

CHAPTER 2023-250

Committee Substitute for Senate Bill No. 558

An act relating to certified nursing assistants; amending s. 400.211, F.S.; authorizing nursing home facilities to allow their registered nurses to delegate certain tasks to certified nursing assistants who meet specified criteria; providing for the designation of such certified nursing assistants as qualified medication aides; requiring qualified medication aides to complete annual validation and inservice training requirements; providing that qualified medication aides may administer medication to residents only under the direct supervision of a licensed nurse; requiring that medication administration be included in certain performance improvement activities tracked by nursing homes in accordance with federal regulations; requiring the Board of Nursing, in consultation with the Agency for Health Care Administration, to adopt rules; amending s. 400.23, F.S.; providing that the time spent by certified nursing assistants performing the duties of a qualified medication aide may not be included in the computing of certain minimum staffing ratio requirements for direct care provided to residents; amending s. 464.0156, F.S.; authorizing registered nurses to delegate to certified nursing assistants the administration of medication to residents in nursing home facilities if the certified nursing assistants meet specified criteria; amending s. 464.2035, F.S.; authorizing certified nursing assistants to administer certain medications to residents of nursing home facilities if they have been delegated such task by a registered nurse and they meet specified criteria; requiring the board, in consultation with the agency, to establish standards and procedures that a certified nursing assistant must follow when administering medication to a resident of a nursing home facility; providing an effective date.

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

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

400.211 Persons employed as nursing assistants; certification requirement.—

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

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

1. Hold a clear and active certification from the Department of Health for a minimum of 1 year immediately preceding the delegation;

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

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

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

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

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

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

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

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

400.23 Rules; evaluation and deficiencies; licensure status.—

(3)

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

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

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

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

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

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

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

~~5.4.~~ The agency must recognize the use of licensed nurses for compliance with minimum staffing requirements for certified nursing assistants if the nursing home facility otherwise meets the minimum staffing requirements for licensed nurses and the licensed nurses are performing the duties of a certified nursing assistant. Unless otherwise approved by the agency, licensed nurses counted toward the minimum staffing requirements for certified nursing assistants must exclusively perform the duties of a certified nursing assistant for the entire shift and not also be counted toward the minimum staffing requirements for licensed nurses. If the agency approved a facility’s request to use a licensed nurse to perform both licensed nursing and certified nursing assistant duties, the facility must allocate the amount of staff time specifically spent on certified nursing assistant duties for the purpose of documenting compliance with minimum staffing requirements for certified and licensed nursing staff. The hours of a licensed nurse with dual job responsibilities may not be counted twice.

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

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

464.0156 Delegation of duties.—

(2)(a) A registered nurse may delegate to a certified nursing assistant the administration of oral, transdermal, ophthalmic, otic, inhaled, or topical

prescription medication to a resident of a nursing home facility as defined in s. 400.021 if the certified nursing assistant meets the requirements of s. 400.211(5) and s. 464.2035.

(b) 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 licensed under part III of chapter 400 or to a patient 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.

(c) 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. Subsections (1) and (3) of section 464.2035, Florida Statutes, are 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 resident of a nursing home facility as defined in s. 400.021 or may administer oral, transdermal, ophthalmic, otic, rectal, inhaled, enteral, or topical prescription medication to a patient of a home health agency licensed under part III of chapter 400 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.

(3) The board, in consultation with the Agency for Health Care Administration, shall establish by rule standards and procedures that a certified nursing assistant must follow when administering medication to a resident of a nursing home facility or to a patient of a home health agency. Such rules must, at a minimum, address qualification requirements for trainers, requirements for labeling medication, documentation and record-keeping, the storage and disposal of medication, instructions concerning the safe administration of medication, informed-consent requirements and records, and the training curriculum and validation procedures.

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

Approved by the Governor June 16, 2023.

Filed in Office Secretary of State June 16, 2023.