

CHAPTER 2022-48

Committee Substitute for House Bill No. 469

An act relating to patient care in health care facilities; amending s. 400.488, F.S.; revising the definitions of the terms “informed consent” and “unlicensed person”; authorizing unlicensed persons to assist patients with other specified tasks; revising provisions relating to medications and devices with which unlicensed persons may assist patients in self-administration under certain circumstances; amending s. 401.252, F.S.; specifying staffing requirements for advanced life support ambulances during interfacility transfers; providing that the person occupying the ambulance who has the highest medical certification in this state is in charge of patient care during the transfer; amending s. 464.0156, F.S.; revising the list of medications that a registered nurse may delegate the administration of to a certified nursing assistant or home health aide; authorizing registered nurses to delegate to certified nursing assistants and home health aides the administration of certain medications to patients in county detention facilities under certain circumstances; amending s. 464.2035, F.S.; authorizing certified nursing assistants to administer certain medication to patients in county detention facilities under certain circumstances; amending ss. 401.25, 401.27, and 429.256, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 400.488, Florida Statutes, is amended to read:

400.488 Assistance with self-administration of medication and with other tasks.—

(1) For purposes of this section, the term:

(a) “Informed consent” means advising the patient, or the patient’s surrogate, guardian, or attorney in fact, that the patient may be receiving assistance with self-administration of medication or other tasks from an unlicensed person.

(b) “Unlicensed person” means an individual not currently licensed to practice nursing or medicine who is employed by or under contract to a home health agency and who has received training with respect to assisting with the self-administration of medication or other tasks as provided by agency rule.

(2) Patients who are capable of self-administering their own medications and performing other tasks without assistance shall be encouraged and allowed to do so. However, an unlicensed person may, consistent with a dispensed prescription’s label or the package directions of an over-the-

counter medication, assist a patient whose condition is medically stable with the self-administration of routine, regularly scheduled medications that are intended to be self-administered. An unlicensed person may also provide assistance with other tasks specified in subsection (6). Assistance with self-administration of medication or such other tasks self-medication by an unlicensed person may occur only upon a documented request by, and the written informed consent of, a patient or the patient's surrogate, guardian, or attorney in fact. For purposes of this section, self-administered medications include both legend and over-the-counter oral dosage forms, topical dosage forms, transdermal patches, and topical ophthalmic, otic, and nasal dosage forms, including solutions, suspensions, sprays, inhalers, and nebulizer treatments.

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

(a) Taking the medication, in its previously dispensed, properly labeled container, from where it is stored and bringing it to the patient. For purposes of this paragraph, an insulin syringe that is prefilled with the proper dosage by a pharmacist and an insulin pen that is prefilled by the manufacturer are considered medications in previously dispensed, properly labeled containers.

(b) In the presence of the patient, confirming that the medication is intended for that patient, orally advising the patient of the medication name and purpose, opening the container, removing a prescribed amount of medication from the container, and closing the container.

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

(d) Applying topical medications, ~~including routine preventive skin care and applying and replacing bandages for minor cuts and abrasions as provided by the agency in rule.~~

(e) Returning the medication container to proper storage.

~~(f) For nebulizer treatments, assisting with setting up and cleaning the device in the presence of the patient, confirming that the medication is intended for that patient, orally advising the patient of the medication name and purpose, opening the container, removing the prescribed amount for a single treatment dose from a properly labeled container, and assisting the patient with placing the dose into the medicine receptacle or mouthpiece.~~

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

(g) Assisting with the use of a nebulizer, including removing the cap of a nebulizer, opening the unit dose of nebulizer solutions, and pouring the prescribed premeasured dose of medication into the dispensing cup of the nebulizer.

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

(a) Mixing, compounding, converting, or calculating medication doses, except for measuring a prescribed amount of liquid medication or breaking a scored tablet or crushing a tablet as prescribed.

(b) The preparation of syringes for injection or the administration of medications by any injectable route.

~~(c) Administration of medications through intermittent positive pressure breathing machines or a nebulizer.~~

~~(c)(d)~~ Administration of medications by way of a tube inserted in a cavity of the body.

~~(d)(e)~~ Administration of parenteral preparations.

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

~~(f)(g)~~ Assisting with rectal, urethral, or vaginal preparations.

~~(g)(h)~~ Assisting with medications ordered by the physician or health care professional with prescriptive authority to be given “as needed,” unless the order is written with specific parameters that preclude independent judgment on the part of the unlicensed person, and at the request of a competent patient.

~~(h)(i)~~ Medications for which the time of administration, the amount, the strength of dosage, the method of administration, or the reason for administration requires judgment or discretion on the part of the unlicensed person.

(5) Assistance with the self-administration of medication by an unlicensed person as described in this section does not constitute administration as defined in s. 465.003.

(6) Assistance with other tasks includes:

(a) Assisting with the use of a glucometer to perform blood-glucose level checks.

(b) Assisting with putting on and taking off antiembolism stockings.

(c) Assisting with applying and removing an oxygen cannula but not with titrating the prescribed oxygen settings.

(d) Assisting with the use of a continuous positive airway pressure device but not with titrating the prescribed setting of the device.

