

Legal Statement

In accordance to Chapter 400, F.S. and 59A-18.005(1) we are required to provide you with the following materials. Please retain these materials for your reference.

59A-18.009 Homemakers or Companions

- Sections 400.462, 400.506, 408.809 and 400.484, F.S.
- Section 408.810(5), F.S.
- Rule 59A-18.018, F.A.C., Emergency Management Plans
- Rule 59A-18.005, F.A.C., Registration Policies
- Registry NON-DISCRIMINATION POLICY
- Confidentiality Pledge

59A-18.009 Homemakers or Companions.

(1) The homemaker or companion shall have evidence of training in topics related to human development and interpersonal relationships, nutrition, shopping, food storage, use of equipment and supplies, planning and organizing of household tasks and principles of cleanliness and safety:

(2) The homemaker shall have the following responsibilities:

(a) To maintain the home in the optimum state of cleanliness and safety depending upon the client's and the caregiver's resources;

(b) To perform the functions generally undertaken by the natural homemaker, including such duties as preparation of meals, laundry, and shopping;

(c) To perform casual, cosmetic assistance, such as brushing the client's hair, assisting with make-up, filing and polishing nails, with the exception of clipping nails for diabetic patients;

(d) To stabilize the client when walking, as needed, by holding the client's arm or hand; and

(e) To report any unusual incidents or changes in the patient's or client's behavior to the nurse registry administration and to the caregiver.

(3) The companion shall have the following responsibilities:

(a) To provide companionship for the patient or client;

(b) To provide escort services such as taking the patient or client to the doctor;

(c) To provide light housekeeping tasks such as preparation of a meal or laundering the client's personal garments;

(d) To perform casual, cosmetic assistance, such as brushing the client's hair, assisting with make-up, filing and polishing nails, with the exception of clipping nails for diabetic patients; and

(e) To stabilize the client when walking, as needed, by holding the client's arm or hand; and

(f) To report any unusual incidents or changes in the patient's or client's behavior to the nurse registry administration and to the caregiver.

(4) Each nurse registry shall ensure that homemakers and companions understand the needs of the patients or clients to whom they are referred and are able to recognize those conditions that need to be reported to the nurse registry office.

(5) Homemakers and companions shall be responsible for providing to patient and nurse registry copies of any documentation which reflects the services provided. This will be stored by the nurse registry in the client's file.

Section 400.462, F.S. — Definitions

As used in this part, the term:

- (1) “Administrator” means a direct employee, as defined in subsection (10), who is a licensed physician, physician assistant, or registered nurse licensed to practice in this state or an individual having at least 1 year of supervisory or administrative experience in home health care or in a facility licensed under chapter 395, under part II of this chapter, or under part I of chapter 429.
- (2) “Admission” means a decision by the home health agency, during or after an evaluation visit to the patient’s home, that there is reasonable expectation that the patient’s medical, nursing, and social needs for skilled care can be adequately met by the agency in the patient’s place of residence. Admission includes completion of an agreement with the patient or the patient’s legal representative to provide home health services as required in s. 400.487(1).
- (3) “Advanced practice registered nurse” means a person licensed in this state to practice professional nursing and certified in advanced or specialized nursing practice, as defined in s. 464.003.
- (4) “Agency” means the Agency for Health Care Administration.
- (5) “Approved training program” means a course of training approved by the agency, in consultation with the Board of Nursing, to train a family caregiver as a home health aide for medically fragile children.
- (6) “Certified nursing assistant” means any person who has been issued a certificate under part II of chapter 464.
- (7) “Client” means an elderly, handicapped, or convalescent individual who receives companion services or homemaker services in the individual’s home or place of residence.
- (8) “Companion” or “sitter” means a person who spends time with or cares for an elderly, handicapped, or convalescent individual and accompanies such individual on trips and outings and may prepare and serve meals to such individual. A companion may not provide hands-on personal care to a client.
- (9) “Department” means the Department of Children and Families.
- (10) “Direct employee” means an employee for whom one of the following entities pays withholding taxes: a home health agency; a management company that has a contract to manage the home health agency on a day-to-day basis; or an employee leasing company that has a contract with the home health agency to handle the payroll and payroll taxes for the home health agency.
- (11) “Director of nursing” means a registered nurse who is a direct employee, as defined in subsection (10), of the agency and who is a graduate of an approved school of nursing and is licensed in this state; who has at least 1 year of supervisory experience as a registered nurse; and who is responsible for overseeing the delivery of professional nursing and home health aide services of the agency.
- (12) “Eligible relative” means a patient 21 years of age or younger who has an underlying physical, mental, or cognitive impairment that prevents him or her from safely living independently, is eligible to receive skilled care or respite care services under the Medicaid program, and is related to his or her family caregiver.
- (13) “Fair market value” means the value in arms length transactions, consistent with the price that an asset would bring as the result of bona fide bargaining between well-informed buyers and sellers who are not otherwise in a position to generate business for the other party, or the compensation that would be included in a service agreement as the result of bona fide bargaining between well-informed parties to the agreement who are not otherwise in a position to generate business for the other party, on the date of acquisition of the asset or at the time of the service agreement.

