses and  
234 direct care workers and the contributing factors to these rates.

235 (c) The average employee wage for registered nurses and  
236 each category of direct care worker.

237 (d) Employment benefits for registered nurses and direct  
238 care workers and the average cost of such benefits to the  
239 employer and the employee.

240 (e) Type and availability of training for registered nurses  
241 and direct care workers.

242 (3) An administrator or designee shall include the



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243 information required in subsection (2) on a survey form  
244 developed by the agency by rule which must contain an  
245 attestation that the information provided is true and accurate  
246 to the best of his or her knowledge.

247 (4) The licensee must submit the completed survey prior to  
248 the agency issuing the license renewal.

249 (5) The agency shall continually analyze the results of the  
250 surveys and publish the results on its website. The agency shall  
251 update the information published on its website monthly.

252 Section 10. Section 464.0156, Florida Statutes, is created  
253 to read:

254 464.0156 Delegation of duties.—

255 (1) A registered nurse may delegate a task to a certified  
256 nursing assistant certified under part II of this chapter or a  
257 home health aide as defined in s. 400.462, if the registered  
258 nurse determines that the certified nursing assistant or the  
259 home health aide is competent to perform the task, the task is  
260 delegable under federal law, and the task:

261 (a) Is within the nurse's scope of practice.

262 (b) Frequently recurs in the routine care of a patient or  
263 group of patients.

264 (c) Is performed according to an established sequence of  
265 steps.

266 (d) Involves little or no modification from one patient to  
267 another.

268 (e) May be performed with a predictable outcome.

269 (f) Does not inherently involve ongoing assessment,  
270 interpretation, or clinical judgment.

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



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272       (2) A registered nurse may delegate to a certified nursing  
273 assistant or a home health aide the administration of oral,  
274 transdermal, ophthalmic, otic, rectal, inhaled, enteral, or  
275 topical prescription medications, if the certified nursing  
276 assistant or home health aide meets the requirements of s.  
277 464.2035 or s. 400.489, respectively. A registered nurse may not  
278 delegate the administration of any controlled substance listed  
279 in Schedule II, Schedule III, or Schedule IV of s. 893.03 or 21  
280 U.S.C. s. 812.

281       (3) The board, in consultation with the Agency for Health  
282 Care Administration, shall adopt rules to implement this  
283 section.

284       Section 11. Paragraph (r) is added to subsection (1) of  
285 section 464.018, Florida Statutes, to read:

286       464.018 Disciplinary actions.—

287       (1) The following acts constitute grounds for denial of a  
288 license or disciplinary action, as specified in ss. 456.072(2)  
289 and 464.0095:

290       (r) Delegating professional responsibilities to a person  
291 when the nurse delegating such responsibilities knows or has  
292 reason to know that such person is not qualified by training,  
293 experience, certification, or licensure to perform them.

294       Section 12. Section 464.2035, Florida Statutes, is created  
295 to read:

296       464.2035 Administration of medication.—

297       (1) A certified nursing assistant may administer oral,  
298 transdermal, ophthalmic, otic, rectal, inhaled, enteral, or  
299 topical prescription medication to a patient of a home health  
300 agency if the certified nursing assistant has been delegated



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301 such task by a registered nurse licensed under part I of this  
302 chapter, has satisfactorily completed an initial 6-hour training  
303 course approved by the board, and has been found competent to  
304 administer medication to a patient in a safe and sanitary  
305 manner. The training, determination of competency, and initial  
306 and annual validations required under this section must be  
307 conducted by a registered nurse licensed under this chapter or a  
308 physician licensed under chapter 458 or chapter 459.

309 (2) A certified nursing assistant shall annually and  
310 satisfactorily complete 2 hours of inservice training in  
311 medication administration and medication error prevention  
312 approved by the board, in consultation with the Agency for  
313 Health Care Administration. The inservice training is in  
314 addition to the other annual inservice training hours required  
315 under this part.

316 (3) The board, in consultation with the Agency for Health  
317 Care Administration, shall establish by rule standards and  
318 procedures that a certified nursing assistant must follow when  
319 administering medication to a patient. Such rules must, at a  
320 minimum, address qualification requirements for trainers,  
321 requirements for labeling medication, documentation and  
322 recordkeeping, the storage and disposal of medication,  
323 instructions concerning the safe administration of medication,  
324 informed-consent requirements and records, and the training  
325 curriculum and validation procedures.

