CHAPTER 59A-8
MINIMUM STANDARDS FOR HOME HEALTH AGENCIES

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(1) “Accrediting organization” means the Community Health Accreditation Program, The Joint Commission, or Accreditation Commission for Health Care.

(2) “AHCA” means Agency for Health Care Administration.

(3) “Assistance with activities of daily living” means a certified nursing assistant or a home health aide provides to the patient individual assistance with activities of daily living, including the following:

(a) Ambulation. Providing physical support to enable the patient to move about within or outside of the patient’s place of residence. Physical support includes holding the patient’s hand, elbow, under the arm, or holding on to a support belt worn by the patient to assist in providing stability or direction while the patient ambulates.

(b) Bathing. Helping the patient in and out of the bathtub or shower being available while the patient is bathing. Can also include washing and drying the patient.

(c) Dressing. Helping patients, who require assistance in dressing themselves, put on and remove clothing.

(d) Eating. Helping with feeding patients who require assistance in feeding themselves.

(e) Personal hygiene. Helping the patient with shaving. Assisting with oral, hair, skin and nail care.

(f) Toileting. Reminding the patient about using the toilet, assisting him to the bathroom, helping to undress, positioning on the commode, and helping with related personal hygiene, including assistance with changing of an adult brief. Also includes assisting with positioning the patient on the bedpan, and helping with related personal hygiene.

(g) Assistance with physical transfer. Providing verbal and physical cueing, physical assistance, or both while the patient moves from one position to another, for example between the following: a bed, chair, wheelchair, commode, bathtub or shower, or a standing position. Transfer can also include use of a mechanical lift, if a home health aide is trained in its use.

(h) Assistance with self-administered medication, as defined in subsection 59A-8.0095(5), F.A.C.

(4) “Caregiver” means a person who has been entrusted with or has assumed the responsibility for frequent and regular care of or services to a disabled adult or an elderly person on a temporary or permanent basis and who has a commitment, agreement, or understanding with that person or that person’s guardian that a caregiver role exists. Caregivers include, for example, relatives, household members, guardians, friends, neighbors, and employees and volunteers of facilities.

(5) “Case management” means the initial assessment of the patient and caregiver for appropriateness of and acceptance for home health services; establishment and periodic review of a plan of care; implementation of medical treatment when ordered; referral, follow-up, provision of, evaluation of and supervision of care; coordination of services given by other health care providers; and documentation of all activities and findings.
(6) “DCF” means the Department of Children and Family Services.
(7) “Dietetics and nutrition practice” means assessing nutrition needs and status using appropriate data; recommending dietary regimens, nutrition support, and nutrient intake; improving the patient’s health status through nutrition counseling and education.
(8) “Dietitian/Nutritionist” means a person licensed to engage in dietetics and nutrition practice pursuant to Chapter 468, F.S.
(9) “Drop-off site” means any location in any county within the geographic service area of the main office, pursuant to subsection 59A-8.003(8), F.A.C.
(10) “Emergency Management Plan” means a comprehensive plan developed by the home health agency describing how the agency will prepare for and respond in an emergency, pursuant to Rule 59A-8.027, F.A.C.
(11) “Employee leasing company” means a company licensed and regulated under Chapter 468, Part XI, F.S. A leasing company handles the payroll and taxes on leased employees. While an employee leasing company pays the withholding taxes, the employee is still considered a direct employee, as defined in Section 468.534, F.S., of the home health agency.
(12) “FBI” means the Federal Bureau of Investigation.
(13) “FDLE” means the Florida Department of Law Enforcement.
(14)”Financial instability” means the home health agency cannot meet its financial obligation. Evidence such as the issuance of bad checks or an accumulation of delinquent bills shall constitute prima facie evidence that the ownership of the home health agency lacks the financial ability to operate. Evidence also includes the Medicare or Medicaid program’s indications or determination of financial instability or fraudulent handling of government funds by the home health agency.
(15) “Full-time equivalent” means when an employee works between 37 to 40 hours per week.
(16) “Geographic service area” means the area, as specified on the license, in which the home health agency may send its personnel to provide home health services to patients in their places of residence.
(17) “Home infusion therapy services” means teaching, assessment, evaluation and clinical services related to the administration of intravenous substances provided by a professional licensed under Chapter 464, 458 or 459, F.S.
(18) “Licensed nurse,” as defined in Sections 464.003(4) and 464.003(5), F.S., means a registered nurse licensed to practice professional nursing or a licensed practical nurse licensed to practice nursing under the direction of a physician or registered nurse pursuant to Chapter 464, F.S.
(19) “Main office” means the primary office established in the county which houses all components of the home health agency including the administration, fiscal management, service provision and supplies.
(20) “Nursing care” means treatment of the patient’s illness or injury by a registered nurse or a licensed practical nurse that is ordered as required in Section 400.487(2), F.S. and included in the plan of care.
(21) “Nutrition assessment” means the evaluation of the nutrition needs of the patient using appropriate data to determine nutrient needs or status and make nutrition recommendations for the patient.
(22) “Nutrition counseling” means advising and assisting the patient on appropriate nutrition intake by integrating information from the nutrition assessment.
(23) “Occupational therapist” means a person licensed to practice occupational therapy pursuant to Chapter 468, F.S.
(24) “Occupational therapy assistant” means a person licensed to assist in the practice of occupational therapy pursuant to Chapter 468, F.S.
(25) “Patient” means an individual who receives home health services in one’s place of residence.
(26) “Plan of Care” means a coordinated plan, which includes the treatment orders, prepared by the case manager in collaboration with each professional discipline providing service to the patient and caregiver.
(27) “Physical therapist” means a person licensed to practice physical therapy pursuant to Chapter 486, F.S.
(28) “Physical therapy assistant” means a person licensed to assist in the practice of physical therapy pursuant to Chapter 486, F.S.
(29) “Physician” means a doctor of medicine, osteopathy, podiatry, or chiropractic legally authorized to practice
in the state pursuant to Chapter 458, 459, 460, or 461, F.S. Physicians working in Veterans Administration hospitals and clinics are exempt from state licensure according to Chapter 458, F.S.

(30) “Providing one service directly” means the agency must provide one service, in part, by direct employees.

(31) “Quality assurance plan” means a plan which is developed and implemented by a home health agency to review and evaluate the effectiveness and appropriateness of service provision to patients and, upon identification of problems, requires specific action to correct the problems and deficiencies.

(32) “Respiratory therapist” means a person licensed to practice respiratory therapy pursuant to Chapter 468, F.S.

(33) “Satellite office” means a secondary office established in the same county as the main office, pursuant to subsection 59A-8.003(7), F.A.C.

(34) “Social Worker” means a person who has a degree in social work and who works with patients and families to help them adjust to the social and emotional factors related to the patient’s health problems.

(35) “Special needs patients” pursuant to Section 252.355, F.S., means those persons who have physical or mental conditions that require limited medical and nursing oversight during emergency evacuations. They are medically dependent individuals who are not acutely ill.

(36) “Special needs registry” pursuant to Section 252.355, F.S., means a registry maintained by the local emergency management agency of persons who need assistance during evacuations and sheltering because of physical or mental handicaps.

(37) “Speech pathologist” means a person licensed to practice speech pathology or audiology pursuant to Chapter 468, F.S.

(38) “Treatment orders” means written orders signed by a physician, physician assistant, or advanced registered nurse practitioner, acting within his or her respective scope of practice, which authorizes the provision of care or treatment to a patient in his place of residence by licensed Nurses, Physical Therapists, Occupational Therapists, Speech Therapists, or Dietitians/ Nutritionists.


59A-8.0025 Telephone Reporting.

Rulemaking Authority 400.497 FS. Law Implemented 400.497 FS. History–New 5-30-90, Formerly 10D-68.0025, Amended 10-27-94, 1-17-00, 7-18-01, Repealed 5-14-12.

59A-8.003 Licensure Requirements.

(1) The issuance of an initial license shall be based upon compliance with Chapter 400, Part III, F.S., and this rule as evidenced by a signed and notarized, complete and accurate home health agency application, as referenced in paragraph 59A-35.060(1)(m), F.A.C., and the results of a survey conducted by an accrediting organization as required in Section 400.471, F.S.

