

By Senator Baxley

12-00456A-20

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1                   A bill to be entitled  
2       An act relating to assisted living facilities;  
3       amending s. 429.02, F.S.; conforming a provision to  
4       changes made by the act; defining the terms  
5       "medication technician" and "point-of-care devices";  
6       amending s. 429.26, F.S.; providing that the owner or  
7       administrator of a facility is responsible for  
8       arranging medical evaluations and reevaluations of  
9       individuals admitted to or residing in the facility to  
10      assess the appropriateness of admission or continued  
11      residence; requiring such evaluations and  
12      reevaluations to be based on a medical examination  
13      report that was conducted by a licensed physician, a  
14      licensed physician assistant, or a licensed nurse  
15      practitioner within a specified timeframe; requiring  
16      the medical examination report to be recorded as  
17      required by Agency for Health Care Administration  
18      rule; requiring the owner or administrator of a  
19      facility to ensure all relevant information requested  
20      is provided on a medical examination report; providing  
21      immunity from liability for facility owners and  
22      administrators in certain circumstances; amending s.  
23      429.29, F.S.; making the results of certain agency  
24      surveys inadmissible in certain civil proceedings,  
25      with exceptions; amending s. 429.52, F.S.; providing  
26      for minimum requirements and specifications for  
27      training of medication technicians; requiring the  
28      agency to authorize online materials and courses to be  
29      used for such training; providing for examination and

12-00456A-20

2020784\_\_

30 certification of medication technicians after they  
31 complete an online training course; requiring the  
32 agency to post approved courses and certified trainers  
33 on its website; requiring the agency to maintain and  
34 update a list of approved point-of-care devices;  
35 requiring the agency to establish training  
36 requirements for staff and supervision of residents'  
37 use of point-of-care devices in a licensed facility;  
38 providing an effective date.

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

41  
42 Section 1. Present subsections (15) through (18) of section  
43 429.02, Florida Statutes, are redesignated as subsections (16)  
44 through (19), respectively, present subsections (19) through  
45 (27) are redesignated as subsections (21) through (29),  
46 respectively, subsection (11) is amended, and new subsections  
47 (15) and (20) are added to that section, to read:

48 429.02 Definitions.—When used in this part, the term:

49 (11) "Extended congregate care" means acts beyond those  
50 authorized in subsection (18) which ~~(17) that~~ may be performed  
51 pursuant to part I of chapter 464 by persons licensed thereunder  
52 while carrying out their professional duties, and other  
53 supportive services that ~~which~~ may be specified by rule. The  
54 purpose of such services is to enable residents to age in place  
55 in a residential environment despite mental or physical  
56 limitations that might otherwise disqualify them from residency  
57 in a facility licensed under this part.

58 (15) "Medication technician" means an unlicensed staff

12-00456A-20

2020784\_\_

59 member who has completed 6 hours of training approved by the  
60 agency and provided by an agency-certified trainer. A medication  
61 technician may provide assistance with a resident's self-  
62 administration of medications and with point-of-care devices.

63 (20) "Point-of-care devices" means testing equipment  
64 designed and approved to be used by the resident with assistance  
65 and supervision from trained staff to help gather, collect, and  
66 record information regarding the resident's condition.

67 Section 2. Subsections (1) and (4) of section 429.26,  
68 Florida Statutes, are amended to read:

69 429.26 Appropriateness of placements; examinations of  
70 residents.—

71 (1) The owner or administrator of a facility is responsible  
72 for arranging a medical evaluation to determine ~~determining~~ the  
73 appropriateness of admission of an individual to the facility  
74 and for arranging a medical reevaluation at least annually, or  
75 whenever a significant change in the individual's condition is  
76 observed and reported to the administrator, to determine  
77 ~~determining~~ the ~~continued~~ appropriateness of an individual's  
78 continued residence ~~of an individual~~ in the facility. A  
79 determination must ~~shall~~ be based upon an assessment of the  
80 strengths, needs, and preferences of the resident, the care and  
81 services offered or arranged for by the facility in accordance  
82 with facility policy, and any limitations in law or rule related  
83 to admission criteria or continued residency for the type of  
84 license held by the facility under this part. The owner or  
85 administrator shall base his or her determination of the  
86 appropriateness of the initial and continued placement of an  
87 individual in a facility on a medical examination report that