- (14) “Family caregiver” means a person who provides or intends to provide significant personal care to an eligible relative.
- (15) “Home health agency” means a person that provides one or more home health services.
- (16) “Home health agency personnel” means persons who are employed by or under contract with a home health agency and enter the home or place of residence of patients at any time in the course of their employment or contract.
- (17) “Home health aide” means a person who is trained or qualified, as provided by rule, and who provides hands-on personal care, performs simple procedures as an extension of therapy or nursing services, assists in ambulation or exercises, assists in administering medications as permitted in rule and for which the person has received training established by the agency under this part, or performs tasks delegated to him or her under chapter 464.
- (18) “Home health aide for medically fragile children” means a family caregiver who meets the qualifications specified in this part and who performs tasks delegated to him or her under chapter 464 while caring for an eligible relative, and provides care relating to activities of daily living, including those associated with personal care; maintaining mobility; nutrition and hydration; toileting and elimination; assistive devices; safety and cleanliness; data gathering; reporting abnormal signs and symptoms; postmortem care; patient socialization and reality orientation; end-of-life care; cardiopulmonary resuscitation and emergency care; residents’ or patients’ rights; documentation of services performed; infection control; safety and emergency procedures; hygiene, grooming, skin care, and pressure sore prevention; wound care; oxygen use and safety and other respiratory procedures; tracheostomy care; enteral care and therapy; intravenous assistive activities and alternative feeding methods; and any other tasks delegated to the family caregiver under chapter 464.
- (19) “Home health services” means health and medical services and medical supplies furnished to an individual in the individual’s home or place of residence. The term includes the following:
- (a) Nursing care.
 - (b) Physical, occupational, respiratory, or speech therapy.
 - (c) Home health aide services.
 - (d) Dietetics and nutrition practice and nutrition counseling.
 - (e) Medical supplies, restricted to drugs and biologicals prescribed by a physician.
- (20) “Home infusion therapy” means the administration of intravenous pharmacological or nutritional products to a patient in his or her home.
- (21) “Home infusion therapy provider” means a person that employs, contracts with, or refers a licensed professional who has received advanced training and experience in intravenous infusion therapy and who administers infusion therapy to a patient in the patient’s home or place of residence.
- (22) “Homemaker” means a person who performs household chores that include housekeeping, meal planning and preparation, shopping assistance, and routine household activities for an elderly, handicapped, or convalescent individual. A homemaker may not provide hands-on personal care to a client.
- (23) “Immediate family member” means a husband or wife; a birth or adoptive parent, child, or sibling; a stepparent, stepchild, stepbrother, or stepsister; a father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; a grandparent or grandchild; or a spouse of a grandparent or grandchild.
- (24) “Medical director” means a physician who is a volunteer with, or who receives remuneration from, a home health agency.
- (25) “Nurse registry” means any person that procures, offers, promises, or attempts to secure health-care-related contracts for registered nurses, licensed practical nurses, certified nursing assistants, home health

aides, companions, or homemakers, who are compensated by fees as independent contractors, including, but not limited to, contracts for the provision of services to patients and contracts to provide private duty or staffing services to health care facilities licensed under chapter 395, this chapter, or chapter 429 or other business entities.

(26) “Patient” means any person who receives home health services in his or her home or place of residence.

(27) “Personal care” means assistance to a patient in the activities of daily living, such as dressing, bathing, eating, or personal hygiene, and assistance in physical transfer, ambulation, and in administering medications as permitted by rule.

(28) “Physician” means a person licensed under chapter 458, chapter 459, chapter 460, or chapter 461.

(29) “Physician assistant” means a person who is a graduate of an approved program or its equivalent, or meets standards approved by the boards, and is licensed to perform medical services delegated by the supervising physician, as defined in s. 458.347 or s. 459.022.

(30) “Remuneration” means any payment or other benefit made directly or indirectly, overtly or covertly, in cash or in kind. However, if the term is used in any provision of law relating to health care providers, the term does not apply to an item that has an individual value of up to \$15, including, but not limited to, a plaque, a certificate, a trophy, or a novelty item that is intended solely for presentation or is customarily given away solely for promotional, recognition, or advertising purposes.

(31) “Satellite office” means a secondary office of a nurse registry established pursuant to s. 400.506(1) in the same health service planning district as a licensed nurse registry operational site.

(32) “Skilled care” means nursing services or therapeutic services required by law to be delivered by a health care professional who is licensed under part I of chapter 464; part I, part III, or part V of chapter 468; or chapter 486 and who is employed by or under contract with a licensed home health agency or is referred by a licensed nurse registry.

(33) “Staffing services” means services provided to a health care facility, school, or other business entity on a temporary or school-year basis pursuant to a written contract by licensed health care personnel and by certified nursing assistants and home health aides who are employed by, or work under the auspices of, a licensed home health agency or who are registered with a licensed nurse registry.

History.—s. 38, ch. 75-233; s. 2, ch. 81-318; ss. 62, 79, 83, ch. 83-181; s. 12, ch. 85-167; s. 1, ch. 87-123; s. 2, ch. 88-219; s. 1, ch. 88-323; s. 1, ch. 90-101; s. 31, ch. 90-306; s. 2, ch. 90-319; s. 25, ch. 91-57; s. 28, ch. 91-263; ss. 2, 23, ch. 93-214; s. 781, ch. 95-148; s. 56, ch. 95-228; s. 126, ch. 99-8; s. 1, ch. 99-332; ss. 102, 156, ch. 2000-318; s. 77, ch. 2000-349; s. 2, ch. 2005-243; s. 60, ch. 2006-197; s. 1, ch. 2008-246; s. 41, ch. 2012-160; s. 124, ch. 2014-19; s. 1, ch. 2015-66; s. 8, ch. 2016-145; s. 30, ch. 2018-106; s. 4, ch. 2020-9; s. 9, ch. 2020-156; s. 25, ch. 2021-51; s. 1, ch. 2023-183; s. 3, ch. 2025-171.

400.506 Licensure of Nurse Registries; Requirements; Penalties.

(1)(a) A nurse registry is exempt from the licensing requirements of a home health agency but must be licensed as a nurse registry. The requirements of part II of chapter 408 apply to the provision of services that require licensure pursuant to this section and ss. 400.509-400.518 and part II of chapter 408 and to entities licensed by or applying for such license from the Agency for Health Care Administration pursuant to this section and ss. 400.509-400.518. A license issued by the agency is required for the operation of a nurse registry. Each operational site of the nurse registry must be licensed, unless there is more than one site within the health service planning district for which a license is issued. In such case, each operational site within the health service planning district must be listed on the license.