(e) Assisting with measuring vital signs.

(f) Assisting with colostomy bags.

(7)(6) The agency may by rule establish procedures and interpret terms as necessary to administer this section.

Section 2. Section 401.252, Florida Statutes, is amended to read:

401.252 Interfacility transfer.—

(1) When conducting an interfacility transfer, a permitted advanced life support ambulance must be occupied by at least two persons: one patient attendant who is a certified paramedic, a registered nurse authorized under subsection (2), or a licensed physician; and one who is a certified emergency medical technician, a certified paramedic, a licensed physician, or an ambulance driver who meets the driver requirements of s. 401.281. The person occupying the ambulance who has the highest medical certification in this state is in charge of patient care during the interfacility transfer.

(2) A licensed basic or advanced life support ambulance service may conduct interfacility transfers in a permitted ambulance, using a registered nurse in place of an emergency medical technician or paramedic, if:

(a) The registered nurse holds a current certificate of successful course completion in advanced cardiac life support;

(b) The physician in charge has granted permission for such a transfer, has designated the level of service required for such transfer, and has deemed the patient to be in such a condition appropriate to this type of ambulance staffing; and

(c) The registered nurse operates within the scope of part I of chapter 464.

(3)(2) A licensed basic or advanced life support service may conduct interfacility transfers in a permitted ambulance if the patient's treating physician certifies that the transfer is medically appropriate and the physician provides reasonable transfer orders. An interfacility transfer must be conducted in a permitted ambulance if it is determined that the patient needs, or is likely to need, medical attention during transport. If the emergency medical technician or paramedic believes the level of patient care required during the transfer is beyond his or her capability, the medical director, or his or her designee, must be contacted for clearance prior to conducting the transfer. If necessary, the medical director, or his or her designee, shall attempt to contact the treating physician for consultation to determine the appropriateness of the transfer.

(4)(3) Infants younger less than 28 days old or ~~infants~~ weighing less than 5 kilograms, who require critical care interfacility transport to a neonatal intensive care unit ~~must~~, shall be transported in a permitted advanced life support or basic life support transport ambulance, or in a permitted advanced life support or basic life support ambulance that is recognized

by the department as meeting designated criteria for neonatal interfacility critical care transport.

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

464.0156 Delegation of duties.—

(2) A registered nurse may delegate to a certified nursing assistant or a home health aide the administration of oral, transdermal, ophthalmic, otic, rectal, inhaled, enteral, or topical prescription medications to a patient of a home health agency or in a local county detention facility as defined in s. 951.23(1), if the certified nursing assistant or home health aide meets the requirements of s. 464.2035 or s. 400.489, respectively. A registered nurse may not delegate the administration of any controlled substance listed in Schedule II, Schedule III, or Schedule IV of s. 893.03 or 21 U.S.C. s. 812, except for the administration of an insulin syringe that is prefilled with the proper dosage by a pharmacist or an insulin pen that is prefilled by the manufacturer.

Section 4. Subsection (1) of section 464.2035, Florida Statutes, is amended to read:

464.2035 Administration of medication.—

(1) A certified nursing assistant may administer oral, transdermal, ophthalmic, otic, rectal, inhaled, enteral, or topical prescription medication to a patient of a home health agency or to a patient in a county detention facility as defined in s. 951.23(1) if the certified nursing assistant has been delegated such task by a registered nurse licensed under part I of this chapter, has satisfactorily completed an initial 6-hour training course approved by the board, and has been found competent to administer medication to a patient in a safe and sanitary manner. The training, determination of competency, and initial and annual validation required under this section must be conducted by a registered nurse licensed under this chapter or a physician licensed under chapter 458 or chapter 459.

Section 5. Subsection (7) of section 401.25, Florida Statutes, is amended to read:

401.25 Licensure as a basic life support or an advanced life support service.—

(7)(a) Each permitted basic life support ambulance not specifically exempted from this part, when transporting a person who is sick, injured, wounded, incapacitated, or helpless, must be occupied by at least two persons: one patient attendant who is a certified emergency medical technician, certified paramedic, or licensed physician; and one ambulance driver who meets the requirements of s. 401.281. This paragraph does not apply to interfacility transfers governed by s. 401.252 ~~s. 401.252(1)~~.

(b) Each permitted advanced life support ambulance not specifically exempted from this part, when transporting a person who is sick, injured, wounded, incapacitated, or helpless, must be occupied by at least two persons: one who is a certified paramedic or licensed physician; and one who is a certified emergency medical technician, certified paramedic, or licensed physician who also meets the requirements of s. 401.281 for drivers. The person with the highest medical certifications shall be in charge of patient care. This paragraph does not apply to interfacility transfers governed by s. 401.252 ~~s. 401.252(1)~~.

Section 6. Subsection (1) of section 401.27, Florida Statutes, is amended to read:

401.27 Personnel; standards and certification.—

(1) Each permitted ambulance not specifically exempted from this part, when transporting a person who is sick, injured, wounded, incapacitated, or helpless, must be occupied by at least two persons, one of whom must be a certified emergency medical technician, certified paramedic, or licensed physician and one of whom must be a driver who meets the requirements for ambulance drivers. This subsection does not apply to interfacility transfers governed by s. 401.252 ~~s. 401.252(1)~~.