12-00456A-20

2020784\_\_

88 was completed within 60 days before admission by a licensed  
89 physician, a licensed physician assistant, or a licensed nurse  
90 practitioner. A resident may not be moved from one facility to  
91 another without consultation with and agreement from the  
92 resident or, if applicable, the resident's representative or  
93 designee or the resident's family, guardian, surrogate, or  
94 attorney in fact. In the case of a resident who has been placed  
95 by the department or the Department of Children and Families,  
96 the administrator must notify the appropriate contact person in  
97 the applicable department.

98 (4) ~~If possible,~~ Each resident shall have been examined by  
99 a licensed physician, a licensed physician assistant, or a  
100 licensed nurse practitioner within 60 days before admission to  
101 the facility. The signed and completed medical examination  
102 report, which must be recorded as required by agency rule, must  
103 ~~shall~~ be submitted to the owner or administrator of the  
104 facility, who shall use the information provided contained  
105 ~~therein~~ to assist in the determination of the appropriateness of  
106 the resident's admission and continued stay in the facility. The  
107 owner or administrator shall ensure that all relevant  
108 information required is included in the medical examination  
109 report. An owner or administrator who obtains the medical  
110 examination report and verifies its completeness is not  
111 personally liable in any administrative, civil, or criminal  
112 action for any error in determining whether an individual is  
113 appropriate for admission or continued residency. The medical  
114 examination report becomes ~~shall become~~ a permanent part of the  
115 permanent record of the resident at the facility and must ~~shall~~  
116 be made available to the agency during inspection or upon

12-00456A-20

2020784\_\_

117 request. An assessment that has been completed through the  
118 Comprehensive Assessment and Review for Long-Term Care Services  
119 (CARES) Program fulfills the requirements for a medical  
120 examination under this subsection and s. 429.07(3)(b)6.

121 Section 3. Subsection (8) is added to section 429.29,  
122 Florida Statutes, to read:

123 429.29 Civil actions to enforce rights.—

124 (8) In any claim brought pursuant to this section, the  
125 results of an agency survey conducted pursuant to this chapter  
126 are not admissible as evidence in the proceedings unless:

127 (a) A deficiency identified by the agency led to or caused  
128 harm to a resident who is the subject of the claim; or

129 (b) A licensee is using the absence of a deficiency finding  
130 by the agency to refute an allegation of neglect or  
131 noncompliance with regulatory standards.

132 Section 4. Subsection (6) of section 429.52, Florida  
133 Statutes, is amended to read:

134 429.52 Staff training and educational programs; core  
135 educational requirement.—

136 (6) Medication technicians ~~Staff involved with the~~  
137 ~~management of medications and assisting with the self-~~  
138 ~~administration of medications under s. 429.256~~ must complete a  
139 minimum of 6 additional hours of training provided by a  
140 registered nurse, a licensed pharmacist, or agency staff. The  
141 agency shall establish by rule the minimum requirements of  
142 medication technician this additional training, which shall  
143 address infection control, safe handling and use of point-of-  
144 care devices, communicating with case managers and health care  
145 providers, and methods of assisting residents with the self-

12-00456A-20

2020784\_\_

146 administration of medications. The agency shall authorize  
147 approved training for medication technicians to be conducted  
148 using online materials and courses approved by the agency. An  
149 online training course must conclude with the trainee taking an  
150 end-of-course exam. The course must provide a certificate with a  
151 passing exam score on the document and provide a unique  
152 certification number for the trainee. The agency shall post on  
153 its website approved courses and certified trainers approved to  
154 offer medication technician training. The agency shall maintain  
155 a list of approved point-of-care devices which is updated as new  
156 technologies make additional devices available. The agency shall  
157 establish requirements for training staff and supervising  
158 residents' use of point-of-care devices in a licensed facility.

159 Section 5. This act shall take effect July 1, 2020.