- (b) A licensed nurse registry may operate a satellite office as defined in s. 400.462. The nurse registry operational site must administer all satellite offices. A satellite office may store supplies and records, register and process contractors, and conduct business by telephone as is done at other operational sites. Nurse registries may use signs and advertisements to notify the public of the location of a satellite office. All original records must be kept at the operational site.
- (c) A nurse registry must provide notice, in writing, to the agency at the state and area office levels, as required by agency rule, of a proposed change of address for an operational site or the opening of a satellite office. Before relocating an operational site or opening a satellite office, the nurse registry must submit evidence of its legal right to use the proposed property and evidence that the property is zoned for nurse registry use.
- (2) Each applicant for licensure and each licensee must comply with all provisions of part II of chapter 408 and this section.
- (3) In accordance with s. 408.805, an applicant or licensee shall pay a fee for each license application submitted under this section and ss. 400.509-400.518, part II of chapter 408, and applicable rules. The amount of the fee shall be established by rule and may not exceed \$2,000 per biennium.
- (4) A licensee that provides, offers, or advertises to the public any service for which licensure is required under this section must include in such advertisement the license number issued to it by the Agency for Health Care Administration. The agency shall assess a fine of not less than \$100 against a licensee that fails to include the license number when submitting the advertisement for publication, broadcast, or printing. The fine for a second or subsequent offense is \$500.
- (5)(a) In addition to the requirements of s. 408.812, any person who owns, operates, or maintains an unlicensed nurse registry and who, after receiving notification from the agency, fails to cease operation and apply for a license under this part commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Each day of continued operation is a separate offense.
- (b) If a nurse registry fails to cease operation after agency notification, the agency may impose a fine pursuant to s. 408.812.
- (6)(a) A nurse registry may refer for contract in private residences registered nurses and licensed practical nurses registered and licensed under part I of chapter 464, certified nursing assistants certified under part II of chapter 464, home health aides who present documented proof of successful completion of the training required by rule of the agency, and companions or homemakers for the purposes of providing those services authorized under s. 400.509(1). A licensed nurse registry shall ensure that each certified nursing assistant referred for contract by the nurse registry and each home health aide referred for contract by the nurse registry has presented credentials demonstrating that he or she is adequately trained to perform the tasks of a home health aide in the home setting. Each person referred by a nurse registry must provide current documentation that he or she is free from communicable diseases.
- (b) A certified nursing assistant or home health aide may be referred for a contract to provide care to a patient in his or her home only if that patient is under a physician's care. A certified nursing assistant or home health aide referred for contract in a private residence shall be limited to assisting a patient with bathing, dressing, toileting, grooming, eating, physical transfer, and those normal daily routines the patient could perform for himself or herself were he or she physically capable. A certified nursing assistant or home health aide may not provide medical or other health care services that require specialized training and that may be performed only by licensed health care professionals. The nurse registry shall obtain the name and address of the attending physician and send written notification to the physician within 48 hours after a

contract is concluded that a certified nursing assistant or home health aide will be providing care for that patient.

(c) When a certified nursing assistant or home health aide is referred to a patient's home by a nurse registry, the nurse registry shall advise the patient, the patient's family, or any other person acting on behalf of the patient at the time the contract for services is made that registered nurses are available to make visits to the patient's home for an additional cost.

(d) A registered nurse, licensed practical nurse, certified nursing assistant, companion or homemaker, or home health aide referred for contract under this chapter by a nurse registry is deemed an independent contractor and not an employee of the nurse registry under any chapter regardless of the obligations imposed on a nurse registry under this chapter or chapter 408.

(e) Upon referral of a registered nurse, licensed practical nurse, certified nursing assistant, companion or homemaker, or home health aide for contract in a private residence or facility, the nurse registry shall advise the patient, the patient's family, or any other person acting on behalf of the patient, at the time of the contract for services, that the caregiver referred by the nurse registry is an independent contractor and that the nurse registry may not monitor, supervise, manage, or train a caregiver referred for contract under this chapter.

(7) A person who is referred by a nurse registry for contract in private residences and who is not a nurse licensed under part I of chapter 464 may perform only those services or care to clients that the person has been certified to perform or trained to perform as required by law or rules of the Agency for Health Care Administration or the Department of Business and Professional Regulation. Providing services beyond the scope authorized under this subsection constitutes the unauthorized practice of medicine or a violation of the Nurse Practice Act and is punishable as provided under chapter 458, chapter 459, or part I of chapter 464.

(8) Each nurse registry must require every applicant for contract to complete an application form providing the following information:

(a) The name, address, date of birth, and social security number of the applicant.

(b) The educational background and employment history of the applicant.

(c) The number and date of the applicable license or certification.

(d) When appropriate, information concerning the renewal of the applicable license, registration, or certification.

(e) Proof of completion of a continuing educational course on modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome with an emphasis on appropriate behavior and attitude change. Such instruction shall include information on current Florida law and its effect on testing, confidentiality of test results, and treatment of patients and any protocols and procedures applicable to human immunodeficiency virus counseling and testing, reporting, offering HIV testing to pregnant women, and partner notification issues pursuant to ss. 381.004 and 384.25.

(9) Each nurse registry must comply with the background screening requirements in s. 400.512 for all persons referred for contract. However, an initial screening may not be required for persons who have been continuously registered with the nurse registry since October 1, 2000.

(10) The nurse registry must maintain the application on file, and that file must be open to the inspection of the Agency for Health Care Administration. The nurse registry must maintain on file the name and address of the patient or client to whom nurse registry personnel are referred for contract and the amount of the fee received by the nurse registry. A nurse registry must maintain the file that includes the application and other

applicable documentation for 3 years after the date of the last file entry of patient-related or client-related information.

(11) Nurse registries shall assist persons who would need assistance and sheltering during evacuations because of physical, mental, or sensory disabilities in registering with the appropriate local emergency management agency pursuant to s. 252.355.

(12) Each nurse registry shall prepare and maintain a comprehensive emergency management plan that is consistent with the criteria in this subsection and with the local special needs plan. The plan shall be updated annually. The plan shall include the means by which the nurse registry will continue to provide the same type and quantity of services to its patients who evacuate to special needs shelters which were being provided to those patients prior to evacuation. The plan shall specify how the nurse registry shall facilitate the provision of continuous care by persons referred for contract to persons who are registered pursuant to s. 252.355 during an emergency that interrupts the provision of care or services in private residences. Nurse registries may establish links to local emergency operations centers to determine a mechanism by which to approach specific areas within a disaster area in order for a provider to reach its clients. Nurse registries shall demonstrate a good faith effort to comply with the requirements of this subsection by documenting attempts of staff to follow procedures outlined in the nurse registry's comprehensive emergency management plan which support a finding that the provision of continuing care has been attempted for patients identified as needing care by the nurse registry and registered under s. 252.355 in the event of an emergency under this subsection.

