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LEGISLATIVE ACTION

Senate

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House

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Appropriations Subcommittee on Health and Human Services  
(Albritton) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 135 - 412

and insert:

Section 3. Subsection (1) of section 400.461, Florida  
Statutes, is amended to read:

400.461 Short title; purpose.—

(1) This part, consisting of ss. 400.461-400.52 ~~ss.~~  
~~400.461-400.518~~, may be cited as the "Home Health Services Act."

Section 4. Subsection (15) of section 400.462, Florida



823308

11 Statutes, is amended to read:

12 400.462 Definitions.—As used in this part, the term:

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

21 Section 5. Present subsections (5) and (6) of section  
22 400.464, Florida Statutes, are redesignated as subsections (6)  
23 and (7), respectively, a new subsection (5) is added to that  
24 section, and present subsection (6) of that section is amended,  
25 to read:

26 400.464 Home health agencies to be licensed; expiration of  
27 license; exemptions; unlawful acts; penalties.—

28 (5) If a licensed home health agency authorizes a  
29 registered nurse to delegate tasks, including medication  
30 administration, to a certified nursing assistant pursuant to  
31 chapter 464 or to a home health aide pursuant to s. 400.490, the  
32 licensed home health agency must ensure that such delegation  
33 meets the requirements of this chapter and chapter 464 and the  
34 rules adopted thereunder.

35 (7) ~~(6)~~ Any person, entity, or organization providing home  
36 health services which is exempt from licensure under subsection  
37 (6) ~~subsection (5)~~ may voluntarily apply for a certificate of  
38 exemption from licensure under its exempt status with the agency  
39 on a form that specifies its name or names and addresses, a



823308

40 statement of the reasons why it is exempt from licensure as a  
41 home health agency, and other information deemed necessary by  
42 the agency. A certificate of exemption is valid for a period of  
43 not more than 2 years and is not transferable. The agency may  
44 charge an applicant \$100 for a certificate of exemption or  
45 charge the actual cost of processing the certificate.

46 Section 6. Subsections (2) and (3) of section 400.488,  
47 Florida Statutes, are amended to read:

48 400.488 Assistance with self-administration of medication.—

49 (2) Patients who are capable of self-administering their  
50 own medications without assistance shall be encouraged and  
51 allowed to do so. However, an unlicensed person may, consistent  
52 with a dispensed prescription's label or the package directions  
53 of an over-the-counter medication, assist a patient whose  
54 condition is medically stable with the self-administration of  
55 routine, regularly scheduled medications that are intended to be  
56 self-administered. Assistance with self-medication by an  
57 unlicensed person may occur only upon a documented request by,  
58 and the written informed consent of, a patient or the patient's  
59 surrogate, guardian, or attorney in fact. For purposes of this  
60 section, self-administered medications include both legend and  
61 over-the-counter oral dosage forms, topical dosage forms, and  
62 topical ophthalmic, otic, and nasal dosage forms, including  
63 solutions, suspensions, sprays, ~~and~~ inhalers, intermittent  
64 positive pressure breathing treatments, and nebulizer  
65 treatments.

66 (3) Assistance with self-administration of medication  
67 includes:

68 (a) Taking the medication, in its previously dispensed,



823308

69 properly labeled container, from where it is stored and bringing  
70 it to the patient.

71 (b) In the presence of the patient, confirming that the  
72 medication is intended for that patient, orally advising the  
73 patient of the medication name and purpose ~~reading the label,~~  
74 opening the container, removing a prescribed amount of  
75 medication from the container, and closing the container.

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

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

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

82 (f) For intermittent positive pressure breathing treatments  
83 or for nebulizer treatments, assisting with setting up and  
84 cleaning the device in the presence of the patient, confirming  
85 that the medication is intended for that patient, orally  
86 advising the patient of the medication name and purpose, opening  
87 the container, removing the prescribed amount for a single  
88 treatment dose from a properly labeled container, and assisting  
89 the patient with placing the dose into the medicine receptacle  
90 or mouthpiece.

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

93 Section 7. Section 400.489, Florida Statutes, is created to  
94 read:

95 400.489 Administration of medication by a home health aide;  
96 staff training requirements.-

97 (1) A home health aide may administer oral, transdermal,



823308

98 ophthalmic, otic, rectal, inhaled, enteral, or topical  
99 prescription medications if the home health aide has been  
100 delegated such task by a registered nurse licensed under chapter  
101 464; has satisfactorily completed an initial 6-hour training  
102 course approved by the agency; and has been found competent to  
103 administer medication to a patient in a safe and sanitary  
104 manner. The training, determination of competency, and initial  
105 and annual validations required in this section shall be  
106 conducted by a registered nurse licensed under chapter 464 or a  
107 physician licensed under chapter 458 or chapter 459.

108 (2) A home health aide must annually and satisfactorily  
109 complete a 2-hour inservice training course approved by the  
110 agency in medication administration and medication error  
111 prevention. The inservice training course shall be in addition  
112 to the annual inservice training hours required by agency rules.