Section 7. Section 429.256, Florida Statutes, is amended to read:

429.256 Assistance with self-administration of medication and with other tasks.—

(1) For the purposes of this section, the term:

(a) “Informed consent” means advising the resident, or the resident’s surrogate, guardian, or attorney in fact, that an assisted living facility is not required to have a licensed nurse on staff, that the resident may be receiving assistance with self-administration of medication or other tasks from an unlicensed person, and that such assistance, if provided by an unlicensed person, will or will not be overseen by a licensed nurse.

(b) “Unlicensed person” means an individual not currently licensed to practice nursing or medicine who is employed by or under contract to an assisted living facility and who has received training with respect to assisting with the self-administration of medication or other tasks in an assisted living facility as provided under s. 429.52 prior to providing such assistance as described in this section.

(2) Residents who are capable of self-administering their own medications and performing other tasks without assistance shall be encouraged and allowed to do so. However, an unlicensed person may, consistent with a dispensed prescription’s label or the package directions of an over-the-counter medication, assist a resident whose condition is medically stable with the self-administration of routine, regularly scheduled medications that are intended to be self-administered. An unlicensed person may also

provide assistance with other tasks specified in subsection (6). Assistance with self-administration of medication or such other tasks self-medication by an unlicensed person may occur only upon a documented request by, and the written informed consent of, a resident or the resident's surrogate, guardian, or attorney in fact. For the purposes of this section, self-administered medications include both legend and over-the-counter oral dosage forms, topical dosage forms, transdermal patches, and topical ophthalmic, otic, and nasal dosage forms including solutions, suspensions, sprays, and inhalers.

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

(a) ~~Taking the medication, in its previously dispensed, properly labeled container, including an insulin syringe that is prefilled with the proper dosage by a pharmacist and an insulin pen that is prefilled by the manufacturer, from where it is stored, and bringing it to the resident. For purposes of this paragraph, an insulin syringe that is prefilled with the proper dosage by a pharmacist and an insulin pen that is prefilled by the manufacturer are considered medications in previously dispensed, properly labeled containers.~~

(b) In the presence of the resident, confirming that the medication is intended for that resident, orally advising the resident of the medication name and dosage, opening the container, removing a prescribed amount of medication from the container, and closing the container. The resident may sign a written waiver to opt out of being orally advised of the medication name and dosage. The waiver must identify all of the medications intended for the resident, including names and dosages of such medications, and must immediately be updated each time the resident's medications or dosages change.

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

(d) Applying topical medications.

(e) Returning the medication container to proper storage.

(f) Keeping a record of when a resident receives assistance with self-administration under this section.

(g) Assisting with the use of a nebulizer, including removing the cap of a nebulizer, opening the unit dose of nebulizer solution, and pouring the prescribed premeasured dose of medication into the dispensing cup of the nebulizer.

~~(h) Using a glucometer to perform blood glucose level checks.~~

~~(i) Assisting with putting on and taking off antiembolism stockings.~~

~~(j) Assisting with applying and removing an oxygen cannula but not with titrating the prescribed oxygen settings.~~

~~(k) Assisting with the use of a continuous positive airway pressure device but not with titrating the prescribed setting of the device.~~

~~(l) Assisting with measuring vital signs.~~

~~(m) Assisting with colostomy bags.~~

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

(a) Mixing, compounding, converting, or calculating medication doses, except for measuring a prescribed amount of liquid medication or breaking a scored tablet or crushing a tablet as prescribed.

(b) The preparation of syringes for injection or the administration of medications by any injectable route.

(c) Administration of medications by way of a tube inserted in a cavity of the body.

(d) Administration of parenteral preparations.

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

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

(g) Assisting with medications ordered by the physician or health care professional with prescriptive authority to be given “as needed,” unless the order is written with specific parameters that preclude independent judgment on the part of the unlicensed person, and the resident requesting the medication is aware of his or her need for the medication and understands the purpose for taking the medication.

(h) Medications for which the time of administration, the amount, the strength of dosage, the method of administration, or the reason for administration requires judgment or discretion on the part of the unlicensed person.

(5) Assistance with the self-administration of medication by an unlicensed person as described in this section shall not be considered administration as defined in s. 465.003.

(6) Assistance with other tasks includes:

(a) Assisting with the use of a glucometer to perform blood-glucose level checks.

(b) Assisting with putting on and taking off antiembolism stockings.

(c) Assisting with applying and removing an oxygen cannula but not with titrating the prescribed oxygen settings.

(d) Assisting with the use of a continuous positive airway pressure device but not with titrating the prescribed setting of the device.

(e) Assisting with measuring vital signs.

(f) Assisting with colostomy bags.

~~(7)~~(6) The agency may by rule establish facility procedures and interpret terms as necessary to implement this section.

Section 8. This act shall take effect July 1, 2022.

Approved by the Governor April 6, 2022.

Filed in Office Secretary of State April 6, 2022.