(a) All persons referred for contract who care for persons registered pursuant to s. 252.355 must include in the patient record a description of how care will be continued during a disaster or emergency that interrupts the provision of care in the patient's home. It shall be the responsibility of the person referred for contract to ensure that continuous care is provided.

(b) Each nurse registry shall maintain a current prioritized list of patients in private residences who are registered pursuant to s. 252.355 and are under the care of persons referred for contract and who need continued services during an emergency. This list shall indicate, for each patient, if the client is to be transported to a special needs shelter and if the patient is receiving skilled nursing services. Nurse registries shall make this list available to county health departments and to local emergency management agencies upon request.

(c) Each person referred for contract who is caring for a patient who is registered pursuant to s. 252.355 shall provide a list of the patient's medication and equipment needs to the nurse registry. Each person referred for contract shall make this information available to county health departments and to local emergency management agencies upon request.

(d) Each person referred for contract shall not be required to continue to provide care to patients in emergency situations that are beyond the person's control and that make it impossible to provide services, such as when roads are impassable or when patients do not go to the location specified in their patient records.

(e) The comprehensive emergency management plan required by this subsection is subject to review and approval by the county health department. During its review, the county health department shall contact state and local health and medical stakeholders when necessary. The county health department shall complete its review to ensure that the plan complies with the criteria in the Agency for Health Care Administration rules within 90 days after receipt of the plan and shall either approve the plan or advise the nurse registry of necessary revisions. If a nurse registry fails to submit a plan or fails to submit requested information or revisions to the county health department within 30 days after written notification from the

county health department, the county health department shall notify the Agency for Health Care Administration. The agency shall notify the nurse registry that its failure constitutes a deficiency, subject to a fine of \$5,000 per occurrence. If the plan is not submitted, information is not provided, or revisions are not made as requested, the agency may impose the fine.

(f) The Agency for Health Care Administration shall adopt rules establishing minimum criteria for the comprehensive emergency management plan and plan updates required by this subsection, with the concurrence of the Department of Health and in consultation with the Division of Emergency Management.

(13) All persons referred for contract in private residences by a nurse registry must comply with the following requirements for a plan of treatment:

(a) When, in accordance with the privileges and restrictions imposed upon a nurse under part I of chapter 464, the delivery of care to a patient is under the direction or supervision of a physician or when a physician is responsible for the medical care of the patient, a medical plan of treatment must be established for each patient receiving care or treatment provided by a licensed nurse in the home. The original medical plan of treatment must be timely signed by the physician, physician assistant, or advanced practice registered nurse, acting within his or her respective scope of practice, and reviewed in consultation with the licensed nurse at least every 2 months. Any additional order or change in orders must be obtained from the physician, physician assistant, or advanced practice registered nurse and reduced to writing and timely signed by the physician, physician assistant, or advanced practice registered nurse. The delivery of care under a medical plan of treatment must be substantiated by the appropriate nursing notes or documentation made by the nurse in compliance with nursing practices established under part I of chapter 464.

(b) Whenever a medical plan of treatment is established for a patient, the initial medical plan of treatment, any amendment to the plan, additional order or change in orders, and copy of nursing notes must be filed in the office of the nurse registry.

(14) The nurse registry must comply with the notice requirements of s. 408.810(5), relating to abuse reporting.

(15)(a) The agency may deny, suspend, or revoke the license of a nurse registry and shall impose a fine of \$5,000 against a nurse registry that:

1. Provides services to residents in an assisted living facility for which the nurse registry does not receive fair market value remuneration.
2. Provides staffing to an assisted living facility for which the nurse registry does not receive fair market value remuneration.
3. Fails to provide the agency, upon request, with copies of all contracts with assisted living facilities which were executed within the last 5 years.

(b) The agency shall also impose an administrative fine of \$15,000 if the nurse registry refers nurses, certified nursing assistants, home health aides, or other staff without charge to a facility licensed under chapter 429 in return for patient referrals from the facility.

(c) The proceeds of all fines collected under this subsection shall be deposited into the Health Care Trust Fund.

(16) In addition to any other penalties imposed pursuant to this section or part, the agency may assess costs related to an investigation that results in a successful prosecution, excluding costs associated with an attorney's time.

(17) The Agency for Health Care Administration shall adopt rules to implement this section and part II of chapter 408.

(18) An administrator may manage only one nurse registry, except that an administrator may manage up to five registries if all five registries have identical controlling interests as defined in s. 408.803 and are located within one agency geographic service area or within an immediately contiguous county. An administrator shall designate, in writing, for each licensed entity, a qualified alternate administrator to serve during the administrator's absence.

(19) A nurse registry may not monitor, supervise, manage, or train a registered nurse, licensed practical nurse, certified nursing assistant, companion or homemaker, or home health aide referred for contract under this chapter. In the event of a violation of this chapter or a violation of any other law of this state by a referred registered nurse, licensed practical nurse, certified nursing assistant, companion or homemaker, or home health aide, or a deficiency in credentials which comes to the attention of the nurse registry, the nurse registry shall advise the patient to terminate the referred person's contract, providing the reason for the suggested termination; cease referring the person to other patients or facilities; and, if practice violations are involved, notify the licensing board. This section does not affect or negate any other obligations imposed on a nurse registry under chapter 408.

(20) Records required to be filed under this chapter with the nurse registry as a repository of records must be kept in accordance with rules adopted by the agency. The nurse registry has no obligation to review or act upon such records except as specified in subsection (19).