326 Section 13. This act shall take effect upon becoming a law.  
327

328 ===== T I T L E A M E N D M E N T =====

329 And the title is amended as follows:



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330 Delete everything before the enacting clause  
331 and insert:

332 A bill to be entitled  
333 An act relating to direct care workers; amending s.  
334 400.141, F.S.; authorizing a nursing home facility to  
335 use paid feeding assistants in accordance with  
336 specified federal law under certain circumstances;  
337 providing training program requirements; authorizing  
338 the Agency for Health Care Administration to adopt  
339 rules; amending s. 400.23, F.S.; prohibiting paid  
340 feeding assistants from counting toward compliance  
341 with minimum staffing standards; amending s. 400.462,  
342 F.S.; revising the definition of the term "home health  
343 aide"; amending s. 400.464, F.S.; requiring a licensed  
344 home health agency that authorizes a registered nurse  
345 to delegate tasks to a certified nursing assistant to  
346 ensure that certain requirements are met; amending s.  
347 400.488, F.S.; authorizing an unlicensed person to  
348 assist with self-administration of certain treatments;  
349 revising the requirements for such assistance;  
350 creating s. 400.489, F.S.; authorizing a home health  
351 aide to administer certain prescription medications  
352 under certain conditions; requiring the home health  
353 aide to meet certain training and competency  
354 requirements; requiring the training, determination of  
355 competency, and annual validations of home health  
356 aides to be conducted by a registered nurse or a  
357 physician; requiring a home health aide to complete  
358 annual inservice training in medication administration



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359 and medication error prevention, in addition to  
360 existing annual inservice training requirements;  
361 requiring the Agency for Health Care Administration,  
362 in consultation with the Board of Nursing, to  
363 establish by rule standards and procedures for  
364 medication administration by home health aides;  
365 creating s. 400.490, F.S.; authorizing a certified  
366 nursing assistant or home health aide to perform tasks  
367 delegated by a registered nurse; creating s. 400.52,  
368 F.S.; creating the Excellence in Home Health Program  
369 within the agency; requiring the agency to adopt rules  
370 establishing program criteria; requiring the agency to  
371 annually evaluate certain home health agencies that  
372 apply for a program designation; providing program  
373 designation eligibility requirements; providing that a  
374 program designation is not transferrable, with an  
375 exception; providing for the expiration of awarded  
376 designations; requiring home health agencies to  
377 reapply biennially to renew the awarded program  
378 designation; authorizing a program designation award  
379 recipient to use the designation in advertising and  
380 marketing; prohibiting a home health agency from using  
381 a program designation in advertising or marketing  
382 under certain circumstances; creating s. 408.822,  
383 F.S.; defining the term "direct care worker";  
384 requiring certain licensees to provide specified  
385 information about their employees in a survey  
386 beginning on a specified date; requiring that the  
387 survey be completed on a form adopted by the agency by



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388 rule and include a specified attestation; requiring  
389 licensees to submit such survey before the agency  
390 renews their licenses; requiring the agency to  
391 continually analyze the results of such surveys and  
392 publish the results on the agency's website; requiring  
393 the agency to update such information monthly;  
394 creating s. 464.0156, F.S.; authorizing a registered  
395 nurse to delegate certain tasks to a certified nursing  
396 assistant or home health aide under certain  
397 conditions; providing the criteria that a registered  
398 nurse must consider in determining if a task may be  
399 delegated to a certified nursing assistant or a home  
400 health aide; authorizing a registered nurse to  
401 delegate prescription medication administration to a  
402 certified nursing assistant or home health aide,  
403 subject to certain requirements; providing an  
404 exception for certain controlled substances; requiring  
405 the Board of Nursing, in consultation with the agency,  
406 to adopt rules; amending s. 464.018, F.S.; subjecting  
407 a registered nurse to disciplinary action for  
408 delegating certain tasks to a person the registered  
409 nurse knows or has reason to know is unqualified to  
410 perform such tasks; creating s. 464.2035, F.S.;  
411 authorizing certified nursing assistants to administer  
412 certain prescription medications under certain  
413 conditions; requiring the certified nursing assistants  
414 to meet certain training and competency requirements;  
415 requiring the training, determination of competency,  
416 and annual validations of certified nursing assistants



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417 to be conducted by a registered nurse or a physician;  
418 requiring a certified nursing assistant to complete  
419 annual inservice training in medication administration  
420 and medication error prevention in addition to  
421 existing annual inservice training requirements;  
422 requiring the board, in consultation with the agency,  
423 to adopt rules for medication administration by  
424 certified nursing assistants; providing an effective  
425 date.