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CS/HB 469, Engrossed 1

2022 Legislature

1  
 2 An act relating to patient care in health care  
 3 facilities; amending s. 400.488, F.S.; revising the  
 4 definitions of the terms "informed consent" and  
 5 "unlicensed person"; authorizing unlicensed persons to  
 6 assist patients with other specified tasks; revising  
 7 provisions relating to medications and devices with  
 8 which unlicensed persons may assist patients in self-  
 9 administration under certain circumstances; amending  
 10 s. 401.252, F.S.; specifying staffing requirements for  
 11 advanced life support ambulances during interfacility  
 12 transfers; providing that the person occupying the  
 13 ambulance who has the highest medical certification in  
 14 this state is in charge of patient care during the  
 15 transfer; amending s. 464.0156, F.S.; revising the  
 16 list of medications that a registered nurse may  
 17 delegate the administration of to a certified nursing  
 18 assistant or home health aide; authorizing registered  
 19 nurses to delegate to certified nursing assistants and  
 20 home health aides the administration of certain  
 21 medications to patients in county detention facilities  
 22 under certain circumstances; amending s. 464.2035,  
 23 F.S.; authorizing certified nursing assistants to  
 24 administer certain medication to patients in county  
 25 detention facilities under certain circumstances;

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26 | amending ss. 401.25, 401.27, and 429.256, F.S.;

27 | conforming provisions to changes made by the act;

28 | providing an effective date.

29 |

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

31 |

32 | Section 1. Section 400.488, Florida Statutes, is amended

33 | to read:

34 | 400.488 Assistance with self-administration of medication

35 | and with other tasks.—

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

37 | (a) "Informed consent" means advising the patient, or the

38 | patient's surrogate, guardian, or attorney in fact, that the

39 | patient may be receiving assistance with self-administration of

40 | medication or other tasks from an unlicensed person.

41 | (b) "Unlicensed person" means an individual not currently

42 | licensed to practice nursing or medicine who is employed by or

43 | under contract to a home health agency and who has received

44 | training with respect to assisting with the self-administration

45 | of medication or other tasks as provided by agency rule.

46 | (2) Patients who are capable of self-administering their

47 | own medications and performing other tasks without assistance

48 | shall be encouraged and allowed to do so. However, an unlicensed

49 | person may, consistent with a dispensed prescription's label or

50 | the package directions of an over-the-counter medication, assist

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

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

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

74 (b) In the presence of the patient, confirming that the  
75 medication is intended for that patient, orally advising the

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76 patient of the medication name and purpose, opening the  
 77 container, removing a prescribed amount of medication from the  
 78 container, and closing the container.

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

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

85 (e) Returning the medication container to proper storage.

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

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

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

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

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

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

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

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

112 (d)-(e) Administration of parenteral preparations.

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

115 (f)-(g) Assisting with rectal, urethral, or vaginal  
 116 preparations.

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

122 (h)-(i) Medications for which the time of administration,  
 123 the amount, the strength of dosage, the method of

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124 administration, or the reason for administration requires  
 125 judgment or discretion on the part of the unlicensed person.

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

129 (6) Assistance with other tasks includes:

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

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

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

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

139 (e) Assisting with measuring vital signs.

140 (f) Assisting with colostomy bags.

141 ~~(7)-(6)~~ The agency may by rule establish procedures and  
 142 interpret terms as necessary to administer this section.

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

145 401.252 Interfacility transfer.—

146 (1) When conducting an interfacility transfer, a permitted  
 147 advanced life support ambulance must be occupied by at least two  
 148 persons: one patient attendant who is a certified paramedic, a

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149 registered nurse authorized under subsection (2), or a licensed  
 150 physician; and one who is a certified emergency medical  
 151 technician, a certified paramedic, a licensed physician, or an  
 152 ambulance driver who meets the driver requirements of s.  
 153 401.281. The person occupying the ambulance who has the highest  
 154 medical certification in this state is in charge of patient care  
 155 during the interfacility transfer.

156 (2) A licensed basic or advanced life support ambulance  
 157 service may conduct interfacility transfers in a permitted  
 158 ambulance~~7~~ using a registered nurse in place of an emergency  
 159 medical technician or paramedic~~7~~ if:

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

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

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

168 (3)~~(2)~~ A licensed basic or advanced life support service  
 169 may conduct interfacility transfers in a permitted ambulance if  
 170 the patient's treating physician certifies that the transfer is  
 171 medically appropriate and the physician provides reasonable  
 172 transfer orders. An interfacility transfer must be conducted in  
 173 a permitted ambulance if it is determined that the patient

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174 needs, or is likely to need, medical attention during transport.  
 175 If the emergency medical technician or paramedic believes the  
 176 level of patient care required during the transfer is beyond his  
 177 or her capability, the medical director, or his or her designee,  
 178 must be contacted for clearance prior to conducting the  
 179 transfer. If necessary, the medical director, or his or her  
 180 designee, shall attempt to contact the treating physician for  
 181 consultation to determine the appropriateness of the transfer.

182 (4)~~(3)~~ Infants younger ~~less~~ than 28 days old or ~~infants~~  
 183 weighing less than 5 kilograms~~,~~ who require critical care  
 184 interfacility transport to a neonatal intensive care unit must~~,~~  
 185 ~~shall~~ be transported in a permitted advanced life support or  
 186 basic life support transport ambulance, or in a permitted  
 187 advanced life support or basic life support ambulance that is  
 188 recognized by the department as meeting designated criteria for  
 189 neonatal interfacility critical care transport.