(2) An application for renewal of the current license must be submitted to AHCA at least 60 days prior to the date of expiration of the license, pursuant to Section 408.806, F.S. It is the responsibility of the home health agency to submit an application within the specified time frames whether or not they receive separate notification from AHCA of the impending expiration of the license. Home health agencies will be surveyed by AHCA or an accrediting organization as defined in Rule 59A-8.002, F.A.C. pursuant to Sections 408.811 and 400.471(2), F.S. Home health agencies will be surveyed on an unannounced basis at least every 36 months. Area offices may do follow up surveys to check on correction of deficiencies at any time on an unannounced basis. An exit conference will be conducted to report the findings and to receive additional information or clarification concerning the survey.

(3) Surveys of Accredited Home Health Agencies:

(a) It is the responsibility of the home health agency to request exemption from state licensure surveys pursuant to Section 400.471(2), F.S., by submitting documentation of accreditation by an approved accrediting organization and the most recent survey from the accrediting organization to the AHCA Home Care Unit.
(b) Home health agencies that complete (a) will not be subject to licensure surveys by AHCA except under the following circumstances:

1. The home health agency has been denied accreditation, has received a preliminary determination of denial of accreditation, or has received a provisional, conditional, or deferred accreditation report from the accrediting organization on its most recent survey, or

2. The home health agency has received accreditation but has not authorized the release of the report to the AHCA, or has not ensured that AHCA has received the accrediting organization’s report.

(4) AHCA will conduct investigations of complaints regarding licensure violations. Complaint investigations will be unannounced. An entrance conference will be conducted to inform the administrator of the nature of the complaint. An exit conference will be conducted to report the findings and to receive additional information or clarification concerning the investigation.

(5) In addition to any other penalties imposed pursuant to this rule, the agency may assess costs related to an investigation that results in a successful prosecution, pursuant to Section 400.484(3), F.S. The prosecution can be resolved by stipulation settlement or final hearing. The following costs may apply: travel costs related to the investigation; investigative time by AHCA’s surveyor or surveyors including travel time; processing time by AHCA’s professional staff and administrative support staff of Field Operations, and processing time for administrative support staff and professional staff of the AHCA Licensed Home Health Programs Unit in Tallahassee. The costs related to AHCA’s professional staff and support staff will be determined according to the hourly rate of pay for those positions.

(6) An application package for a change of ownership shall be made on a form prescribed by AHCA, as referenced in paragraph 59A-8.060(1)(m), F.A.C.

(a) The buyer or lessee must make application to AHCA for a new license at least 60 days before the date of the transfer of ownership as required by Sections 408.807(1) and (2), F.S.

(b) At the time of the transfer of ownership all patient or client records held by the current licensee shall be transferred to the applicant.

(c) An application for a change of ownership license will not be approved if a home health agency has not demonstrated compliance with the requirements in Chapter 408, Part II, and Chapter 400, Part III, F.S., through an unannounced inspection not more than 24 months prior to submission of the application, pursuant to Section 400.497(6), F.S.

1. The inspection may be done by an accrediting organization. However, if the home health agency being sold is accredited or was licensed July 1, 2008 or later, the inspection must be done by an accrediting organization as required in Section 400.471(2), F.S.; or

2. The inspection may be conducted in conjunction with an unannounced Medicare or Medicaid certification or recertification survey.

(d) Failure to apply for a change of ownership of a licensed home health agency as required by Section 408.806(2)(b), F.S., shall result in a fine set and levied by AHCA pursuant to Section 400.474(1), (2)(a), and 408.813(3)(b), F.S. This is also applicable to owners who incorporate and do not report this change of ownership to the home health agency.

(7) A licensed home health agency may operate a satellite office. A satellite office must be located in the same county as the agency’s main office. Supplies and records can be stored at a satellite office and phone business can be conducted the same as in the main office. The satellite office shares administration with the main office and is not separately licensed. Signs and advertisements can notify the public of the satellite office location. If the agency wants to open an office outside the county where the main office is located, the second office must be separately licensed.

(8) A licensed home health agency may operate a drop-off site in any county within the geographic service area specified on the license. A drop-off site may be used for pick-up or drop-off of supplies or records, for agency staff to use to complete paperwork or to communicate with the main office, existing or prospective agency staff, or the agency’s existing patients or clients. Prospective patients or clients cannot be contacted and billing cannot be done from this location. The drop-off site is not a home health agency office, but merely a work station for direct care
staff in large areas where the distance is too great for staff to drive back frequently to the home health agency office. Training of home health agency staff can be done at a drop-off site. A drop-off site shall not require a license. No other business shall be conducted at these locations, including housing of records. The agency name cannot appear at the location, unless required by law or by the rental contract, nor can the location appear on agency letterhead or in advertising.

(9) If a change of address is to occur, or if a home health agency intends to open a satellite office, the home health agency must provide notice in writing to the AHCA Home Care Unit in Tallahassee and the AHCA area office as required in Rule 59A-35.040, F.A.C. The home health agency must submit to the AHCA Home Care Unit a certificate of occupancy, certificate of use, or evidence that the location is zoned for a home health agency business for the new address and evidence of legal right to the property in accordance with Section 408.810(6), F.S.

(10) A home health agency has the following responsibility in terms of hours of operation:

(a) The home health agency administrator and director of nursing, or their alternates, must be available to the public for any eight consecutive hours between 7:00 a.m. and 6:00 p.m., Monday through Friday of each week, excluding legal and religious holidays. Available to the public means being readily available on the premises or by telecommunications.

(b) When the administrator and the director of nursing are not on the premises during designated business hours, a staff person must be available to answer the phone and the door and must be able to contact the administrator and the director of nursing by telecommunications. This individual can be a clerical staff person.

(c) If an AHCA surveyor arrives on the premises to conduct an unannounced survey and the administrator, the director of nursing, or a person authorized to give access to patient records, are not available on the premises they, or the designated alternate, must be available on the premises within an hour of the arrival of the surveyor. A list of current patients must be provided to the surveyor within two hours of arrival if requested.

(d) The home health agency shall have written policies and procedures governing 24 hour availability to licensed professional nursing staff by active patients of the home health agency receiving skilled care. These procedures shall describe an on-call system whereby designated nursing staff will be available to directly communicate with the patient. For agencies which provide only home health aide and homemaker, companion and sitter services and who provide no skilled care, written policies and procedures shall address the availability of a supervisor during hours of patient service.

(e) Failure to be available or to respond, as defined in paragraphs (a) through (c) above, will result in a $500 fine, pursuant to Section 400.474(1), F.S. A second incident will be grounds for denial or revocation of the agency license.

(11) The initial, change of ownership and renewal fee for home health licensure is $1,705.

(12) If licensure application fee checks are returned by the financial institution due to insufficient funds, the issuance of a license may be delayed, denied or revoked.

(13) Upon revocation, suspension, voluntary or involuntary termination of a license, the home health agency shall return its license to AHCA. If the provider voluntarily chooses to terminate the license, the provider must notify AHCA, as required in Section 408.810(4)(a), F.S. This includes submitting a letter to the address: AHCA Home Care Unit, 2727 Mahan Drive, Mail Stop 34, Tallahassee, Florida 32308, officially declaring the closure date of the home health agency.

Rulemaking Authority 400.497 FS. Law Implemented 400.464, 400.471, 400.474, 400.484, 400.497, 408.806, 408.807, 408.810 FS. History–New 4-19-76, Formerly 10D-68.03, Amended 4-30-86, 8-10-88, 5-30-90, 6-12-91, Formerly 10D-68.003, Amended 4-27-93, 10-27-94, 1-30-97, 1-17-00, 7-18-01, 9-22-05, 8-15-06, 3-29-07, 7-11-13.

59A-8.004 Licensure Procedure.

(1) An application for licensure, initial, change of ownership, or renewal, shall be made on a form prescribed by the AHCA in paragraph 59A-35.060(1)(m), F.A.C.

