

26 a nursing home facility; providing an effective date.

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28 Be It Enacted by the Legislature of the State of Florida:

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30 Section 1. Subsection (5) is added to section 400.211,
31 Florida Statutes, to read:

32 400.211 Persons employed as nursing assistants;
33 certification requirement.—

34 (5) A nursing home, in accordance with chapter 464 and
35 rules adopted pursuant to this section, may authorize a
36 registered nurse to delegate tasks, including medication
37 administration, to a certified nursing assistant who meets the
38 requirements of this subsection.

39 (a) In addition to the initial 6-hour training course and
40 determination of competency required under s. 464.2035, to be
41 eligible to administer medication to a resident of a nursing
42 home facility, a certified nursing assistant must:

43 1. Hold a clear and active certification from the
44 Department of Health for at least 1 year immediately preceding
45 the delegation.

46 2. Complete an additional 34-hour training course approved
47 by the Board of Nursing in medication administration and
48 associated tasks, including, but not limited to, blood glucose
49 level checks, dialing oxygen flow meters to prescribed settings,
50 and assisting with continuous positive airway pressure devices.

51 3. Demonstrate clinical competency by successfully
52 completing a supervised clinical practice in medication
53 administration and associated tasks conducted in the facility.

54 (b) Upon completion of the training, competency, and
55 initial validation requirements under s. 464.2035 and this
56 subsection, a certified nursing assistant whose delegated tasks
57 include medication administration is designated as a qualified
58 medication aide.

59 (c) A qualified medication aide must satisfactorily
60 complete the annual validation and 2 hours of inservice training
61 in medication administration and medication error prevention in
62 accordance with s. 464.2035.

63 (d) A qualified medication aide may administer medication
64 only under the direct supervision of a nurse licensed under part
65 I of chapter 464.

66 (e) Medication administration must be included in
67 performance improvement activities in accordance with 42 C.F.R.
68 s. 483.75(e) (2).

69 (f) The Board of Nursing, in consultation with the agency,
70 shall adopt rules to implement this subsection.

71 Section 2. Paragraph (b) of subsection (3) of section
72 400.23, Florida Statutes, is amended to read:

73 400.23 Rules; evaluation and deficiencies; licensure
74 status.—

75 (3)

76 (b)1. Each facility must determine its direct care
77 staffing needs based on the facility assessment and the
78 individual needs of a resident based on the resident's care
79 plan. At a minimum, staffing must include, for each facility,
80 the following requirements:

81 a. A minimum weekly average of 3.6 hours of care by direct
82 care staff per resident per day. As used in this sub-
83 subparagraph, a week is defined as Sunday through Saturday.

84 b. A minimum of 2.0 hours of direct care by a certified
85 nursing assistant per resident per day. A facility may not staff
86 below one certified nursing assistant per 20 residents.

87 c. A minimum of 1.0 hour of direct care by a licensed
88 nurse per resident per day. A facility may not staff below one
89 licensed nurse per 40 residents.

90 2. Nursing assistants employed under s. 400.211(2) may be
91 included in computing the hours of direct care provided by
92 certified nursing assistants and may be included in computing
93 the staffing ratio for certified nursing assistants if their job
94 responsibilities include only nursing-assistant-related duties.

95 3. Certified nursing assistants performing the duties of a
96 qualified medication aide under s. 400.211(5) may not be
97 included in computing the hours of direct care provided by, or
98 the staffing ratios for, certified nursing assistants or
99 licensed nurses under sub-subparagraph 1.b. or sub-subparagraph
100 1.c., respectively.

101 ~~4.3.~~ Each nursing home facility must document compliance
102 with staffing standards as required under this paragraph and
103 post daily the names of licensed nurses and certified nursing
104 assistants on duty for the benefit of facility residents and the
105 public. Facilities must maintain the records documenting
106 compliance with minimum staffing standards for a period of 5
107 years and must report staffing in accordance with 42 C.F.R. s.
108 483.70(q).