History.—ss. 2, 4, ch. 90-101; s. 27, ch. 91-57; ss. 13, 23, ch. 93-214; s. 51, ch. 94-218; s. 1056, ch. 95-148; ss. 49, 71, ch. 98-171; s. 10, ch. 99-332; s. 14, ch. 2000-140; s. 21, ch. 2000-153; ss. 104, 161, ch. 2000-318; s. 80, ch. 2000-349; s. 25, ch. 2001-53; s. 2, ch. 2001-67; s. 148, ch. 2001-277; s. 48, ch. 2004-267; s. 1, ch. 2005-170; s. 1, ch. 2005-172; s. 8, ch. 2005-243; s. 23, ch. 2006-71; s. 79, ch. 2007-5; s. 80, ch. 2007-230; s. 103, ch. 2008-4; s. 2, ch. 2008-103; s. 9, ch. 2008-246; s. 7, ch. 2009-223; s. 7, ch. 2010-114; s. 277, ch. 2011-142; s. 12, ch. 2012-160; s. 2, ch. 2014-142; ss. 3, 4, ch. 2015-66; s. 52, ch. 2018-24; s. 32, ch. 2018-106; s. 13, ch. 2020-156.

408.809 BACKGROUND SCREENING; PROHIBITED OFFENSES.

(1) Level 2 background screening pursuant to chapter 435 must be conducted through the agency on each of the following persons, who are considered employees for the purposes of conducting screening under chapter 435:

- (a) The licensee, if an individual.
 - (b) The administrator or a similarly titled person who is responsible for the day-to-day operation of the provider.
 - (c) The financial officer or similarly titled individual who is responsible for the financial operation of the licensee or provider.
 - (d) Any person who is a controlling interest.
 - (e) Any person, as required by authorizing statutes, seeking employment with a licensee or provider who is expected to, or whose responsibilities may require him or her to, provide personal care or services directly to clients or have access to client funds, personal property, or living areas; and any person, as required by authorizing statutes, contracting with a licensee or provider whose responsibilities require him or her to provide personal care or personal services directly to clients, or contracting with a licensee or provider to work 20 hours a week or more who will have access to client funds, personal property, or living areas.
- Evidence of contractor screening may be retained by the contractor's employer or the licensee.

(2) Every 5 years following his or her licensure, employment, or entry into a contract in a capacity that under subsection (1) would require level 2 background screening under chapter 435, each such person must submit to level 2 background rescreening as a condition of retaining such license or continuing in such employment or contractual status. For any such rescreening, the agency shall request the Department of Law Enforcement to forward the person's fingerprints to the Federal Bureau of Investigation for a national criminal history record check unless the person's fingerprints are enrolled in the Federal Bureau of Investigation's national retained print arrest notification program. If the fingerprints of such a person are not retained by the Department of Law Enforcement under s. 943.05(2)(g) and (h), the person must submit fingerprints electronically to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The fingerprints shall be retained by the Department of Law Enforcement under s. 943.05(2)(g) and (h) and enrolled in the national retained print arrest notification program when the Department of Law Enforcement begins participation in the program. The cost of the state and national criminal history records checks required by level 2 screening may be borne by the licensee or the person fingerprinted. The agency may accept as satisfying the requirements of this section proof of compliance with level 2 screening standards submitted within the previous 5 years to meet any provider or professional licensure requirements of the Department of Financial Services for an applicant for a certificate of authority or provisional certificate of authority to operate a continuing care retirement community under chapter 651, provided that:

- (a) The screening standards and disqualifying offenses for the prior screening are equivalent to those specified in s. 435.04 and this section;
 - (b) The person subject to screening has not had a break in service from a position that requires level 2 screening for more than 90 days; and
 - (c) Such proof is accompanied, under penalty of perjury, by an attestation of compliance with chapter 435 and this section using forms provided by the agency.
- (3) All fingerprints must be provided in electronic format. Screening results shall be reviewed by the agency with respect to the offenses specified in s. 435.04 and this section, and the qualifying or disqualifying status of the person named in the request shall be maintained in a database. The qualifying or disqualifying status of the person named in the request shall be posted on a secure website for retrieval by the licensee or designated agent on the licensee's behalf.
- (4) In addition to the offenses listed in s. 435.04, all persons required to undergo background screening pursuant to this part or authorizing statutes must not have an arrest awaiting final disposition for, must not have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, and must not have been adjudicated delinquent and the record not have been sealed or expunged for any of the following offenses or any similar offense of another jurisdiction:
- (a) Any authorizing statutes, if the offense was a felony.
 - (b) This chapter, if the offense was a felony.
 - (c) Section 409.920, relating to Medicaid provider fraud.
 - (d) Section 409.9201, relating to Medicaid fraud.
 - (e) Section 741.28, relating to domestic violence.
 - (f) Section 777.04, relating to attempts, solicitation, and conspiracy to commit an offense listed in this subsection.
 - (g) Section 784.03, relating to battery, if the victim is a vulnerable adult as defined in s. 415.102 or a patient or resident of a facility licensed under chapter 395, chapter 400, or chapter 429.

- (h) Section 817.034, relating to fraudulent acts through mail, wire, radio, electromagnetic, photoelectronic, or photooptical systems.
- (i) Section 817.234, relating to false and fraudulent insurance claims.
- (j) Section 817.481, relating to obtaining goods by using a false or expired credit card or other credit device, if the offense was a felony.
- (k) Section 817.50, relating to fraudulently obtaining goods or services from a health care provider.
- (l) Section 817.505, relating to patient brokering.
- (m) Section 817.568, relating to criminal use of personal identification information.
- (n) Section 817.60, relating to obtaining a credit card through fraudulent means.
- (o) Section 817.61, relating to fraudulent use of credit cards, if the offense was a felony.
- (p) Section 831.01, relating to forgery.
- (q) Section 831.02, relating to uttering forged instruments.
- (r) Section 831.07, relating to forging bank bills, checks, drafts, or promissory notes.
- (s) Section 831.09, relating to uttering forged bank bills, checks, drafts, or promissory notes.
- (t) Section 831.30, relating to fraud in obtaining medicinal drugs.
- (u) Section 831.31, relating to the sale, manufacture, delivery, or possession with the intent to sell, manufacture, or deliver any counterfeit controlled substance, if the offense was a felony.
- (v) Section 895.03, relating to racketeering and collection of unlawful debts.
- (w) Section 896.101, relating to the Florida Money Laundering Act.