(2) For initial and change of ownership applications and name changes, an affidavit of fictitious name is required when the home health agency chooses to operate under a name other than the name of the partnership, corporation or limited liability company pursuant to Section 865.09, F.S.
(3) For initial applications, including changes of ownership, the applicant must submit proof of financial ability to operate, pursuant to Sections 400.471, 408.810, 408.8065. F.S., and Rule 59A-35.062, F.A.C.

(4) An applicant for initial license shall sign the form AHCA 3110-1026, Attestation of Compliance with Distance Requirements, March 2013, which is incorporated by reference, pursuant to Section 400.471(7), F.S. The form may be obtained at the AHCA web site, http://ahca.myflorida.com/homecare; at the site, select “Home Health Agency” and then select the “Application” tab. The authorized representative signing this form attests no officer or controlling interest of the applicant agency are officers or controlling interests of another home health agency located within 10 miles of the applicant agency and is in the same county.

(5) Background screening for the administrator and the financial officer shall be in accordance with level 2 standards for screening set forth in Section 408.809, F.S. and Rule 59A-35.090, F.A.C.

(6) Level 2 background screening for employees and contractors shall be done as required in Rule 59A-35.090, F.A.C. and Section 408.809, F.S.

Rulemaking Authority 400.497 FS. Law Implemented 400.471, 400.512, 408.810, 408.806, 408.8065, 408.809 FS. History–New 4-19-76, Formerly 10D-68.04, Amended 4-30-86, 8-10-88, 5-30-90, 6-12-91, 10-6-91, Formerly 10D-68.004, Amended 4-27-93, 10-27-94, 1-30-97, 1-17-00, 7-18-01, 9-22-05, 8-15-06, 3-29-07, 7-11-13.

59A-8.007 Geographic Service Area.

(1) All home health agencies must apply for a geographic service area on their initial license application. Home health agencies may apply for a geographic service area which encompasses one or more of the counties within the specific AHCA area boundaries, pursuant to Sections 408.032(5) and 400.497(7), F.S., in which the main office is located provided that the license application includes a plan for:

(a) Coverage of the professional staff which takes into account the projected number of clients in the requested geographic service area, and

(b) Supervision of the staff in the requested geographic service area. AHCA shall authorize a geographic service area if there are a sufficient number and type of staff and supervision to meet the needs of the geographic service area.

(2) In any request for expansion of the geographic service area, the home health agency’s previous history of survey results and administrative actions including fines, suspensions, revocations or injunctions will be reviewed to establish the home health agency’s ability to provide quality services within the requested area. In addition, the application for an expanded geographic service area must include a plan for:

(a) Coverage of the professional staff which takes into account the projected number of clients in the requested geographic service area, and

(b) Supervision of the staff in the requested geographic service area.

(3) The counties listed on the home health agency license should reflect counties in which the home health agency expects to provide services. If an agency refuses to serve residents of a specific county and that county is listed on the agency’s license, AHCA shall remove that county from the agency’s license. Refusal to provide services to a resident solely based on their residence in a specific county must be verified by AHCA prior to removing the county from the license.

Rulemaking Authority 400.497 FS. Law Implemented 400.497 FS. History–New 10-27-94, Amended 1-17-00, 7-18-01.

59A-8.008 Scope of Services.

(1) In cases of patients requiring only nursing, or in cases requiring nursing and physical, respiratory, occupational or speech therapy services, or nursing and dietetic and nutrition services, the agency shall provide case management by a licensed registered nurse directly employed by the agency.

(2) In cases of patients receiving only physical, speech, respiratory or occupational therapy services, or in cases of patients receiving only one or more of these therapy services and home health aide services, case management shall be provided by the licensed therapist, who is a direct employee of the agency or a contractor.

(3) In cases of patients receiving only dietetic and nutrition services, case management shall be provided by the licensed dietitian/nutritionist who is a direct employee of the agency or an independent contractor.
(4) The agency’s application for licensure shall state explicitly what services will be provided directly by agency employees or by contracted personnel, if services are provided by contract. The home health agency shall provide at least one service directly to patients.

(5) A home health agency which directly contracts with a resident of an assisted living facility or adult family care home to provide home health services shall coordinate with the facility or home regarding the resident’s condition and the services being provided in accordance with the policy of the facility or home and if agreed to by the resident or the resident’s representative. The home health agency shall retain responsibility for the care and services it provides and it shall avoid duplication of services by not providing care the assisted living facility is obligated, by resident contract, to provide to the patient.

(6) If a home health agency occupies space within a licensed assisted living facility, and this space is not licensed as a home health agency, the home health agency must notify AHCA, in writing, whether the space is a satellite office or a drop-off site, as defined in Rule 59A-8.002, F.A.C.

Rulemaking Authority 400.487, 400.497, 400.509 FS. Law Implemented 400.497 FS. History – New 4-19-76, Formerly 10D-68.08, Amended 4-30-86, 8-10-88, 5-30-90, Formerly 10D-68.008, Amended 10-27-94, 1-17-00, 7-18-01, 9-22-05.

59A-8.0086 Denial, Suspension, Revocation of License and Imposition of Fines.

Rulemaking Authority 400.497 FS. Law Implemented 120.59, 400.474, 400.484 FS. History–New 10-27-94, Amended 1-17-00, 7-18-01, 9-22-05, 8-15-06, 3-29-07, Repealed 10-2-11.

59A-8.0095 Personnel.

(1) Administrator.

(a) The administrator of the agency shall:

1. Meet the criteria as defined in Sections 400.462(1) and 400.476(1), F.S.

2. Designate, in writing a direct employee or an individual covered under a management company contract to manage the home health agency or an employee leasing contract that provides the agency with full control over all operational duties and responsibilities to serve as an on-site alternate administrator during absences of the administrator. This person will be available during designated business hours, when the administrator is not available. Available during designated business hours means being readily available on the premises or by telecommunications. During the absence of the administrator, the on-site alternate administrator will have the responsibility and authority for the daily operation of the agency. The alternate administrator must meet qualifications as stated in Section 400.462(1), F.S.

(b) If an agency changes administrator the agency shall notify the AHCA Home Care Unit office in Tallahassee as required in subsection 59A-35.110(1), F.A.C. Notification shall consist of submission of the person’s name and a statement that the person meets the qualifications in Sections 400.476(1) and 400.462(1), F.S. Send the notification by email, fax or mail to HQAHOMEHEALTH@ahca.myflorida.com, fax (850)922-5374, or mail to AHCA Home Care Unit, 2727 Mahan Drive, Mail Stop 34, Tallahassee, Florida 32308. The administrator also must submit level 2 screening, pursuant to Section 408.809, F.S. and Rule 59A-35.090, F.A.C. or inform the Home Care Unit that level 2 screening was previously submitted.

(2) Director of Nursing.

(a) The director of nursing of the agency shall:

1. Meet the criteria as defined in Section 400.462(10), F.S.;

2. Supervise or manage, directly or through qualified subordinates, all personnel who provide direct patient care;

3. Ensure that the professional standards of community nursing practice are maintained by all nurses providing care; and

4. Maintain and adhere to agency procedure and patient care policy manuals.

(b) The director of nursing, the administrator, or alternate administrator shall establish policies and procedures on biomedical waste for home health agencies providing nursing and physical therapy services. The Department of
Health website has information on biomedical waste handling and the requirements at www.doh.state.fl.us/Environment/Community/biomedical.

(c) The director of nursing shall:
1. Establish policies and procedures that are consistent with recommended Centers for Disease Control (CDC) and Occupational Safety and Health Agency (OSHA) guidelines for safety, universal precautions and infection control procedures;
2. Employ and evaluate nursing personnel;
3. Coordinate patient care services; and
4. Set or adopt policies for, and keep records of criteria for admission to service, case assignments and case management.

(d) Pursuant to Section 400.497(5)(a), F.S., the director of nursing shall establish a process to verify that skilled nursing and personal care services were provided. When requested by an AHCA employee, the director of nursing shall provide a certified report that lists the home health services provided by a specified direct service staff person or contracted staff person for a specified time period as permitted in Section 400.497(5)(b), F.S. A certified report shall be in the form of a written or typed document or computer printout and signed by the director of nursing. The report must be provided to the surveyor within two hours of the request, unless the time period requested is longer than one year, then the report must be provided within three hours of the request.