113 (3) The agency, in consultation with the Board of Nursing,  
114 shall establish by rule standards and procedures that a home  
115 health aide must follow when administering medication to a  
116 patient. Such rules must, at a minimum, address qualification  
117 requirements for trainers, requirements for labeling medication,  
118 documentation and recordkeeping, the storage and disposal of  
119 medication, instructions concerning the safe administration of  
120 medication, informed-consent requirements and records, and the  
121 training curriculum and validation procedures.

122 Section 8. Section 400.490, Florida Statutes, is created to  
123 read:

124 400.490 Nurse-delegated tasks.—A certified nursing  
125 assistant or home health aide may perform any task delegated by  
126 a registered nurse as authorized in this part and in chapter



823308

127 464, including, but not limited to, medication administration.  
128 Section 9. Section 400.52, Florida Statutes, is created to  
129 read:  
130 400.52 Excellence in Home Health Program.-  
131 (1) There is created within the agency the Excellence in  
132 Home Health Program for the purpose of awarding program  
133 designations to home health agencies or nurse registries that  
134 meet the criteria specified in this section.  
135 (2)(a) The agency shall adopt rules establishing criteria  
136 for the program which must include, at a minimum, meeting  
137 standards relating to:  
138 1. Patient satisfaction.  
139 2. Patients requiring emergency care for wound infections.  
140 3. Patients admitted or readmitted to an acute care  
141 hospital.  
142 4. Patient improvement in the activities of daily living.  
143 5. Employee satisfaction.  
144 6. Quality of employee training.  
145 7. Employee retention rates.  
146 (b) The agency shall annually evaluate home health agencies  
147 and nurse registries seeking the program designation which apply  
148 on a form and in the manner designated by rule.  
149 (3) To receive a program designation, the home health  
150 agency or nurse registry must:  
151 (a) Be actively licensed and have been operating for at  
152 least 24 months before applying for the program designation. A  
153 designation awarded under the program is not transferable to  
154 another licensee, unless the existing home health agency or  
155 nurse registry is being relicensed in the name of an entity



823308

156 related to the current licenseholder by common control or  
157 ownership and there will be no change in the management,  
158 operation, or programs of the home health agency or nurse  
159 registry as a result of the relicensure.

160 (b) Have not had any licensure denials, revocations, or  
161 Class I, Class II, or uncorrected Class III deficiencies within  
162 the 24 months before the application for the program  
163 designation.

164 (4) The program designation expires on the same date as the  
165 home health agency's or nurse registry's license. A home health  
166 agency or nurse registry must reapply and be approved biennially  
167 for the program designation to continue using the program  
168 designation in the manner authorized under subsection (5).

169 (5) A home health agency or nurse registry that is awarded  
170 a designation under the program may use the designation in  
171 advertising and marketing. A home health agency or nurse  
172 registry may not use the program designation in any advertising  
173 or marketing if the home health agency or nurse registry:

174 (a) Has not been awarded the designation;

175 (b) Fails to renew the designation upon expiration of the  
176 awarded designation;

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

179 (d) Has been notified that it no longer meets the criteria  
180 for the award upon reapplication after expiration of the awarded  
181 designation.

182 (6) An application for an award designation under the  
183 program is not an application for licensure. A designation award  
184 or denial by the agency under this section does not constitute



823308

185 final agency action subject to chapter 120.

186 Section 10. Section 408.822, Florida Statutes, is created  
187 to read:

188 408.822 Direct care workforce survey.-

189 (1) For purposes of this section, the term "direct care  
190 worker" means a certified nursing assistant, a home health aide,  
191 a personal care assistant, a companion services or homemaker  
192 services provider, a paid feeding assistant trained under s.  
193 400.141(1)(v), or another individual who provides personal care  
194 as defined in s. 400.462 to individuals who are elderly,  
195 developmentally disabled, or chronically ill.

196 (2) Beginning January 1, 2021, each licensee that applies  
197 for licensure renewal as a nursing home facility licensed under  
198 part II of chapter 400, an assisted living facility licensed  
199 under part I of chapter 429, or a home health agency or  
200 companion services or homemaker services provider licensed under  
201 part III of chapter 400 shall furnish the following information  
202 to the agency in a survey on the direct care workforce:

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

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

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

209 (d) Employment benefits for registered nurses and direct  
210 care workers and the average cost of such benefits to the  
211 employer and the employee.

212 (e) Type and availability of training for registered nurses  
213 and direct care workers.





823308

214           (3) An administrator or designee shall include the  
215 information required in subsection (2) on a survey form  
216 developed by the agency by rule which must contain an  
217 attestation that the information provided is true and accurate  
218 to the best of his or her knowledge.

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

221           (5) The agency shall continually analyze the results of the  
222 surveys and publish the results on its website. The agency shall  
223 update the information published on its website monthly.

224           Section 11. Section 464.0156, Florida Statutes, is created  
225 to read:

226           464.0156 Delegation of duties.—

227           (1) A registered nurse may delegate a task to a certified  
228 nursing assistant certified under part II of this chapter or a  
229 home health aide as defined in s. 400.462, if the registered  
230 nurse determines that the certified nursing assistant or the  
231 home health aide is competent to perform the task, the task is  
232 delegable under federal law, and the task:

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

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

236           (c) Is performed according to an established sequence of  
237 steps.