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

192 464.0156 Delegation of duties.—

193 (2) A registered nurse may delegate to a certified nursing  
 194 assistant or a home health aide the administration of oral,  
 195 transdermal, ophthalmic, otic, rectal, inhaled, enteral, or  
 196 topical prescription medications to a patient of a home health  
 197 agency or in a local county detention facility as defined in s.  
 198 951.23(1), if the certified nursing assistant or home health



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199 aide meets the requirements of s. 464.2035 or s. 400.489,  
 200 respectively. A registered nurse may not delegate the  
 201 administration of any controlled substance listed in Schedule  
 202 II, Schedule III, or Schedule IV of s. 893.03 or 21 U.S.C. s.  
 203 812, except for the administration of an insulin syringe that is  
 204 prefilled with the proper dosage by a pharmacist or an insulin  
 205 pen that is prefilled by the manufacturer.

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

208 464.2035 Administration of medication.—

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

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

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224 401.25 Licensure as a basic life support or an advanced  
 225 life support service.—

226 (7)(a) Each permitted basic life support ambulance not  
 227 specifically exempted from this part, when transporting a person  
 228 who is sick, injured, wounded, incapacitated, or helpless, must  
 229 be occupied by at least two persons: one patient attendant who  
 230 is a certified emergency medical technician, certified  
 231 paramedic, or licensed physician; and one ambulance driver who  
 232 meets the requirements of s. 401.281. This paragraph does not  
 233 apply to interfacility transfers governed by s. 401.252 ~~s.~~  
 234 ~~401.252(1)~~.

235 (b) Each permitted advanced life support ambulance not  
 236 specifically exempted from this part, when transporting a person  
 237 who is sick, injured, wounded, incapacitated, or helpless, must  
 238 be occupied by at least two persons: one who is a certified  
 239 paramedic or licensed physician; and one who is a certified  
 240 emergency medical technician, certified paramedic, or licensed  
 241 physician who also meets the requirements of s. 401.281 for  
 242 drivers. The person with the highest medical certifications  
 243 shall be in charge of patient care. This paragraph does not  
 244 apply to interfacility transfers governed by s. 401.252 ~~s.~~  
 245 ~~401.252(1)~~.

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

248 401.27 Personnel; standards and certification.—

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

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

259 429.256 Assistance with self-administration of medication  
 260 and with other tasks.—

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

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

270 (b) "Unlicensed person" means an individual not currently  
 271 licensed to practice nursing or medicine who is employed by or  
 272 under contract to an assisted living facility and who has  
 273 received training with respect to assisting with the self-

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274 administration of medication or other tasks in an assisted  
 275 living facility as provided under s. 429.52 prior to providing  
 276 such assistance as described in this section.

277 (2) Residents who are capable of self-administering their  
 278 own medications and performing other tasks without assistance  
 279 shall be encouraged and allowed to do so. However, an unlicensed  
 280 person may, consistent with a dispensed prescription's label or  
 281 the package directions of an over-the-counter medication, assist  
 282 a resident whose condition is medically stable with the self-  
 283 administration of routine, regularly scheduled medications that  
 284 are intended to be self-administered. An unlicensed person may  
 285 also provide assistance with other tasks specified in subsection  
 286 (6). Assistance with self-administration of medication or such  
 287 other tasks ~~self-medication~~ by an unlicensed person may occur  
 288 only upon a documented request by, and the written informed  
 289 consent of, a resident or the resident's surrogate, guardian, or  
 290 attorney in fact. For the purposes of this section, self-  
 291 administered medications include both legend and over-the-  
 292 counter oral dosage forms, topical dosage forms, transdermal  
 293 patches, and topical ophthalmic, otic, and nasal dosage forms  
 294 including solutions, suspensions, sprays, and inhalers.

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

297 (a) Taking the medication, in its previously dispensed,  
 298 properly labeled container, ~~including an insulin syringe that is~~

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299 ~~prefilled with the proper dosage by a pharmacist and an insulin~~  
 300 ~~pen that is prefilled by the manufacturer,~~ from where it is  
 301 stored, and bringing it to the resident. For purposes of this  
 302 paragraph, an insulin syringe that is prefilled with the proper  
 303 dosage by a pharmacist and an insulin pen that is prefilled by  
 304 the manufacturer are considered medications in previously  
 305 dispensed, properly labeled containers.

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

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

319 (d) Applying topical medications.

320 (e) Returning the medication container to proper storage.

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

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

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

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

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

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

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

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

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

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

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

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

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- 348 (d) Administration of parenteral preparations.
- 349 (e) The use of irrigations or debriding agents used in the  
350 treatment of a skin condition.
- 351 (f) Assisting with rectal, urethral, or vaginal  
352 preparations.
- 353 (g) Assisting with medications ordered by the physician or  
354 health care professional with prescriptive authority to be given  
355 "as needed," unless the order is written with specific  
356 parameters that preclude independent judgment on the part of the  
357 unlicensed person, and the resident requesting the medication is  
358 aware of his or her need for the medication and understands the  
359 purpose for taking the medication.
- 360 (h) Medications for which the time of administration, the  
361 amount, the strength of dosage, the method of administration, or  
362 the reason for administration requires judgment or discretion on  
363 the part of the unlicensed person.
- 364 (5) Assistance with the self-administration of medication  
365 by an unlicensed person as described in this section shall not  
366 be considered administration as defined in s. 465.003.
- 367 (6) Assistance with other tasks includes:
- 368 (a) Assisting with the use of a glucometer to perform  
369 blood-glucose level checks.
- 370 (b) Assisting with putting on and taking off antiembolism  
371 stockings.

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

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

377        (e) Assisting with measuring vital signs.

378        (f) Assisting with colostomy bags.

379        (7)-(6) The agency may by rule establish facility  
 380 procedures and interpret terms as necessary to implement this  
 381 section.

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