(e) The director of nursing shall establish and conduct an ongoing quality assurance program. The program shall include at least quarterly, documentation of the review of the care and services of a sample of both active and closed clinical records by the director of nursing or his or her delegate. The director of nursing assumes overall responsibility for the quality assurance program. The quality assurance program is to assure that:
1. The home health agency accepts patients whose home health service needs can be met by the home health agency;
2. Case assignment and management is appropriate, adequate, and consistent with the plan of care, medical regimen and patient needs. Plans of care are individualized based on the patient’s needs, strengths, limitations and goals;
3. Nursing and other services provided to the patient are coordinated, appropriate, adequate, and consistent with plans of care.
4. All services and outcomes are completely and legibly documented, dated and signed in the clinical service record;
5. The home health agency’s policies and procedures are followed;
6. Confidentiality of patient data is maintained; and
7. Findings of the quality assurance program are used to improve services.

(f) In an agency with less than a total of 10 full time equivalent employees and contracted personnel, the director of nursing may also be the administrator.

(3) Registered Nurse.
(a) A registered nurse shall be currently licensed in the state, pursuant to Chapter 464, F.S., and:
1. Be the case manager in all cases involving nursing or both nursing and therapy care.
2. Be responsible for the clinical record for each patient receiving nursing care; and
3. Assure that progress reports are made to the physician, physicians assistant or advanced registered nurse practitioner for patients receiving nursing services when the patient’s condition changes or there are deviations from the plan of care.
4. Provide nursing services within the scope of practice authorized by the license issued by the State of Florida for a registered nurse.

(b) A registered nurse may assign selected portions of patient care to licensed practical nurses and home health aides but always retains the full responsibility for the care given and for making supervisory visits to the patient’s home.

(4) Licensed Practical Nurse.
(a) A licensed practical nurse shall be currently licensed in the state, pursuant to Chapter 464, F.S., and provide
nursing care assigned by and under the direction of a registered nurse who provides on-site supervision as needed, based upon the severity of patients medical condition and the nurse’s training and experience. Supervisory visits will be documented in patient files. Provision shall be made in agency policies and procedures for annual evaluation of the LPN’s performance of duties by the registered nurse.

(b) A licensed practical nurse shall:
1. Prepare and record clinical notes for the clinical record;
2. Report any changes in the patient’s condition to the registered nurse with the reports documented in the clinical record;
3. Provide care to the patient including the administration of treatments and medications within the scope of practice authorized by the license issued by the State of Florida for a licensed practical nurse; and
4. Perform other duties assigned by the registered nurse.

(5) Home Health Aide and Certified Nursing Assistant.

(a) A home health aide or a certified nursing assistant (CNA) shall provide personal care services assigned by and under the supervision of a registered nurse. When only physical, speech, or occupational therapy is furnished, in addition to home health aide or CNA services, supervision can be supplied by a licensed therapist directly employed by the home health agency or by an independently contracted employee.

(b) Supervision of the home health aide and CNA by a registered nurse in the home will be in accordance with Section 400.487(3), F.S. Home health agencies will need to obtain the patient’s verbal permission to send a registered nurse into the home to conduct supervisory visits.

(c) For every certified nursing assistant the home health agency shall have on file the person’s State of Florida certification. A copy of the screen of the Florida Department of Health’s Certified Nursing Assistant Information that shows the person’s name, address, certificate number, original issue date, expire date and status will meet this requirement.

(d) For every home health aide, a home health agency shall have on file documentation of successful completion of at least forty hours of training in the following subject areas or successful passage of the competency test as stated in (j), pursuant to Section 400.497(1), F.S.:

1. Communication skills;
2. Observation, reporting and documentation of patient or client status and the care or services provided;
3. Reading and recording temperature, pulse and respiration;
4. Basic infection control procedures;
5. Basic elements of body functions that must be reported to the registered nurse supervisor;
6. Maintenance of a clean and safe environment;
7. Recognition of emergencies and applicable follow-up within the home health aide scope of performance;
8. Physical, emotional, and developmental characteristics of the populations served by the agency, including the need for respect for the patient or client, his privacy, and his property;
9. Appropriate and safe techniques in personal hygiene and grooming, including bed bath, sponge, tub, or shower bath; shampoo, sink, tub, or bed; nail and skin care; oral hygiene; care of dentures;
10. Safe transfer techniques, including use of appropriate equipment, and ambulation;
11. Normal range of motion and positioning;
12. Nutrition and fluid intake;
13. Cultural differences in families;
14. Food preparation and household chores;
15. Assistance with self-administered medication. Home health aides and CNAs assisting with self-administered medication, pursuant to Section 400.488, F.S., must receive a minimum of 2 hours of training (which can be part of the 40 hour home health training) prior to asserting this responsibility. Training must cover state law and rule requirements with respect to the assistance with self-administration of medications in the home, procedures for assisting the patient with self-administration of medication, common medications, recognition of side effects and adverse reactions and procedures to follow when patients appear to be experiencing side effects and adverse reactions. Training must include verification that each CNA and home health aide can read the prescription label and
any instructions. Individuals who cannot read must not be permitted to assist with prescription medications. Other courses taken in fulfillment of this requirement must be documented and maintained in the home health aide’s and the CNA’s personnel file.

16. Other topics pertinent to home health aide services.

(e) If a home health aide successfully completes training through a vocational school approved by Florida’s Department of Education, the individual must present to a home health agency a diploma issued by the vocational school. If the home health aide completes the training through a home health agency, and wishes to be employed at another agency, the individual must present to the second home health agency documentation of successful completion of training as listed in subparagraphs 59A-8.0095(5)(d)1. through 16., F.A.C.

(f) Home health agencies which teach the home health aide course to their employees pursuant to Section 400.497(1), F.S., but who are not classified as a nonpublic post-secondary career school by Florida’s Department of Education, must issue the following documentation to individuals at the time of successful completion of the training course. The documentation must include the following: the title “Home Health Aide Documentation;” the name, address, phone number, and license number of the home health agency; the student’s name, address, phone number, and social security number; total number of clock hours completed in the training; the number of clock hours for each unit or topic of training; signature of the person who directed the training; and the date the training was completed. It must be stated on the documentation that Section 400.497(1), F.S., permits the home health agency conducting this training to provide such documentation.

(g) Home health training documentation issued by a home health agency on or after October 1, 1999 must contain language as listed in paragraph (f) above.

(h) Home health agencies which teach the home health aide course, but who are not an approved nonpublic post-secondary career school, cannot charge a fee for the training and cannot issue a document of completion with the words “diploma,” “certificate,” “certification of completion,” or “transcript.” The home health agency is limited to advertising in the “Help Wanted” section of the papers. The home health agency cannot advertice that they are offering “training for home health aides.” The agency can indicate that they are hiring home health aides and will train.

(i) Home health aide training must be performed by or under the general supervision of a registered nurse who possesses a minimum of two years nursing experience one of which must have been in the provision of home health care.

(j) A licensed home health agency may choose to administer the Home Health Aide Competency Test, form number AHCA 3110-1007, February, 2001, incorporated by reference, in lieu of the forty hours of training required in paragraph 59A-8.0095(5)(d), F.A.C. This test is designed for home health agencies to determine competency of potential employees. Home health agencies may obtain the form by sending a request to HQAHOMEHEALTH@ahca.myflorida.com.

1. Home health agencies that choose to administer the test, must maintain documentation of the aide’s successful passage of the competency test. However, if the home health aide does not pass the test, it is the decision of the home health agency giving the test as to whether the aide may take the test again. The home health agency may also provide training or arrange for training in the areas that were not passed on the test prior to the aide re-taking the test.

a. The Home Health Aide Competency Test, form number AHCA 3110-1007, February 2001, has two parts: a practical part in which competency is determined through observation of the performance of tasks and a written part with questions to answer. Successful passage of the test means the accurate performance of all 14 tasks on the practical part plus correctly answering 90 of the 104 questions on the written part.

b. Successful passage of the competency test alone does not permit a home health aide to assist with self-administration of medication as described in Section 400.488, F.S. Any home health aide that will assist patients with self-administration of medications must have completed two hours of training on assistance with self-administered medication as required in subparagraph 59A-8.0095(5)(c)16., F.A.C.