If, upon rescreening, a person who is currently employed or contracted with a licensee and was screened and qualified under s. 435.04 has a disqualifying offense that was not a disqualifying offense at the time of the last screening, but is a current disqualifying offense and was committed before the last screening, he or she may apply for an exemption from the appropriate licensing agency and, if agreed to by the employer, may continue to perform his or her duties until the licensing agency renders a decision on the application for exemption if the person is eligible to apply for an exemption and the exemption request is received by the agency no later than 30 days after receipt of the rescreening results by the person.

(5) The costs associated with obtaining the required screening must be borne by the licensee or the person subject to screening. Licensees may reimburse persons for these costs. The Department of Law Enforcement shall charge the agency for screening pursuant to s. 943.053(3). The agency shall establish a schedule of fees to cover the costs of screening.

(6)(a) As provided in chapter 435, the agency may grant an exemption from disqualification to a person who is subject to this section and who:

1. Does not have an active professional license or certification from the Department of Health; or
2. Has an active professional license or certification from the Department of Health but is not providing a service within the scope of that license or certification.

(b) As provided in chapter 435, the appropriate regulatory board within the Department of Health, or the department itself if there is no board, may grant an exemption from disqualification to a person who is subject to this section and who has received a professional license or certification from the Department of Health or a regulatory board within that department and that person is providing a service within the scope of his or her licensed or certified practice.

(7) The agency and the Department of Health may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section, chapter 435, and authorizing statutes requiring background screening and to implement and adopt criteria relating to retaining fingerprints pursuant to s. 943.05(2).

(8) There is no reemployment assistance or other monetary liability on the part of, and no cause of action for damages arising against, an employer that, upon notice of a disqualifying offense listed under chapter 435 or this section, terminates the person against whom the report was issued, whether or not that person has filed for an exemption with the Department of Health or the agency.

History.—s. 5, ch. 2006-192; s. 50, ch. 2009-223; s. 21, ch. 2010-114; s. 61, ch. 2012-30; s. 2, ch. 2012-73; s. 166, ch. 2014-19; s. 3, ch. 2014-84; s. 7, ch. 2016-78; s. 71, ch. 2018-24; s. 100, ch. 2020-2; s. 53, ch. 2020-133; s. 30, ch. 2020-156.

400.484 RIGHT OF INSPECTION; VIOLATIONS; FINES.

(1) In addition to the requirements of s. 408.811, the agency may make such inspections and investigations as are necessary in order to determine the state of compliance with this part, part II of chapter 408, and applicable rules.

(2) The agency shall impose fines for various classes of violations in accordance with the following schedule:

(a) Class I violations are as provided in s. 408.813. Upon finding a class I violation, the agency shall impose an administrative fine in the amount of \$15,000 for each occurrence and each day that the violation exists.

(b) Class II violations are as provided in s. 408.813. Upon finding a class II violation, the agency shall impose an administrative fine in the amount of \$5,000 for each occurrence and each day that the violation exists.

(c) Class III violations are as provided in s. 408.813. Upon finding an uncorrected or repeated class III violation, the agency shall impose an administrative fine not to exceed \$1,000 for each occurrence and each day that the uncorrected or repeated violation exists.

(d) Class IV violations are as provided in s. 408.813. These violations are of a type that the agency determines do not threaten the health, safety, or security of patients. Upon finding an uncorrected or repeated class IV violation, the agency shall impose an administrative fine not to exceed \$500 for each occurrence and each day that the uncorrected or repeated violation exists.

(3) In addition to any other penalties imposed pursuant to this section or part, the agency may assess costs related to an investigation that results in a successful prosecution, excluding costs associated with an attorney's time.

History.—s. 45, ch. 75-233; s. 2, ch. 81-318; ss. 79, 83, ch. 83-181; ss. 8, 23, ch. 93-214; s. 5, ch. 99-332; s. 158, ch. 2000-318; s. 77, ch. 2007-230; s. 6, ch. 2008-246; s. 50, ch. 2018-24.

408.810 MINIMUM LICENSURE REQUIREMENTS.—In addition to the licensure requirements specified in this part, authorizing statutes, and applicable rules, each applicant and licensee must comply with the requirements of this section in order to obtain and maintain a license.

(5)(a) On or before the first day services are provided to a client, a licensee must inform the client and his or her immediate family or representative, if appropriate, of the right to report:

1. Complaints. The statewide toll-free telephone number for reporting complaints to the agency must be provided to clients in a manner that is clearly legible and must include the words: "To report a complaint regarding the services you receive, please call toll-free (phone number)."

2. Abusive, neglectful, or exploitative practices. The statewide toll-free telephone number for the central abuse hotline must be provided to clients in a manner that is clearly legible and must include the words: "To report abuse, neglect, or exploitation, please call toll-free (phone number)."

3. Medicaid fraud. An agency-written description of Medicaid fraud and the statewide toll-free telephone number for the central Medicaid fraud hotline must be provided to clients in a manner that is clearly legible and must include the words: "To report suspected Medicaid fraud, please call toll-free (phone number)." The agency shall publish a minimum of a 90-day advance notice of a change in the toll-free telephone numbers.

(b) Each licensee shall establish appropriate policies and procedures for providing such notice to clients.

History.—s. 5, ch. 2006-192; s. 9, ch. 2009-223; s. 27, ch. 2012-160; s. 72, ch. 2018-24; s. 10, ch. 2023-33; s. 2, ch. 2025-96.

Note: the statewide toll-free telephone numbers referred to in s. 408.810(5), F.S., are: complaints — 1-888-419-3456 (Agency for Health Care Administration); abuse, neglect, or exploitation — 1-800-962-2873 (Florida Abuse Hotline); suspected Medicaid fraud — 1-866-966-7226 (Medicaid Fraud Hotline).

59A-18.005 Registration Policies.

(1) Each nurse registry shall disseminate the following rules and statutes to each applicable independent contractor at the time of registration. The rules and statutes may be provided by paper copy, by email or other means of electronic communication.

