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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/05/2019	.	
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The Committee on Health Policy (Harrell) recommended the following:

**Senate Amendment (with directory and title amendments)**

Delete lines 381 - 554

and insert:

(3) Licensed facilities shall provide within 1 business day after the occurrence of an adverse incident, ~~by electronic mail, facsimile, or United States mail,~~ a preliminary report to the agency on all adverse incidents specified under this section. The report must include information regarding the identity of the affected resident, the type of adverse incident, and the



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11 result status of the facility's investigation of the incident.

12 (4) Licensed facilities shall provide within 15 days, ~~by~~  
13 ~~electronic mail, facsimile, or United States mail,~~ a full report  
14 to the agency on all adverse incidents specified in this  
15 section. The report must include the results of the facility's  
16 investigation into the adverse incident.

17 (5) The agency shall send, by electronic mail, reminders to  
18 the facility's administrator and other specified facility  
19 contacts 3 business days before the deadline for the submission  
20 of the full report. If the facility determines that the event is  
21 not an adverse incident, the facility must withdraw the  
22 preliminary report. Until 3 business days after the agency  
23 provides the reminder, facilities shall not be subject to any  
24 administrative or other action for failing to file a full report  
25 if the facility determined that the event was not an adverse  
26 incident after filing the preliminary report. Each facility  
27 ~~shall report monthly to the agency any liability claim filed~~  
28 ~~against it. The report must include the name of the resident,~~  
29 ~~the dates of the incident leading to the claim, if applicable,~~  
30 ~~and the type of injury or violation of rights alleged to have~~  
31 ~~occurred. This report is not discoverable in any civil or~~  
32 ~~administrative action, except in such actions brought by the~~  
33 ~~agency to enforce the provisions of this part.~~

34 (9) The adverse incident reports and preliminary adverse  
35 incident reports required under this section are confidential as  
36 provided by law and are not discoverable or admissible in any  
37 civil or administrative action, except in disciplinary  
38 proceedings by the agency or appropriate regulatory board.

39 Section 6. Subsection (4) of section 429.255, Florida



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40 Statutes, is amended to read:

41 429.255 Use of personnel; emergency care.—

42 (4) Facility staff may withhold or withdraw cardiopulmonary  
43 resuscitation or the use of an automated external defibrillator  
44 if presented with an order not to resuscitate executed pursuant  
45 to s. 401.45. The agency shall adopt rules providing for the  
46 implementation of such orders. Facility staff and facilities may  
47 not be subject to criminal prosecution or civil liability, nor  
48 be considered to have engaged in negligent or unprofessional  
49 conduct, for withholding or withdrawing cardiopulmonary  
50 resuscitation or use of an automated external defibrillator  
51 pursuant to such an order and rules adopted by the agency. The  
52 absence of an order not to resuscitate executed pursuant to s.  
53 401.45 does not preclude a physician from withholding or  
54 withdrawing cardiopulmonary resuscitation or use of an automated  
55 external defibrillator as otherwise permitted by law.

56 Section 7. Subsection (2), paragraph (b) of subsection (3),  
57 and paragraphs (e), (f), and (g) of subsection (4) of section  
58 429.256, Florida Statutes, are amended to read:

59 429.256 Assistance with self-administration of medication.—

60 (2) Residents who are capable of self-administering their  
61 own medications without assistance shall be encouraged and  
62 allowed to do so. However, an unlicensed person may, consistent  
63 with a dispensed prescription's label or the package directions  
64 of an over-the-counter medication, assist a resident whose  
65 condition is medically stable with the self-administration of  
66 routine, regularly scheduled medications that are intended to be  
67 self-administered. Assistance with self-medication by an  
68 unlicensed person may occur only upon a documented request by,



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69 and the written informed consent of, a resident or the  
70 resident's surrogate, guardian, or attorney in fact. For the  
71 purposes of this section, self-administered medications include  
72 both legend and over-the-counter oral dosage forms, topical  
73 dosage forms, transdermal patches, and topical ophthalmic, otic,  
74 and nasal dosage forms including solutions, suspensions, sprays,  
75 and inhalers.

76 (3) Assistance with self-administration of medication  
77 includes:

78 (b) In the presence of the resident, confirming that the  
79 medication is intended for that resident, orally advising the  
80 resident of the medication name and purpose ~~reading the label~~,  
81 opening the container, removing a prescribed amount of  
82 medication from the container, and closing the container.

83 (4) Assistance with self-administration does not include:

84 (e) The use of irrigations or debriding agents used in the  
85 treatment of a skin condition.

86 (f) Assisting with rectal, urethral, or vaginal  
87 preparations.

88 (g) Assisting with medications ordered by the physician or  
89 health care professional with prescriptive authority to be given  
90 "as needed," unless the order is written with specific  
91 parameters that preclude independent judgment on the part of the  
92 unlicensed person, and ~~at the request of a competent~~ resident  
93 requesting the medication is aware of his or her need for the  
94 medication and understands the purpose for taking the  
95 medication.

96 Section 8. Section 429.26, Florida Statutes, is amended to  
97 read:



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98           429.26 Appropriateness of placements; examinations of  
99 residents.—

100           (1) The owner or administrator of a facility is responsible  
101 for determining the appropriateness of admission of an  
102 individual to the facility and for determining the continued  
103 appropriateness of residence of an individual in the facility. A  
104 determination must ~~shall~~ be based upon an evaluation ~~assessment~~  
105 of the strengths, needs, and preferences of the resident, a  
106 medical examination, the care and services offered or arranged  
107 for by the facility in accordance with facility policy, and any  
108 limitations in law or rule related to admission criteria or  
109 continued residency for the type of license held by the facility  
110 under this part. The following criteria apply to the  
111 determination of appropriateness for admission and continued  
112 residency of an individual in a facility:

113           (a) A facility may admit or retain a resident who receives  
114 a health care service or treatment that is designed to be  
115 provided within a private residential setting if all  
116 requirements for providing that service or treatment are met by  
117 the facility or a third party.