2. Any staff person of a home health agency may administer the written portion of the test, but the practical competency test must be administered and evaluated by a registered nurse or a licensed practical nurse under the
supervision of a registered nurse. The staff person, registered nurse, or licensed practical nurse may also be responsible for grading the written test.

3. When a home health aide completes the competency test through the employing agency and wishes to be employed at another agency, the home health agency shall furnish documentation of successful passage of the test to the requesting agency pursuant to Section 400.497(1), F.S. Documentation of successful passage may be provided in a format established by the home health agency, except as prohibited in paragraph 59A-8.0095(5)(f)-(h), F.A.C., that specifies limitations on the manner in which a home health agency may describe home health aide training. The documentation, at minimum, should include the home health aide’s name, address and social security number; the home health agency’s name and address; date the test was passed; the signature of the person providing the documentation; and any other information necessary to document the aide’s passage of the test.

(k) Home health aides and CNA’s must receive in-service training each calendar year. Training must be provided to obtain and maintain a certificate in cardiopulmonary resuscitation. Medicare and Medicaid agencies should check federal regulations for additional in-service training requirements.

(l) Responsibilities of the home health aide and CNA shall include:

1. The performance of all personal care activities contained in a written assignment by a licensed health professional employee or contractor of the home health agency and which include assisting the patient or client with personal hygiene, ambulation, eating, dressing, shaving, physical transfer, and other duties as assigned.

2. Maintenance of a clean, safe and healthy environment, which may include light cleaning and straightening of the bathroom, straightening the sleeping and living areas, washing the patient’s or client’s dishes or laundry, and such tasks to maintain cleanliness and safety for the patient or client.

3. Other activities as taught by a licensed health professional employee or contractor of the home health agency for a specific patient or client and are restricted to the following:
   a. Assisting with reinforcement of dressing;
   b. Assisting with tasks associated with elimination:
      i. Toileting
   ii. Assisting with the use of the bedpan and urinal
   iii. Providing catheter care including changing the urinary catheter bag
   iv. Collecting specimens
   v. Emptying ostomy bags, or changing bags that do not adhere to the skin
   c. Assisting with the use of devices for aid to daily living, such as a wheelchair or walker;
   d. Assisting with prescribed range of motion exercises;
   e. Assisting with prescribed ice cap or collar;
   f. Doing simple urine tests for sugar, acetone or albumin;
   g. Measuring and preparing special diets;
   h. Measuring intake and output of fluids, and
   i. Measuring temperature, pulse, respiration or blood pressure.

4. Keeping records of personal health care activities.

5. Observing appearance and gross behavioral changes in the patient or client, reporting to the registered nurse.

6. Supervision of self-administered medication in the home is limited to the following:
   a. Obtaining the medication container from the storage area for the patient or client;
   b. Ensuring that the medication is prescribed for the patient or client;
   c. Reminding the patient or client that it is time to take the medication as prescribed; and
   d. Observing the patient or client self-administering the medication.

(m) In cases where a home health aide or a CNA will provide assistance with self-administered medications in accordance with Section 400.488, F.S., and paragraph (p) below, an assessment of the medications for which assistance is to be provided shall be conducted by a licensed health care professional to ensure the unlicensed caregiver provides assistance in accordance with their training and with the medication prescription.

(n) A licensed health care professional shall inform the patient, or the patient’s caregiver, that the patient may receive assistance with self-administered medication by an unlicensed person. The patient, or the patient’s caregiver,
must give written consent for this arrangement, pursuant to Section 400.488(2), F.S.

(o) The home health aide and CNA may also provide the following assistance with self-administered medication, as needed by the patient, in accordance with Section 400.488, F.S.:

1. Prepare necessary items such as juice, water, cups, or spoons to assist the patient in the self-administration of medication;
2. Open and close the medication container or tear the foil of prepackaged medications;
3. Assist the resident in the self-administration process. Examples of such assistance include the steadying of the arm, hand, or other parts of the patient’s body so as to allow the self-administration of medication;
4. Assist the patient by placing unused doses of solid medication back into the medication container.

(p) The home health aide or CNA shall not change sterile dressings, irrigate body cavities such as giving an enema, irrigate a colostomy or wound, perform a gastric irrigation or enteral feeding, catheterize a patient, administer medication, apply heat by any method, care for a tracheotomy tube, nor provide any personal health service which has not been included in the plan of care.

(q) CNA’s who earn their certificate in another state may work as a home health aide in a home health agency in Florida if they present a copy of their current CNA certificate from that state. For CNA’s, who have a certificate from out of state and who want to obtain a Florida CNA certificate, they can contact the Florida Certified Nursing Assistant office at the Department of Health to inquire about taking the written examination, pursuant Section 464.203, F.S.

(r) Home health aides who are trained in another state must provide documentation of course completion to the employing home health agency. Individuals who have graduated from an accredited school of nursing and are waiting to take their boards for licensure in Florida, can work as a home health aide. Registered nurses and licensed practical nurses who can show proof they are licensed in another state or in Florida, can work as a home health aide in Florida.

(6) Physical Therapist and Physical Therapist Assistant.

(a) The physical therapist shall be currently licensed in the state, pursuant to Chapter 486, F.S. The physical therapist assistant shall be currently licensed in the state, pursuant to Chapter 486, F.S.

1. Services provided by the physical therapist shall be performed within the scope of practice authorized by the license issued by the State of Florida for the practice of physical therapist.
2. Services provided by the physical therapist assistant will be provided under the general supervision of a licensed physical therapist and shall not exceed any of the duties authorized by the license issued by the State of Florida for the practice of physical therapist assistant. General supervision means the supervision of a physical therapist assistant shall not require on-site supervision by the physical therapist. The physical therapists shall be accessible at all times by two way communication, which enable the physical therapist to be readily available for consultation during the delivery of care.

(b) The responsibilities of the physical therapist are:

1. To provide physical therapy services as prescribed by a physician, physician assistant, or advanced registered nurse practitioner, acting within their scope of practice, which can be safely provided in the home and assisting the physician, physician assistant, or advanced registered nurse practitioner in evaluating patients by applying diagnostic and prognostic muscle, nerve, joint and functional abilities test;
2. To observe and record activities and findings in the clinical record and report to the physician, physician assistant, or advanced registered nurse practitioner the patient’s reaction to treatment and any changes in patient’s condition, or when there are deviations from the plan of care;
3. To instruct the patient and caregiver in care and use of physical therapy devices;
4. To instruct other health team personnel including, when appropriate, home health aides and caregivers in certain phases of physical therapy with which they may work with the patient; and
5. To instruct the caregiver on the patient’s total physical therapy program.

(7) Speech Pathologist. The speech pathologist shall be currently licensed in the state, pursuant to Chapter 468, F.S., and shall:

(a) Assist the physician, physician assistant, or advanced registered nurse practitioner in evaluating the patient
to determine the type of speech or language disorder and the appropriate corrective therapy;

(b) Provide rehabilitative services for speech and language disorders;

(c) Record activities and findings in the clinical record and to report to the physician, physician assistant, or advanced registered nurse practitioner the patient’s reaction to treatment and any changes in the patient’s condition, or when there are deviations from the plan of care; and

(d) Instruct other health team personnel and caregivers in methods of assisting the patient to improve and correct speech disabilities.

(8) Occupational Therapist and Occupational Therapist Assistant.

(a) The occupational therapist shall be currently licensed in the state, pursuant to Chapter 468, F.S., and the occupational therapist assistant shall be currently licensed in the state, pursuant to Chapter 468, F.S. Duties of the occupational therapist assistant shall be directed by the licensed occupational therapist and shall be within the scope of practice authorized by the license issued by the State of Florida for the practice of occupational therapist assistant.