(a) Registered nurses and licensed practical nurses shall receive for their use and reference:

1. Rule 59A-18.005, F.A.C., Registration Policies.
2. Rule 59A-18.007, F.A.C., Registered Nurses and Licensed Practical Nurses.
3. Rule 59A-18.011, F.A.C., Medical Plan of Treatment.
4. Rule 59A-18.012, F.A.C., Clinical Records.
5. Rule 59A-18.013, F.A.C., Administration of Biologicals.
6. Sections 400.506, 408.809, 400.484, 400.462, 400.488 and 408.810(5), F.S., with the telephone numbers referred to in the law.
7. Rule 59A-18.018, F.A.C., Emergency Management Plans.

(b) Certified nursing assistants and home health aides shall receive for their use and reference:

1. Rule 59A-18.005, F.A.C., Registration Policies.
2. Rule 59A-18.0081, F.A.C., Certified Nursing Assistant and Home Health Aide.
3. Sections 400.506, 408.809, 400.484, 400.462, 400.488 and 408.810(5), F.S., with the telephone numbers referred to in the law.
4. Rule 59A-18.018, F.A.C., Emergency Management Plans.

(c) Homemakers and Companions shall receive for their use and reference:

1. Rule 59A-18.009, F.A.C., Homemakers or Companions.
2. Sections 400.506, 408.809, 400.484, 400.462 and 408.810(5), F.S., with the telephone numbers referred to in the law.
3. Rule 59A-18.018, F.A.C., Emergency Management Plans.
4. Rule 59A-18.005, F.A.C., Registration Policies.

(2) Each nurse registry shall establish written procedures for the selection, documentation, screening and verification of credentials for each independent contractor referred by the registry.

(3) Each nurse registry shall confirm a new independent contractor's licensure or certification with the issuing board or department. A screen print from the Department of Health web site that shows a clear and active license or certification for each nurse and certified nursing assistant is sufficient for documentation.

(4) Each nurse registry shall, at least annually, reconfirm the licensure or certification of all of its independent contractors who are licensed or certified. If the nurse registry cannot confirm the licensure of any registered nurse, licensed practical nurse or certification of any certified nursing assistant, the nurse registry shall take the actions specified in Section 400.506(19), F.S. This includes reporting the individual to the Florida Board of Nursing, Department of Health as specified at its web site: <http://www.floridahealth.gov/licensing-and-regulation/enforcement/report-unlicensed-activity/file-a-complaint.html>.

(5) Each nurse registry shall confirm the identity of the independent contractor prior to referral. Identification shall be verified by using the individual's current driver's license or other photo identification, including the professional license or certificate.

(6) Prior to contact with patients or clients, each independent contractor referred for client care must furnish to the registry a statement from a health care professional licensed under Chapters 458 or 459, F.S., a physician's assistant, or an advanced registered nurse practitioner (ARNP) or a registered nurse licensed under Chapter 464, F.S., under the supervision of a licensed physician, or acting pursuant to an established protocol signed by a licensed physician, dated within the last six months, that the contractor is free from communicable diseases. The independent contractor will provide this statement to the nurse registry when first referred.

(7) Registration folders on each independent contractor must contain the information required in Section 400.506(8), F.S., and the following:

(a) For home health aides, evidence of completion of a home health aide training course or certification from the Florida Board of Nursing, Department of Health as a certified nursing assistant;

(b) Evidence of a contract with the nurse registry;

(c) Evidence of background screening that meets the requirements in Section 408.809(4), F.S.; and,

(8) Each nurse registry shall establish a system for the recording complaints involving individuals they refer.

If the complaints are violations of state law, the nurse registry shall take the actions specified in Section 400.506(19), F.S. Records of complaints and actions taken by the nurse registry shall be kept in the individual's registration file or retained in the central files of the nurse registry.

59A-18.018 Emergency Management Plans.

(1) Pursuant to Section 400.506(12), F.S., each nurse registry shall prepare and maintain a written comprehensive emergency management plan, in accordance with the Comprehensive Emergency Management Plan for Nurse Registries, AHCA Form 3110-1017, May 2015, incorporated by reference and available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-05234>. This document is available from the Agency for Health Care Administration at http://ahca.myflorida.com/MCHQ/Emergency_Activities/index.shtml. The plan shall describe how the nurse registry establishes and maintains an effective response to emergencies and disasters. The plan, once completed, will be sent electronically to the contact designated by the Department of Health as required in Section 400.506(12), F.S.

(2) The nurse registry shall review its emergency management plan on an annual basis and make any substantive changes. Plans with any substantive changes will be forwarded for review to the entities identified in subsection (1).

(3) Changes in the telephone numbers of those administrative staff who are coordinating the nurse registry's emergency response must be reported to the county emergency management office and to the county health department. For nurse registries 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 nurse registry's regular office hours. All nurse registries must report these changes, whether their plan has been previously reviewed or not, as defined in subsection (1).

(4) When a nurse registry goes through a change of ownership, the new owner shall review the registry's emergency management plan and make any substantive changes, including changes noted in subsection (3). Those nurse registries will need to report any substantive changes in their plans to the reviewing entity in subsection (1).

(5) In the event of an emergency, the nurse registry shall implement the nurse registry's emergency management plan pursuant to Section 400.506(12), F.S. Also, the registry must meet the following requirements:

(a) All administrative staff shall be informed of responsibilities for implementing the emergency management plan.

(b) If telephone service is not available during an emergency, the registry shall have a contingency plan to support communication, pursuant to Section 400.506(12)(f), 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 patient's home, and, in medical emergency situations, contact with police or emergency rescue services.

(6) Nurse registries shall assist patients who would need assistance and sheltering during evacuations because of physical, mental, or sensory disabilities in registering with the local emergency management agency, as required in Section 400.506(11), F.S.

(a) Upon initial contract for services, and at a minimum on an annual basis, each nurse registry shall, pursuant to Sections 400.506(12) and 252.355, F.S., inform the patient and the patient's family member or other person acting on behalf of the patient, by the best method possible as it pertains to the person's disability, of the special needs registry and procedures for registration at the special needs registry maintained by their county emergency management office.