118           (b) A facility may admit or retain a resident who requires  
119 the use of assistive devices.

120           (c) A facility may admit or retain an individual receiving  
121 hospice services if the arrangement is agreed to by the facility  
122 and the resident, additional care is provided by a licensed  
123 hospice, and the resident is under the care of a physician who  
124 agrees that the physical needs of the resident can be met at the  
125 facility. The resident must have a plan of care which delineates  
126 how the facility and the hospice will meet the scheduled and



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127 unscheduled needs of the resident.

128 (d)1. Except for a resident who is admitted to hospice as  
129 provided in paragraph (c), a facility may not admit or retain a  
130 resident who is bedridden or who requires 24-hour nursing  
131 supervision. For purposes of this paragraph, the term  
132 "bedridden" means that a resident is confined to a bed because  
133 of the inability to:

134 a. Move, turn, or reposition without total physical  
135 assistance;

136 b. Transfer to a chair or wheelchair without total physical  
137 assistance; or

138 c. Sit safely in a chair or wheelchair without personal  
139 assistance or a physical restraint.

140 2. A resident may continue to reside in a facility if,  
141 during residency, he or she is bedridden for no more than 7  
142 consecutive days.

143 3. If a facility is licensed to provide extended congregate  
144 care, a resident may continue to reside in a facility if, during  
145 residency, he or she is bedridden for no more than 14  
146 consecutive days.

147 (2) A resident may not be moved from one facility to  
148 another without consultation with and agreement from the  
149 resident or, if applicable, the resident's representative or  
150 designee or the resident's family, guardian, surrogate, or  
151 attorney in fact. In the case of a resident who has been placed  
152 by the department or the Department of Children and Families,  
153 the administrator must notify the appropriate contact person in  
154 the applicable department.

155 (3)~~(2)~~ A physician, physician assistant, or advanced



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156 practice registered nurse practitioner who is employed by an  
157 assisted living facility to provide an initial examination for  
158 admission purposes may not have financial interests ~~interest~~ in  
159 the facility.

160 ~~(4)(3)~~ Persons licensed under part I of chapter 464 who are  
161 employed by or under contract with a facility shall, on a  
162 routine basis or at least monthly, perform a nursing assessment  
163 of the residents for whom they are providing nursing services  
164 ordered by a physician, except administration of medication, and  
165 shall document such assessment, including any substantial  
166 changes in a resident's status which may necessitate relocation  
167 to a nursing home, hospital, or specialized health care  
168 facility. Such records shall be maintained in the facility for  
169 inspection by the agency and shall be forwarded to the  
170 resident's case manager, if applicable.

171 ~~(5)(4)~~ ~~If possible,~~ Each resident must ~~shall~~ have been  
172 examined by a licensed physician, a licensed physician  
173 assistant, or a licensed advanced practice registered nurse  
174 ~~practitioner~~ within 60 days before admission to the facility or  
175 within 30 days after admission to the facility, except as  
176 provided in s. 429.07. The information from the medical  
177 examination must be recorded on the practitioner's form or on a  
178 form adopted by agency rule. The signed and completed medical  
179 examination form, signed by the practitioner, must report shall  
180 be submitted to the owner or administrator of the facility, who  
181 shall use the information contained therein to assist in the  
182 determination of the appropriateness of the resident's admission  
183 to or and continued residency stay in the facility. The medical  
184 examination form will only be used to record the health care



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185 provider's direct observation of the patient at the time of  
186 examination and shall include any known medical history. The  
187 medical examination form is not a guarantee of admission,  
188 continued residency, or services to be delivered and must only  
189 be used as an informative tool to assist in the determination of  
190 the appropriateness of the resident's admission to or continued  
191 residency in the facility. The medical

192  
193 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

194 And the directory clause is amended as follows:

195 Delete lines 352 - 356

196 and insert:

197 Section 5. Subsections (2) through (5) and (9) of section  
198 429.23, Florida Statutes, are amended to read:

199  
200 ===== T I T L E A M E N D M E N T =====

201 And the title is amended as follows:

202 Delete lines 16 - 39

203 and insert:

204 F.S.; removing restrictions on the method by which a  
205 facility may send a report to the Agency for Health  
206 Care Administration; requiring the agency to send a  
207 reminder to the facility 3 business days prior to the  
208 deadline for submission of the full report; removing a  
209 requirement that each facility file reports of  
210 liability claims; amending s. 429.255, F.S.;

211 clarifying that the absence of an order not to  
212 resuscitate does not preclude a physician from  
213 withholding or withdrawing cardiopulmonary



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214 resuscitation or use of an automated external  
215 defibrillator; amending s. 429.256, F.S.; requiring a  
216 person assisting with a resident's self-administration  
217 of medication to confirm that the medication is  
218 intended for that resident and to orally advise the  
219 resident of the medication name and purpose; amending  
220 s. 429.26, F.S.; including medical examinations within  
221 criteria used for admission to an assisted living  
222 facility; providing specified criteria for  
223 determination of appropriateness for admission and  
224 continued residency at an assisted living facility;  
225 defining the term "bedridden"; requiring that a  
226 resident receive a medical examination within a  
227 specified timeframe after admission to a facility;  
228 requiring that such examination be recorded on a  
229 specified form; providing minimum requirements for  
230 such form; providing limitations on the use of such  
231 form; revising provisions relating to the