109 ~~5.4.~~ The agency must recognize the use of licensed nurses
110 for compliance with minimum staffing requirements for certified
111 nursing assistants if the nursing home facility otherwise meets
112 the minimum staffing requirements for licensed nurses and the
113 licensed nurses are performing the duties of a certified nursing
114 assistant. Unless otherwise approved by the agency, licensed
115 nurses counted toward the minimum staffing requirements for
116 certified nursing assistants must exclusively perform the duties
117 of a certified nursing assistant for the entire shift and not
118 also be counted toward the minimum staffing requirements for
119 licensed nurses. If the agency approved a facility's request to
120 use a licensed nurse to perform both licensed nursing and
121 certified nursing assistant duties, the facility must allocate
122 the amount of staff time specifically spent on certified nursing
123 assistant duties for the purpose of documenting compliance with
124 minimum staffing requirements for certified and licensed nursing
125 staff. The hours of a licensed nurse with dual job

126 responsibilities may not be counted twice.

127 ~~6.5.~~ Evidence that a facility complied with the minimum
 128 direct care staffing requirements under subparagraph 1. is not
 129 admissible as evidence of compliance with the nursing services
 130 requirements under 42 C.F.R. s. 483.35 or s. 483.70.

131 Section 3. Subsection (2) of section 464.0156, Florida
 132 Statutes, is amended to read:

133 464.0156 Delegation of duties.—

134 (2)(a) A registered nurse may delegate to a certified
 135 nursing assistant the administration of oral, transdermal,
 136 ophthalmic, otic, inhaled, or topical prescription medication to
 137 a resident of a nursing home facility as defined in s. 400.021
 138 if the certified nursing assistant meets the requirements of s.
 139 400.211(5) and s. 464.2035.

140 (b) A registered nurse may delegate to a certified nursing
 141 assistant or a home health aide the administration of oral,
 142 transdermal, ophthalmic, otic, rectal, inhaled, enteral, or
 143 topical prescription medications to a patient of a home health
 144 agency licensed under part III of chapter 400 or to a patient in
 145 a local county detention facility as defined in s. 951.23(1), if
 146 the certified nursing assistant or home health aide meets the
 147 requirements of s. 464.2035 or s. 400.489, respectively.

148 (c) A registered nurse may not delegate the administration
 149 of any controlled substance listed in Schedule II, Schedule III,
 150 or Schedule IV of s. 893.03 or 21 U.S.C. s. 812, except for the

151 administration of an insulin syringe that is prefilled with the
 152 proper dosage by a pharmacist or an insulin pen that is
 153 prefilled by the manufacturer.

154 Section 4. Subsections (1) and (3) of section 464.2035,
 155 Florida Statutes, are amended to read:

156 464.2035 Administration of medication.—

157 (1) A certified nursing assistant may administer oral,
 158 transdermal, ophthalmic, otic, ~~rectal,~~ inhaled, ~~enteral,~~ or
 159 topical prescription medication to a resident of a nursing home
 160 facility as defined in s. 400.021 or may administer oral
 161 transdermal, ophthalmic, otic, rectal, inhaled, enteral, or
 162 topical prescription medication to a patient of a home health
 163 agency licensed under part III of chapter 400 or to a patient in
 164 a county detention facility as defined in s. 951.23(1) if the
 165 certified nursing assistant has been delegated such task by a
 166 registered nurse licensed under part I of this chapter, has
 167 satisfactorily completed an initial 6-hour training course
 168 approved by the board, and has been found competent to
 169 administer medication to a patient in a safe and sanitary
 170 manner. The training, determination of competency, and initial
 171 and annual validation required under this section must be
 172 conducted by a registered nurse licensed under this chapter or a
 173 physician licensed under chapter 458 or chapter 459.

174 (3) The board, in consultation with the Agency for Health
 175 Care Administration, shall establish by rule standards and

176 | procedures that a certified nursing assistant must follow when
177 | administering medication to a resident of a nursing home
178 | facility or to a patient of a home health agency. Such rules
179 | must, at a minimum, address qualification requirements for
180 | trainers, requirements for labeling medication, documentation
181 | and recordkeeping, the storage and disposal of medication,
182 | instructions concerning the safe administration of medication,
183 | informed-consent requirements and records, and the training
184 | curriculum and validation procedures.

185 | Section 5. This act shall take effect July 1, 2023.