(b) The duties of the occupational therapist are:

1. To provide occupational therapy services as prescribed by a physician, physician assistant, or advanced registered nurse practitioner, acting within their scope of practice, which can be safely provided in the home and to assist the physician, physician assistant, or advanced registered nurse practitioner in evaluating the patient’s level of function by applying diagnostic and therapeutic procedures;

2. To guide the patient in the use of therapeutic, creative and self-care activities for the purpose of improving function;

3. To observe and record activities and findings in the clinical record and to report to the physician, physician assistant, or advanced registered nurse practitioner the patient’s reaction to treatment and any changes in the patient’s condition, or when there are deviations from the plan of care; and

4. To instruct the patient, caregivers and other health team personnel, when appropriate, in therapeutic procedures of occupational therapy.

(9) Respiratory Therapist.

(a) The respiratory therapist shall be currently licensed by the state pursuant to Chapter 468, F.S., and have at least one year of experience in respiratory therapy.

(b) The responsibilities of the respiratory therapist are:

1. To provide respiratory therapy services, prescribed by a physician, physician assistant, or advanced registered nurse practitioner, acting within their scope of practice, which can be safely provided in the home and to assist the physician, physician assistant, or advanced registered nurse practitioner in evaluating patients through the use of diagnostic testing related to the cardiopulmonary system;

2. To observe and record activities and findings in the clinical record and report to the physician, physician assistant, or advanced registered nurse practitioner the patient’s reaction to treatment and any changes in the patient’s condition, or when there are deviations from the plan of care;

3. To instruct the patient and caregiver in care and use of respiratory therapy devices;

4. To instruct other health team personnel including, when appropriate, home health aides and caregivers in certain phases of respiratory therapy in which they may assist the patient; and

5. To instruct the patient and caregiver on the patient’s total respiratory therapy program.

(10) Social Worker.

(a) The social worker shall be a graduate of an accredited school of social work with one year of experience in social services and shall:

1. Assist the physician, physician assistant, or advanced registered nurse practitioner and other members of the health team in understanding significant social and emotional factors related to the patient’s health problems;

2. Assess the social and emotional factors in order to estimate the patient’s capacity and potential to cope with problems of daily living;

3. Help the patient and caregiver to understand, accept and follow medical recommendations and provide services planned to restore the patient to optimum social and health adjustment;

4. Assist patients and caregivers with personal and environmental difficulties which predispose toward illness or
interfere with obtaining maximum benefits from medical care; and

5. Identify resources, such as caregivers and community agencies, to assist the patient to resume life in the community, including discharge planning, or to learn to live within his disability.

(b) The social worker shall not provide clinical counseling to patients or caregivers unless licensed pursuant to Chapter 491, F.S.

(11) Dietitian/Nutritionist.
(a) The dietitian/nutritionist shall be currently licensed in this state, pursuant to Chapter 468, F.S., with at least 1 year of experience in dietetics and nutrition practice.
(b) The responsibilities of the dietitian/nutritionist are:
1. To evaluate the nutrition needs of individuals in the home, using appropriate data to determine nutrient needs or status, and to make nutrition recommendations to the patient to maximize the patient’s health and well-being;
2. To provide dietetics and nutrition counseling in the home, as prescribed by a physician, physician assistant, or advanced registered nurse practitioner, acting within their scope of practice;
3. To observe and record activities and findings in the clinical record and report to the physician, physician assistant, or advanced registered nurse practitioner, the patient’s reaction to treatment and any changes in a patient’s condition;
4. To instruct the patient, caregiver(s), and other health team personnel in various phases of dietetic and nutrition treatment.

(12) Homemakers and Companions.
(a) The homemaker shall:
1. Maintain the home in an optimum state of cleanliness and safety depending upon the client’s and the caregiver’s resources;
2. Perform the functions generally undertaken by the customary homemaker, including such duties as preparation of meals, laundry, shopping, household chores, and care of children;
3. Perform casual, cosmetic assistance, such as brushing the client’s hair and assisting with make-up, filing and polishing nails but not clipping nails;
4. Stabilize the client when walking, as needed, by holding the client’s arm or hand;
5. Report to the appropriate supervisor any incidents or problems related to his work or to the caregiver;
6. Report any unusual incidents or changes in the client’s behavior to the case manager; and
7. Maintain appropriate work records.
8. If requested by the client or his responsible party, the homemaker may verbally remind the client that it is time to for the client to take his or her medicine.

(b) The companion shall:
1. Provide companionship for the client;
2. Accompanying the client to doctors appointments, recreational outings, or shopping;
3. Provide light housekeeping tasks such as preparation of a meal or laundering the client’s personal garments;
4. Perform casual, cosmetic assistance, such as brushing the client’s hair and assisting with make-up, filing and polishing nails but not clipping nails;
5. Stabilize the client when walking, as needed, by holding the client’s arm or hand;
6. Maintain a chronological written record of services; and
7. Report any unusual incidents or changes in the patient’s behavior to the case manager.
8. If requested by the client or his responsible party, the companion may verbally remind the client that it is time for the client to take his or her medicine.


59A-8.020 Acceptance of Patients or Clients.

(1) When a home health agency accepts a patient or client for service, there shall be a reasonable expectation that the services can be provided safely to the patient or client in his place of residence. This includes being able to communicate with the patient, or with another person designated by the patient, either through a staff person or interpreter that speaks the same language, or through technology that translates so that the services can be provided. The responsibility of the agency is also to assure that the patient or client receives services as defined in a specific plan of care, for those patients receiving care under a physician, physician assistant, or advanced registered nurse practitioner’s treatment orders, or in a written agreement, as described in subsection (3) below, for clients receiving care without a physician, physician assistant, or advanced registered nurse practitioner’s orders. This responsibility includes assuring the patient receives all assigned visits.

(2) At the start of services a home health agency must establish a written agreement between the agency and the patient or client or the patient’s or client’s legal representative, including the information described in Section 400.487(1), F.S. This written agreement must be signed and dated by a representative of the home health agency and the patient or client or the patient’s or client’s legal representative. A copy of the agreement must be given to the patient or client and the original must be placed in the patient’s or client’s file.

(3) The written agreement, as specified in subsection (2) above, shall serve as the home health agency’s service provision plan, pursuant to Section 400.491(2), F.S., for clients who receive homemaker and companion services or home health aide services which do not require a physician, physician assistant, or advanced registered nurse practitioner’s treatment order. The written agreement for these clients shall be maintained for one year after termination of services.

(4) When the agency terminates services for a patient or client needing continuing home health care, as determined by the patient’s physician, physician assistant, or advanced registered nurse practitioner, for patients receiving care under a physician, physician assistant, or advanced registered nurse practitioner’s treatment order, or as determined by the client or caregiver, for clients receiving care without a physician, physician assistant, or advanced registered nurse practitioner’s treatment order, a plan must be developed and a referral made by home health agency staff to another home health agency or service provider prior to termination. The patient or client must be notified in writing of the date of termination, the reason for termination, pursuant to Section 400.491, F.S., and the plan for continued services by the agency or service provider to which the patient or client has been referred, pursuant to Section 400.497(6), F.S. This requirement does not apply to patients paying through personal funds or private insurance who default on their contract through non-payment. The home health agency should provide social work assistance to patients to help them determine their eligibility for assistance from government funded programs if their private funds have been depleted or will be depleted.

Rulemaking Authority 400.497 FS. Law Implemented 400.487 FS. History—New 4-19-76, Formerly 10D-68.20, Amended 4-30-86, 8-10-88, Formerly 10D-68.020, Amended 10-27-94, 1-17-00, 7-18-01, 9-22-05, 8-15-06.

59A-8.0215 Plan of Care.

(1) A plan of care shall be established in consultation with the physician, physician assistant, or advanced registered nurse practitioner, pursuant to Section 400.487, F.S., and the home health agency staff who are involved in providing the care and services required to carry out the physician, physician assistant, or advanced registered nurse practitioner’s treatment orders. The plan must be included in the clinical record and available for review by all staff involved in providing care to the patient. The plan of care shall contain a list of individualized specific goals for each skilled discipline that provides patient care, with implementation plans addressing the level of staff who will provide care, the frequency of home visits to provide direct care and case management.