(b) If the patient is to be registered at the special needs registry, the nurse registry shall assist the patient with registering, pursuant to Sections 400.506(12), F.S., and must document in the patient's file if the patient plans to evacuate or remain at home; if the patient's family or other person that provides care to the patient can take responsibility during the emergency for services normally provided by independent contractors referred by the registry; or if the registry needs to make referrals in order for services to continue. If the patient has a case

manager through the Community Care for the Elderly or the Medicaid Waiver programs or any other state funded program designated in law to help patients and clients register with the special needs registry, then the nurse registry will check with the case manager to verify if the patient has already been registered. If so, a note will be made in the patient's file by the nurse registry that the patient's need for registration has already been reviewed and handled by the other program's case manager.

(c) The independent contractors referred by the nurse registry, or registry staff, shall inform 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.

(d) This registration information, when collected, shall be submitted, pursuant to Section 400.506(12), F.S., to the county emergency management office.

(7) The person referred for contract to a patient registered with the special needs registry, which shall include special needs registry patients being served in assisted living facilities and adult family care homes, shall ensure that the same type and quantity of continuous care is provided in the special needs shelter that was provided prior to the emergency as specified in Section 400.506(12), F.S., unless circumstances beyond the control of the independent contractor as described in Section 400.506(12)(d), F.S., make it impossible to continue services.

(8) When a nurse registry 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 registry to comply with their emergency management plan in accordance with Section 400.506(12), F.S. Documentation includes but is not limited to contacts made to the patient's family or other person that provides care, if applicable, contacts made to the assisted living facility and adult family care home if applicable; 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.

(9) When a state of emergency has been declared by executive order or proclamation of the Governor, pursuant to Section 252.36(2), F.S., the nurse registry must contact those patients needing ongoing services pursuant to Section 400.506(12)(a), F.S., and confirm each patient's plan during and immediately following an emergency. The nurse registry shall contact the assisted living facility and adult family care home patients and confirm their plans during and immediately following an emergency.

(10) If the independent contractor is unable to provide services to special needs registry patients, including any assisted living facility and adult family care home special needs registry patients, due to circumstances beyond their control pursuant to Section 400.506(12)(d), F.S., then the nurse registry will contact the independent contractors it has available for referral to find another independent contractor for the patient, pursuant to Section 400.506(12), F.S.

(11) During emergency situations, when there is not a mandatory evacuation order issued by the local county emergency management office, some patients, registered pursuant to Section 252.355, F.S., may decide not to evacuate and will stay in their homes. The nurse registry must establish procedures, prior to the time of an emergency, which will delineate to what extent the registry will continue to arrange for care during and immediately following an emergency pursuant to Section 400.506(12)(a), F.S. The registry shall also contact the patients who need continuing services by calling the patient at home or calling the assisted living facility or adult family care home the patient resides in to determine if the patient still needs services from the registry and which patients have plans to receive care from their family or other persons. If the assisted living facility or adult family care home does relocate the residents to another assisted living facility or adult family care home in the geographic area served by the nurse registry, the registry will continue to provide services to the residents. If the patients relocated outside the area served by the registry, the registry will assist the assisted living facility and adult family care home in obtaining the services of another registry already licensed for that area until the patient returns back to their original location.

(12) The prioritized list of registered special needs patients maintained by the nurse registry shall be kept current and shall include information, as defined in Sections 400.506(12)(b) and (c), F.S. This list also shall be furnished to county health departments and to the county emergency management office, upon request.

(13) The independent contractor from the nurse registry 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 as per Section 400.506(12)(c), F.S. 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, physician assistant, or advanced registered nurse practitioner and the physician, physician assistant or advanced registered nurse practitioner's phone number; and the name, phone number and address of the patient's pharmacy. If the patient permits, the list can also include the patient's diagnosis.

(14) The patient record for each person registered as a special needs patient shall include the list described in subsection (13) above, and information as listed in Sections 400.506(12)(a) and (b), F.S.

Rulemaking Authority 400.506, 408.821(4) FS. Law Implemented 400.506 FS. History—New 8-10-06, Amended 3-15-07, 5-4-15.

NEXA HEALTH Non-Discrimination Policy

NEXA HEALTH complies with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Regulations of the U.S. Department of Health and Human Services issued pursuant to the Acts, Title 45 Code of Federal Regulations Part 80, 84, and 91 and the Privacy Rule of the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 in that its activities are characterized by the absence of separation or discrimination by race, sex, national origin in any activity carried on, in, by, or for the organization affecting the care and treatment of patients.

NEXA HEALTH does not exclude, deny benefits to, or otherwise discriminate against any person on the ground of race, color, or national origin, or on the basis of disability or age in participation in, or receipt of the services and benefits of any of its programs and activities or in employment or registration as an independent contractor therewith, whether services are provided through referred independent contractors. All referred patients are provided services without discrimination and no inquiries are made requiring race, color, or national origin prior to the contact for services.

Information regarding the cost and availability of services is uniformly made available to all without regard to race, color, sex, or national origin.

In case of questions concerning this policy or in the event of a desire to file a complaint alleging violations of the policy statement, please contact the **Administrator** Maier Arye Kushner 845-521-2892

PERSONAL HEALTH INFORMATION PLEDGE OF CONFIDENTIALITY

I, _____, the undersigned, understand that in the course of my association with NEXA HEALTH as an independent contractor registered for referral, I may encounter personal health information (“PHI”) that is protected by state and federal law.

I pledge that I will not, at any time during my association with NEXA HEALTH or after it ends, access, use, or disclose to any person within or outside NEXA HEALTH any personal health information, except as required in the course of my duties and in accordance with applicable law governing the proper release of information. I will protect personal health information in any form — spoken, written, or electronic — against improper use, collection, disclosure, storage, or destruction.

I understand that these obligations apply to all personal health information I acquire through my association with NEXA HEALTH and that they continue after that association ends.

I understand that unauthorized use or disclosure of personal health information will result in termination of my registration agreement and cessation of referrals, may result in the imposition of fines and penalties pursuant to state and federal law, and, where practice violations are involved, a report to my professional regulatory body.

Signature

Date

Witness