238           (d) Involves little or no modification from one patient to  
239 another.

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

241           (f) Does not inherently involve ongoing assessment,  
242 interpretation, or clinical judgment.



823308

243 (g) Does not endanger a patient's life or well-being.  
244 (2) A registered nurse may delegate to a certified nursing  
245 assistant or a home health aide the administration of oral,  
246 transdermal, ophthalmic, otic, rectal, inhaled, enteral, or  
247 topical prescription medications to a patient of a home health  
248 agency, if the certified nursing assistant or home health aide  
249 meets the requirements of s. 464.2035 or s. 400.489,  
250 respectively. A registered nurse may not delegate the  
251 administration of any controlled substance listed in Schedule  
252 II, Schedule III, or Schedule IV of s. 893.03 or 21 U.S.C. s.  
253 812.

254 (3) The board, in consultation with the Agency for Health  
255 Care Administration, shall adopt rules to implement this  
256 section.

257 Section 12. Paragraph (r) is added to subsection (1) of  
258 section 464.018, Florida Statutes, to read:

259 464.018 Disciplinary actions.—

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

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

267 Section 13. Section 464.2035, Florida Statutes, is created  
268 to read:

269 464.2035 Administration of medication.—

270 (1) A certified nursing assistant may administer oral,  
271 transdermal, ophthalmic, otic, rectal, inhaled, enteral, or



823308

272 topical prescription medication to a patient of a home health  
273 agency if the certified nursing assistant has been delegated  
274 such task by a registered nurse licensed under part I of this  
275 chapter, has satisfactorily completed an initial 6-hour training  
276 course approved by the board, and has been found competent to  
277 administer medication to a patient in a safe and sanitary  
278 manner. The training, determination of competency, and initial  
279 and annual validations required under this section must be  
280 conducted by a registered nurse licensed under this chapter or a  
281 physician licensed under chapter 458 or chapter 459.

282 (2) A certified nursing assistant shall annually and  
283 satisfactorily complete 2 hours of inservice training in  
284 medication administration and medication error prevention  
285 approved by the board, in consultation with the Agency for  
286 Health Care Administration. The inservice training is in  
287 addition to the other annual inservice training hours required  
288 under this part.

289 (3) The board, in consultation with the Agency for Health  
290 Care Administration, shall establish by rule standards and  
291 procedures that a certified nursing assistant must follow when  
292 administering medication to a patient of a home health agency.

293 Such rules must, at a

294  
295 ===== T I T L E A M E N D M E N T =====

296 And the title is amended as follows:

297 Delete lines 10 - 51

298 and insert:

299 with minimum staffing standards; amending s. 400.461,

300 F.S.; revising a short title; amending s. 400.462,



823308

301 F.S.; revising the definition of the term "home health  
302 aide"; amending s. 400.464, F.S.; requiring a licensed  
303 home health agency that authorizes a registered nurse  
304 to delegate tasks to a certified nursing assistant to  
305 ensure that certain requirements are met; amending s.  
306 400.488, F.S.; authorizing an unlicensed person to  
307 assist with self-administration of certain treatments;  
308 revising the requirements for such assistance;  
309 creating s. 400.489, F.S.; authorizing a home health  
310 aide to administer certain prescription medications  
311 under certain conditions; requiring the home health  
312 aide to meet certain training and competency  
313 requirements; requiring the training, determination of  
314 competency, and annual validations of home health  
315 aides to be conducted by a registered nurse or a  
316 physician; requiring a home health aide to complete  
317 annual inservice training in medication administration  
318 and medication error prevention, in addition to  
319 existing annual inservice training requirements;  
320 requiring the Agency for Health Care Administration,  
321 in consultation with the Board of Nursing, to  
322 establish by rule standards and procedures for  
323 medication administration by home health aides;  
324 creating s. 400.490, F.S.; authorizing a certified  
325 nursing assistant or home health aide to perform tasks  
326 delegated by a registered nurse; creating s. 400.52,  
327 F.S.; creating the Excellence in Home Health Program  
328 within the agency; requiring the agency to adopt rules  
329 establishing program criteria; requiring the agency to



823308

330 annually evaluate certain home health agencies and  
331 nurse registries that apply for a program designation;  
332 providing program designation eligibility  
333 requirements; providing that a program designation is  
334 not transferable, with an exception; providing for the  
335 expiration of awarded designations; requiring home  
336 health agencies and nurse registries to reapply  
337 biennially to renew the awarded program designation;  
338 authorizing a program designation award recipient to  
339 use the designation in advertising and marketing;  
340 prohibiting a home health agency or nurse registry  
341 from using a program designation in advertising or  
342 marketing under certain circumstances; providing that  
343 an application under the program is not an application  
344 for licensure; providing that certain actions by the  
345 agency are not subject to certain provisions; creating  
346 s. 408.822,