(2) Home health agency staff must follow the physician, physician assistant, or advanced registered nurse practitioner’s treatment orders that are contained in the plan of care. If the orders cannot be followed and must be altered in some way, the patient’s physician, physician assistant, or advanced registered nurse practitioner must be notified and must approve of the change. Any verbal changes are put in writing and signed and dated with the date of receipt by the nurse or therapist who talked with the physician, physician assistant, or advanced registered nurse practitioner’s office.
(3) The patient, caregiver or guardian must be informed by the home health agency personnel that:
(a) He has the right to be informed of the plan of care;
(b) He has the right to participate in the development of the plan of care; and
(c) He may have a copy of the plan if requested.

Rulemaking Authority 400.497 FS. Law Implemented 400.487 FS. History—New 10-27-94, Amended 1-17-00, 7-18-01, 8-15-06.

59A-8.022 Clinical Records.
(1) A clinical record must be maintained for each patient receiving nursing or therapy services that includes all the services provided directly by the employees of the home health agency and those provided by contracted individuals or agencies.
(2) No information may be disclosed from the patient’s file without the written consent of the patient or the patient’s guardian. All information received by any employee, contractor, or AHCA employee regarding a patient of the home health agency is confidential and exempt from Chapter 119, F.S.
(3) If the patient transfers to another home health agency, a copy of his record must be transferred at his request.
(4) All clinical records must be retained by the home health agency as required in Section 400.491, F.S. Retained records can be stored as hard paper copy, microfilm, computer disks or tapes and must be retrievable for use during unannounced surveys as required in Section 408.811, F.S.
(5) Clinical records must contain the following:
(a) Source of referral;
(b) Physician, physician assistant, or advanced registered nurse practitioner’s verbal orders initiated by the physician, physician assistant, or advanced registered nurse practitioner prior to start of care and signed by the physician, physician assistant, or advanced registered nurse practitioner as required in Section 400.487(2), F.S.
(c) Assessment of the patient’s needs;
(d) Statement of patient or caregiver problems;
(e) Statement of patient’s and caregiver’s ability to provide interim services;
(f) Identification sheet for the patient with name, address, telephone number, date of birth, sex, agency case number, caregiver, next of kin or guardian;
(g) Plan of care or service provision plan and all subsequent updates and changes;
(h) Clinical and service notes, signed and dated by the staff member providing the service which shall include:
   1. Initial assessments and progress notes with changes in the person’s condition;
   2. Services rendered;
   3. Observations;
   4. Instructions to the patient and caregiver or guardian, including administration of and adverse reactions to medications;
(i) Home visits to patients for supervision of staff providing services;
(j) Reports of case conferences;
(k) Reports to physicians, physician assistants, or advanced registered nurse practitioners;
(l) Termination summary including the date of first and last visit, the reason for termination of service, an evaluation of established goals at time of termination, the condition of the patient on discharge and the disposition of the patient.
(6) The following applies to signatures in the clinical record:
(a) Facsimile Signatures. The plan of care or written order may be transmitted by facsimile machine. The home health agency is not required to have the original signature on file. However, the home health agency is responsible for obtaining original signatures if an issue surfaces that would require certification of an original signature.
(b) Alternative Signatures. Home health agencies that maintain patient records by computer rather than hard copy may use electronic signatures. However, all such entries must be appropriately authenticated and dated. Authentication must include signatures, written initials, or computer secure entry by a unique identifier of a primary author who has reviewed and approved the entry. The home health agency must have safeguards to prevent unauthorized access to the records and a process for reconstruction of the records in the event of a system
59A-8.0245 Advance Directives.

(1) Each home health agency shall have written policies and procedures, which delineate the agency’s position with respect to the state law and rules relative to advance directives. The policies shall not condition treatment or admission upon whether or not the individual has executed or waived an advance directive. In the event of conflict between the agency’s policies and procedures and the patient’s advance directive, provision should be made in accordance with Chapter 765, F.S.

(2) The home health agency’s policy shall include:
   (a) Providing each adult patient, in advance of receiving services, with a copy of “Health Care Advance Directives – The Patients’ Right to Decide”, as prepared by the Agency for Health Care Administration, revised April 2006, and available at http://www.floridahealthfinder.gov/reports-guides/reports-guides.aspx, which is hereby incorporated by reference, or with a copy of a document drafted by a person or organization other than AHCA which is a written description of Florida’s state law regarding advance directives;
   (b) Providing each adult patient, in advance of receiving services, with written information concerning the home health agency’s policies respecting advance directives; and
   (c) The requirement that documentation of whether or not the patient has executed an advance directive shall be contained in the patient’s medical record and not kept solely at another location in the agency. If an advance directive has been executed, a copy of that document shall be made a part of the patient’s medical record. If the home health agency does not receive a copy of the advanced directive for a patient, the agency must document that it has requested a copy in the patient’s record.
   (d) A home health agency shall be subject to revocation of their license and a fine of not more than $500 per incident, or both, pursuant to Section 400.474(1), F.S., if the home health agency, as a condition of treatment or admission, requires an individual to execute or waive an advance directive, pursuant to Section 765.110, F.S.

(3) Pursuant to Section 400.487(7), F.S., a home health agency may honor a DNRO as follows: Cardiopulmonary resuscitation may be withheld or withdrawn from a patient only if a valid Do Not Resuscitate Order (DNRO) is present, executed pursuant to Section 401.45, F.S. The Department of Health has developed a DNRO form that is described and available to the public as stated in Rule 64J-2.018, F.A.C.


59A-8.025 Registration Requirements for Homemaker, Companion and Sitter Agencies.

(1) Before any entity or individual shall directly or indirectly provide homemaker, companion, or sitter services for adults, it shall make application for and become registered by the AHCA. Licensed home health agencies are exempt from registration for homemakers, companions, and sitters.

(2) An application for renewal of registration must be submitted to AHCA at least 60 days prior to the date of the expiration of the registration. It is the responsibility of the homemaker, companion, or sitter service to submit an application within the specified time frames whether or not they receive separate notification from AHCA of the impending expiration of the registration.

(3) Application for registration to provide homemaker, companion, or sitter services shall be made to the AHCA on HRS Form 3110-1003, Aug. 1993, incorporated by reference, furnished for that purpose. This form may be obtained from AHCA, 2727 Mahan Drive, Tallahassee, Florida 32308. The application shall be filed annually, under oath, and shall contain the following information:
   (a) The name, address, date of birth, and social security number of the individual, or the name and address of the agency providing the service;
   (b) If the registrant is a firm or partnership, the name, address, date of birth, and social security number of its
directors and officers and the names and addresses of each person having at least 10 percent interest in the firm or partnership:

(c) The name, address, date of birth, and social security number of each person employed or under contract; and

(d) The renewal application must be received by the AHCA at least 30 days prior to expiration of the registration.

(4) A non-refundable fee of $25 made payable to the Agency for Health Care Administration shall accompany the application for registration. State, county or municipal agencies applying for registration as an agency providing homemaker, companion, or sitter services shall be exempt from payment of registration fees.

(5) The AHCA shall issue a certificate of registration upon verification that all requirements for registration have been met.

(a) The certificate of registration shall be valid for no more than one year;

(b) Each certificate of registration shall be valid only for the person or agency for which it was issued;

(c) The certificate shall not be subject to sale, assignment, or other transfer;

(d) Upon change of ownership or classification, suspension, revocation, or voluntary cessation of operation, AHCA must be notified in writing at least 30 days prior to such action and the certificate of registration must be returned to the AHCA immediately.

(6) The AHCA shall deny, suspend, or revoke the registration of a person or agency which:

(a) Fails to comply with these rules;

(b) Causes to happen an intentional or negligent act which physically or materially affects the health or safety of a person receiving services.

(7) The AHCA will institute injunctive proceedings in a court of competent jurisdiction when violations of the provisions of Chapter 400, Part III, F.S., or any rules promulgated thereunder constitute an emergency affecting the immediate health and safety of a person receiving services.

(8) Any person or agency who offers or advertises to the public by any medium whatever that he provides homemaker, companion, or sitter services for which registration is required shall include in such advertising the registration number issued by the AHCA.

(9) It is unlawful for any person or agency to advertise to the public without first obtaining a valid certificate of registration from the AHCA.

(10) It is unlawful for a holder of a certificate to advertise or hold out to the public that he holds a certificate of registration for other than that for which he actually holds a certificate of registration.

(11) The homemaker, companion, or sitter service must inform the patient pursuant to Section 400.509(5), F.S.

(12) The AHCA shall make inspections and investigations by any duly authorized officer or employee of the AHCA as are necessary in order to respond to complaints or to determine compliance with the provisions of Chapter 400, Part III, F.S., and the rules adopted thereto.

(a) If, in responding to a complaint, an officer or employee of the AHCA has reason to believe that a crime has been committed, the appropriate law enforcement agency shall be notified; and

(b) If, in responding to a complaint, an officer or employee of the AHCA has reason to believe that abuse, neglect, or exploitation has occurred, as defined in Section 415.102, F.S., he shall file a report under the provisions of Section 415.103, F.S.

Rulemaking Authority 400.509 FS. Law Implemented 400.509 FS. History — New 4-30-86, Amended 8-10-88, 5-30-90, Formerly 10D-68.025, Amended 10-27-94.


(1) Pursuant to Section 400.492, F.S., each home health agency shall prepare and maintain a written comprehensive emergency management plan, in accordance with criteria shown in the “Comprehensive Emergency Management Plan (CEMP),” AHCA Form 3110-1022, Revised March 2013, incorporated by reference. This document is available from the Agency for Health Care Administration at http://ahca.myflorida.com/MCHQ/Emergency_Activities/index.shtml and shall be used as the format for the home health agency’s emergency management plan. The plan shall describe how the home health agency establishes and
maintains an effective response to emergencies and disasters.

(2) The plan, once completed, will be forwarded electronically for approval to the contact designated by the Department of Health.

(3) The agency shall review its emergency management plan on an annual basis and make any substantive changes.

(4) Changes in the telephone numbers of those staff who are coordinating the agency’s emergency response must be reported to the agency’s county office of Emergency Management and to the local County Health Department. For agencies with multiple counties on their license, the changes must be reported to each County Health Department and each county Emergency Management office. The telephone numbers must include numbers where the coordinating staff can be contacted outside of the agency’s regular office hours. All home health agencies must report these changes, whether their plan has been previously reviewed or not, as defined in subsection (2) above.

(5) When an agency goes through a change of ownership the new owner shall review its emergency management plan and make any substantive changes, including changes noted in subsection (4) above. Those agencies which previously have had their plans reviewed, as defined in subsection (2) above, will need to report any substantive changes to the reviewing entity.

(6) In the event of an emergency the agency shall implement the agency’s emergency management plan in accordance with Section 400.492, F.S. Also, the agency must meet the following requirements:

(a) All staff who are designated to be involved in emergency measures must be informed of their duties and be responsible for implementing the emergency management plan.

(b) If telephone service is not available during an emergency, the agency shall have a contingency plan to support communication, pursuant to Section 400.492, F.S. A contingency plan may include cell phones, contact with a community based ham radio group, public announcements through radio or television stations, driving directly to the employee’s or the patient’s home, and, in medical emergency situations, contact with police or emergency rescue services.

(7) Home health agencies which are exempt from this requirement are listed in Section 400.497(8)(e), F.S.

(8) On admission, each home health agency shall, pursuant to Section 252.355, F.S., inform patients and patient caregivers of the special needs registry maintained by their county Emergency Management office. The home health agency must document in the patient’s file if the patient plans to evacuate or remain at home; if during the emergency the patient’s caregiver can take responsibility for services normally provided by the home health agency; or if the home health agency needs to continue services to the patient. If the patient is a resident of an assisted living facility or an adult family care home, the home health agency must contact the assisted living facility or adult family care home administrator or designated emergency management personnel and find out the plan for evacuation of the resident in order to document the resident’s plans in the home health agency’s file for the patient. If it is determined the home health agency needs to provide continued services, it will be the responsibility of the home health agency to provide the same type and quantity of care for the patient in the special needs shelter during and after the emergency, equal to the care received prior to the shelter assignment as specified in Section 400.492, F.S., except in certain situations as specified in Section 400.492(3), F.S.

(9) Upon eminent threat of an emergency or disaster the home health agency must contact those patients needing ongoing services and confirm each patient’s plan during and immediately following an emergency. The home health agency must also contact every assisted living facility and adult family care home where patients are served to confirm the plans during and immediately following the emergency.

(10) During emergency situations, when there is not a mandatory evacuation order issued by the local Emergency Management agency, some patients may decide not to evacuate and will stay in their homes. The home health agency must establish procedures, prior to the time of an emergency, which will delineate to what extent the agency will continue care during and immediately following an emergency. The agency shall also ascertain which patients remaining at home will need care from the home health agency and which patients have plans to receive care from their family or caregivers. The agency shall designate staff to continue the services specified in the treatment orders to residents in the assisted living facility or adult family care home during and following the
emergency. If the assisted living facility or adult family care home does relocate the residents to another assisted living facility or adult family care home within the geographic area the home health agency is licensed to serve, the agency will continue to provide services to the residents, except in certain situations as specified in Section 400.492(3), F.S. If the residents should go to a special needs shelter outside the licensed area of the home health agency, the home health agency may provide services to the residents at the shelter pursuant to Section 400.492(4), F.S.

(11) If the agency at some point ceases operation, as defined in Section 400.492(3), F.S., the agency must inform those patients whose services will be discontinued during the emergency. The agency must also notify assisted living facilities and adult family care homes where residents are served and make arrangements for nursing personnel to continue essential services, such as insulin and other injections, as ordered in treatment orders to residents. If the agency has assisted living facility, adult family care home or other patients in special needs shelters, then the agency will call the local emergency operation center as soon as possible after the disaster and report on the status of the agency’s damage, if any, and the post-disaster availability to continue serving their patients in the special needs shelters and during discharge from the special needs shelters.

(12) When a home health agency is unable to continue services to special needs patients registered under Section 252.355, F.S., that patient’s record must contain documentation of the efforts made by the home health agency to comply with their emergency management plan in accordance with Section 400.492(3), F.S. Documentation includes, but is not limited to, contacts made to the patient’s caregivers, if applicable; contacts made to the assisted living facility and adult family care home, if applicable; and contacts made to local emergency operation centers to obtain assistance in reaching patients and contacts made to other agencies which may be able to provide temporary services.

(13) Each home health agency is required to collect registration information for special needs patients who will need continuing care or services during a disaster or emergency, pursuant to Section 252.355, F.S. This registration information shall be submitted, when collected, to the county Emergency Management office, or on a periodic basis as determined by the home health agency’s county Emergency Management office.

(14) Home health agency staff shall educate patients registered with the special needs registry that special needs shelters are an option of last resort and that services may not be equal to what they have received in their homes.

(15) The prioritized list of patients maintained by the home health agency shall be kept current and shall include information as defined in Section 400.492(2), F.S. The prioritized list shall also include residents in assisted living facilities and adult family care homes who require nursing services. This list will assist home health agency staff during and immediately following an emergency which requires implementation of the emergency management plan. This list also shall be furnished to local County Health Departments and to the county Emergency Management office, upon request.

(16) The patient record for each person registered as a special needs patient shall include information as listed in Section 400.492(1), F.S.

(17) The home health agency is required to maintain in the home of the special needs patient a list of patient-specific medications, supplies and equipment required for continuing care and service should the patient be evacuated. The list must include the names of all medications, their dose, frequency, route, time of day and any special considerations for administration. The list must also include any allergies; the name of the patient’s physician and the physician’s phone number(s); the name, phone number and address of the patient’s pharmacy. If the patient permits, the list can also include the patient’s diagnosis.